



Appeal Decision

Hearing Held on 19 April 2022

Site visit made on 19 April 2022

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2022

Appeal Ref: APP/D0121/W/21/3274284 Kings Field, Moor Road, Banwell BS29 6ET

- 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 Dick Atwell against the decision of North Somerset Council.
 - The application Ref 20/P/2666/FUL, dated 22 October 2020, was refused by notice dated 18 March 2021.
 - The development proposed is creation of 1no. traveller and gypsy caravan pitch together with the formation of hardstanding and the erection of a day room and stables.
-

Decision

1. The appeal is allowed and planning permission is granted for creation of 1no. traveller and gypsy caravan pitch together with the formation of hardstanding and the retention of a day room, stables and shed at Kings Field, Moor Road, Banwell, BS29 6ET, in accordance with the terms of the application, Ref 20/P/2666/FUL, dated 22 October 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. The day room, stables and a shed had already been constructed and the residential use of the land had commenced prior to my visit. The appeal application sought permission for one pitch which was described in the decision notice as comprising one park home and one touring caravan, day room and stables. During the hearing, the Appellant advised that an additional touring caravan had been introduced onto the site to accommodate his teenage son's newly formed household. It was clarified that whilst the additional touring caravan should be considered as part of the proposal, this would not increase the number of pitches on the site. Under the Wheatcroft¹ principles, I consider that this minor change would not prejudice the interests of any other party and shall therefore determine the appeal on the basis of a single pitch for up to three caravans and for the retention of buildings that have already been constructed.
3. Separately, it became apparent at the site visit that the access to the site had been altered through the construction of brick walls and decorative gate piers and this was operational development of which the Council had not previously been made aware. The use of the access in connection with the site is not in dispute, but this operational development has not been consulted upon as part of the proposal as described nor detailed in the plans. Under the Wheatcroft principles, I regard that to consider this aspect could prejudice the Council and

¹ Wheatcroft Ltd V SSE [1982]

potentially other interested parties. As such, I have excluded these specific works of operational development from my consideration of the appeal.

Main Issues

4. The main issues are:

- whether the Appellant is a 'traveller' as defined by the Planning Policy for Traveller Sites: Annex 1 (2015) (PPTS);
- whether the location of the site accords with local and national policies with regard to access to facilities and limiting the need to travel by private vehicle;
- the need for pitches for Gypsies and Travellers in the area;
- the effects of the proposal on the character and appearance of the area; and
- whether the proposal would be at risk of flooding and if so, whether it could be made safe over its lifetime.

Reasons

PPTS Status

5. The appeal seeks permission for a single traveller pitch to accommodate the Appellant, his wife, and their six children, the eldest of which has allegedly recently married.
6. The Council questioned the PPTS status of the Appellant on the basis of the generalised information submitted about his self-employed landscape gardening business and attendance at fairs. During the hearing, the discussion centred on the horse trading undertaken at the annual fairs which cumulatively add up to around 12 weeks of absence from their settled base. Whilst no documented evidence on the numbers of horses sold, traded or acquired was offered, the Council accepted that the transactions described by the Appellant and their regularity amounted to activity of economic importance to the Appellant and his family. Given this, and the details of the habitual absence from the settled base during the longer school summer holiday to seek employment away from the site, the Council conceded that the family unit falls under the definition of travellers as defined by Annex 1 of the PPTS. Based on the information before me, including a letter from the Council's Education Inclusion Service, I see no reason to take a different view. Therefore, PPTS, which sets out the Government's policy for traveller sites applies, as do development plan policies relevant to gypsies and travellers.

Location

7. The appeal site, which the Appellant purchased in 2019, is accessed via Moor Road and is located around 2.4km from Banwell (by vehicle) and 2.5km from the closest junction of the M5 motorway and a similar distance to Weston-Super-Mare. It is an area with a loose straggle of houses and farms, along with much equestrian-related development and grazing land. Whilst much of Moor Road is tarmacked and maintained, a relatively short section close to the site is roughly gravelled, single width and without streetlighting.
8. As the site is outside of the settlement boundaries and far beyond the urban limits of both Weston-Super-Mare and Banwell, it is in the open countryside in policy terms. The Policies of the development plan that seek to limit

development in the countryside, including Policies CS14 and CS33 of the North Somerset Council Core Strategy (2017) (Core Strategy), do not permit the provision of permanent Traveller pitches. Criteria-based policy CS18 of the Core Strategy relates more directly to proposals for travellers. It does not prevent the development of sites in the countryside per se, but indicates that the proximity of sites to local services and facilities will be a consideration in assessing proposals, along with access to the major road network.

9. The PPTS sets out in paragraph 25 that new traveller site development should be very strictly limited in the open countryside away from existing settlements or outside areas allocated in the development plan. However, this national policy does not specifically indicate that traveller developments should not ever occur in the countryside.
10. The distances between the site and Banwell and Weston-Super-Mare are such that the proposal can be considered to conflict with the aims of the development plan and PPTS in terms of being in the open countryside away from settlements. Given the distance and nature of the routes, I consider it unlikely that walking or cycling would be chosen as an alternative to private vehicles. As the closest bus stops are also located in the settlements, it is highly unlikely that buses would be chosen as a substitute mode of transport.
11. The Appellant's reliance on the use of a vehicle for work will mean that some errands can be undertaken when passing the necessary shops or facilities. In addition, the family have a generally more itinerant lifestyle and will no doubt share many trips by vehicle, benefitting from the relatively close proximity to the M5 motorway and relatively short distances to the closest settlements. However, whilst these factors may mitigate the harm to some degree, in my opinion, the development will nonetheless result in undue reliance on the use of a private vehicle, in conflict with, in particular, Policies CS14, CS18 and CS33 of the Core Strategy that seek to prevent unsustainable sporadic development in the countryside and ensure traveller sites are well located for access to services. For similar reasons, the proposal would fail to accord with national policy in PPTS paragraph 25.

Need for Pitches

12. The written evidence of the Council accepted that a five year supply of deliverable sites could not be demonstrated, but that the appeal proposal, for either a permanent or temporary 10 year period as sought by the Appellant, was not one that attracted greater favourable weight on the basis of such a shortfall. Conversely at the hearing, the Council's specialist on the subject was of the view that at the present time, the Council could in fact demonstrate a five year supply of pitches relative to the needs detailed in the current North Somerset Gypsy and Traveller Accommodation Needs Assessment 2016 – 2036 (2017) (the GTAA). The need specified in the GTAA requires a further 22 pitches over the remaining plan period, and though some of these had been granted in recent months, the Council indicated that there was sufficient time left during the plan period to deliver against the needs.
13. An updated GTAA is in the process of being produced which will have a timeframe to 2040, to tally with the emerging North Somerset Local Plan (eNSLP) which is currently at Regulation 18 consultation stage². It was

² Regulation 18 stage of The Town and Country Planning (Local Planning) (England) Regulations 2012

indicated that the evidence collection process, including the undertaking of interviews, was nearing an end, and that in the coming weeks, a draft would be finalised. The anecdotal suggestion was that owing to the number of temporary traveller pitches which have recently been converted to permanent permissions, the overall level of need would likely be reduced compared to that within the current GTAA. It was also suggested that a recommendation of the GTAA to address some of the residual need could be to allow pitch intensification, in essence, where additional touring units are permitted on pitches to accommodate larger families that may be content with such an arrangement.

14. In my view, there is inconclusive evidence on which to base an assertion that a five year supply of traveller pitches exists, or that the need will reduce, rather than remain consistent or increase. Whilst the Council indicated that allocations of traveller pitches in the eNSLP would be unlikely, what strategy or criteria-based traveller-related policy will be included within the eNSLP to meet any need is as yet to be determined.
15. Therefore, on the basis of the available evidence before me, there appears to be a current need for traveller pitches and an absence of a five year deliverable sites as required by PPTS. There is also a degree of uncertainty which will persist, at least for the short term, about how any level of need identified within the anticipated updated GTAA will be addressed.

Character and Appearance

16. As set out in the North Somerset Landscape Character Assessment Supplementary Planning Document (2018) (SPD), the site is within the Locking and Banwell Moors landscape type which forms part of a low-lying sweep of reclaimed wetland that is strikingly flat and has ever-present water in the artificial linear form of the many ditches, rhynes and canalised rivers. This is true of the appeal site surrounds, along with the improved pastoral landcover, intermittent hedgerows and the general sense of it being peaceful.
17. The condition of this landscape type is considered to be 'declining' in some areas, and the overall strategy is to "*conserve the remote and rural nature of the pastoral landscape*" and "*minimise the impact of the urban edge and the encroachment of visually intrusive land uses through design guidance and appropriate land management*" (SPD). Along Moor Road, there is evidence of equestrian influences and other urban fringe activities having a deteriorative effect on the landscape character and appearance, with small buildings, stable blocks, caravans and enclosures featuring in most fields and paddocks along the stretch between Banwell and the appeal site.
18. The Appellant also owns two grazing paddocks to the south-west of the appeal site which are to be maintained in pastoral use associated with the keeping of horses. The appeal site is restricted to around a sixth of the area owned by the Appellant. From Moor Road, there is an existing dense hedgerow which largely prevents views into the site, the fence and establishing evergreen hedge put in place behind this by the Appellant also assist in this regard. Between the appeal site and the Appellant's paddocks, there is only a close-board fence of around 1.2 metres high. At the far end of the Appellant's paddocks, a mixed indigenous and evergreen hedgerow has been planted to screen views of the site from the south-west. The sides of the site and paddocks are bound by a mixture of treed hedgerows, fencing and post-and-rail fencing.

19. Notwithstanding the limited visual envelope of the appeal site given the flat topography and boundary hedges, the introduction of a collection of structures, domestic paraphernalia and associated development is harmful when compared with the green and open space which would have existed before. Insofar as it has a further incrementally harmful effect on the landscape's condition, the proposal runs counter to the aims of the SPD. However, in the context of the relatively modest size of the appeal site, limited numbers of caravans and the existing and proposed landscaping measures, and given the proximity to sites with similar features within the surrounding landscape, this level of harm is relatively limited.
20. Consequently, I regard that there is a conflict with Policies CS5 and CS18 of the Core Strategy and Policies DM10 and DM32 of the North Somerset Sites and Policies Plan Part 1 (2016). Amongst other things, these Policies collectively seek to protect and enhance the character, distinctiveness and diversity of the landscape. For similar reasons, the proposal also fails to adhere to the advice set out in the SPD.

Flood Risk

21. The site and surrounding area fall entirely within flood zone 3A, with the River Banwell and associated flood risk defences within approximately 250 metres north-east of the site. The use of land for residential purposes along with associated development would be considered to be 'highly vulnerable'. Core Strategy Policy CS3 sets out that development within flood zones 2 and 3 will only be permitted where it is demonstrated that it complies with the sequential test as set out in the National Planning Policy Framework (the Framework), and where applicable, the exceptions test. Paragraph 13 of PPTS sets out that traveller sites should not be located in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.
22. The Appellant submitted a site-specific Flood Risk Assessment and a Sequential Test (Oct 2020) with the appeal application. As dictated by Policy CS3, the search area was based on the entire North Somerset county. It was undertaken using property search databases and the Council's Strategic Housing Land Availability Assessment and sought to identify similarly-sized parcels of potentially available land in areas of lower flood risk (Flood Zone 1). No suitable alternative sites were identified through this process.
23. An Addendum to the Sequential Test was submitted in January 2021 which used a more extensive range of search sources. This identified one other site, 'The Barton' at Bleadon, at a lower risk of flooding that could theoretically accommodate the development. Whilst this was indicated as a likely candidate for bricks and mortar housing in preference to a traveller pitch given its relationship to the settlement boundary, a verbal update at the hearing confirmed that this site had been purchased and was subject of a current planning application for a single dwelling, rendering it unavailable for the proposed development.
24. The Council also highlighted the pitch recently vacated by the Appellant at Moorland Park as evidence of at least one available alternative site. It also highlights that the recent permissions at Heathfield Park and Moorland Park are potentially available sites which have not been included within the Sequential Test or Addendum.

25. I have limited details of the permissions granted at Heathfield Park or Moorland Park but understand that they too are sites within the higher risk flood zones in any event. The format and capacity of the pitch at Moorland Park has proven to be unsuitable for the family, hence their relatively recent departure therefrom. I have taken these factors into consideration. Therefore, on the basis of the available evidence and the factors detailed above, I am satisfied that, at the present time, there are no immediately available sites as suited to the current needs of the family as the appeal site. The sequential test is passed on this basis.
26. The Framework sets out that in order to pass the exception test, it should be demonstrated that the development both (a) provides wider sustainability benefits to the community that outweigh the flood risk, and (b), would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere.
27. In terms of (a), setting aside the harms identified above, the wider sustainability benefit would derive from the family being able to stay in their own home, preventing them from becoming homeless and through the release of their former pitch to fulfil the needs of another traveller family, thus minimising the deficit of pitches for others. As the pitch needs of the traveller community are more specialised than that of the settled community, this would amount to a material public benefit though only a limited number of pitches are involved. However, there is a prospect that in the medium term, the Council will identify a reduced pitch need or suitable alternatives that would bring the weight of this benefit into question, and potentially also undermine the conclusions in respect of the sequential test. On this basis, I cannot conclude that there would be lasting wider sustainability benefits that would outweigh the flood risks and justify a permanent grant of planning permission.
28. On the basis of the above, the proposal therefore conflicts with Core Strategy Policy CS3 and the Framework.

Material Considerations

Personal Circumstances

29. The PSED³ requires that when carrying out its functions or activities, a public authority must "... *foster good relations between persons who share a relevant protected characteristic and persons who do not*". The protected characteristic of the Appellant and his family, i.e. their traveller status, is not in dispute and it appears that many neighbouring residents are supportive of the family continuing to reside there. The Human Rights Act⁴ establishes a right to respect for private and family life, his home and his correspondence.
30. Article 3 of the United Nations Convention on the Rights of the Child requires a child's best interests to be a primary consideration, and no other consideration must be regarded as more important or given greater weight. As indicated, the Appellant has six children that reside on site, albeit that one has recently married and has formed a new household. The younger children range from 2 to 14 years of age.

³ Public Sector Equality Duty under the Equality Act, 2010

⁴ Article 8 of the European Convention on Human Rights as enshrined in the Human Rights Act (1998)

31. One of the children is in a local primary school, albeit based closer to their former pitch at Moorland Park. Whilst the 3 year old child currently attends the School's Pre-school, they will be joined there by the youngest child in due course. It was explained that the children attend that particular Primary School as it has a large community of traveller children which are well supported there and for the obvious reason of continuity of education. The daily trips to and from the site to the School are in the region of 8km by car, longer than would be the case if the children attended school in Banwell. In respect of the teenage children, it was reported that they were in receipt of home tutoring around three times each week with the exception of the eldest child who worked with the Appellant.
32. There would be advantages for the general well-being of the parents in remaining settled and being able to provide a stable home, access to basic amenities and a secure and suitably-sized living environment for the children. This would make the children's lives happier and be in their best interests.
33. A further benefit of a settled base is that the occupants, whether healthy or not, can register with a local doctors' surgery and attend specific hospitals, and so establish a continuity of health care. It appears, having resided in the County for some 10 years or more, that the family have registrations with medical and dental surgeries in the wider area and that moving to the appeal site has not prompted any changes in these regards, though no particular medical needs have been brought to my attention.
34. In stark contrast to the benefits outlined above, dismissal of the appeal would, in all likelihood, prevent the Appellant and his family from living on the site, without any certainty of suitable alternative accommodation being readily available. The alternative itinerant lifestyle would be damaging to the education, health and well-being of the family.

Planning Balance

35. I conclude that the development would result in a reliance on the private vehicle, would cause harm to the character and appearance of the area and would be at risk of flooding. The harm I have identified to the character and appearance of the area has been limited to some degree by the context of the site, while the concern about the relationship to services is similarly reduced because of the relatively modest distances to existing settlements and in the broader context of caravan sites being most likely to fall within the countryside in any event. Nonetheless, these are conflicts with the development plan that indicate that the development should be refused.
36. PPTS paragraph 24 sets out that the existing level of local provision and need for sites, and availability (or lack) of alternative accommodation for the applicants are relevant matters when considering traveller proposals. In this instance, given the lack of alternatives, there would be a benefit of providing a need for a traveller pitch from that identified within the GTAA, particularly in the context of an absence of a five year supply of deliverable traveller sites as required by PPTS. There would also be benefits to the appellant and his family and allowing the proposal would be in the best interests of the children.
37. However, the combined harm and conflict with the development plan clearly outweigh the other considerations, and this makes the site unsuitable for this development on a permanent basis.

Temporary permission

38. PPTS paragraph 27 states that where an authority is unable to demonstrate an up-to-date five year supply of deliverable sites, this should be a significant material consideration. Dismissing the appeal would have an adverse effect on the residents, including the children, by making them homeless and making settled education and medical care more difficult. These factors also combine to form considerations of significant materiality. It is evident that work is underway on the new GTAA to understand the current level of need and shape the policy approach that can address the needs of travellers going forward. As the Local Development Scheme anticipates adoption of the eNSLP in 2023, it is reasonable to assume that a three year temporary permission would be sufficient to allow a conclusion on this process, during which time the Appellant could seek to secure a preferable alternative pitch or pitches.
39. Such a temporary permission would mean the two youngest children would still have to leave the site at some point during their primary school years, but it appears that the family have managed to sustain the children's school attendance despite having moved from Moorland Park in recent years. Accordingly, I do not consider that such an outcome would unacceptably harm their schooling opportunities when the time came to do so.
40. In coming to this view I appreciate the Appellant sought a longer temporary period of 10 years, but I consider that this would be excessive and would more likely result in further intensification of the site over such time with more of the children having turned into adults and with a likelihood of additional households being formed. A three year period would keep the needs of the family current throughout the policy formulation process. As such, the protection of the public interest cannot be achieved by means which are less interfering of the appellant's rights under Article 8 of the Human Rights Act. They are proportionate and necessary in the circumstances and would not result in a violation of said rights.
41. Therefore, whilst I have found the site unsuitable for the residential use on a permanent basis, in recognition of the materiality of PPTS paragraph 27, given the lack of a deliverable five year supply and lack of alternatives, and when combined with the personal circumstances of the Appellant and family, I conclude that these considerations outweigh the combined harms and indicate that a temporary permission for the residential use should be granted.
42. In considering a temporary permission, it is also necessary to return to the serious flood risks that would be presented to the Appellant and his family for the duration of such a period and the accordance of the proposal with the exceptions test. In terms of sustainability benefits to the wider public, the proposal would resolve, at least in the short-term, a need for a traveller pitch from that identified within the GTAA, resolving the family's need for a pitch of an appropriate size, of which there do not appear to be any available alternatives at a lesser risk of flooding.
43. In terms of how safe the development would be over a restricted 'lifetime' of three years, I have been directed to a number of temporary and permanent permissions that indicate that the static unit should be tethered to the ground and elevated to above the possible fluvial flood level. The static unit was approximately 600mm above the site levels of approximately 5.68m AOD, which already takes it above the 6.17m AOD predicted 1:100 year fluvial flood

level, though the specific height differentiation and method of tethering the unit to the hard base would need further clarification.

44. The Appellant has also indicated a willingness to have a flood warning and evacuation plan in place, should the need arise. Such measures would be appropriate to ensure that the development is safe over a temporary period. No elements of the proposal would increase the risk of flooding elsewhere for the same duration. Therefore, on a temporary basis and subject to conditions, the proposal passes both elements of the exceptions test.

Conditions

45. A condition is necessary to ensure that the extent of the site, position and scale of buildings remains as detailed in the approved plans. Occupancy of the site should be restricted to the current Appellant, his wife and their resident dependants, as their personal circumstances have contributed to my decision. Furthermore, it should be for a temporary period of up to 3 years, with a requirement to re-instate the site afterwards.
46. Having regard to the character and appearance of the locality, the development should be restricted to a single pitch with no more than 3 caravans.
47. There should also be no commercial activity on the site other than the storage of materials and equipment associated with the Appellant's landscaping business.
48. The appellant has already undertaken some landscaping around the site and adjoining land. Given the temporary nature of the permission, it would be unreasonable to seek additional landscaping as it would not have any appreciable effect by the time the permission expires. However, a condition is necessary to agree details of any external lighting prior to its installation.
49. Finally, having regard to the flood risks on site, details of the measures to ensure the safety of the development over its temporary lifetime and the flood warning and evacuation plan should be agreed and implemented as soon as practicable. Given that the development is already in existence, the form of these conditions ensures compliance therewith or otherwise, the cessation of the use of the land and the removal of all related structures and development.

Conclusions

50. For the foregoing reasons, I conclude that the appeal should succeed and temporary planning permission should be granted.

Hollie Nicholls

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Dick Attwell	Appellant
Mr John Rooney	Agent for Mr Attwell

FOR THE LOCAL PLANNING AUTHORITY:

Mr Simon Exley	Service Manager, North Somerset Council
Ms Emma Bailey	on behalf of North Somerset Council
Mr Steve Jarman	Opinion and Research Services
Ms Claire Courtois	Planning Policy Officer, North Somerset Council
Mr Chris Joannom	Senior Planning Enforcement Officer, North Somerset Council

SUBMITTED DOCUMENTS:

Document 1	Statutory Declaration from former landowner
Document 2	Map extract of site in context with surroundings

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be retained in accordance with the following approved plans:
 - Site Location Plan, Ref 3861.PL.01, dated Oct 2020
 - Proposed Site Plan, Ref 3861.PL.03, dated Oct 2020
 - Proposed Day Room, Ref 3765.04, dated Feb 2020
 - Proposed Stable, Ref 3861.PL.04, dated Oct 2020
 - Shed Plans and Elevations, Ref SM01.
- 2) The occupation of the site hereby permitted shall be limited to Mr Dick Attwell, Mrs Tania Attwell and their resident dependants as named below:
 - Josh Attwell (and Gina Williams)
 - Leighton Attwell
 - Tiara Attwell
 - Shanice Attwell
 - Vienna Attwell
 - Rhianna Attwell
- 3) The use hereby permitted shall be for a limited period ceasing on or before three years beginning with the date of this decision. At the end of this period, the use hereby permitted shall cease and within 6 months all caravans, buildings, structures, materials and equipment brought on or erected on the land, or works undertaken on the land in connection with the use, shall be removed, and the land restored to its former condition in accordance with a scheme submitted to and approved in writing by the Local Planning Authority.
- 4) The permission hereby approved shall be for no more than 1 gypsy pitch and there shall be no more than 3 caravans on the pitch at any time, of which only one shall be a static caravan.
- 5) No business activities shall take place on the land, other than the storage of materials and equipment associated with the Appellant's landscaping business.
- 6) No external lighting shall be installed unless details have been submitted to and approved in writing by the Local Planning Authority, including:
 - details of the type and location of the proposed lighting;
 - existing lux levels affecting the site;
 - the proposed lux levels; and
 - lighting contour plans.

Any external lighting shall be installed and operated in accordance with the approved details.
- 7) Unless within three months of the date of this decision, details of the measures to secure the static caravan to the ground and its level of elevation above the site are submitted in writing to the Local Planning Authority for approval, and unless the approved details are implemented within three months of the Local Planning Authority's approval, the use of the site shall cease and all equipment, structures and materials brought

onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no such details in accordance with this condition are approved within six months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as such details approved by the Local Planning Authority are implemented. Upon implementation of the approved details specified in this condition, the measures shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 8) Unless within three months of the date of this decision, details of the flood warning and evacuation plan and any other flood mitigation measures are submitted in writing to the Local Planning Authority for approval, and unless the approved details are implemented within three months of the Local Planning Authority's approval, the use of the site shall cease and all equipment, structures and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no such details in accordance with this condition are approved within six months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as such details approved by the Local Planning Authority are implemented. Upon implementation of the approved details specified in this condition, the measures shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.