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## Appeal Decisions

Hearing opened on 26 July 2022

Site visit made on 29 March 2023

**by Sarah Dyer BA BTP MRTPI MCMI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 April 2023**

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### **Appeal A Ref: APP/U2805/W/20/3258705**

#### **Oakley Park, Ashley Road, Middleton, Leicestershire LE16 8YP**

- 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 Messrs T and M Doran against the decision of Corby Borough Council.
  - The application Ref 20/00097/COU, dated 21 February 2020, was refused by notice dated 28 July 2020.
  - The development proposed is the material change of use to residential caravan site providing 4 No. Gypsy pitches, including laying of hardstanding, erection of boundary walls and fences, construction of new access and erection of ancillary amenity building.
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### **Appeal B Ref: APP/U2805/W/21/3270912**

#### **Land south of Oakley Park, Ashley Road, Middleton, Leicestershire LE16 8YP**

- 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 Messrs T and M Doran against the decision of Corby Borough Council.
  - The application Ref 20/00458/COU, dated 6 October 2020, was refused by notice dated 5 March 2021.
  - The development proposed is the material change of use of land to use as a residential caravan site providing 6 No. Gypsy pitches, including laying of hardstanding, erection of 6 No. ancillary amenity buildings and access improvements.
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## Decisions

### **Appeal A - Oakley Park**

1. The appeal is allowed, and planning permission is granted for the material change of use of land to use as a residential caravan site providing 4 No. Gypsy pitches, including laying of hardstanding, erection of boundary fences, construction of new access and erection of ancillary amenity building at Oakley Park, Ashley Road, Middleton, Leicestershire, LE16 8YP in accordance with the terms of the application, Ref 20/00097/COU, dated 21 February 2020, subject to the conditions listed in the schedule at the end of this decision (Annex 1).

### **Appeal B – Land south of Oakley Park**

2. The appeal is allowed, and planning permission is granted for the material change of use of land to use as a residential caravan site providing 6 No. Gypsy pitches, including laying of hardstanding, erection of 6 No. ancillary amenity

buildings and access improvements at Land south of Oakley Park, Ashley Road, Middleton, Leicestershire LE16 8YP in accordance with the terms of the application, Ref 20/00458/COU, dated 6 October 2020, subject to the conditions listed in the schedule at the end of this decision (Annex 2).

### **Application for costs**

3. An application for full costs has been made by the appellants against the Council in respect of both appeals. This application will be the subject of a separate Decision.

### **Preliminary Matters**

4. The appeals were originally planned to be dealt with by a Hearing which was opened on 26 July 2022. However, the Hearing was adjourned for the following reasons:
  - The North Northamptonshire Part 2 Local Plan for Corby had been adopted and the planning policy position needed to be clarified.
  - New evidence had been presented in respect of the need for Gypsy and Traveller sites by the Council.
  - Interested parties had submitted representations, highway reports and a report on protected species which the appellants had had limited access to.
  - The Council had not consulted the Highway Authority on the highway report produced by the interested parties.
  - A general concern between the parties regarding what evidence had been made publicly available on the Council's website.
5. The appellants, the Council and the interested parties all had equal access to the submissions which had been made in advance of the hearing. The appellants also submitted information in the form of Transport and Highways Written Representations by the Transportation Consultancy (October 2022) (the Transportation Study) and a Preliminary Ecological Appraisal dated 12 November 2022.
6. In January 2023 the Council advised the Planning Inspectorate that it had decided that it no longer wished to proceed with defending either of the appeals.
7. The Middleton Residents' Action Group (Middleton RAG) which was represented at the Hearing has confirmed that it does not consider that Appeal A should be dismissed subject to the imposition of planning conditions relating to a range of issues. However, Middleton RAG maintains some of its objections in respect of Appeal B and on this basis, it considers that Appeal B should be dismissed.

### **Main Issue (Appeal B)**

8. I intend to deal with Appeal A on the basis that it is uncontested, and that planning permission should be granted subject to planning conditions which I have considered below.
9. In the case of Appeal B, the interested parties, whose comments are reflected in the submissions by Middleton RAG, raise objections to the development on Land South of Oakley Park (the Appeal B scheme).

10. Give the above, the main issue before me in respect of Appeal B is whether on the basis of the matters raised by the interested parties, there are any considerations that might indicate that Appeal B should be dismissed. The matters raised by the interested parties are as follows:

- The effect of the development on:
  - the character and appearance of the surrounding area
  - countryside amenity
  - heritage assets
  - the safety of users of Ashley Road
- Whether the location is a suitable site for new residential development.

## **Reasons**

### *Planning Policy for Travellers Sites (PPTS)*

11. The interested parties do not question that the occupiers of the site will be gypsies and travellers and, on that basis, the PPTS is a relevant consideration.

### *Character and appearance*

12. The National Planning Policy Framework (the Framework) recognises the intrinsic character and beauty of the countryside. The site is within the countryside and the impact of the development on its character and appearance is a relevant consideration in the context of the Framework.

13. In relation to this matter the interested parties refer to policies in the North Northamptonshire Joint Core Strategy 2016 (the Core Strategy) which seek to ensure that development is sensitive to its setting (Policy 3) and to require that development respects and enhances local character (Policy 8). They also refer to Policy 31 which sets out criteria against which applications for gypsy and traveller sites are assessed.

14. The interested parties describe the appeal site as a remote site located in open countryside. Whilst the site is in the countryside given its proximity to Middleton, in my view it cannot be described as in a remote location. The site is separated from Middleton by a series of small, enclosed fields. Moreover, in the immediate vicinity of the site there is a bungalow, stables, and a sewage treatment facility and most significantly the site adjoins Oakley Park which is an established gypsy and traveller site which benefits from planning permission for three pitches granted at appeal in 2009 (Appeal Ref. APP/U2805/C/09/2097945) (the 2009 permission). Oakley Park is also the subject of Appeal A.

15. The Appeal B site is typical of the small, enclosed fields which characterise the area and it is contained by hedges including those on the road frontage which again are part of the character of the site context.

16. The existing access to the site is a field gate. This arrangement would need to be changed to provide a safe access to the caravan pitches. Whilst this may require the removal and/or significant cutting back of hedges, to a greater degree than is shown on the layout plans, the views into the site from the road would continue to be limited.

17. A significant portion of the hedge between the site and the Oakley Park development has been removed and this opens up views into the site from Oakley Park. However, this is not a public viewpoint, and, in any event, a new hedge could be planted to compensate for the loss of the original.
18. It is proposed to lay hardstanding to accommodate six pitches, each with space for a mobile home and touring caravans and an amenity block in the form of a building. The site is smaller than the Oakley Park site and will accommodate more pitches, consequently, as the layout plan shows, the caravans will be closer together and the development more intensive.
19. The Oakley Park development has already changed the character of this part of Ashley Road. There is substantial screening as a result of roadside vegetation. However, these are deciduous species and in the winter months the screening effect is reduced. The accesses to the Oakley Park development permit views into the site. As such the Oakley Park development is visible from the road and contributes to the character of the area.
20. Both the existing Oakley Park development and the development on the appeal site are contained by field hedges such that their visual impact is limited in the wider site context.
21. Essentially the development on the appeal site will appear as an extension of the Oakley Park site. As such it will extend the visual impact of gypsy and traveller development along a greater extent of Ashley Road and will facilitate views into the site as a result of the works to the access. However, those impacts will be in the context of an established gypsy and traveller site and will be very limited.
22. The development would not undermine the field patterns on or around the appeal site and there is an opportunity to repair the damage done by the removal of the hedge between the site and Oakley Park.
23. Taking all of these matters together I find that the development is appropriate in its setting within the countryside and that it respects the character of the surrounding area.
24. The interested parties identify the site as within the Welland Valley Landscape Character Zone part of the Rockingham Forest and High Leicestershire Countryside Character Areas. They say that this landscape has been identified as being highly sensitive to change. However, it does not follow that in this area the landscape does not have the capacity to contain new development nor that any new development should be resisted.
25. In this case I have found that the development would not have a harmful impact on the appearance of the area, and it follows that I have found that the landscape character of the site context will not be compromised.
26. I conclude that the use as a residential caravan site would not have a harmful impact on the character and appearance of the surrounding area. The development is therefore in accordance with Policies 3, 8 and 31 which seek to ensure that development is sensitive to its setting, that it respects and enhances local character and that in relation to gypsy and traveller development it does not have a significant effect on the character of the landscape. For the same reasons the development is in accordance with the Framework.

### *Countryside amenity*

27. The interested parties refer to noise and activity arising from the Oakley Park development having an adverse impact on their ability to enjoy the countryside while walking, cycling and horse-riding. They also cite incidents of anti-social behaviour.
28. Ashley Road has the characteristics of a quiet country lane, and it is therefore reasonable to assume that it could be used by walkers despite the absence of footways and streetlights particularly given the proximity of Middleton. The number of stables in the area also point to the likelihood of horse riders using the road. On this basis local people are likely to be in the vicinity of the site for recreational and leisure purposes as suggested by the interested parties. I also observed that this was the case during my site visit.
29. The use of the site would generate noise and disturbance as a result of people undertaking normal domestic activities and vehicles coming and going from the caravan pitches. However, there is no information to suggest that the level of noise will be excessive or that it would be at a level such that it would have more than a temporary and limited effect on anyone passing by the site.
30. There is also no evidence to demonstrate that the incidents which have occurred are regular occurrences or that the same type of activities would result from the occupation of the caravans on the Appeal B scheme. Furthermore, reference is made to business activities being carried out on the Oakley Park site. However, the Appeal B scheme does not include any form of business use such that the adverse impacts identified by the residents would arise on the site.

### *Heritage assets*

31. The interested parties refer to the potential for archaeological remains being found on the site and suggest that a desk top survey should be carried out. However, save for reference to general statements about the history of the area and reference to finds on other land which have not been identified in detail, there is limited evidence to demonstrate that the site itself is of archaeological significance.
32. Furthermore, the Council consulted with Northamptonshire County Council Archaeology when it determined the application and that body advised that the site is not within an area of known archaeological sensitivity.
33. The Framework requires that in determining planning applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including the contribution made by their setting. In this case the Council's officer report does not raise any concerns regarding the submissions made by the appellants in respect of heritage assets and on the basis of the evidence before me I do not find that the development has been shown to have an impact on any heritage assets.

### *Access and highway safety*

34. The layout plan for the Appeal B scheme shows an access onto Ashley Road. The interested parties are concerned that the access will have inadequate visibility splays leading to highway safety issues. In particular, the interested parties are critical of the information provided by the appellants in respect of

visibility and the lack of consistency between the submitted layout plan and the Transportation Study.

35. The site presents a wide frontage to Ashley Road which is in the control of the appellants. Whilst I am not satisfied that the access layout shown on the submitted plan would provide adequate visibility, an amended layout could do so. This is based on my observations on site and confirmation by the Council that the Highway Authority is content that a suitable access would be practicable.
36. The interested parties suggest that as a minimum a plan showing achievable sight lines should be submitted in advance of a decision to grant planning permission. However, given the site circumstances, I am satisfied that a planning condition to secure the submission and approval of full details of the site access arrangements prior to the commencement of development would be appropriate in this case.
37. I conclude that subject to the imposition of an appropriately worded planning condition, the development would not have a harmful effect on the safety of users of Ashley Road.

#### *Site location*

38. The interested parties argue that the site is unsuitable for residential development because its location is not accessible to day-to-day facilities by sustainable means of transport and occupiers would be reliant on private motor vehicles. As such they consider that the development conflicts with Policies 11 and 31 of the Core Strategy and the Framework.
39. The interested parties say that the closest settlements are Middleton and Cottingham, but they argue that only limited facilities are available in those locations. However, their description of a school, community shop, public house and bus stops offers some opportunities for occupiers to meet their needs. Other needs can be met further afield in larger settlements such as Corby and the presence of bus stops, identified by interested parties as being present in Middleton, indicates that public transport may be an option.
40. The site is fairly close to the outskirts of Middleton and a footway is provided adjacent to new dwellings on the edge of the village into the village centre. Nevertheless, that part of Ashley Road where the site is located is unlit, has no footway and the national speed limit of 60 mph applies. Walking along this stretch of road would not be an ideal means of accessing Middleton at all times but cycling would be a more attractive option. This observation accords with the views of the interested parties that residents use the area close to the site for leisure and recreational activities.
41. The Framework sets out that significant development should be focussed on locations which are or can be made sustainable in terms of transport choices. It also accepts that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
42. Policy 11 of the Core Strategy seeks to limit development in rural areas to that which is required to support the economy or meet a local need which cannot be met more sustainably at a nearby larger settlement. Policy 11 is in accordance with the Framework in this respect.



43. However, in the context of gypsy and traveller development where the PPTS is relevant there is no requirement for access to facilities to be by sustainable modes of transport only. This is reflected in Policy 31 of the Core Strategy which sets the criteria of the assessment of gypsy and traveller sites, and which does not reference access by sustainable means as an essential criterion for the location of gypsy and traveller sites.
44. For the reasons set out above, I find that it is a suitable location for a gypsy and traveller site.

### **Conclusion on Main Issue (Appeal B)**

45. For the reasons set out above I do not find that development should be resisted on the grounds identified by the interested parties. However, I have found that a planning condition will be necessary to secure a safe means of access to the site.
46. The details of such a condition and additional conditions which are necessary to control other aspects of the development are addressed in the following section. This part of my decision also deals with the planning conditions which are necessary in respect of the Appeal A scheme, including conditions recommended by the interested parties.

### **Conditions (Appeals A and B)**

47. A list of draft planning conditions has been produced by the Council in respect of the Appeal A and Appeal B schemes. The list has been the subject of consultation with the appellants and the interested parties. The interested parties have also produced a list of matters which they consider should be addressed by conditions.

#### *Appeal A – Oakley Park*

48. At the site visit the appellants confirmed that there are currently four mobile homes on the site which are occupied. I also observed that hard standing has been laid, an additional point of access has been formed, that brick walls have been constructed at the existing access point and that a fence has been erected which subdivides the site into two areas. These are features which are shown on the submitted plans. Consequently, the development as described in the planning application has commenced and it is unnecessary to attach a time limit condition.
49. Not all of the elements of the development have been completed and a condition to secure compliance with submitted plans is reasonable and necessary and will provide certainty for all parties. However, I have concerns about the details shown on the Site Layout Plan which I will return to below and which will have implications for the detailed wording of this condition. (Condition 1)
50. A condition is necessary to restrict the occupation of the site to gypsies and travellers to reflect the basis upon which the application was made and the consideration by the parties of the PPTS and local planning policy relating to the provision of gypsy and traveller sites. (Condition 2)
51. The Council has suggested a condition to control the number of pitches and another condition to control the number and type of caravans on the site. Since

the grant of planning permission is for use of land as a residential caravan site it is necessary to condition the maximum number of pitches, caravans, and types of caravans on the site. This condition is also necessary to safeguard the amenity of residents of the site and in the interests of the appearance of the site. I have, however, amalgamated the two conditions into one condition. (Condition 3)

52. The Council has suggested a condition to secure the approval and implementation of a Site Development Scheme. The Council's condition as drafted refers to the removal of the boundary walls at the access and details of the access, hard and soft landscaping of the site, external lighting, foul and surface water drainage and refuse storage and collection. There is a dispute between the Council and the appellants in relation to the parts of the condition which relate to landscaping and refuse storage and collection.
53. The layout plan for the Appeal A scheme shows two points of access, one on the northern boundary of the site (the northern access) and one to the east boundary (the eastern access).
54. The parties are agreed that the eastern access was permitted as part of the 2009 permission and there is a condition attached to that permission relating to the details of this access. However, the walls which have been erected were not part of that consent and they are shown on the submitted plans for the appeal scheme.
55. The plan attached to the Transportation Study (the Transport Study plan) only shows the northern access. The plan shows the details of the access and visibility splays.
56. The interested parties have commissioned an assessment of both the northern access and the eastern access in terms of visibility distances. Their document concludes that the northern access is not compliant with the standards which are identified but that it could be made compliant. In relation to the eastern access whilst the same conclusion is reached this access is described as dangerous.
57. Despite the conclusions of its report the interested parties suggest that one of the accesses should be closed as in their view only one access is necessary to serve four pitches. However, the appellants have sought two accesses and if they can both be laid out to a satisfactory standard, there would be no basis for closure of one of the access points.
58. I observed during my site visit that the key obstacle to the provision of suitable visibility from the eastern access are the walls. The Council is concerned about the effect of the walls on the visibility at the point of access. The Council has suggested that as part of the Site Development Scheme, the walls are removed. This is a sensible suggestion in view of the impact which the walls are having on the safety of access from this part of the site. The details of the eastern access can be secured by planning condition.
59. As it stands the walls form part of the submission for planning permission. However, I shall remove the reference to the walls from the description of development, remove the relevant plan from the approved plans condition as drafted and exclude the reference to the brick walls on the site layout plan. (Condition 1)



60. Turning to the northern access, this is not referred to in the Site Development Scheme as drafted. However, it is the subject of a separate condition suggested by the Council which seeks the completion of the access in accordance with the details shown on the Transportation Study plan prior to the first occupation of any of the caravans.
61. The northern access has already been laid out. However, it is not in accordance with the details set out as shown on the Transport Study plan because fencing has been erected in the visibility splay and hedging has not been cut back. Thus, further works are required to ensure the safety of the northern access.
62. As the caravans which are the subject of the application are currently being occupied it is appropriate to include the northern access in the condition which secures the Site Development Scheme.
63. I shall amend the requirements of the Site Development Scheme as drafted so that it includes a requirement to submit full details of the access improvements to the eastern access necessary to bring it up to a suitable standard including the removal of the walls. I shall also include a requirement in the Site Development Scheme relating to works to the northern access to ensure that it complies with the details shown on the Transportation Study plan.
64. It is necessary to include the means of foul and surface water drainage and details of external lighting in the Site Development Scheme condition in the interests of the living conditions of the occupiers of the site and the amenity of the wider area.
65. With respect to hard and soft landscaping there is very little evidence of new landscaping on the site save for the hard surfacing which facilitates the stationing of the caravans and the fence which subdivides the site. The appellants consider that an explanation of what is required should be included in the condition. However, the Council consider that this is a matter for the appellants.
66. As it stands there is no proposed soft landscaping shown on the submitted layout plan. However, the layout plan indicates an existing hedge on the boundary of the site which has been removed in part. As a minimum this hedge should be replaced to reflect the pattern of field edges in the area and to ensure that the development is compatible with its surroundings. I shall include this requirement in the Site Development Scheme condition.
67. The Site Development Scheme condition as drafted requires details of a turning area for refuse and recycling collection vehicles on the site. The appellants say that such vehicles do not enter private land and there is no evidence before me to demonstrate that standard kerbside collections are not suitable in this case. I shall remove this requirement.
68. With regard to the Council's reference to a turning facility for fire engines, it is reasonable to assume that in the event of a fire the presence or absence of such a facility would not be an impediment to the fire service attending the site. For that reason, a condition to secure provision of such a facility is unnecessary.
69. However, it is reasonable for the Site Development Scheme to require the submission and approval of details of communal storage and collection areas for refuse and recyclables, and I have included this requirement.

70. The Site Development Scheme condition (Condition 4) is imposed to ensure that the required details are submitted, approved, and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matters before the development takes place.
71. The condition will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.
72. The Council has suggested conditions in respect of commercial vehicles and commercial activities. The development is for a residential use only and it would be unreasonable to control the number of vehicles which occupants park or store on the site in connection with their carrying on of business off-site.
73. The Council is seeking to control any commercial activities even those which do not amount to a material change of use to mixed use. Such activities where they are associated with the residential use of the site would not constitute development. Therefore, such a condition would be unreasonable.
74. It is however necessary and reasonable to restrict the size of vehicles given the basis upon which the assessment of vehicle tracking has been made.  
(Condition 5)
75. The Council has suggested a condition to require the submission and approval of the external materials to be used for the construction of the amenity building which is shown on the submitted plans. The planning application form refers to the use of red bricks and dark grey tiles. In the absence of any evidence to demonstrate that such materials are unacceptable a condition to require the submission of these details is unnecessary.
76. The interested parties have also suggested conditions which the Council do not agree with. These relate to occupation and the erection of means of enclosure and buildings. The matter of external lighting which has also been raised has been included in the Site Development Scheme condition which is recommended by the Council.
77. The Council has confirmed that it considers the site to be acceptable on its own merit. In the absence of any evidence to the contrary, on that basis a personal condition as suggested by the interested parties is unnecessary and would be unreasonable.
78. Given the countryside location and notwithstanding the high degree of screening of the site by roadside vegetation, it is necessary and reasonable to control the size, materials and appearance of any additional sheds or other buildings and means of enclosure other than those shown on the approved plans or agreed as part of the Site Development Scheme.
79. The appellants are of the view that it is unnecessary to remove permitted development rights for the erection of sheds because such rights do not apply to caravan sites. However, the Council argue that sheds are permitted if they are required under a Caravan Site licence (Schedule 2, Part 5, Class B of the

Town and Country Planning (General Permitted Development) (England) Order 2015). There is no evidence that there is a site licence in this case. However, the imposition of an appropriately worded condition would not be unreasonable. (Condition 6)

80. The tailpiece which the interested parties have suggested in relation to the submission of details of additional buildings, structures and means of enclosure for approval in writing results in the condition lacking precision and I have omitted it.

*Appeal B – Land south of Oakley Park*

81. The development which is the subject of the planning application has not commenced. Consequently, a time limit condition is appropriate and necessary in this case. (Condition 1)
82. A condition to secure compliance with submitted plans is also reasonable and necessary and will provide certainty for all parties. However, in common with Appeal A, I have concerns about the details shown on the Site Layout Plan which I will return to below and which will have implications for the detailed wording of this condition. (Condition 2)
83. For the same reasons as set out in respect of Appeal A conditions are necessary to restrict the occupation of the site to gypsies and travellers and the number of pitches and type and number of caravans per pitch. (Conditions 3 and 4)
84. As the development has not commenced a Site Development Scheme condition of the type recommended in relation to the Appeal A scheme is not appropriate. However, there are a number of issues which are outstanding, and which do need to be addressed by planning conditions. The appellants have not raised any objections to these being 'pre-commencement' conditions.
85. For the reasons set out above it has not been demonstrated that the access arrangements shown on the layout plan would provide a safe means of access to the site in terms of the safety of users of Ashley Road. However, I am satisfied that a safe and appropriate form of access can be provided subject to the submission and approval of detailed plans.
86. Therefore, I shall exclude the arrangements for access from Ashley Road, including the tree and shrub planting, grassed area and screen fencing, from the approved Site Layout Plan (Condition 2) and impose a condition to require the submission and approval of those details by the Council. (Condition 5)
87. Condition 5 is necessary to ensure that a safe and appropriate form of access is provided, and that the appearance of the access is sympathetic to the site context.
88. The site is located in the countryside and the use of appropriately designed hard and soft landscaping will ensure that the development is integrated into the surrounding natural environment successfully and respects the field patterns and boundaries which I have identified in my reasoning. On this basis a pre-commencement condition to secure the implementation of a hard and soft landscaping scheme is reasonable and necessary. (Condition 6)

89. The parties have identified the ecological value of the site and the appellants' Preliminary Ecological Appraisal makes a number of recommendations to ensure the protection of plants and wildlife and to enhance biodiversity. Subject to redrafting the condition as a pre-commencement condition, the condition recommended by the Council to secure a Biodiversity Mitigation, Enhancement and Management Plan (Biodiversity Plan) would address this issue and would pass the tests of being reasonable and necessary. (Condition 7)
90. It is necessary to include conditions to secure the submission and approval of the means of foul and surface water drainage and details of communal storage and collection areas for refuse and recyclables in the interests of the living conditions of the occupiers of the site and the amenity of the wider area. (Conditions 8 and 9)
91. For the same reasons a condition is necessary to control details of external lighting on the boundary of and within the site and also because such lighting has the potential to effect foraging bats. (Condition 10)
92. In common with the development which is the subject of Appeal A the Council has suggested conditions in respect of commercial vehicles and commercial activities. I shall adopt the same approach as I have done for Appeal A and attach a condition controlling the size of vehicles only. (Condition 11)
93. Also, in common with the approach which I have adopted for the Appeal A scheme, and for the same reason, I have included a condition to remove permitted development rights for the erection of additional sheds or other buildings or means of enclosure. (Condition 12)
94. A condition to require the submission of details of the external materials of the amenity buildings is unnecessary as these are set out in the planning application form.

### **Conclusions (Appeals A and B)**

95. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that a planning application or appeal must be made in accordance with the development plan unless material considerations indicate otherwise.
96. In respect of these appeals the Council is no longer arguing that the developments are otherwise than in accordance with the development plan and I have not found any conflict with the development plan on the basis of the issues raised by interested parties in respect of Appeal B. There are no material considerations in these cases which lead me to conclude that the appeal decisions should be made other than in accordance with the development plan.
97. For the reasons set out above I shall allow both appeals and grant planning permission in the terms set out in the decisions.

*Sarah Dyer*

Inspector

## **Annex 1 – Schedule of conditions – Appeal A**

### **Condition 1**

The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Site Layout Plan, Amenity Building and Amenity Building Floor Plan except in respect of the brick walls shown on the Site Layout Plan.

### **Condition 2**

The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

### **Condition 3**

There shall not be more than four pitches on the site and on each of the four pitches hereby approved, no more than two caravans (as defined by the Caravan Sites and Control of Development Act 1960 as amended and the Caravan Sites Act 1968 as amended), shall be stationed at any one time, of which only one caravan shall be a static caravan.

### **Condition 4**

The use hereby permitted shall cease and all caravans, structures, equipment, and materials brought onto the land for the purposes of such use and means of access created to facilitate the use shall be removed within 3 months of the date of failure to meet any one of the requirements set out in i) to iv) below:

(i) Within 3 months of the date of this decision a scheme to address the following matters, hereafter referred to as the Site Development Scheme, shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation:

- a) Full details of alterations to be made to the eastern access. Such details shall include the removal of the walls which have been constructed at the eastern access and submission of plans of the access, the extent of visibility splays and the means by which they will be maintained, drainage, and proposed tree/shrub planting and means of enclosure.
- b) Full details of alterations to be made to the northern access to provide the visibility splays set out in drawing number 210711-01 appended to the Transport and Highways Written Representations by the Transportation Consultancy (October 2022).
- c) The means of foul and surface water drainage of the site.
- d) Proposed and existing external lighting on the boundary of and within the site.
- e) Hedge planting including details of species, plant sizes and proposed numbers and densities, to include the reinstatement of the hedge on the southern boundary of the site.

f) Details of storage and collection areas for refuse and recyclables.

(ii) If within 12 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

(iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved Site Development Scheme specified in this condition, that scheme 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.

#### **Condition 5**

No vehicle over 3.5 tonnes shall be stationed, parked, or stored on the site.

#### **Condition 6**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds or amenity/utility buildings, or other buildings or structures, walls, fences, or other means of enclosure other than those shown on the approved plans shall be erected on the site.



## **Annex 2 – Schedule of conditions – Appeal B**

### **Condition 1**

The development hereby permitted shall begin not later than 3 years from the date of this decision.

### **Condition 2**

The development hereby permitted shall be carried out in accordance with the following approved plans: Ordnance Survey Plan, Site Layout Plan, Proposed Amenity Building and Post and Rail Fence except in respect of the access and associated tree and shrub planting, grassed area, post and rail fence and screen fence shown on the Site Layout Plan.

### **Condition 3**

The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

### **Condition 4**

There shall not be more than six pitches on the site and on each of the six pitches hereby approved no more than two caravans (as defined by the Caravan Sites and Control of Development Act 1960 as amended and the Caravan Sites Act 1968 as amended) shall be stationed at any one time of which only one caravan shall be a static caravan.

### **Condition 5**

Prior to the commencement of development full details of the vehicular access serving the development shall be submitted to and approved by the local planning authority in writing. Such details shall include plans and cross-sections of the access, the extent of visibility splays and the means by which they will be maintained, drainage, and proposed tree/shrub planting and means of enclosure. The vehicular access shall be constructed prior to the commencement of development and the associated works shall be completed prior to first occupation of any pitch. Thereafter the access shall be retained and maintained in accordance with the approved details.

### **Condition 6**

Prior to the commencement of development, a hard and soft landscaping scheme, hereafter referred to as the landscaping scheme shall be submitted to and approved by the local planning authority in writing.

Hard landscaping shall include means of enclosure and surfacing materials.

Soft landscaping shall include the provision of a new native hedgerow to define the western boundary of the site, the reinstatement of the hedge on the northern boundary of the site and the proposed tree/shrub planting referred to in Condition 5.

The landscaping scheme shall identify all trees, shrubs, and hedges to be retained showing their species, spread and maturity and shall show new tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities.

The landscaping scheme shall include a timescale for the implementation of the hard and soft landscaping and a schedule of landscape maintenance for a period of 5 years following implementation of the approved landscaping scheme.

Thereafter the development shall be implemented in accordance with the approved landscaping scheme and any trees or plants which within a period of 5 years from the implementation of the approved landscaping scheme die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

### **Condition 7**

Prior to the commencement of development, a Biodiversity Mitigation, Enhancement and Management Plan, hereafter referred to as the Biodiversity Plan, shall be submitted to and approved by the local planning authority in writing.

The Biodiversity Plan shall demonstrate that the development will result in a net gain in biodiversity either on the site itself or by enhancing the land to the west outlined in blue on the ordnance survey plan, through the use of Natural England's Biodiversity Metric 3.1 (or any subsequent replacement).

The Biodiversity Plan shall include the following:

- Great Crested Newt, Reptile and Dormouse Surveys and Mitigation Strategies.
- Details of the timing of clearance works.
- A detailed scheme of biodiversity enhancements.
- A soft landscaping scheme including provisions for buffer planting.
- Details of darkened corridors for foraging and commuting bats.
- A Landscape/Ecology Management Plan including specification of the maintenance of mitigation and enhancement measures.
- A timetable for implementation of the measures identified in the Biodiversity Plan.

Thereafter the development shall be implemented in accordance with the approved Biodiversity Plan.

### **Condition 8**

Prior to the commencement of development, full details of the means of foul and surface water drainage of the site shall be submitted to and approved by the local planning authority in writing. Thereafter the development shall be implemented in accordance with the approved details.

### **Condition 9**

Prior to the commencement of development, full details of communal storage and collection areas for refuse and recyclables shall be submitted to and approved by

the local planning authority in writing. Thereafter the development shall be implemented in accordance with the approved details.

**Condition 10**

Prior to the commencement of development, full details of external lighting to be erected on the boundary of and within the site shall be submitted to and approved by the local planning authority in writing. Thereafter the development shall be implemented in accordance with the approved details.

**Condition 11**

No vehicle over 3.5 tonnes shall be stationed, parked, or stored on the site.

**Condition 12**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds or amenity/utility buildings, or other buildings or structures, walls, fences, or other means of enclosure other than those shown on the approved plans shall be erected on the site.