



Appeal Decision

Hearing held on 21 June 2023

Site visit made on 21 June 2023

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2023

Appeal Ref: APP/X1545/W/22/3308046

Land and buildings lying to the south of Maldon Road, Woodham Mortimer, CM9 6TF

- 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 Ms M Delaney against the decision of Maldon District Council.
 - The application Ref FUL/MAL/22/00344/FUL, dated 17 February 2022, was refused by notice dated 23 September 2022.
 - The development proposed is change of use of land for 2 Gypsy/Traveller pitches comprising the siting of 1 mobile home and 1 touring caravan per pitch.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land for 2 Gypsy/Traveller pitches comprising the siting of 1 mobile home, 1 touring caravan per pitch at Land and buildings lying to the south of Maldon Road, Woodham Mortimer, CM9 6TF in accordance with the terms of the application, Ref FUL/MAL/22/00344/FUL, dated 17 February 2022, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs was made by Ms M Delany against the decision of Maldon District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application is accompanied by drawing no. J004094-DD-01 which shows the appeal site edged in red. Land registry details submitted by third parties indicate that three parts of the site are held by other landowners. The appellant has confirmed that the information available from the Land Registry at the time of submission and service of Notice was that the persons, as served notice by the appellant, were the recorded owners of the land included within the red line boundary, but not under the applicant's control.
4. The appellant's agent has also confirmed that some of the land highlighted by the third parties has come under the appellant's ownership prior to the submission of the appeal.

5. One of the parties, who has been served notice according to the submitted application form, have indicated that they did not receive this notice and this may be due to a change in address. However, they are aware of the application and provided comments to the agent representing another third party and they also attended part of the hearing. Therefore, I am satisfied that no prejudice has been caused to any of the parties and the appropriate notice has been served where required.
6. I observed the development that has taken place on the appeal site following the sites clearance. Mobile homes have been introduced towards the rear of the site and the appellant and their families have moved onto the site. However, the plots have not been established as indicated on the submitted plans. I have considered the proposals based on the drawings and not what has occurred to date. Therefore, I have referred to the effect the proposals would have rather than those the existing development on site is having.

Main Issues

7. The main issues in this appeal are:
 - whether the site represents an appropriate location for the proposed development, having regard to the council's spatial strategy and the accessibility of services and facilities;
 - the effect of the development on the character and appearance of the area; and
 - the effect of the development on residential amenity, with particular regard to noise and outlook.

Reasons

Spatial Strategy - Access to services

8. Policy S8 of the Maldon District Local Development Plan 2014-2029 (LDP) sets out that the countryside will be protected for its landscape value as well as its intrinsic character and beauty. Outside of the defined settlement boundary, planning permission will be granted for a limited number of development types, including for Travellers accommodation, where the intrinsic character and beauty of the countryside is not adversely affected and is, in accordance with policy H6.
9. Policy H6 is a criteria based policy and part 2 of the policy requires the site to be a sustainable form of development, having regard to the Traveller Site Allocations Development Plan Document Draft Background Paper: Methodology and Site Selection, August 2016. This document is still in draft and has not been formally adopted. It is primarily aimed at screening potential sites as part of a site allocations process. As such the criteria set out within part 3 of the policy are more relevant when considering windfall sites.
10. Part 3 of the policy sets out that sites should be well related to the existing built up area, and where relevant, capable of having access to essential services and allow convenient access, with a preference for pedestrian, cycle or public transport, as well as by private car.

11. Paragraph 25 of the Planning Policy for Traveller Sites (PPTS) seeks to strictly limit new traveller site development in the open countryside that is away from existing settlements. The site is located a short distance from the village of Woodham Mortimer and as a result is not away from the existing settlement, in terms of paragraph 25 of the PPTS. The site is also located within its own defined landscaped boundaries and contains a range of existing buildings. As such it is distinct from the open countryside which is experienced beyond the appeal site. This accords with the Council's reasoning, expressed during the hearing, that the site is not within the open countryside and as such development, such as that envisaged within the PPTS, does not need to be strictly controlled.
12. The nearest discernible village, to the appeal site, is Woodham Mortimer, which is designated under policy S8 as a smaller village and has a limited range of services and facilities. The Council has indicated that the appellant would need to travel to Maldon, to access a wider range of facilities, such as health care provision and supermarkets.
13. Due to the intervening distance, it is highly unlikely future residents would regularly walk or cycle to Maldon. Whilst the nearest bus stop is only approximately 250m from the site and would be an available alternative to the private car, accessing the bus stop would require crossing the A414 where both the volume and speed of traffic would make this unlikely to be an option.
14. Thus, future occupiers of the proposed pitches would be predisposed to use private motorised transport when accessing everyday facilities and services. This would result in negative impacts on carbon emissions and from disincentivising healthy travel options such as walking. However, this must also be balanced against the effects of long distance travelling arising from unauthorised encampment.
15. Furthermore, the appeal site is only around four miles to the centre of Maldon and the A414 is a classified road that provides good access into the national road network. This road can be easily accessed from the appeal site via a junction directly onto it. The easy access to the national road network would facilitate travel and the nomadic habit of life the occupants of the site would engage in.
16. Therefore, any journeys made by car would be reasonably short when bearing in mind that accessibility needs to be considered in the context that members of the travelling community are generally reliant on vehicles wherever they live given their lifestyle. Moreover, for parts of the year, some of the sites occupants would be away travelling and therefore the number of short journeys would be reduced.
17. Thus, the appeal site's position only a short distance from the facilities and services of Maldon could be considered to allow convenient access to key facilities. In wider sustainability terms, a settled base can reduce incidents of unauthorised encampments, reduce the need for continuous travel and facilitate consistent access to schools and medical services.

18. As a result, it would accord with Policy H6 of the LP which permits development for gypsy and traveller sites in the countryside. Whilst the policy has a preference for access to these by foot, cycle and public transport, this has to be applied in the context of the site specifics. Moreover, the National Planning Policy Framework at paragraph 105 sets out that in rural areas opportunities to maximise sustainable transport solutions will vary.
19. Policy T2 of the LDP sets out that development proposals should, where relevant to the development involved, provide safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate. For the reasons set out the future occupiers would have a nomadic habit of life and therefore the requirements of T2 are not directly relevant to the development involved, with the wording of policy H6 in relation to access to services being more pertinent.
20. In conclusion, future occupants of the appeal scheme would not be able to access services and facilities by walking, cycling or public transport. However, they would only be a short drive from services. Given the appeal site's close proximity to a sustainable settlement and the nomadic habit of life of the future occupants, the development would, on balance, be located in a sustainable location and thus accord with policies S8 and H6 of the LDP. Furthermore, the nature of the proposed development would not fully engage the requirements of policy T2 for the reasons I have outlined. As a result, there would be no conflict with the Council's spatial strategy for traveller sites.

Character and appearance

21. The site comprises a range of buildings, many in a poor state of repair, which were connected with the sites former use for the keeping of horses. There are also areas of hardstanding. The proposed pitches would be located to the rear of the site behind the existing buildings which are to be retained as part of this proposal. However, even if removed, the siting of the caravans to the rear of the site would ensure that there would be a limited impact in terms of views from the existing access.
22. The existing site is assimilated into the wider landscape and is not unduly prominent within it, despite the presence of the existing buildings. The existing landscaping which provides screening from the road forms part of the rural character of the area. The layout of the site has been carefully considered to reduce the visual impact of the development when viewed from the access with the static mobile homes proposed towards the rear of the site behind the existing buildings. However, as set out within paragraph 26 of the PPTS, the site is not unduly enclosed so has to give the impression that the site and its occupants are deliberately isolated from the rest of the community.
23. Trees have been felled towards the rear of the site, with evidence from a previous tree report carried out on the site indicating that these were 5 no. oak trees. The council have confirmed that these were not protected by a tree preservation order and whilst this matter has been raised with the Forestry Commission as to whether a felling notice should have been required, a restocking notice has not been issued to date. The loss of trees is regrettable, particularly as these trees provided screening of views into the site from the properties along Conduit Lane and Post Office Road and the submitted plans do not indicate any additional landscaping.

24. There would be some limited opportunities for additional landscaping, including the planting of trees, to be secured by condition, which would enhance the existing boundary planting including landscaping along the boundary between the appeal site and the adjacent field and along the rear boundary. However, the boundary nearest to 9 Conduit Lane which is separated by an existing paddock and in separate ownership would be difficult to landscape having regard to the proximity of the existing buildings to the boundary.
25. In conclusion, the proposal would be compatible with the rural character and appearance of the area and the minimal views of the appeal scheme from the A414 would not be harmful. Whilst some limited harm has resulted from the removal of the trees to facilitate the siting of the mobile homes, the introduction of the proposal into the site would not adversely impact the intrinsic character and beauty of the countryside having regard to the existing built development which exists on the site and when viewed more widely in the context of the neighbouring residential development.
26. As a result, there would be no conflict with policies H6, S8 and D1 of the LDP which requires development to be located and landscaped to avoid unacceptable harm to the character of the local area; to not adversely impact the intrinsic character and beauty of the countryside and respect and enhance the character and local context.

Residential Amenity - Noise

27. The Council have provided no evidence to support their suggestion that the resultant noise levels arising from the development would result in undue harm to residential amenity. However, anecdotal evidence was provided by third parties of the complaints that they had made regarding noise arising from dogs barking, shouting, use of a generator, as well as from chainsaws and other machinery being used to clear the site.
28. The Environmental Health officer who attended the hearing confirmed that no objection had been raised to the proposed development and established that whilst complaints had been received to their department, none of these had resulted in a conclusion that a statutory nuisance had occurred. It was also confirmed that any noise arising from the use of, for example, a generator, could be dealt with by other controls outside of the planning process.
29. Notwithstanding the hearing was informed by interested parties of readings that had been taken by the Council as part of visits by its officers, no evidence was provided by the Council to identify the number of complaints that had been received, or any record of those visits that had taken place to neighbouring properties to record noise. Therefore, I do not doubt the evidence provided by those attending the hearing, setting out their own experiences of incidents of noise and disturbance when the site was occupied but this has not been substantiated by any evidence provided by the Council in defence of their reason for refusal.

30. I have nothing before me to indicate that the residential occupation of the site going forward, for two pitches, would result in a level of noise and disturbance to existing residents which would be detrimental to their residential amenity. In particular, noting the distance from the appeal site to the nearest residential property and that there are other mechanisms available, as confirmed by Environmental Health, to deal with any concerns regarding noise arising from the occupation of the site.
31. Therefore, the proposal would, in this regard, accord with policies D1 and H4 of the LDP which seek to have regard to the impacts upon the amenities of neighbouring properties and protect the amenity of surrounding areas taking into account noise.

Residential Amenity – Outlook

32. Loss of outlook occurs where development would have an adverse overbearing effect that would result in an unduly oppressive living environment for existing residents. The planning system has been established to work in the public interest and therefore it does not afford protection to a specific private view.
33. The Council have provided limited evidence to support their concerns regarding a loss of outlook for neighbouring occupiers. It was suggested by the Council that this concern related solely to the outlook from 9 Conduit Lane and 3 Little Meadow. However, during the hearing representations were made from the occupant of 2 Little Meadow that their outlook should also be considered. Given that this property sits between no 9 and no 3 this appeared reasonable as all three properties are likely to experience a similar outlook. I have therefore taken into account the outlook from those properties and also whether any other properties surrounding the appeal site are likely to incur a loss of outlook.
34. The Council outlined that the loss of outlook had occurred as a result of the loss of landscaping which opened up views into the site, and that the proposed development would result in a domestic setting reducing the existing occupiers rural outlook.
35. However, the landscaping could have been removed, albeit concern has been raised that this would have required a felling licence, at any time and was not protected by a tree preservation order. The site is not part of an open rural vista, but contains a range of buildings which due to their number and construction do detract from the wider rural setting experienced beyond the appeal site.
36. The existing occupiers did not wish me to view the appeal site from their properties as part of the accompanied site visit, however I have been provided with an aerial photograph showing the relationship of neighbouring gardens to the site. As this evidence was provided by the third parties I have no reason to conclude that it doesn't represent an accurate reflection of their gardens and boundary treatments.

37. The photograph shows an extensive hedge along the boundary of 9 Conduit Lane, such that views of the site are likely to be limited, in particular given the single storey nature of the proposed mobile homes. It is, however, unclear as to whether this hedge is within the control of the occupier of 9 Conduit Lane, or whether it is planted on the adjoining field. Therefore, I must have regard to the fact that it could be removed, opening up views of the appeal site, however this in itself would not necessarily be harmful to outlook.
38. I do not know at what height the photograph was taken from, and therefore whether it represents an accurate representation of the view from the windows of 2 and 3 Little Meadow. I also have no evidence to indicate what windows a view of the site is possible from, and what rooms these windows serve.
39. However, I am content that whilst those residents living in and around the edges of the site, including those whose gardens may have been extended to about the boundary of the appeal site, may be able to view the appeal site and the caravans that have been placed on the site and those that are proposed as part of this proposal. This does not result in an adverse impact on outlook, such that it would create an unduly oppressive living environment for those existing residents.
40. The development would accord, in this regard, with policies H4 and D1 of the LDP which seeks to have regard to the impacts upon the amenities of neighbouring properties and the amenity of surrounding areas taking into account outlook.

Other Matters

Blackwater Estuary SPA and Dengie SPA

41. The appeal scheme proposes a net increase of two units on a site that lies within the Zone of Influence of the Blackwater Estuary Special Protection Area and Dengie Special Protection Area (SPAs).
42. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the SPAs. The effects arising from the proposal need to be considered in combination with other development in the area and adopting a precautionary approach.
43. Given my findings, the Regulations place a duty on the competent authority to undertake an appropriate assessment of the implications of the appeal scheme in view of the site's conservation objectives.
44. Since the development is for two pitches, the number of additional recreational visitors would be limited and the likely effects on SPAs from the proposed development alone may not be significant. However, in combination with other developments it is likely that the proposal would have significant effects on the designated site.

45. The site is within the zone of influence where new residential development is likely to result in recreational pressure, which would, both alone and in combination with other development within the zone of influence, have a likely significant effect on the interest features of the aforementioned site. Therefore, I consider that the development would have an adverse effect on the integrity of the site, but regard can be had to whether these adverse effects can be mitigated.
46. The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) sets out a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures such as education, communication and monitoring, and have been endorsed by Natural England, I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the SPAs.
47. The appellants have submitted a Unilateral Undertaking for the contribution of £137.71 per dwelling to fund the Essex Coast RAMS which the Council have raised no objection to. I am satisfied that the mitigation measures have been secured and would be used for their intended purpose.
48. The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.

Keeping of horses

49. The site has historically been used for the keeping of horses, albeit I have no indication of when it was last used for this purpose. The buildings on the site are currently in varying states of disrepair and would require some maintenance and improvements in order to be suitable for the keeping of horses again. In addition the site has no grazing land associated with it and this would limit the number of horses that could be kept on site.
50. Mr O'Connor, who would occupy one of the proposed pitches, has indicated that he currently owns approximately 45 horses and these are based elsewhere. However, he stated that he might bring horses to the appeal site if they needed closer supervision, such as when in foal or prior to sales.
51. Whilst concerns have been raised that the site is not suitable for the keeping of horses, the stable buildings are to remain and the appellant has indicated that the use would be an incidental part of the residential occupation of the site. Whilst the site does not have grazing, the Council have not raised any objections to the incidental use of the site and it would not seem appropriate to remove the right of the appellant to keep horses on the site, when it could be used as such currently.

Highway Safety

52. The appeal site is served by an existing access, which is evident from a dropped kerb that has existed onto the A414 for sometime based on the evidence that has been provided by third parties. The Inspector in considering a previous appeal on the site¹, also noted that the access was existing.
53. More recently the access has been formalised, from that of a field access over the existing verge, to having an apron with hardstanding. Essex County Council Highways Department were consulted on both the planning application and the appeal and they were satisfied that as far as could be determined from the details submitted, the proposal would utilise the existing vehicle access onto the A414. But that in order to accommodate 2-way vehicular movements the access must be upgraded to 5.5m in width. On this basis from a highway and transportation perspective the impact of the proposal was considered acceptable to the Highway Authority, subject to conditions requiring the widening of the access and the surfacing with bound materials.
54. Third parties have commissioned a Highways and Transportation Technical Note, by Pell Frischmann (TN) to substantiate their objection on grounds of highway safety. This was produced in June 2022 and provided to the Council around this time. Therefore, there has been an opportunity for the Council to seek further advice from Essex County Council on this technical note, albeit they could not confirm that it had been sent to them.
55. The TN sets out that the A414 Maldon Road is designated as a Main Distributor, where policy DM2 of the Essex County Council: Development Management Policies Feb 2011, sets out that the function of main distributors between defined settlements will be protected by prohibiting intensification of an existing access and requiring improvements to existing substandard accesses.
56. The TN acknowledges that the appeal site is served by an informal field access, and therefore it is not disputed that an access onto the A414 existed. Turning to whether the proposed development will result in an intensification of the access, this would need to be considered against its previous equine use.
57. The site contains a number of stable buildings and evidence given at the hearing indicated that the site was previously served by areas of grazing which have subsequently been sold off separately. I have nothing before me to indicate at what level the access would have been used during its previous use for the keeping of horses and whether this would have been limited to one individual. However, the keeping of horses on the site could have also involved the movement of horse boxes and larger vehicles delivering feed. Noting the access was not formalised, however, it is possible that this was not a significant level of traffic.
58. The County Council, as a statutory consultee for highway matters, have raised no objection to the proposed access and given the lack of evidence available to me to demonstrate that the use of the access would lead to an intensification over and above the historical use of the site, I find no conflict with the County Council's policy DM2.

¹ APP/X1545/W/19/3222468

59. Turning to visibility, I accept that given the amount of traffic travelling along the A414, which has a speed limit of 50mph, noting its status as a main distributor would mean that extreme care will need to be taken when in particular exiting the site. It is possible to turn left with the flow of traffic and use the roundabout a short distance from the entrance to turn if wishing to head in the direction of Maldon, rather than turning against the flow of traffic. It would not be possible to restrict a right turn out of the site, but this would be for the future occupants of the site to judge, especially if turning out of the site whilst towing.
60. The County Council have not suggested any requirement for visibility splays to be secured by condition and therefore there is no indication that visibility from the access is a concern or would be compromised for users of the access.
61. Therefore, the proposal whilst formalising the existing access, will as a result of the widening and surfacing ensure improvements to it. Therefore I have not identified any conflict with the requirements of policy DM2, as I have no substantive evidence of an intensification of the existing access and the proposal will ensure improvements to the existing substandard access.

Noise

62. As a result of the sites proximity to the A414, a noise impact assessment was submitted with the application to address the potential impacts from road noise. Concern has been raised by third parties as to the enforceability of conditions requiring adherence to the submitted noise impact assessment which would require mechanical ventilation to avoid the need for windows to be opened. However, no conditions have been suggested by the Council to address this matter.
63. This is because the noise impact assessment was taking into account the worst case scenario with caravans sited at the front of the site, in close proximity to the road. Noting the proposed site plan and the suggested layout of the static caravans at the rear of the site, the Council is satisfied that future occupiers will not be subject to undue noise such that would require any mitigation. The touring caravans shown on the proposed layout would not be used for sleeping, and this can be controlled by condition, and as such the Council is also satisfied that there would not be any requirements for noise mitigation measures.
64. On this basis, I have nothing before me to indicate that the future occupiers of the static caravans would be subjected to environmental noise of a sufficient magnitude to cause a risk of an adverse impact.

Other concerns

65. I have had regard to all of the other matters raised by local interested parties, including those summarised in detail in the officers report. However, there is no substantive evidence before me that there would be harm in respect of these matters, and no objection has been raised by the Council or statutory consultees. Therefore, none of the matters raised provide a compelling reason why planning permission should not be granted.

Other considerations

Supply

66. The PPTS requires local authorities to set pitch targets and to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites against this target.
67. The Council have not provided any evidence in terms of a Gypsy and Traveller Accommodation Assessment and have said that the previous published assessment from 2016 attracts no weight. In this context, the Council acknowledge that they are unable to identify a five year supply of pitches.
68. There was also no indication from the Council as to the extent of the shortfall or when this situation might change as I have no certainty that any allocated sites are likely to come forward in the short term. In these circumstances, I afford the absence of a five-year supply of sites significant weight as a matter in favour of the proposal.

Personal Circumstances

69. The appellant has put forward personal circumstances which demonstrate a personal need but as outlined above, the Council accepts that they do not currently have a five-year supply of deliverable sites and there are no alternative sites.
70. Therefore, on this basis I have not found it necessary to restrict the proposed traveller pitches to the appellant, as it is a site which could also be available for other individuals who are of a nomadic habit of life, including such persons who on grounds only of their own or their families or dependants educational or health needs or old age have ceased to travel temporarily or permanently.

Intentional unauthorised development

71. The works undertaken on the site have resulted in some clearance of the sites vegetation and the removal of trees and as such some physical damage to the land has occurred and this may be difficult to remediate in the short term. By way of mitigation, the appellant had limited options in respect of accommodation and has sought to regularise the situation through a planning application. Furthermore, the works undertaken have not gone beyond what is necessary to establish a temporary home pending the outcome of the application.
72. The use of the land for the stationing of caravans, without planning permission amounts to intentional unauthorised development, as such the 2015 ministerial statement is relevant. Overall, the undertaking of intentional unauthorised development adds modest additional weight as a material consideration against the proposal.

Planning Balance

73. The proposal adheres to the development plan and the other considerations do not outweigh this finding, when taking into account the lack of an identified supply of sites.

Conditions

74. As well as the standard implementation condition, which is necessary as the development that has taken place is not in accordance with the submitted plans in terms of the siting of the caravans, I have imposed a condition to ensure that the proposal is carried out in accordance with the approved plans to provide certainty.
75. As there is no foretelling as to whether any future occupiers might be forced to cease travelling permanently during the anticipated lifetime of the permission, imposing a condition linked to Annex A of the PPTS would be liable to result in unlawful discrimination, with members of the family being unable to live on this site. I shall therefore grant planning permission subject to a condition which restricts occupation to Gypsies and Travellers, defined so as to not exclude those who have ceased travelling permanently.
76. To limit the visual impact the number of caravans and the size of vehicles to be kept at the site are to be restricted. For similar reasons details of landscaping, protection of existing trees, bin storage and any external lighting are also required to be submitted, agreed and implemented. In order to ensure appropriate foul and surface water drainage is provided on the site details are also required.
77. I have also found it necessary to impose a condition requiring the ecological enhancement and mitigation set out within the Preliminary Ecological Appraisal to be implemented and retained.
78. In the interests of highway safety, conditions securing the surfacing of the access with a bound material, and improvements to the existing access, are imposed.
79. Commercial activities should be precluded to protect the wider amenities of the countryside. It was put to me that this condition should be worded such that any activity associated with the keeping of horses was not prohibited. However, noting that the equine use would be ancillary to the residential occupation of the site, rather than as part of a mixed use, any such ancillary activities would not be restricted by the wording of this condition.

Conclusion

80. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

G Pannell

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Alan Masters – One Pump Court
Brian Woods BA TP MRTPI – Managing Director WS Planning & Architecture
David Fernleigh MIOA – Director dBA Acoustics
Patrick Connors

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Breedon BSc MA MRTPI Planner
Mr D Cant Environmental Health Officer

INTERESTED PARTIES:

Russell Forde - Smart Planning (on behalf of Mr A Pirret)
Paul Cranley – Pell Frischmann

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - J004064-DD-01 Site Location Plan
 - J004049-DD-02 Ex Site Plan
 - J004049-DD-03A PP Site Plan
- 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.
- 4) There shall be no more than 2 pitches on the site and on each of the 2 pitches approved no more than 2 caravans, shall be stationed at any time, of which no more than 1 caravan shall be a static caravan.
- 5) Overnight accommodation shall only be provided within the static caravans stationed on the site.
- 6) The caravans shall be sited and the 4 no. parking spaces provided prior to the occupation of the site and thereafter retained in accordance with plan no. J004049-DD-03A PP Site Plan.
- 7) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 56 days 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 for the means of foul and surface water drainage of the site;
 - proposed and existing external lighting on the boundary of and within the site;
 - means of enclosure;
 - design and location of refuse storage facilities;
 - hard and soft landscaping including details of species, trees, plant sizes and proposed numbers and densities and any additional areas of hardstanding;(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.

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- ii) If within 11 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 scheme specified in this condition, that scheme shall thereafter be maintained and where relevant remain in use.

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) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 9) No commercial activities shall take place on the land, including the storage of materials.
- 10) Within 6 months of the date of this decision, the existing vehicular access shall be reconstructed to a width of 5.5m for at least the first 6.0m within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge, details of which shall previously have been submitted to and approved in writing by the local planning authority. The improved access shall thereafter be retained.
- 11) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 12) The trees and hedges identified for retention in the Arboricultural Method Statement to BS5837:2012, the Arboricultural Survey to BS5837:2012 and Tree Protection Plan (Arbtech TPP 01), including the retention of T4 (oak tree-marked for removal), which are attached to and form part of this permission shall be protected during the course of the development. The trees and hedges shall be protected by measures which accord with British Standard 5837:2012 (Trees in Relation to Construction). The protective fencing and ground protection shall be erected before the commencement of any clearing, demolition and building operations and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced protection zone(s) no materials shall be stored, no rubbish dumped, no fires lit and no buildings erected inside the fence, nor shall any change in ground level be made within the fenced area.

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- 13) If any retained tree is cut down, uprooted or destroyed or dies another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted, at such time as may be specified in writing by the local planning authority.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars, including T4 which is shown to be removed but shall be retained.

- 14) The mitigation and enhancement measures outlined at section 4 of the Arbtech Preliminary Ecological Appraisal and shall include, but not be limited to the installation of 2 bird and 2 bat boxes and retention of standing and stacked deadwood, shall have been fully implemented within 3 months of the occupation of the site. These measures shall thereafter be retained.

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