



Appeal Decision

Hearing held on 4 June 2024

Site visit made on 4 June 2024

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2024

Appeal Ref: APP/Y3940/W/24/3338093

Clackhill Yard, Bradenstoke, Wiltshire, SN15 4ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by A Dolan against the decision of Wiltshire Council.
 - The application Ref is PL/2022/05221.
 - The development proposed is the change of use of land to private Gypsy/Traveller site and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to private Gypsy/Traveller site and associated works at Clackhill Yard, Bradenstoke, Wiltshire SN15 4ES in accordance with the terms of the application, Ref PL/2022/05221, and subject to the conditions in the attached schedule.

Preliminary Matters

2. The evidence indicates that the appellant, who occupies the site, together with the other members of the family who, if permission was to be granted would wish to occupy the site in due course, meet with the definition of a Gypsy and Traveller within the Annex 1: Glossary of the Planning Policy for Traveller Sites (PPTS).
3. The site has been occupied for the last few years. I saw the site at my visit and noted that some works had taken place. These included the hardstanding that had been laid across most of the site and the residential occupation involved the use of a motorhome and a touring caravan. Consequently, the use of the site as a Gypsy and Traveller pitch has commenced and I have dealt with the appeal accordingly.

Main Issues

4. The main issues are:
 - whether or not the development plan and national policy would support the proposal in this location, in particular having regard to whether or not occupants of the site would be located in or near to existing settlements within reasonable distance of a range of local services and community facilities, and whether or not the development would be served by a safe and convenient vehicular and pedestrian access, and

- whether or not the front boundary treatment and other landscaping would be acceptable having regard to matters raised in paragraph 26 of the PPTS.

Reasons

Location

5. Policies CP1 and CP2 of the Wiltshire Core Strategy – January 2015 (Core Strategy) provide the overarching strategic approach to the location of development across the plan area. Within that overall approach, Policy CP47 of the Core Strategy provides the development plan requirements for the assessment of development for Gypsies and Travellers. The Policy sets out required pitch numbers to meet need (and which it is agreed have been superseded by those figures in the GTAA 2022¹) and a criteria based approach for the consideration of individual sites. The Core Strategy does not allocate Gypsy and Traveller sites but relies on sites coming forward for consideration. Paragraph 6.58 of the supporting text to Policy CP47 explains that the preference for meeting need in the future is for small, private sites.
6. Criterion (v) of Policy CP47 of the Core Strategy advises that traveller sites will be considered favourably when located in or near to existing settlements within reasonable distance of a range of local services and community facilities, in particular schools and essential health services.
7. The appeal site lies in countryside about 200m to the north of the village of Bradenstoke. Bradenstoke is defined as a Small Village in terms of Policy CP1 of the Core Strategy, this being a village with a low level of services and facilities, and few employment opportunities. The village has a public house, church, play space and a very limited bus service (by prior booking).
8. The village of Lyneham is located to the generally approximate south east of Bradenstoke and is a Larger Village with convenience stores, primary school, public house, petrol station and church. Further away is the Market Town of Royal Wootton Bassett which has a wider range of services and facilities, including a secondary school, and employment opportunities.
9. Criterion (v) of Policy CP47 explicitly refers to local services and facilities being within reasonable distance, which I consider is how far those services and facilities are away, rather than the mode of transport to access them. This is also reflective of the wording of one of the Government's aims in respect of traveller sites which, in paragraph 4j of the PPTS, indicates that sites should be sited so as to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure. Again, in terms of the list of traveller site requirements in paragraph 4, there is no direct mention of access by sustainable modes of transport.
10. In this case, the village of Bradenstoke is nearby and Lyneham, with its facilities including shops and primary school, would be a short drive. I do not consider that, for the wider range of local services and facilities, Royal Wootton Bassett should be considered as an unreasonable distance to travel. The secondary school, for instance, is 5.7 miles which, in a generally rural area, is not an untypical distance to travel to access secondary school education. Doctor practices seem to be either at Calne or Royal Wootton Bassett, although Sutton Benger is also mentioned, and occupants of the site would have similar

¹ Wiltshire Council Gypsy and Traveller Accommodation Assessment 2022-2038 – March 2022.

distances to travel to these medical practices as other residents in Bradenstoke and Lyneham. These locations with their local services and community facilities are, in my view, sufficiently near and within a reasonable distance of travel from the appeal site by private vehicle. Occupants of the site would, therefore, have the ability to access, when required, education, health, welfare and employment infrastructure in terms of the requirements of criterion (v) of Policy CP47 of the Core Strategy and paragraph 4j of the PPTS.

11. I appreciate that, at the moment, the land slip on the B4069 and the resulting closure of this section of road, is adding to journey times for local residents. However, I understand that work on repairing the road is due to be completed during the first half of 2025. In any case, this road closure does not add journey time or reroute occupants of the site travelling to and from Bradenstoke, Lyneham and Royal Wootton Bassett because the road is two way from the site to Bradenstoke.
12. I appreciate that the related reason for refusal and the case from the Council and others at the hearing included that the site was unacceptable because it was argued to be an unsustainable location with, in all probability, the need for occupants of the site to use the private motor vehicles to access the higher-tier settlements.
13. Policy CP47 of the Core Strategy has an overarching requirement that new development should be situated in sustainable locations, (with preference generally given to previously developed land or a vacant or derelict site in need of renewal). The site would be sited so as to enable occupants to walk to and from Bradenstoke, although there are a low level of facilities available. There is a very limited bus service (by prior booking) from this village although it could be utilised on occasion as an alternative to the car. Given the distance to Lyneham it would be unlikely that occupants of the appeal site would walk to that village, but cycling could be a realistic option for some. There are, therefore, some modest sustainable transport options available to occupants of the site, although in all likelihood the private vehicle would be the main mode of transport.
14. More generally, the National Planning Policy Framework (the Framework) explains that the planning system should actively manage patterns of growth in support of sustainable transport objectives. However, this is in the context that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
15. Furthermore, relevant to these considerations is that one of the exceptions for development in the countryside, as detailed in paragraph 4.25 of the Core Strategy and included within Policy CP2, is for specialist accommodation provision. This includes accommodation allowed under Policy CP47 of the Core Strategy. Gypsy and Traveller sites can, therefore, as a matter of principle when applying the policies of the development plan, be acceptable within a countryside location. In such locations it is likely that there will be a greater dependence on the private vehicle because of the nature of transport options in countryside areas.
16. The PPTS policy requirement is that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements. This reflects that Gypsy and Traveller sites can be

found in rural areas and, by implication, seeks to direct the provision of new sites to locations that are not away from existing settlements. The appeal site is fairly close to Bradenstoke and at the hearing the Council accepted that the site was not away from this village and, therefore, the site was located so as to satisfy this requirement of the PPTS. I agree that the site is satisfactorily associated with and not away from Bradenstoke, and also Lyneham, such that it is locationally acceptable in terms of the PPTS.

17. In addition on this issue, appeal decisions have been submitted which are argued are examples which should influence the considerations in this appeal. Those appeals from the appellant highlight that Gypsy and Traveller sites in the countryside often result in the occupants having a dependence on the private vehicle, with very little sustainable transport alternatives, and that this generally has not counted against the acceptability of those sites because of the approach of the PPTS and the accompanying development policies. Some of the appeal cases include examples in Wiltshire where Policy CP47 of the Core Strategy has been the key policy for consideration.
18. In contrast, the Council highlight, in particular, appeal decisions on two sites. One of those cases is at the present appeal site itself, where there were three appeals concerning Gypsy and Traveller development. These appeals, which included appeals against enforcement notices, were determined in December 2003. All the appeals were effectively dismissed and that Inspector considered as part of those considerations whether the site for Gypsy and Traveller development was acceptable. The Inspector refers to the then Circular 1/94 and that sites could be outside existing settlements if they were within reasonable distance of local services and facilities. The Inspector was especially concerned that the development encroached into open countryside and in terms of location the Inspector comments that there were some services and facilities in Bradenstoke that were within walking distance. However, it was noted that bus services were infrequent and journeys to access other essential services were mostly likely to be undertaken by car. In that sense the Inspector in his decision concludes that he did not consider the development could be regarded as sustainable.
19. At the present time, the location and ability to access services and facilities is much the same, if not worse, as when that Inspector considered the issues in 2003. However, there are now different policy documents in place compared with when that decision was made. In this case, the PPTS comments that in locational terms sites should not be away from settlements and seeks the ability for occupants to access health and education without any direct reference to the means of travel. Furthermore, included in paragraph 13 of the PPTS are comments that providing a settled base can reduce the need for long-distance travelling and acknowledges that traditional Gypsy and Traveller lifestyles, whereby some travellers live and work from the same location, can omit many travel to work journeys and contribute to sustainability.
20. I have applied the policy test in criterion (v) of CP47 of the Core Strategy, which the Council argue is breached, and I consider that the policy test is met. This is an important finding. Furthermore, while I have found much the same circumstances as the Inspector did in 2003 I consider that there are wider matters to take into account as to whether a site is acceptable under the present policy circumstances. Notwithstanding the likely dependence on the private vehicle, because the location is fairly close to Bradenstoke and also

Lyneham, with only a short drive to those services and facilities, and that Royal Wootton Bassett is not that far away, I give greater weight to a wider view of sustainability included in the PPTS, including the economic and social aspects relating to the Gypsy and Traveller way of life, than the previous Inspector. Consequently, I do not consider that the previous appeal decisions on this site are now determinative in terms of the suitability of location.

21. The other key appeal decision raised by the Council is at Land at Littleton Drew² where the Inspector came to the view that the site was not suitably located such that criterion (v) of CP47 was not met. The key paragraphs are 32-35 from the decision. Emphasis is placed on the Framework and it is of note that the Inspector, while mentioning other decisions he has been referred to in terms of judging a reasonable distance to local services and facilities, comments that there are no hard and fast rules on this and he formed his own judgement on the circumstances of that case. This part of the decision does not refer directly to the PPTS and I attach particular weight to that policy advice in my analysis as to the acceptability of the present appeal site for a Gypsy and Traveller pitch in the countryside.
22. It seems to me that the approach set out in this very recent decision at Land at Littleton Drew placed a different emphasis on locational appropriateness compared with the range of other decisions that have been referenced, including those in Wiltshire. Nevertheless, it is clear that the particular circumstances that the Inspector found led him to conclude that the appeal site at Land at Littleton Drew was not well-located to an existing settlement within a reasonable distance of a range of local services and facilities, and this is a matter of planning judgement. That finding was very much site dependent and I attach it limited weight in influencing my site specific findings in this appeal.
23. Drawing all these matters together, I find that this single pitch Gypsy and Traveller site is located sufficiently near to existing settlements and within a reasonable distance of a range of local services and community facilities to ensure compliance with criterion (v) of Policy CP47 of the Core Strategy. Even with the likely dependence on the private motor vehicle, when taking into account the approach of the PPTS and the development plan, which can allow Gypsy and Traveller sites in the countryside, and the Framework, which requires that decisions take into account that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, the location is acceptable. Consequently, I conclude that, in respect of location, the site would be compliant with Policy CP47 of the Core Strategy.
24. As the location would accord with the requirements of Policy CP47 of the Core Strategy, it would in turn comply with the development plan approach for the location of development across the plan area, notably with the requirements of Policies CP1, CP2 and CP19 of the Core Strategy.

Vehicular and pedestrian safety

25. The site is served by a fairly narrow road that links the B4069 and Bradenstoke. The site is about 200m north of Bradenstoke and this stretch of the road, from the site to the junction with the village, is gently sloping and reasonably straight with occasional bends. It is two way from Bradenstoke to the appeal site, although the road just to the north of the appeal site is

² APP/Y3940/W/23/3333705 - Land at Littleton Drew, Chippenham, SN14 7LZ – 16 April 2024.

- presently single way until the main road reopens. The road is subject to the national speed limit of 60mph, with no street lighting or footway.
26. I walked the route from the village to the appeal site and back as part of my visit (and also did so at my informal visit the day before the hearing). This was only a snap shot at those times but I have no reason to believe that what I saw was not broadly representative of other occasions. I have also taken into account all the representations from local residents and the Parish Council in addition to the submissions of the Council on this issue.
27. The distance and fairly gentle slope of the road to and from Bradenstoke is easily walkable for most people. The reasonably linear nature of the road, with only modest bends in this section to the village, generally allows for on coming vehicles to be seen and anticipated in advance. Furthermore, there are some informal passing places that allow pedestrians to step back from approaching vehicles. I appreciate that some vehicles can travel reasonably fast at times along the straight section. However, there is generally satisfactory intervisibility between drivers and pedestrians and I do not consider that the route, if walked with appropriate care and patience, would be unduly hazardous such as to be unsafe or unreasonable for occupants of the site if they chose to walk this route to and from the village. The route may be less attractive to walk after dark but it would be suitable as a route to walk on most other occasions.
28. I consider that this suitability would generally still be the case, even when the whole of this road reopens to two way traffic. When this happens, it is likely that the number of vehicles from Lyneham, using the road past the appeal site, would reduce, although I acknowledge that traffic accessing Bradenstoke from the north would be able to recommence along this road.
29. Concerns have also been raised with the safety of the vehicular access at the site itself. It has been positioned towards the northern section of the frontage with the road. The gates have now been set back to allow vehicles to pull off the road in an appropriate way. When leaving the access there are views to the north, towards the bends in the road. Traffic coming from this direction would have, in all likelihood, slowed coming up the hill and to manoeuvre through the reasonably tight bends. In these circumstances, I consider that the visibility splay from the site access in this direction allows for sufficient visibility of approaching traffic and the situation is satisfactory.
30. When looking to the broadly south from the access, the visibility splay passes across the verge in front of the site. It is possible for the drivers of emerging vehicles to see approaching traffic up to the curve in the road. It is likely that on-coming vehicles will have slowed to some extent because of the approaching bends and the width of the road in this area. The road layout and likely associated speed of traffic is such that I consider that the visibility splay is acceptable to the broadly south from the access.
31. Furthermore, this matter was examined by the Highway Department and it raised no objection to the scheme on highway safety grounds. Having viewed the site and taken into account all the information before me, for the reasons explained above, I agree with the Highway Department.
32. In the light of the above analysis, while I take a broad view of how criterion (ii) of Policy CP47 of the Core Strategy should be applied, and this includes the consideration of approach roads to the site, I conclude that I am satisfied that

the development would meet with the requirements of this criterion. The scheme would provide a safe and convenient access to serve the level of use that would result from a single Gypsy and Traveller pitch for both pedestrians and drivers. It follows that the scheme would meet with the Framework requirement that a safe and suitable access to the site would be achieved for all users.

Front boundary treatment and other landscaping having regard to matters raised in paragraph 26 of the PPTS

33. The close boarded fence along the frontage, that replaced a hedge, is set back behind a verge from the edge of the road surface. The fence has been agreed by the Council as being permitted development. The southern end section of the fence is partially screened by a modest tree and hawthorn has been planted in front of some sections of the fence.
34. Paragraph 26 of the PPTS identifies four matters that, when considering proposals, should be attached weight. With regard to the first matter (a), it is accepted that the site does not constitute previously developed land. It appears that the building within the northern section of the site was agricultural in use and it is assumed that there would have been some form of yard area or space in front of it to allow access. The information before me is that, prior to the present occupation, any yard had greened over and the land was not especially untidy or derelict. No weight, therefore, can be attributed to (a) of paragraph 26 of the PPTS.
35. The second matter concerns sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness. The site with the fence along the frontage prevents views into the site, but it is not so high as to be unreasonable in this respect. The fence is gradually, with the planting along the frontage, becoming less prominent and the benefit of the fence is that it provides privacy for occupants (thereby meeting with the requirements of criterion (vii) of Policy CP47) and helps to screen much of the site from public view which has, and would have, the related caravans and activity which come from a Gypsy and Traveller pitch.
36. Once out of the village there is no other site with built or residential development along this part of the road. Nevertheless, the fence extends along a reasonably short section of the road and is in the vicinity of the long standing barn. The proposal was not refused because of the effects of the development on the character and appearance of the area, and I consider that the fence with the planting along its frontage, and with further planting that could form a condition of any approval, does not look especially out of place. The layout of the site with the proposed mobile home to the southern end section of the site, and the day room set back in the pitch, is acceptably planned and, at the present time, there is no fencing along the southern or western site boundaries.
37. The proposal does not positively enhance the environment or increase openness, but neither does it unduly detract from this general location along this road, and Gypsy and Traveller sites are not an uncommon feature of rural areas. This is a single pitch and in terms of this matter under (b) of paragraph 26 of the PPTS I do not consider that weight should be attributed either for or against the scheme in this respect.

38. The site is of a sufficient size to satisfactorily accommodate a single pitch and, therefore, provide a healthy lifestyle for occupants, although the plans do not show areas within the site for landscaping. This could form part of any landscaping scheme linked to a condition in any approval as there is sufficient space within the site to provide such areas. However, at the present time, when considering (c) of paragraph 26 of the PPTS, I consider that this matter weighs neither for or against the scheme.
39. The final matter listed in paragraph 26 of the PPTS concerns not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community. The top sections of the mobile home, touring caravan and day room are likely to be visible from sections of the road in front of the site but would not be unduly prominent. As I have explained above, the fence provides privacy for occupants and helps to screen much of the site from public view. The fence, in these circumstances provides a reasonable compromise to meet these objectives. It is a fairly modest form of front boundary treatment and with the retention of the existing planting and further supplementary planting where there are gaps, there is and would not be so much hard landscaping that the site appears out of place in this rural location. It does not, in my view, give the impression that the occupants are deliberately or otherwise isolated from the rest of the community. Consequently, this matter does not weigh against the scheme.
40. The gate piers and walls are mentioned in the Committee Report as being present at that time and it is commented in the Report that it is not considered that they cause any harm to the extent that planning permission should be refused. The reason for refusal on this issue focuses on the effect of the fence and the presence of the piers and brickwork does not alter my conclusions on this issue.
41. In conclusion, I have examined all the matters in paragraph 26 of the PPTS and do not consider that the fence and other landscaping is especially remarkable or out of character for a Gypsy and Traveller site in a rural area. The fence and other landscaping does not form an inappropriate or unreasonable level of hard landscaping and with the existing planting along the frontage, which can be supplemented, the scheme does not enclose the site to such an extent with hard landscaping, high walls or fences that it would appear that the occupants are or would be isolated from the rest of the community. While the matters listed in paragraph 26 of the PPTS do not weigh in favour of the scheme, they also do not weigh against it either and I find no material justification that these matters should form a reason for refusal.

Other Matters

42. *Land stability* – A substantial land slip has taken place along a section of the B4069. That part of the road has been closed for some time and will likely reopen during the first half of 2025. It is understood that the appeal site forms part of the same geological formation and there are concerns raised by local residents and the Parish Council with the stability of the site. However, the site is on a fairly level section of land in comparison with the section of the B4069 which is explained to have slipped down the hillside. Furthermore, the Committee Report comments that the site is relatively distant from the location

- of the landslip, albeit part of the same escarpment and there is no specific reason to question the stability of the site.
43. The Council did not seek a land stability report from the appellant during the processing of the application, and this did not form a reason for refusal, even with a precautionary approach based on the absence of information. The minutes of the Committee Meeting show that this matter was discussed and, therefore, was in the mind of the Committee Members. I consider that the Council is well placed to judge this issue and to decide whether survey work was required. As this did not form a reason for refusal and, based on all the information before me, I have found no technical or substantive reason to disagree with the approach of the Council.
44. *Services* – Criterion (iii) of Policy CP47 of the Core Strategy requires that a Gypsy and Traveller site should be properly serviced with essential services, such as water, power, sewerage and drainage, and waste disposal. Concerns with the provision of services have been raised in objections to the scheme. I heard that water can easily be provided to the site and I saw at my site visit the water pipe connection that was available. There is evidence of electricity use on the site in the past, such as with the strip lights within the barn, and the situation which I saw at the site visit is that there appears to be a readily available electricity connection to the site.
45. Following clarification at the hearing, the evidence is that the site has a cess pit which, it appears, was installed some years ago. I have no detailed foul water drainage assessment that confirms the details of proposed drainage and whether the cess pit would be suitable. The day room, with its bathroom, would require approval under the Building Regulations but there is no requirement that it is built as part of the scheme. Nevertheless, there appears to be no technical reason why a suitable foul water drainage scheme should not be able to be achieved on the site.
46. Given the requirements of Policy CP47 of the Core Strategy for a site to be supplied with essential services and that matters of water supply and sewage disposal are fundamental to healthy living, and that the existing electricity generator is said to be causing a noise disturbance, I consider that these matters need to be resolved as part of the planning process. As part of any approval, it would be necessary to include suitably worded conditions to ensure, within a reasonable period, an agreed scheme for the provision of these essential services. In these circumstances, I am satisfied that the related requirements of Policy CP47 of the Core Strategy can be met.
47. *Biodiversity* - Concerns have been raised with regard to the works on site and their effects on biodiversity. As I have indicated above, it is likely that there was some form of yard or compacted surface in front of the building at the northern end of the site. Nevertheless, to facilitate the residential occupation of the site the frontage hedge was removed and within the site there is now a hard, but permeable, surface. There is no indication any ecological survey work was undertaken to assess the effects of these works, although the clearance of a site in general would not have needed consent. The Council did not seek ecological information at the application stage or consider as part of its Committee Report that this was an issue of particular concern. While there is no clear information that any biodiversity of importance was disturbed, and the site is modest in size, the retrospective nature of the scheme did not allow this

matter to be assessed. This deficiency should weigh against the scheme when I examine the issues of intentional unauthorised development in the planning balance below.

48. *Objections* – I have very carefully considered all the representations at both the application and appeal stages, including from local residents and from and on behalf of the Parish Council. I have considered the substantive issues raised in this appeal in the commentary above and make overall conclusions below. I note the concerns with answers to the questions on the application form and I took time at the hearing to work through the issues such as water supply, electricity and waste water.
49. It is understood that the barn was used for stabling in the recent past, however, it was empty at my site visit. The issues of horses and ponies on the site has been raised and it appears that they have been stabled in the existing building, which has been on site for some years. This use for stabling, and the lack of any local grazing land, is not a substantive issue that is directly relevant to the key issues and considerations in this appeal which seeks permission for a single Gypsy and Traveller pitch.
50. Comments have also been raised regarding policies for the location of housing across the plan area. It is argued that as general housing would not be allowed on the appeal site, neither should it be considered suitable for a Gypsy and Traveller pitch. I understand the point that is being made, however, open market housing is a different type of development which is subject to different development plan policies and national guidance. In particular, as I have explained, paragraph 4.25 of the Core Strategy, which links to Policy CP2, allows an exception, amongst others, for Gypsy and Traveller sites to be located in the countryside. Consequently, the policy approach to open market housing is not directly relevant to the considerations in this appeal.

Planning Balance

51. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise³.
52. I have found that the site would be suitably located for a single Gypsy and Traveller pitch and there is a safe and convenient vehicular and pedestrian access. In these circumstances, and subject to conditions in any approval that would address matters of service provision and landscaping, the scheme complies with Policy CP47 of the Core Strategy. As the appeal proposal meets with the locational requirements of the specific Gypsy and Traveller policy, it in turn complies with the strategic approach to the location of development across the plan area, as set out in Policies CP1, CP2 and CP19 of the Core Strategy. Accordingly, the development would comply with the development plan when considered as a whole.
53. In terms of material considerations, the site has been cleared, hard standing laid and residential occupation has commenced. The Chief Planner's letter of 31 August 2015, and the subsequent Written Ministerial Statement, explains that the Government is concerned about the harm that is caused where development of land has been undertaken in advance of obtaining planning

³ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

permission, where in such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place. The statement introduced a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals.

54. It appears to me that the occupation of this site took place in the knowledge that planning permission was required. Consequently, this should be considered intentional unauthorised development. It is explained that the appellant has previously had a road side existence but moved onto the site because of the changes in the law⁴. Nevertheless, the occupation has resulted in an unauthorised use and works which included the clearance of the site and the resulting uncertainty with regard to biodiversity. On the other hand, some clearance could have taken place in any case and the site is modest in size and, therefore, this limited the overall impact of the works. Taking all these matters into account, the harm resulting from the intentional unauthorised development should accord moderate weight against the scheme.
55. There are other material considerations that need to be included in the planning balance. The GTAA 2022 requires the delivery of 79 pitches for the period 2022-27 and this figure was calculated before the change to the PPTS in December 2023 to widen the definition of a Gypsy and Traveller, which is likely to have increased the number of pitches required to meet need. The Council has permitted some pitches during this five year period but is behind the trajectory to meet the identified number of pitches for 2022-27. This site would contribute in a small but worthwhile way to meeting an overall requirement for pitches across Wiltshire. The level of unmet need, and the contribution that this site would make, should be afforded significant weight.
56. The PPTS explains that if a planning authority cannot demonstrate an up to date five year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. In this case, the Council is unable to demonstrate a five year supply of sites and, while this proposal concerns permanent development, I consider that in the circumstances the lack of supply should be afforded significant weight.
57. There is a waiting list for pitches on the Council owned Gypsy and Traveller sites and a general lack of supply. It is agreed between the main parties that there are no available, suitable, acceptable and affordable alternative sites available in Wiltshire for the appellant. This is a matter that I attribute considerable weight.
58. Finally, in terms of supply and delivery issues, the development plan documents, now and in the past, have not allocated sites for Gypsy and Traveller pitches and overall need is not being met. I consider this to be a failure of policy to plan for the Gypsy and Traveller way of life in accordance with national requirements. This failure of policy should be afforded substantial weight.

⁴ Section 60C-E of the Police, Crime, Sentencing and Courts Act, which came into effect 1 July 2022, introduces a criminal offence of residing or intending to reside on land without consent in or with a vehicle. This effectively prevents roadside and/or unauthorised camping and gives the Police powers to seize vehicles and caravans, and to arrest occupiers.

59. Drawing together all these material considerations, the intentional unauthorised development should be afforded moderate weight against the scheme. I have concluded above that the matters in paragraph 26 of the PPTS should not weigh for or against the appeal development. However, the unmet need (significant weight), the lack of a five year supply of pitches (significant weight), the lack of alternatives (considerable weight) and the failure of policy (substantial weight) all pull in the direction of supporting the proposal and are very weighty issues in themselves. It is such that the balance of other material considerations weighs to a large extent in favour of approval.
60. I have concluded that the appeal scheme would accord with the development plan when considered as a whole and that the balance of other material considerations also supports approval. It follows that I conclude that planning permission should be granted, and on a permanent basis.
61. Accordingly, I do not need to consider any of the personal circumstances of the appellant which have been set out in the papers and which were discussed at the hearing. The site is acceptable for a pitch for any Gypsy and Traveller and there is no need for a personal or temporary planning permission. It follows that issues of human rights and the Public Sector Equality Duty do not need to be examined in terms of the circumstances of the existing and proposed occupants of the site.
62. The human rights of local residents have been raised in some submissions. These comments have been made in general terms and I am satisfied that this decision to permit the use of the land, in itself, on the basis that it could be occupied by any member of the Gypsy and Traveller community, should not have any disproportionate effect on the human rights of any local resident or owner.

Conditions

63. I have had regard to the agreed conditions in the Statement of Common Ground and the discussion at the hearing. I have amended the wording where necessary and in the interests of clarity, or to meet the tests in the Planning Practice Guidance.
64. A list of the approved plans is needed in the interests of certainty. However, a condition specifying the time limit for the permission to be begun is not required as it is agreed the use has already commenced. A condition restricting occupation to Gypsies and Travellers is necessary to accord with the relevant development plan policies for this type of scheme in this location. Conditions limiting the number of caravans, and with only one static caravan, the stationing of the types of vehicle and preventing commercial activity are necessary in the interests of the character and appearance and general amenities of the area, and to control any highway implications.
65. Conditions are necessary in the interests of highway safety for the first section of the access to be consolidated and surfaced, and for any gates to be set back and open inwards. A three month period is appropriate and reasonable for this work to be completed.
66. The landscaping scheme under condition 8 is necessary in the interests of protecting and enhancing the character and appearance of the area, and providing suitable residential conditions on site. This landscaping scheme

should also show and agree any boundary treatments as well as areas of soft landscaping, and the provision of extra planting in gaps along the frontage alongside the road. The land is located in a rural area where there is a need for some sensitivity in boundary treatments, buildings and other structures and control is necessary over these matters in the future such that the agreed landscaping scheme is not undermined and any other future minor works do not cause harm. I consider it is reasonable and necessary to bring under formal planning control these matters in the terms set out in condition 7.

67. To accord with the requirements of Policy CP47 of the Core Strategy, and so that services are provided to ensure a satisfactory and habitable site, conditions are necessary in relation to the provision of a water supply, electricity and waste water disposal. External lighting could be a cause for concern to local wildlife and the amenities of the area if a scheme was not agreed and implemented to minimise its impact and, therefore, a condition is necessary in this respect.

68. As the use of the land as a Gypsy and Traveller site has commenced it is necessary to draft conditions concerning landscaping, lighting, water supply, electricity and waste water disposal in such a way so as to require the details to be submitted in accordance with stated deadlines and with related sanctions were those schemes not to be submitted, approved and/or implemented.

Conclusion

69. For the reasons given above, I conclude that the appeal should succeed and that planning permission should be granted.

David Wyborn

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Dr Simon Ruston	Ruston Planning
Mr Anthony Dolan	Appellant

FOR THE LOCAL PLANNING AUTHORITY

Mr Morgan Jones	LPC (Trull) Ltd instructed by Wiltshire Council
Mr Adrian Walker	Wiltshire Council

INTERESTED PARTIES

Cllr Allison Bucknell	Unitary Division Member for Lyneham, Wiltshire Council
Cllr Stuart Bernard	Lyneham and Bradenstoke Parish Council
Mr Mark Perry	Local Resident and adjoining land owner

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing ref. TQRQM22124141939373: Site Location Plan
Drawing No. 2200026/02: Proposed Site Layout Plan
Drawing No. 2200026/03: Proposed Dayroom Plan and Elevations
- 2) The site shall not be occupied by any persons other than gypsies and travellers, defined as persons of a 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.
- 3) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, of which no more than one shall be a static caravan, shall be stationed on the site at any time in accordance with the Proposed Site Layout Plan.
- 4) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site, and no commercial activity or use, including the storage of materials and waste, shall be carried out on the site.
- 5) Within 3 months of the date of this decision, the first 5m of the access, measured from the edge of the carriageway, shall have been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.
- 6) Within 3 months from the date of this decision, any gates installed or retained at the site shall be set back 4.5 metres from the edge of the carriageway, and shall open inwards only.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or reenacting or amending that Order with or without modification), no buildings or structures, or gate, wall, fence or other means of enclosure, other than those shown on the approved plans and/or detailed on the landscaping plan the subject of condition 8 shall be erected or placed anywhere on the site.
- 8) 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 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 for soft and hard landscaping, including fencing and other boundary treatments, shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation, including the maintenance and replacement of any of the soft planting that becomes diseased or dies.

- 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.
 - v) 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.
- 9) 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 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 for the provision or retention of any external lighting shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - 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.
 - v) Upon implementation of the approved external lighting scheme specified in this condition, no further external lighting shall be installed.
 - vi) 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.
- 10) 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 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 for the supply of water to the development shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.

- 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.
 - v) Upon implementation of the approved water supply specified in this condition it shall thereafter be maintained in use.
 - vi) 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.
- 11) 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 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 for the supply of electricity to service the development shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - 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.
 - v) Upon implementation of the approved electricity supply scheme specified in this condition, that scheme shall thereafter be maintained in use.
 - vi) 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.
- 12) 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 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 for the disposal of waste water shall have been submitted for the written

approval of the local planning authority and the scheme shall include a timetable for its implementation.

- 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.
- v) Upon implementation of the approved scheme for the disposal of waste water specified in this condition, that scheme shall thereafter be maintained in use.
- vi) 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.

End of Schedule