
Appeal Decision

Site visit made on 17 November 2022

by Frances Mahoney MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27th July 2023

Appeal Ref: APP/J1915/W/21/3279181

Plot 64, Land opposite Mill View, Hare Street, Buntingford SG9 0DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Simon Doherty against East Herts Council.
 - The application Ref 3/20/2139/FUL, dated 31 October 2020.
 - The development proposed is the change of use of land to Gypsy and Traveller residential with the siting of four caravans of which no more than two would be static caravans, part retrospective.
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Decision

1. The appeal is dismissed, and planning permission refused.

Preliminary matters

2. This appeal began its progress through the appeal process identified as requiring to be heard by means of a Hearing. This was at the request of the Appellant.
3. The Hearing was booked to sit for two days on the 16 and 17 November 2022. However, as of the 30 September 2022 the Appellant's appointed agent withdrew his support for the Appellant and his case, and informed the case officer that he would take no further part in the proceedings¹.
4. Efforts were made to contact the Appellant over the intervening period². However, the only contact details available to either the Planning Inspectorate or the Council was the address of the appeal site. A number of letters were sent³ in attempts to engage with the Appellant as to how he wished to proceed⁴. However, no response was received.
5. The Council also visited the appeal site to ascertain whether the Appellant was in residence. This proved not to be the case and the mobile home and touring caravan which were stationed close to the appeal site and were thought to have been occupied by the Appellant earlier in the year⁵, were damaged with

¹ However, the Statement of Case and accompanying documents submitted with the Planning Appeal Form was not withdrawn by the Appellant's appointed agent and so remained as evidence to support the appeal.

² End of September to the date of the opening of the Hearing (16 November 2022).

³ Some registered delivery some hand delivered to the static caravan.

⁴ Further documents submitted by the Council prior to the Hearing were also sent to the Appellant at the address of the appeal site.

⁵ Observations of the Council's Officers on previous visits to the site.

- windows smashed, furniture in disarray and were left open to the elements, with no sign of occupancy being evident⁶.
6. Without any pre-Hearing instruction from the Appellant the Hearing went ahead and opened on the 16 November 2022. The Appellant did not attend⁷ nor did any appointed representative for him. As a result, the Hearing was adjourned to make further attempts to contact the Appellant.
 7. The appeal site visit, however, did go ahead on the 17 November 2022.
 8. Subsequently over the next few months both the Council and the Planning Inspectorate went to considerable trouble to seek to make contact with the Appellant⁸. This was to no avail. Comments were received from a family member, but these were not authorised by the Appellant as being pertinent to his case. These have, therefore, been considered on the basis of interested party comments.
 9. Without any contact from the Appellant since his agent stepped back in September 2022, I considered that to maintain an open, impartial, fair and transparent environment for the consideration of this appeal, it was not possible to proceed with the appeal as a Hearing. However, with the Appellant's statement of case being the main body of evidence in support of the proposal, I have considered the appeal on the basis of the written representations submitted.
 10. It has been noted that the description of development expressed on the planning application form⁹ differs from that on the appeal form¹⁰. Block Plan SD02v5 sets out the proposed layout for the appeal site and it shows the siting of a single static home, the stationing of four touring caravans, a shed and three parking spaces, along with the location and pipework run for a package treatment works to deal with foul waste. This plan has been agreed as the relevant plan in respect of the planning application which the Council considered. I consider the description of development expressed on the appeal form describes the layout of the site as shown on the agreed Block Plan. I shall proceed to consider the appeal accordingly.
 11. Within the written cases I have been referred to the existing layout and condition of the appeal site. The initial description of the change of use suggests it would be part retrospective. At the site visit I observed that the existing static caravan along with the tourer were not laid out in accordance with the submitted agreed Block Plan. It also became apparent on closer inspection that these caravans were not standing on Plot 64 but on an adjacent plot (number unknown). Plot 64 was able to be identified through the location of the identified trees on the Block Plan. Therefore, it is clear that no part of the proposed change of use is retrospective and that any existing caravans are located outside of the appeal site¹¹.

⁶ Site was unkempt and overgrown.

⁷ Nor make any contact.

⁸ Letters to the appeal site were observed to either remain in the letter box or were returned by the Post Office as undeliverable. The site was also visited by Council Officers to check if the Appellant had returned to the site.

⁹ As set out in the relevant bullet point above.

¹⁰ Change of use of the land to Gypsy and Traveller residential with the siting of five caravans, of which no more than one would be a static caravan, erection of a shed, the provision of vehicular parking spaces and soft and hard landscaping, installation of a package treatment plant and associated foul drainage, widening of the existing vehicular access and repairs to the internal access road.

¹¹ This is confirmed in paragraph 3.19 of the Appellant's statement of case.

12. In addition, the proposed drainage scheme as shown on Dwg no SD09V4 shows connections from the static caravan and one of the touring caravans and the shed to be connected to a package treatment works. The discharging pipework is proposed to be laid under the existing access road and the treatment works would be installed on land to the south-east of Plot 64. Notice was served on the owner of the plot across the access track¹².
13. This is an appeal against the failure of the Council to give notice within the prescribed period of a decision. The Council's statement of case sets out that the following matters would have formed the basis of putative reasons for refusal:
- Harm highway safety with specific regard to inadequate visibility splays;
 - Unsustainable location of Gypsy and Traveller site;
 - Harm to character and appearance of the area and local landscape;
 - Harm to biodiversity; and
 - Risk of Flooding.

Background

14. There is no issue taken that the status of the Appellant is anything other than a Gypsy¹³. From the evidence before me I see no reason to disagree.
15. The appeal site lies in open countryside outside of the village of Hare Street. It forms part of a predominantly wooded piece of land between the B1368 and the River Quin¹⁴. There are two points of vehicular access into the woodland. The appeal site is proposed to be accessed from the southern most access point along an unmade track which meanders towards the appeal site, which is set some 200 metres from the main road.
16. This wooded, overgrown land, at some point, has been divided into individual plots. These are owned by individuals, some owning a number of plots. This was certainly the case as of September 1976¹⁵. From the site visit it is apparent that much of the land is overgrown and wooded. However, some plots are still discernible due to fencing and there is evidence of old sheds and other structures which would seem to indicate that, at some time some plots were likely used for informal, occasional occupation for recreation/leisure and camping. There was virtually no evidence of any recent use or occupation. The state of the access tracks, both north and south, were such that vehicular access would be restricted by reasons of the poor condition of the unconsolidated surface, including deep potholes susceptible to holding water in wet conditions, particularly the access track to the south¹⁶.
17. In May 1976 the Council served an Article 4 direction appertaining to the wider wooded area, including the appeal site, restricting the erection or construction of gates, fences, walls or other means of enclosure. This has the effect of

¹² The drainage field.

¹³ Accord with the definition as set out in Annex 1 of the Planning policy for traveller sites (PPTS).

¹⁴ Approximately 7 hectares – Appellant's figure – uncontested.

¹⁵ Conveyance dated 27 September 1976 shows land divided into plots.

¹⁶ The Appellant and his brother-in-law have owned Plot 64 since February 2003. This brings with it a right of way over the access track from the B1368.

preventing the establishment of the subdivision of the woodland into discernible individual plots.

18. The Appellant's static caravan was the only evidence of previous residential use that I observed at my site visit, although the caravan was never connected to mains electricity or a formalised drainage system. In general, the plotlands appeared abandoned, but interested parties have indicated that it is used by dog walkers and local residents, although it is unclear whether public access to this wooded area is authorised¹⁷.
19. The Appellant and his family have over the years camped at the plotland site with both tents and touring caravans, but they were permanently based in Wood Green, North London on a Council Gypsy and Traveller site. The family made the move to Hare Street as their pitch at Wood Green was small and they felt unsafe in an environment of increasing urban offence. The move was made to the appeal site in November 2018 when the threatening atmosphere towards some family members at the Wood Green site increased markedly. For much of 2019 the family travelled but returned to settle in June 2019 as the children were offered places at the local school.
20. In October 2019 the Council served an uncontested 'status quo' injunction on the Appellant which, they contend, had the effect of making it impossible for the family to live on the land and forced them into homelessness¹⁸.
21. The planning application the subject of this appeal was submitted in November 2020¹⁹. Following some exchanges with the Council and apparent unexplained delays the Appellant submitted his appeal in July 2021 for non-determination.

Planning Policy

22. The Development Plan includes the relevant policies of the East Herts District Plan 2018 (LP) and the Buntingford Community Area Neighbourhood Plan.

Matters for consideration

Highways

23. The concerns raised relate to the impact of vehicles accessing the appeal site entering and exiting the plotland via the southern access. As already described the access track is currently unsuitable for vehicles to manoeuvre along its length and considerable work would need to be undertaken to consolidate and level the surface and make it passable in all weathers.
24. The access itself is similarly poorly surfaced with a locked barrier preventing access into the plotland.
25. The B1368 is a secondary distributor road where a speed limit of 60mph is relevant in the vicinity of the access point. The access point would require considerable improvements including widening and consolidated surfacing for 5.1 metres back from the carriageway. However, at present the access can only demonstrate substandard visibility in both directions, which the Highway Authority consider would give rise to harmful conditions to other road users. As I observed at the site visit, vehicles emerging onto the main road would be

¹⁷ Public footpath Hormead 002 runs alongside the River Quin outside of the wooded plotland area.

¹⁸ Appellant's statement of case paragraph 3.12.

¹⁹ A previous application 3/19/2256/FUL was withdrawn.

doing so into potentially fast-moving traffic and would not be readily seen resulting in considerable harm to the safety of highway users.

26. The Highway Authority require visibility splays of 2.4 x 150 metres to the north of the access and 2.4 x 160 metres to the south. This would need considerable removal of frontage hedgerows and tree growth, particularly to the south. In addition, to the north the visibility splay would cross over to the opposite side of the road leaving much of the highway in this direction behind the visibility splay. The tree and hedgerow removal may be possible within the highway verge, but this is unclear and may involve vegetation removal on land not in the control of the Appellant. The Highway Authority has not given consent to remove the vegetation.
27. Therefore, the appeal proposal, in respect of the use and alterations to the existing access to Plot 64 to accommodate the vehicle movements resultant from the proposed change of use, would not provide a safe and suitable access, and would have an unacceptable impact on highway safety, visibility being limited and substandard at the access point²⁰. The identified unacceptable impact on highway safety is ascribed substantial weight in the balance of this decision.

Sustainability of the location

28. PPTS does not preclude the location of Gypsy and Traveller sites within rural areas but does set out at paragraph 25 that sites should be strictly limited in open countryside that is away from existing settlements or outside areas allocated in the development plan. So, the question is whether the appeal site is 'away' from existing settlements.
29. LP Policy GBR2 follows the terms of the PPTS acknowledging that sites in rural areas beyond the Green Belt may in principle be acceptable. This is subject to compliance with the criteria set out in LP Policies HOU9 and HOU10. LP Policies HOU9 requires that sites must be in sustainable locations in terms of accessibility to existing local services. LP Policy TRA1 also requires development to be located which enables sustainable journeys to be made.
30. The appeal site lies outside of the village of Hare Street²¹. There is some 600 metres to the main built environment of the village. There are limited services in the village with no school, shop or doctors. The nearest school is 1.5 kilometres from the site and the nearest shops are in Buntingford 3 kilometres away. The nearest bus stop is within the village itself some 750 metres away, but the service is limited.
31. There is no pedestrian footpath in either direction on either side of the road from the appeal site access. It would be necessary to either walk in the road or cross over and climb a small bank to find a safe walking refuge. Walking with a buggy/young children or children on their own in an area where speeds of traffic could be up to 60 mph would be dangerous and would dissuade walking into Hare Street.

²⁰ Contrary to LP Policies HOU9, TRA2 and the National Planning Policy Framework (the Framework) paragraph 111.

²¹ LP Group 2 village – infill development may be allowed subject to it relating well to the village in terms of location, layout and connectivity, not detract from the openness of the countryside and not add to an isolated group of buildings.

32. Therefore, I am led to the conclusion that the appeal site is 'away' from the nearest settlement and that a private motor vehicle would be the predominant means of transport for the residents of the appeal site. However, I have no doubt it would equally apply to the settled community in the immediate vicinity, including those living in Hare Street itself.
33. Travel distances to services are moderate and no different for those in the traveller community to those in the settled community. Nonetheless, there is a qualified tension with the terms of LP Policies HOU9 and TRA1, along with paragraph 105 of the Framework. That notwithstanding, for the reasons set out above, I ascribe only limited weight to that policy conflict.

Character and appearance

34. LP Policy GBR2 sets out that the rural area beyond the Green Belt is a valued countryside resource and that accommodation for Gypsies and Travellers will be permitted providing that it is compatible with the character and appearance of the rural area, the occupation and use of the site not causing undue harm to the visual amenity and character of the area, and it should be capable of assimilation into the surrounding landscape without significant adverse effect²².
35. The Framework at paragraph 174 identifies that decisions should contribute and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside²³.
36. The appeal site is located in policy terms in the rural area beyond the Green Belt and within the landscape character area 145 Quin Valley²⁴.
37. It is not part of the Council's case that the appeal site lies within a valued landscape in the terms of paragraph 174 a) of the Framework. However, it is noted that the rural area beyond the Green Belt is highly valued by District residents and visitors, particularly for its open and largely undeveloped nature.
38. The appeal site lies in close proximity to the River Quin at the bottom of a shallow valley with sloping sides. The surroundings are, in the main, open arable farmland, including some intervening hedgerows which are generally low, with limited pockets of woodland, neither of which, as landscape features, interfere with the extensive views across and along the valley which are achievable both from high points as well as from the bottom of the valley, amongst other viewpoints.
39. The rural natural environment of the immediate environs of the appeal site is read in the landscape as part of the wider countryside, even given its proximity to the village of Hare Street and the sporadic homes and buildings along the B1368.
40. Plot 64 is located on a cleared section of a small, wooded area some distance from the main road and the village. The boundary to the River includes an unkempt hedgerow which is not continuous with some areas of sparse growth.
41. From public footpath Hormead 002 running along the river side, Plot 64 would be seen. At the site visit the existing static caravan on the adjacent land to

²² LP Policy HOU9. LP Policies DES2, 3 & 4 all follow on in a similar vein of conserving, enhancing or improving upon the character and distinctive features of the surrounding landscape.

²³ The protective element in this Framework policy is reflected further in PPTS paragraph 4 k.

²⁴ Herts Landscape Character Assessment DPD 2007.

Plot 64 was clearly visible particularly being an unexpected urban feature in an essentially unspoilt rural landscape. This is similarly true when the appeal site is viewed from Anderson's Lane which runs along a high point of the valley at a distance to the east. The proposed single static and four touring caravans, along with the shed, parking for three vehicles, hard surfacing of the plot and other associated domestic paraphernalia and activities, set at a low point in the valley within an environment of cleared land, juxtaposed with the remaining wooded plotland and the open surrounding arable land, would be prominent and alien features which would jar against the pleasant open rural landscape, which, whilst unremarkable, has a character of its own which contributes to the wider countryside of the District.

42. At the site visit it was plain that Plot 64 was not visible from the B1368, there being a thick hedge and trees along the frontage to both the north and south of the access. This hedge, including mature trees, stretches back into the plotland area.
43. However, as explained above in relation to the provision of the required visibility splays for the altered and improved access to serve the appeal proposal, a considerable part of the frontage hedge would need to be removed, particularly to the south of the access. This would result in the area, including Plot 64, being opened to view from the main road and the urbanising domestic character and appearance of Plot 64, once occupied, being visually apparent much as it would be when viewed from the east.
44. In addition, the making up and widening of the access and its hard surfacing, along with the relaying of the track to give ready vehicle access to Plot 64, would also impact on the undeveloped character and appearance of this section of the main road as well as that of the plotland itself.
45. I appreciate there may be some existing structures within the plotland already, but as I saw for myself these are mainly dilapidated small sheds and shelters, predominantly in the wooded area. There was little evidence of consistent and recent use of other plots.
46. The loss of the frontage hedge and trees along this part of the B1368 would also affect the character and appearance of this rural route, diminishing its verdant appearance as it enters the built-up area of Hare Street.
47. Therefore, for the above reasons I consider that the appeal proposal would not conserve, improve or enhance the natural and local environment, the intrinsic character and beauty of the countryside being unacceptably eroded. Thereby the terms of the relevant development plan policies, set out above, would be compromised, the character and quality of the landscape being unsatisfactorily undermined. This policy conflict and impact on character and appearance are ascribed substantial weight in the balance of this decision.

Impact on biodiversity

48. A Preliminary Ecological report (PER) was submitted, although this post-dates the clearance of Plot 64 and its immediate environs. There has been no suggestion that permission from the Council was required to remove trees, bushes and undergrowth. The question of whether the Appellant had the permission of the owners of the adjacent land to carry out such clearance is a civil matter.

49. However, the PER was undertaken outside of the optimal months and has not evidenced any net gains in respect of biodiversity enhancements. This is a matter which could be dealt with by the imposition of a condition requiring a further survey report to be undertaken and mitigating/enhancement measures identified where necessary.
50. However, the proposed necessary removal of the native hedgerow on the frontage with the B1368 to provide visibility splays, is extensive and is likely to result in significant harm to biodiversity. There is limited land in the ownership of the Appellant to undertake likely mitigating measures for such a loss.
51. In my view, in these circumstances of uncertainty in relation to impacts, it is reasonable to conclude that there would be significant harm to biodiversity resulting from the change of use of Plot 64 and the need to alter and expand the access and visibility splays onto the main road. It is difficult to see how adequate mitigation would be provided in the gift of the Appellant. In these circumstances the Framework at paragraph 180 indicates planning permission should be refused²⁵. I give this conflict with national guidance significant weight²⁶.

Flooding

52. The Environment Agency Flood Map for Planning dated 15 January 2020 shows a very small part of Plot 64 being within Flood Zone 2. This does not include any part of the site upon which caravans are proposed to be stationed. The majority of the area of Plot 64 is within Flood Zone 1. In such areas a site-specific flood risk assessment is not required. However, where a more vulnerable use on land that may be subject to other sources of flooding, such as the River Quin or surface water, an assessment should accompany the planning application²⁷. No such assessment was submitted.
53. Therefore, on the evidence before me I cannot be sure that the proposal would not be affected by the environmental hazard of flooding, increasing the risk to people on site which may affect future residents' health or welfare²⁸. It may be that once an appropriate assessment was completed flooding may not prove a barrier to the proposed change of use, but until such time I give the lack of clarity in this regard considerable weight.

Other considerations

General need for and provision of sites

54. The Government's overarching aim is to ensure fair and equal treatment for Travellers, in a way that facilitates the traditional and nomadic way of life of Travellers while respecting the interests of the settled community²⁹. National policy recognises that there is a need to increase the number of Traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply. The PPTS sets out how Gypsy and Traveller accommodation needs should be assessed.

²⁵ The terms of the Framework are reflected in LP Policies NE2 and NE3.

²⁶ I have considered the possibility that compensation could be paid as a last resort for the impact on biodiversity. However, this has not been offered by the Appellant and I give this little weight.

²⁷ Framework footnote 55.

²⁸ Contrary to LP Policies HOU9 and WAT1.

²⁹ Paragraph 3 of the PPTS.

55. Prior to the opening of the Hearing the Council updated their statement of case identifying that in May 2022 a final version of the East Herts Gypsies and Travellers and Travelling Show People Accommodation Needs Assessment was published. This updated the earlier version of May 2016.
56. It identifies an increased need for pitches from that in the 2016 version. For the five-year period 2022/23 to 2026/27 there is a shortfall of 31 pitches for Gypsy and Travellers. Over the whole assessment period 2022/23 to 2036/37 the overall need raises to 43 pitches. The needs of the Appellant and his family were factored into the survey work underpinning the assessment.
57. Clearly there is a pressing need for appropriate pitches within the District, and if considered appropriate, Plot 64 would make a contribution to the woeful shortfall in available pitches in the District. The Council acknowledge that it is currently unable to demonstrate a five-year supply of pitches to match identified need³⁰. This factor weighs significantly in favour of the proposal.

Alternatives

58. No alternative suitable Gypsy sites were promoted by the Council as being available to accommodate the Appellant and his family.
59. However, whilst at some point in late 2018 the Appellant and his family were living on the land adjacent to Plot 64, by mid-2022³¹ they were gone with the static caravan and one touring caravan being in an uninhabitable condition. The site appeared to have been abandoned for some time³².

Personal circumstances

60. At the time the planning application was submitted the Appellant's family consisted of Mr and Mrs Doherty, 8 children of which 3 are over 18 years of age, 3 would be of secondary school age and 2 of primary school age³³.
61. 2 family members have health problems, but these were being treated by medical intervention.
62. At the time that the initial evidence for the appeal was produced 2 of the children were in local primary school education, 1 at a local nursery and 1 at the local middle school.
63. At some time in 2022, I understand, the family had fragmented with the Appellant no longer residing with his family. Clearly the family circumstances have changed. I have no information about where the Appellant is resident having had no contact from him in nearly a year. I understand some of the family are staying with relatives, but with the static caravan previously occupied by the family being in an uninhabitable state, without basic services/facilities on the appeal site, and the access track being almost impassable, a return is not an option.
64. The children are no longer attending the local schools³⁴ and I have no information whether they are now back in education. Living at a settled base,

³⁰ Council's letter dated 27 October 2022.

³¹ When visits to the appeal site were made by the Council trying to make contact with the Appellant on behalf of the Inspector.

³² Observation by the Inspector at the site visit in November 2022.

³³ As of July 2023.

³⁴ Appellant's statement of case paragraph 5.21.

as opposed to a life on the road, would maintain access to education for the children³⁵. However, I have noted that Mrs Doherty and the children do travel to Scotland and to Gypsy fairs and Gypsy Christian conventions being only intermittently on the land adjacent to Plot 64 between late 2018 and the end of June 2019.

65. Achieving a safe and secure home base in which all the children can thrive, both in terms of their overall health and educational needs, is a primary consideration. Even in the situation of not knowing what the circumstances of the family and, more particularly the children are, their well-being and education does weigh heavily as a primary consideration in the balance of the decision³⁶.

Whether the proposal represents intentional unauthorised change of use

66. The Appellant and his family did move onto the land adjacent to the appeal site in June 2018, but their occupation was intermittent as they travelled considerably that year and into 2019. In addition, I note that the family did spend time at the land prior to this date camping for a break from their Wood Green life.
67. A planning application was submitted in November 2019, but was subsequently withdrawn, with the application the subject of this appeal being submitted in November 2020. The appeal for non-determination was submitted in July 2021. This indicates a desire to engage with the planning system.
68. Over some of this period the children were attending school and also the Country suffered from the extraordinary circumstances of the COVID pandemic which meant that, in general, we all had to stay put.
69. Although the Appellant occupied the plot adjacent to Plot 64, he did so under the impression he was on his own land. The works carried out were limited and were to create basic conditions where the family could live on the land. From what I saw at my appeal site visit none of the works were such that they could not be relatively easily reversed. This does not apply to the removal of trees, but I am not aware of the extent of that removal, nor the offence caused in that instance.
70. Therefore, I am satisfied that, considering the circumstances described in the evidence before me, as well as a lack of readily available Gypsy sites within the District whilst an intentional unauthorised change of use has been carried out, I afford this little weight in the balance of this decision.

Planning balance³⁷

71. At the onset of considering the issues in the planning balance I have borne in mind the duty placed on me within the Public Sector Duty. I have also considered the best interests of the children as a primary consideration.
72. Conflict with development plan policy and that of the Framework and PPTS has been identified in respect of the impact of the proposal on the character and

³⁵ PPTS paragraph 13 c).

³⁶ The best interests of the child must be consider first - Article 3(1) of the United Nations Convention on the Rights of the Child.

³⁷ Hierarchy of weighting used - Considerable (at the lower end) – significant – substantial (at the upper end).

appearance of the countryside landscape, on highway safety, on biodiversity and to a lesser degree in respect of the harm in flooding terms and locational sustainability. The harms identified in combination represent a total amount of great harm which is substantial and would weigh against the proposal.

73. On the other side of the balance is the benefit that the proposal would contribute to meeting a pressing unmet need and towards achieving a five-year supply of deliverable land for the provision of new Gypsy and Traveller sites, which is a significant material consideration.
74. In addition, the appeal site would offer a settled base for the family. This would maintain their traditional Gypsy way of life whilst providing the opportunity for the children to access education and the health issues of the family could be continued to be addressed.
75. The likely consequences of the lack of provision would be a serious interference with the individuals' rights to respect for private and family life and the home³⁸. This existence would also not be in the best interests of children or a family unit.
76. All of these matters, in combination, attract significant weight in favour of the proposal. However, taking into account the extent of the harms identified above, particularly those relating to highway safety and impact on the character and appearance of the locality, I consider the harms of such substantial weight as to outweigh the matters in favour of the proposal.
77. I have given consideration to whether a temporary permission might be appropriate, but I am conscious that to make Plot 64 habitable a package treatment plant and drainage field would need to be installed. This would be on land not in the ownership of the Appellant and I have no reassurance that the permission of the landowner has been secured³⁹. Further there would need to be considerable investment in providing the treatment plant, and basic services, along with bringing a considerable length of access track to a standard where vehicles, including caravans, could pass over it, and creating an environment on Plot 64 capable of supporting family occupancy.
78. In addition, to make the existing vehicular access safe for all road users, albeit for a temporary period, the same works of widening and removal of an extensive part of the frontage hedge would be required. The same weight of harm in respect of the impact on highway safety and character and appearance would apply even in the case of a temporary permission.
79. Therefore, I consider that the grant of a temporary permission would place an unreasonable burden of financing the installation of the Gypsy accommodation on the Appellant, and the substantial weight identified to the harms to the permanent proposal would equally apply in the case of a temporary permission.
80. This leads me to the conclusion that a temporary permission would be equally objectionable as that of a permanent permission, even when weighed against the consequences of not granting permission.

³⁸ Article 8 of the European Convention on Human Rights.

³⁹ I am aware notice was served on the owner.

Conclusion

81. From the evidence before me I have come to the conclusion that Plot 64 is just not suitable for the purpose of accommodating a Gypsy and Traveller pitch, even when the best interest of the children and the rights of the individuals' to a private life and a home, which is all any of us hope for, is factored into the balance.
82. With the disengagement of the Appellant from this process I have had to consider the proposal without updates or explanation. The family are not resident at the appeal site, and I am informed are living with relatives. I am not aware of the whereabouts of the Appellant nor of any other changes in circumstances for the family. The dismissal of this appeal would not make the family homeless as I understand the evidence. I am, therefore, satisfied that in the circumstances of the evidence before me, the level of harms identified are sufficiently weighty to warrant the dismissal of this appeal.
83. Therefore, this appeal for a change of use of the land to Gypsy and Traveller residential with the siting of five caravans, of which no more than one would be a static caravan, erection of a shed, the provision of vehicular parking spaces and soft and hard landscaping, installation of a package treatment plant and associated foul drainage, widening of the existing vehicular access and repairs to the internal access road is dismissed and planning permission refused.

Frances Mahoney

INSPECTOR