



Appeal Decision

Hearing held on 24 May 2022

Site visit made on 24 May 2022

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2022

Appeal Ref: APP/P1133/W/19/3223657

Land opposite Chapel Lane, off Old Liverton Road, Newton Abbot TQ12 6YY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Thomas Packman against the decision of Teignbridge District Council.
 - The application Ref 17/03070/FUL, dated 21 December 2017, was refused by notice dated 30 August 2018.
 - The development proposed is the use of land for the stationing of caravans for residential purposes, together with the formation of hardstanding and utility/day rooms ancillary to that use and the erection of a stable.
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Decision

1. The appeal is allowed and planning permission is granted for the use of land for the stationing of caravans for residential purposes, together with the formation of hardstanding and utility/day rooms ancillary to that use and the erection of a stable at land opposite Chapel Lane, off Old Liverton Road, Newton Abbot, TQ12 6YY in accordance with the terms of the application, Ref 17/03070/FUL, dated 21 December 2017, and subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr Thomas Packman against Teignbridge District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The planning application was refused for five reasons. The first reason for refusal was essentially based on Policy WE6 of the Teignbridge Local Plan 2013-2033 (adopted 6 May 2014) (the Local Plan) and that criterion (a) was not met. This criterion is, in summary, that Gypsy and Traveller pitches in the open countryside will be permitted provided there is not a five year supply of permitted or allocated pitches. When the application was determined in August 2018, the Council calculated that it had an eight year supply. As a consequence, the Council judged that the policy requirements were not met for Gypsy and Traveller pitches on the site and the principle of the development would not be acceptable.
4. Following the annual calculation of the supply of Gypsy and Traveller sites at the start of April 2022, the Council concluded it could not demonstrate a supply

of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. The Council concluded that the requirements of Policy WE6 of the Local Plan, and accordingly Policy S22 of the Local Plan, would not be contravened and, therefore, the provision of the Gypsy and Traveller pitches on this land would be acceptable in principle. It confirmed this in writing, and at the hearing, that it did not wish to defend the first reason for refusal.

5. I have found no reason to disagree with this finding on the five year supply and therefore I am satisfied that the provision of the pitches on this site would be policy compliant in themselves.
6. The second reason for refusal explained that, in the view of the Council, there was insufficient information provided to demonstrate that the proposal could achieve an acceptable means of access and suitable visibility splays. At the appeal stage, a detailed highway Access Review Report (November 2018) was submitted by The Hurlstone Partnership. There followed correspondence based on the Access Review Report between the appellant's highway consultant and the Highway Authority at Devon County Council. The Highway Authority concluded, based on the details in the Access Review Report, that it was now satisfied that an appropriate vehicular access could be provided. The Local Planning Authority confirmed prior to the hearing that it accepted the recommendation of the Highway Authority and did not wish to defend this reason for refusal.
7. The highway situation is, therefore, not in dispute between the main parties. Nevertheless, I was conscious of the various consultation responses of the Highway Authority that had been submitted during the application process and also that some local residents had submitted highway objections, including submissions from a highway consultant, that raised highway safety concerns. Consequently, I informed the main parties prior to the hearing that I wished to examine the vehicular access arrangements as part of the discussions. On the day this formed part of a consideration of the other planning matters and I will consider the highway issues in the same way in this decision.

Gypsy Status

8. The evidence details the Gypsy and Traveller status of the appellant, and his extended family, who wish to occupy the site. This status is also confirmed by the comments of the Gypsy Liaison Officer at Devon County Council which are included in the planning report. The Council confirmed its agreement on this matter in their evidence and at the hearing. I am satisfied that the appellant and the other proposed occupants of the site meet with the definition of a Gypsy and Traveller as set out in Annex 1: Glossary of the Planning Policy for Traveller Sites (August 2015) (the PPTS).

Main Issues

9. The main issues, based on the remaining reasons for refusal, are:
 - whether or not adequate arrangements would be made for the disposal of foul and surface water from the site, and
 - the effect of the proposal on the biodiversity of the site.

Reasons

Drainage

10. The site is a reasonable sized field that slopes broadly from the west down to the east. The two corners of the field, on the eastern side, are generally the lowest points. The evidence indicates that the area is predominantly underlain by the Bovey Formation, a sandy-gravelly clay which is said to have limited ability for infiltration. The evidence from local residents indicates that their gardens are often water logged and that there were observations, reported at the hearing, of the road in the vicinity of the site flooding from time to time. The report from Ruddlesden Geotechnical (May 2018), commissioned by some local residents, explains the concerns with an infiltration approach and includes a photograph of an excavated trial pit on a nearby site which appears to show standing water.
11. The Council's Drainage Engineer is not satisfied that the evidence demonstrates that an infiltration approach to drainage is viable and has raised concerns throughout the process. As a consequence, the Council has sought, during its consideration of the proposal, a detailed drainage scheme, including on-site testing of infiltration rates. In the absence of such information, the application was refused planning permission on the basis of insufficient information that surface and foul water could be adequately disposed and this would lead to flood risk and contamination.
12. Normally, such detailed drainage design would be the subject of a planning condition attached to the grant of planning permission so that the precise technical requirements can be worked up subsequent to commencement of those works. However, I can appreciate, given the information available and the underlying ground conditions, that there is a need for some more information at an earlier stage in this case.
13. At the appeal stage, a Drainage Report in the form of a letter dated 12 March 2020 from Mr Stephen Fryer, an independent consultant including with regard to drainage and flood risk, has been submitted. I am satisfied that Mr Fryer is suitably qualified to make such an assessment. This report identified that the bitumen binder course for the proposed layered surface material should be removed to ensure that it would become more free draining and an alternative cross section was proposed. The Drainage Report also included a detailed assessment of the drainage strategy, including some calculations, and recommended the increase in size of the reed bed, with a proposed cross section drawing showing layered materials to increase capacity, which would be used to contain the outflow from the package sewage treatment plant. The conclusion of Mr Fryer is that the suggested drainage approach is technically achievable to meet the drainage needs of the development and that any outstanding technical matters could be addressed by the details submitted pursuant to a planning condition.
14. When examining these issues, a permeable surface would be installed across a reasonably large part of the site and this would receive a similar amount of rainwater as would fall on the same field area. The roofs of the day rooms, static mobile homes, caravans and stable are intended to drain onto this surface and this would increase the localised flow in those particular areas. However, the roofs of these structures are mainly set well back into the site and the volume of surface water on the surface as a whole would be very

similar to the present situation. Importantly, as was explained at the hearing, the proposed surface courses would be permeable, would intercept surface water and act as a reservoir. The holding capacity of this part of the site would, therefore, appear to be increased by the proposal. This arrangement would assist with holding water which could, according to the report from Mr Fryer, then gradually infiltrate into the strata below. The introduction of the permeable layers would be likely to ensure that the ground conditions would be no worse, potentially an improvement in terms of dealing with surface water on the site, and would likely reduce opportunity for run-off to other areas.

15. In terms of foul water, this is intended to be directed to a package treatment plant and the treated effluent would be discharged to a reed bed which would further filter the water. The Council's Drainage Engineer confirmed that the outflow would normally be of a sufficiently treated quality to be able to be discharged to a ditch. In this case, the Drainage Report recommends a larger reed bed with underlying permeable layers which would also act as a reservoir for the water. The recommendation in the Drainage Report is that, given the calculated flows from the four pitches into the package treatment plant, the reed bed, operating as a soakaway system, would be adequate.
16. There was a discussion at the hearing about the situation were the permeable surface to ever be over-run by surface water. The topography of the site is that it slopes from west to east. In a worst case scenario, if there were to be such weather and/or ground conditions that surface water run-off was of a volume unable to be accommodated by the permeable surface and/or reed bed, it would be likely to flow and then pool mainly along the more eastern side of the site. This water would be unlikely to be able to flood the road because the land is lower in the south east corner of the field than the adjoining road and it is also bounded by a hedgebank. Towards the eastern boundary a new Devon hedge, and fence adjoining the permeable surface, is proposed and this would likely help to contain water within this part of the site. Consequently, were the conditions be such as to lead to surface water run-off across parts of the site it would, in all likelihood, be contained within the site and would not cause a road or other hazard.
17. I appreciate that, notwithstanding all the details which have been submitted in support of the scheme on drainage, the Council and local residents still consider that there is uncertainty that the drainage proposal would be effective. However, based on all the evidence, my site visit and the analysis above, I give greatest weight to the detail and analysis in the Drainage Report provided by Mr Fryer indicating that a technical and engineered solution would be able to be specified and that this would be based on the submitted details which are considered a viable approach. This could, once the precise detail of the scheme had been worked up, involve revisions to the presently proposed specifications. At the hearing it was suggested that this could, for instance, involve consideration of the depth of the permeable layer to increase storage capacity, changes to the size and position of the reed bed and some other form of attenuation, although I understand that the Council would wish in these circumstances to see an outflow off the site, which may not be achievable.
18. I consider that there is a realistic prospect that a workable and technical solution for the drainage of the site would be able to be designed and implemented and that it would be likely based on the scheme before me and the recommendations in the Drainage Report. While a connection to the mains

drainage system is not proposed in this case, providing the treatment plant would operate as required, and the outflow managed acceptably, there should be no pollution or flooding that would occur from the site.

19. Finally, in these circumstances, as would often be the case with drainage schemes for projects of this size and type, planning conditions should be attached to any approval to require the details of a scheme to be submitted to the Council and, if approved, to be implemented and thereafter retained in the agreed form. This would require the appellant to formally submit a detailed drainage scheme for the site and this would then allow the Council to scrutinise those details to ensure that they would be effective. If the Council was not satisfied at that stage then it would be able to refuse to discharge the planning condition(s). This would provide another safeguard to the process.
20. In the light of the above analysis, I conclude that, subject to planning conditions attached to any approval, that arrangements for the disposal of foul and surface water from the site would be able to be designed and implemented such that adequate drainage arrangements could be put in place. In these circumstances, the scheme would comply with Policies S2 and EN4 of the Local Plan and the National Planning Policy Framework (the Framework) which seek, amongst other things, that in considering development proposals regard will be had to the adequacy of drainage and sewage treatment facilities.
21. The reason for refusal also lists Policies S1, S1A and EN7 of the Local Plan. However, I consider that the criteria in each policy are not directly relevant to the matters to be considered in relation to this main issue.

Biodiversity

22. At the application stage a series of ecological reports were available which included on site surveys in respect of bats and dormice. Both bats and dormice were recorded at the site. The Council was satisfied, after considering the information, that bats would not be adversely affected by the scheme. In respect of the proposal to mitigate any effect on dormice, a key part of the proposal was to install 15 wooden dormouse boxes. These were initially indicated to be installed in the adjoining woodland owned and managed by the Forestry Commission. However, following the report from Colmer Ecology Ltd, commissioned on behalf of some local residents, it was pointed out that this land was beyond the control of the applicant and therefore this element of the proposal could not necessarily be required to be delivered.
23. The appellant's ecological consultant then wrote, on 13 July 2018, to explain that the adjoining land owner was, in principle, prepared to allow such boxes to be installed within the woodland. However, because they were working up thinning and felling operations for the wider area they were unable to agree a timetable for installation at that time. On this basis, the appellant's consultant confirmed that once a definitive works programme for the woodland proposals was known and, at that later time, which would likely coincide with the timing for the submission of the application for a European Protected Species Licence (EPS Licence) for dormice, a further request to the land owner would be made to confirm whether to install within the woodland. It was explained that if the use of the woodland was not possible at that time, then the dormice boxes would be accommodated within the retained/re-aligned southern boundary hedge as well as the proposed new Devon hedges (with the boxes on posts to avoid damage to the younger trees/saplings).

24. A consultation response from the Council's Biodiversity Officer, on 24 July 2018, confirmed that the dormouse box proposal, as recently submitted by the appellant, was satisfactory. The Biodiversity Officer recommended that conditions attached to any approval would enable a Protected Species Mitigation Scheme to be submitted prior to commencement of the development and that this would allow details to be agreed at that time.
25. However, the planning report still raised concern that the scheme would use third party land and that this would not be able to be conditioned and be enforceable. It was explained that whilst in principle there was no objection on ecology grounds if the mitigation measures could be installed/provided. However, in the absence of confirmation that all measures can be achieved a refusal was recommended on the grounds that insufficient information had been provided to demonstrate that the proposal would not have a detrimental impact on the biodiversity value of the site.
26. The original ecological survey work and reports which formed the basis of the recommendations, in particular in relation to bats and dormice, were produced in 2016 and 2017. The reports and surveys are therefore of some age. I am conscious of the Chartered Institute of Ecology and Environmental Management (CIEEM) advice on the lifespan of Ecological Reports and Surveys.
27. The appellant commissioned a further Preliminary Ecological Appraisal Report (April 2022) (Biocensus) with the site being surveyed on 24 March 2022. The Report concludes that the findings of the previous bat activity and dormouse nest tube surveys remain valid and no further surveys are considered necessary for planning purposes. This conclusion was not disputed at the hearing and I am satisfied that this approach and conclusions comply with CIEEM best practice. This Report also reiterates the proposal that a total of 15 dormouse nest boxes would be installed within the 160m of the newly created Devon hedgebanks and retained sections of the southern hedge.
28. It was also of assistance at the hearing to be able to discuss in detail the proposal for the hedge along the front of the road in relation to the highway requirements. The maintenance of the hedge and its ecological importance could be effected by the need to remove/translocate sections to ensure satisfactory visibility splays. The discussion on highway requirements, which I shall consider later, would enable more of the hedge to be retained than originally anticipated. This would have a positive effect on the maintenance of this ecological feature and the ability to successfully install the dormouse boxes.
29. The works along the road frontage would include the widening of the field gate to provide a vehicular access with the associated splays. This would involve the loss of sections of hedge at the access point and the removal of the two trees by one side of the present gateway. Additional planting, set back from the road in this area would help replace some of this loss and this requirement could be incorporated into a landscaping scheme submitted as part of details pursuant to a planning condition in any approval. I am satisfied that if any section of the frontage hedge needs to be translocated it could be done so successfully.
30. Part of the front hedge would have a Gypsy and Traveller pitch located behind it and potentially occupants of the site may have pets such as cats that could be predators of dormice. However, the mobile home on the closest pitch would be adequately spaced from the hedge to prevent disturbance and there are

likely to be cats present in the locality in any case because of the nearby housing. I do not consider that these concerns would materially increase any effect to the dormice on the site or in the area generally.

31. Taking all the information together, and having regard to the evidence I heard from the ecological specialists at the hearing, I am satisfied that the proposal and the conclusions of the reports, as detailed at this stage, demonstrates that dormice should not be adversely affected by the scheme. Indeed with the additional Devon hedgebanks there is likely to be, in time, an enhancement to the dormouse habitat. The works along the frontage would also require an EPS Licence and the details and implementation would, in particular, be controlled by that process. Both the planning and the EPS Licence submissions would need to be the same. Consequently, it is appropriate that the ecological requirements are submitted as details pursuant to a planning condition so this matter can be detailed and coordinated at a subsequent stage.
32. The Council has also brought to my attention that, since it made its decision on the application, the site now falls within the Landscape Connectivity Zone for the South Hams Special Area of Conservation. This a landscape scale designation and the potential effect in this case is in relation to bats. Given the layout of the site which includes the provision of the additional hedgebanks, the retention of a significant part of the front hedge, the buffer zones along the sides of the site, the position of the pitches where lighting can be controlled, the detailed survey work in relation to bats and the conclusions of the ecological reports, I am satisfied that there would be no adverse effect on bats from the scheme. Consequently, in terms of Habitat Regulations Assessment screening I conclude that the proposal, either alone in combination with other projects, would not have a significant effect for this or the habitat site.
33. I am satisfied that I can come to all these conclusions, especially in relation to bats and dormice, because of the receipt and findings of the April 2022 Preliminary Ecological Appraisal Report. This recent Report was essential to reconfirm the previous reports and without it I would not have been able to conclude favourably on the ecological issues.
34. Accordingly, I conclude that, with an appropriate planning condition that secures the submission and agreement of a Protected Species Mitigation Scheme, the proposal would not adversely affect the biodiversity of the site. It follows that the proposal would comply with Policies S1, S1A, EN8, EN9, and EN11 of the Local Plan and the Framework which, notably in this respect, seek to protect, enhance and restore the biodiversity of the area.

Other Matters

Vehicular access and highway safety

35. During the processing of the application by the Council, Devon County Council as Highway Authority examined and responded to the submissions on a number of occasions. Information was submitted by the applicant to seek to address the highway issues raised and this included Technical Reports (MBC), the results of a traffic survey and a topographical plan. Some local residents commissioned their own highway consultant and there was a range of concerns and objections raised by the Parish Council and local residents on the details and implications of the proposed access. There does not appear to me, at the application stage, to be sufficient, clear and unambiguous information on the

required visibility splays, including where those splays should be measured from in terms of the extent of the highway and whether or not the splays could be achieved without the use of private land. The reason for refusal states that there was insufficient information provided to demonstrate that the proposal could achieve an acceptable means of access and suitable visibility splays.

36. At the appeal stage, the Access Review Report was submitted. This included another traffic survey. The Access Review Report is a more detailed and comprehensive analysis of the highway situation. I am satisfied that the Report analysis is clear and it demonstrates what visibility would be achievable from the proposed vehicular access to points in the carriageway in a number of scenarios depending on the "x" distance. It then explains what visibility could be provided based on land within the appellant's ownership along the road frontage. The Access Review Report is the most up-to-date and detailed analysis before me and I attach its findings substantial weight. The findings of this Report enabled the Highway Authority to withdraw its objections to the scheme.
37. The Access Review Report, however, identifies a number of different visibility splays, measured from various positions at the centre line of the access. The discussion at the hearing was important in clarifying the precise visibility splay in each direction that should form part of the proposal. A revised plan was produced showing the splay in each direction and the Highway Authority confirmed that this would be acceptable. These agreed splays would also have the benefit of allowing less of the hedge along the frontage to be affected.
38. When I visited the site I was able to watch the passing traffic from various positions along the road, including from the existing field gate to the site. I appreciate that this was only a snap shot in time but I have no reason to believe that it was unrepresentative of the general nature of the traffic movements.
39. This C Class Road is restricted to 30mph but the speed surveys show the traffic is often moving faster. The road is fairly straight but the visibility along the stretch of road is affected by the vertical alignment. The views from the access in both directions are affected by the crests in the road. However, both the appellant's highway consultant and the County Highway Authority consider that with the agreed visibility splays that the distance to these crests, and the ability to see vehicles above the level of the carriageway beyond the crest in accordance with the best practice for measuring visibility splays, and based on the 85th percentile traffic speed, would be acceptable. I have found no reason to disagree that the proposal would be sufficient to allow for those leaving the site to see approaching vehicles and also for drivers of approaching vehicles to see any vehicle at the access and, if that vehicle was to pull into the carriageway, there should be sufficient time, if required, to brake or stop.
40. I have taken into account all the concerns and objections to the scheme on highway grounds. This includes those comments at the hearing, such that a greater "x" distance to the splay should be provided, concerns with the delivery of the static mobile homes and the use of the access by vehicles towing a trailer or caravan. In terms of the proposed "x" distance, I am satisfied by the analysis and confirmation of this matter from the highway engineers. Delivery of static mobile homes would be a very infrequent occurrence and with vehicles towing a trailer or caravan and leaving the site, I consider that this situation

would still be acceptable in terms of the sight lines and the ability of approaching vehicles to stop if necessary given the speed of the traffic and the visibility distances.

41. The scheme also includes a point of crossing from the site to the footway on the other side of the road. My observations are that there are occasional gaps in the flow of traffic that should allow, in conjunction with the visibility in each direction, the safe crossing of the road by pedestrians, including for children who were allowed to do so.
42. Drawing all these matters together, I conclude that the evidence demonstrates that appropriate visibility splays could be provided onto this road such that the scheme would not create an unacceptable impact on highway safety. A safe and suitable access would be able to be formed. Accordingly, the scheme would be compliant with the requirements of Policies S1 and S2 of the Local Plan and the Framework in respect of highway safety.

Other planning issues

43. There have been extensive and detailed objections and concerns raised by local residents and the Parish Council, both at the application and appeal stages. I have carefully considered them all. Most of the substantive issues I have examined above. In terms of the main other issues, including the visual impact of the development, the use and activities on the site would be visible from public vantage points but would be partially screened by the front hedge, albeit visible through the vehicular access. However, given the form of the proposal and the general surroundings, with built development generally on the other side of the road, I agree with the Council that the proposed development would not materially harm the character and appearance of the area.
44. Also with the position of the proposed site and the separation of the road from the adjoining residential development, there is no substantive evidence that the use of the site for residential purposes in the way sought would adversely affect the living conditions of any local occupant.
45. There are also representations raised concerning the level of need for Gypsy and Traveller pitches in the Council area. At the time when the Council determined the application it judged that there was not a need for this site to help meet identified supply requirements. That position has changed and the Council accept that the principle of the site for Gypsy and Traveller use would meet their development plan policies in terms of location. There was information raised at the hearing that another application for pitches was being considered locally. It appears that this application has not been determined and therefore, at this stage, this other site would not make a contribution towards supply. More generally, there was no clear and convincing evidence that there are any other sites available locally that could accommodate the appellant's needs.
46. Some representations had indicated that the appellant was a part owner of a caravan site nearby. I raised this at the hearing and received confirmation that this was not the case.

Conditions

47. The Council has suggested a number of conditions in the event that I was minded to allow the appeal. These were discussed at the hearing, and I have

considered them taking account of advice in the Framework and the Planning Practice Guidance. As a result I have amended some of them for consistency, enforceability, clarity and reasonableness.

48. In addition to the statutory time condition, a condition requiring the development to be carried out in accordance with the approved plans is necessary in the interests of certainty.
49. The site lies within a Mineral Safeguarding Area. Devon County Council as Minerals Authority has confirmed that subject to a 25 year temporary permission it has no objections. The appellant would be agreeable to such an approach. In all the circumstances of this case, a temporary permission and the reinstatement of the land at the end of that period is necessary. This is to avoid permanent sterilisation of the underlying mineral resources in accordance with Policy M2 of the Devon Minerals Plan. I do not consider that the further condition suggested by the Council regarding approval of a remediation scheme is necessary given the wording of condition 3 which would require restoration of the site.
50. To meet with the locational requirements set out in the development plan for the development of this site, it is necessary for the occupants of the pitches to meet the definition of a Gypsy and Traveller as set out in the PPTS. Conditions concerning the number and type of caravans, the number of pitches, that no commercial activity should take place from the site, the position of the static caravans and control over the stationing of smaller commercial vehicles are all necessary to accord with the terms of the application and in the interests of the character and appearance of the area.
51. A condition is necessary to require the agreement to details of any external lighting in the interests of the character and appearance of the area and biodiversity, in particular the protection of bats.
52. It is necessary for a condition to require the implementation of an agreed landscaping scheme. This condition is necessary in conjunction with the condition requiring a Protected Species Mitigation Scheme. These conditions would include submission of details of the works to the front hedge and other planting proposed for the site. This is in the interests of protecting and enhancing biodiversity, especially dormice, and the character and appearance of the area. It is necessary that both of these conditions are pre-commencement conditions as widening the access and undertaking works to the associated hedge need to be agreed at the outset in the interests of the biodiversity of the site, in particular for dormice, a protected species.
53. In the interests of highway safety, conditions are necessary to provide the agreed visibility splays, have a hardened and drained entrance next to the road and provide the footway and dropped kerb. In the interests of minimising flood risk and pollution, and for the reasons explained above, it is necessary for conditions to require schemes for surface and foul water drainage to be submitted, agreed and then implemented.

Conclusion

54. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations

indicate otherwise¹. In this case, the scheme would comply with Policy WE6 of the Local Plan which sets the specific policy approach for Gypsy and Traveller sites. I have also found that drainage and biodiversity issues could be satisfactorily addressed by planning conditions in any approval and, therefore, would be policy compliant. The scheme would not lead to an unacceptable impact on highway safety. It follows that the proposal would comply with the development plan when considered as a whole. I have carefully considered all the objections and concerns which have been raised. However, they do not form material considerations of such weight that they indicate that the appeal should be determined otherwise than in accordance with the development plan.

55. The scheme is acceptable having regard to a normal planning balance. As a consequence, I have not needed to consider other issues, such as the personal circumstances of the appellant, the alleged failure of policy or the arguments that the presumption in favour of sustainable development² would be engaged.
56. For the reasons set out above, and subject to the specified conditions, I conclude that the appeal should be allowed.

David Wyborn

INSPECTOR

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

² As set out in paragraph 11 of the Framework.

MAIN APPEARANCES

FOR THE APPELLANT

Mr Matthew Green	Green Planning Studio Ltd
Mr Jeremy Hurlstone	The Hurlstone Partnership
Mr Jon Davies	Biocensus
Mr Thomas Packman	Appellant

FOR THE LOCAL PLANNING AUTHORITY

Mrs Helen Murdoch	Teignbridge District Council
Mr Trevor Shaw	Teignbridge District Council
Mr Richard Rainbow	Teignbridge District Council
Mr Stephen Carroll	Teignbridge District Council
Mr Brian Hensley	Devon County Council
Mr Matthew Beddow	Devon County Council

INTERESTED PARTIES

Mrs Janet Wallace	Local Resident
Cllr Mervyn Wills	Ilsington Parish Council
Cllr Adrian Patch	Teignbridge District Council
Mr Mark Platts	Local Resident
Mrs Cressida Oliver	Local Resident
Mr Michael Robinson	Local Resident
Mrs Carol Retallick	Clerk to Ilsington Parish Council
Mr Martin Redfern	Local Resident
Mrs Heather Lintott	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING AND AFTERWARDS

- 1) Statement of Common Ground – Highways
- 2) Witness Statement of Mr Thomas Packman
- 3) Topographic Survey 17_837_010 Revision B
- 4) Proposed Access Plan - Job No 180901 - Date May 2022 – Dwg No. Figure 2
- 5) Appellant email dated 25 May 2022 confirming agreement to pre-commencement conditions

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan - Drawing No: 17_837_001
 - Proposed Site - Drawing No: 17_837_003 Revision E
 - Utility/Day Room - Drawing No: 17_837_004
 - Proposed Stable Block – Drawing No: 17_837_005
 - Surface Drainage Cross Section – Drawing No: 17_837_011
 - Proposed Access Layout - Job No 180901 - Date May 2022 – Dwg No. Figure 2
- 3) The use hereby permitted shall be for a limited period being the period of 25 years from the date of this decision. At the end of this period, the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought onto, or erected on the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development.
- 4) The site shall not be occupied by any persons other than Gypsies or Travellers as defined in Annex 1:Glossary of Planning Policy for Traveller Sites (August 2015).
- 5) No more than 8 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 4 shall be static caravans) shall be stationed on the site at any time.
- 6) There shall be no more than 4 pitches on the site.
- 7) No commercial activities shall take place on the land, including storage of materials.
- 8) Prior to installation of any external lighting on any building or anywhere on the site, plans and specification details of the external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved external lighting scheme shall be implemented and adhered to at all times and no further external lighting shall be installed.
- 9) No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
 - i) indications of all existing trees and hedgerows on the land, identify those to be removed and those to be retained and set out measures for their protection throughout the course of development;
 - ii) full details of all planting, seeding and turfing which shall subsequently be carried out in the first planting and seeding seasons following the occupation of the site or the completion of development, whichever is sooner;

iii) a scheme of management over the first five years to ensure that all new planting becomes established including that any trees or plants which within this period fail to establish and become seriously damaged/diseased or die shall be replaced in the next planting season with others of similar size and species.

Works shall proceed in accordance with the approved Landscaping Plan.

- 10) The site access shall be provided with visibility splays, in accordance with the Hurlstone Partnership Proposed Access Layout - Job No 180901 - Date May 2022 – Dwg No. Figure 2, prior to first occupation and shall thereafter be maintained to that standard.
- 11) The site access road shall be hardened, surfaced, drained and maintained for a distance of not less than ten metres back from its junction with the public highway. Provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.
- 12) The footway, dropped kerb crossing and tactile paving, including on the footway on the southern side of the Old Liverton Road as shown on Hurlstone Partnership Proposed Access Layout - Job No 180901 - Date May 2022 – Dwg No. Figure 2, shall be provided prior to the development being brought in to use and shall be maintained thereafter.
- 13) Any static caravans shall be sited in accordance with plan No 17_837_003 Revision E.
- 14) Other than a single vehicle for the transport of horses, no vehicle over 3.5 tonnes in weight shall be stationed, parked or stored on this site and no more than one commercial vehicle per plot shall be kept on the land for use by occupiers of the caravans hereby permitted.
- 15) No development, including site clearance, shall commence until a Protected Species Mitigation Scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timetable for implementation and incorporate the precautions and measures described in the 'Updates Ecological Method Statement, Mitigation and Enhancement Strategy' by Biocensus dated January 2018 where appropriate. The Scheme shall include:
 - i) Appointment and duties of an Ecological Clerk of Works to undertake/oversee works that might impact protected species;
 - ii) Methodology for protection/exclusion of dormice prior to hedge translocation;
 - iii) Detailed methodology for hedge translocation, overcoming issues of differences in ground levels, developed following advice from Devon Hedge Group;
 - iv) Detailed methodology for creating Devon banks, including fencing to prevent livestock browsing the new hedges;
 - v) Planting scheme for hedges on new Devon banks;
 - vi) Monitoring to determine the success of the hedge translocation and new hedge planting, at a frequency to be agreed and reporting to the Local Planning Authority and remediation measures in case of low success;

- vii) Location, number and type of dormouse boxes to be placed within a hedgerow;
- viii) Detail of lighting units to be provided, together with an isolux plan showing that light levels of 0.5lux or less will be achieved;
- ix) Aftercare and long-term management of all hedges, meadow/pasture, bat buffer zones, bat fences, lighting and dormouse boxes to ensure their long-term suitability for dormice and light averse bats.
- x) Monitoring of effectiveness of mitigation measures at an agreed frequency;

The development shall be delivered in accordance with the approved Protected Species Mitigation Scheme and the mitigation and monitoring measures shall be maintained thereafter.

- 16) No part of the development hereby permitted shall be brought into use until surface water drainage works shall have been implemented in accordance with the details that shall first have been submitted to and approved in writing by the Local Planning Authority. Before any details are submitted to the Local Planning Authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version) together with Devon County Council's Sustainable Drainage Design Guidance, and the results of the assessment shall have been provided to the local planning authority. The submitted details shall:
- i) provide detailed design of the proposed permanent surface water drainage management system and measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) The design of this permanent surface water drainage management system will be informed by the programme of approved methodology for infiltration testing. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.
 - iii) details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the proposed surface water drainage management system
 - iv) include a timetable for its implementation; and
 - v) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 17) Prior to first occupation of any caravan on site, details of the proposed method of foul sewage drainage shall be submitted to and agreed in writing by the Local Planning Authority. The approved foul sewage drainage scheme shall be implemented prior to the first occupation of any caravan and thereafter maintained in accordance with the approved details.

End of Schedule