



Appeal Decisions

Inquiry held on 15-18 October 2024 and 22 October 2024

Site visits made on 14 and 18 October 2024

by Graham Chamberlain BA(Hons) MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2024

Appeal Ref: APP/W1525/W/24/3341747

Land east of Main Road, Broomfield, Chelmsford, Essex CM1 7AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Bibby and family and friends against the decision of Chelmsford City Council.
The application reference is 23/01487/FUL.
 - The development proposed is described as 'change of use of land to Showman's permanent quarters'.
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Decision

1. The appeal is allowed, and planning permission is temporarily granted for the change of use of land to Showperson's permanent quarters at Land east of Main Road, Broomfield, Chelmsford, Essex CM1 7AG, in accordance with the terms of the application, Ref: 23/01487/FUL, dated 15 September 2023, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. During my site visit I observed what appears to be extensive recent development to the northwest of the appeal site. This has included widening the access road, installing connections for streetlights, laying a large area of hard standing for the storage of cars and the erection of a concrete screen wall. These works do not form part of the proposal before me. Indeed, I understand they are unauthorised and subject to further investigations. As such, I have not considered them as part of the baseline.
3. Some of the appellants have moved onto the site and have established plots. These plots are not arranged as per the submitted drawings. Consequently, throughout my decision I have generally referred to the effects the proposal would have, rather than those the existing development is having.
4. The Secretary of State has recently made a Written Ministerial Statement in connection with proposed changes to the National Planning Policy Framework (the 'Framework'). As the proposed amendments are in draft and subject to change, they are of limited weight. The parties had an opportunity to address the proposed changes during the Inquiry. Any reference I make to the Framework is to the extant version.

Main Issues

5. The Council confirmed through its statement of case that it would not be pursuing the second reason for refusal after considering additional evidence provided by the appellants¹. As a result, the main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the area, including the landscape and designated Green Wedge.
 - If there is a conflict with the development plan taken as a whole, whether that conflict is outweighed by other considerations.

Reasons

The effect on the character and appearance of the area

6. The landscape for the purpose of my assessment includes the appeal site and its immediate local context. This 'study area' is broadly the section of Area C south of the Roselawn Farm complex as identified in the Broomfield Neighbourhood Plan Landscape Appraisal 2019², albeit including the immediate settlement edge. The landscape/study area therefore includes built features such as the Roselawn Farm complex, a nearby ambulance station, the fringes of housing estates and the A1016. It also incorporates natural features such as the River Chelmer, the river valley topography, meadows, paddocks, hedges and trees. Much of the study area is designated as a Green Wedge.
7. The landscape/study area lies within National Character Area (NCA) 86: South Suffolk and North Essex Clayland. This NCA is dissected by numerous river valleys of varying topographies. In general, the NCA includes areas of flood plain and grazing marsh in the river valleys. The appeal site is an area of meadow that adjoins flood plain. Thus, the core of the study area, including the appeal site, is representative of the river valley character in the NCA.
8. At a more granular level the site is identified in local studies as being within *Area A6 – Upper Chelmer Valley*³ and *Area G2 the Chelmer and Environs Landscape Character Area*⁴. There is consistency in the key characteristics identified in these studies, including open, verdant, and undulating valley sides. Reference is also made to the river valley of the River Chelmer permeating through Chelmsford and creating an important green corridor of natural character.
9. This is a finding further referenced in the Landscape Appraisal for the Broomfield Neighbourhood Plan, which in turn refers to Historic Landscape Characterisation. Within the latter, the Chelmer Valley is distinctly identified as Area HECA 13. The pastoral character of the valley bottom is recognised as a feature of this area. Again, the study area is broadly representative of the river valley character identified in these assessments. Indeed, the way the Chelmer River Valley separates and divides the urban areas of Chelmsford is a notable component of the landscape.
10. Prior to development occurring, the appeal site was of little biodiversity interest being modified grassland that was once a paddock but has more

¹ Core Document (CD) 33 – Transport Statement Addendum by ADV Infrastructure

² CD72 – see Figure 4

³ CD78 – Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessments 2006

⁴ CD80 – Essex Landscape Character Assessment 2003

recently been cut meadow⁵. It is also outside any flood zone. Nevertheless, the study area includes flood plain, hedgerows identified as Habitats of Principal Importance⁶ and sites of wildlife interest including a local wildlife site at its southern tip. The study area landscape therefore has some natural heritage value and contributes to ecosystem services. There is also some evidence in the archaeological report⁷ of prehistoric and Saxon remains. Indeed, the site is identified as having high potential for archaeological remains from these eras. Thus, the area has cultural value.

11. The condition of the landscape in the study area is mixed as there is still a pastoral character with meadows and paddocks divided in places by hedges and mature trees. However, there are areas of over grazing, and several paddocks are divided by modern temporary fencing. The urban fringe is also a detracting element. In particular, the A1016 erodes the continuity of the river valley and modern residential estates are visible. Indeed, the proximity of Chelmsford and Broomfield also reduces the scenic quality of the study area and its tranquillity. A point further reinforced by the presence of busy roads. The study area is clearly perceived as an urban fringe landscape due to the inescapable presence of noise and views towards suburban built form.
12. However, things have improved since earlier studies, as overhead wires have been undergrounded and a few of the meadows now have pockets of scrub which create a wild rustic character. The combination of meadows, scrub and trees creates a pleasant scenic quality, although the ability to experience this from within the study area is limited by the lack of public access. Thus, the perceptual quality of the study area is lower than the parcel to the north around Mill Lane, but it is not of low value.
13. The evidence base for the Green Wedge designation is principally a study commissioned by the Council in 2017⁸. This analysis was informed by previous landscape assessments. It incorporated a full review of the Green Wedge designations including their suitability as a protective planning tool, their boundaries⁹ and whether the areas covered by the designation could be justified. The study concluded that the valley of the River Chelmer designated as a Green Wedge is an important part of Chelmsford's landscape and natural environment. This is an indication that the river valley is a locally distinctive and relatively rare¹⁰ natural environmental asset/natural landscape feature. The study recommended that the Green Wedge designations, which are specifically focussed on sections of only three river valleys and includes the appeal site in Parcel CN2, can be justified as a means of protecting the important open character of these areas.
14. This justification is broadly carried over into Strategic Policy S11 of the Chelmsford Local Plan (LP) where the value of the Green Wedges is outlined. Policy S11 explains that Green Wedges are *distinctive* landscapes providing *important* open green networks which have been *instrumental* in shaping the City's growth. Supporting text to this policy reinforces the point that the river valleys have distinctive landscape qualities and are therefore locally designated as Green Wedges. Also, Policy S11 explains that the open green networks

⁵ CD5 – Ecological Impact Assessment, see Page 3

⁶ Including Hedgerows H1-H3 along the western boundary of the site – see Ecological Impact Assessment

⁷ CD14 - Archaeological Desk Based Assessment

⁸ The Green Wedges and Green Corridors: Defining Chelmsford's River Valleys

⁹ Due to this process, the Roselawn Farm complex was removed from the Green Wedge.

¹⁰ The Green Wedges only cover a very small percentage of the Council's administrative area

formed by the river valleys and designated as Green Wedges have a role and function that includes preventing urban sprawl and settlement coalescence.

15. As a result, the Green Wedge designation is a response to, and recognition of, the value of the distinctive river valley landscapes around Chelmsford, including their functional and spatial role as open rural areas that stretch into the centre of the city. Indeed, the construction of Policy S11, and the protection contained therein, would indicate that at a broad strategic level greater value is placed on the Green Wedges than the wider Rural Area. In other words, the landscapes covered by the Green Wedge designation is singled out in the Local Plan through Policy S11 as both distinctive and important. This is not synonymous with being ordinary countryside.
16. The study area sits towards the centre of Parcel CN2 of the Chelmer Valley Green Wedge as identified in the 2017 Green Wedge study. This parcel is located between Broomfield and Springfield and is generally undeveloped and rural. Parcel CN2 is therefore a crucial element of this Green Wedge with an open character that contributes significantly to its role and function in preventing urban sprawl and settlement coalescence. The appeal site, when it was an undeveloped meadow, contributed positively to the openness and rurality of the land parcel.
17. Thus, when having regard to the foregoing characteristics, qualities and attributes, a significant part of the study area (the site and its context) is covered by the Green Wedge designation and this is representative of the distinctive river valley landscape outlined in local landscape character assessments. It also has natural and cultural heritage value. The condition of the study area is moderate, and it benefits from some scenic quality, although this is diminished by the urban fringe. The proximity of built-up areas also results in little sense of tranquillity. There is also no public access, preventing any recreational value, and there is no evidence before me that the landscape is associated with any notable people or events. Nevertheless, its open rural quality is an important attribute that performs a significant functional and spatial role in this location.
18. As a result, and when considered in the round, the area of Green Wedge in the study area has attributes which place it above ordinary countryside. Therefore, the appeal site, although undistinguished in isolation, is part of a valued landscape within the meaning of Paragraph 180 of the Framework. A valued landscape being one which has demonstrable attributes that elevate it above ordinary or everyday countryside¹¹. That does not mean a valued landscape has to be of high value, just more than ordinary.
19. In coming to this view, I am mindful that neither of the landscape witnesses described the study area as a 'valued landscape' or containing one. However, both confirmed when asked that they had not undertaken this assessment. Mrs Boland had considered landscape value, but had relied on the findings of a study¹² prepared to inform the Broomfield Neighbourhood Plan (NP) when identifying valued landscapes. This study concluded that the area to the north of the Roselawn Farm complex was a 'valued landscape' but not the area to the south. Reference is made in Paragraph 3.3.1 of the study to each area being assessed against a list of factors, including function, but that analysis is not

¹¹ CD86 - Assessing Landscape Value Outside National Designations, Landscape Institute

¹² CD73 - Broomfield NP Review of Local Green Space, Valued Landscape and Key Views

presented. Instead, the study jumps to a statement of significance in respect of the valued landscapes identified. In this respect, the study presents a conclusion without the workings out.

20. Reference is made in the statement of significance to fragmentation, increased influence of development and reduced tranquillity and condition in the southern section compared to the northern. However, that is not a rounded assessment that also includes other attributes such as function. Indeed, the Landscape Appraisal for the NP identified the open function of the area between Broomfield and Chelmsford as 'important' to reinforcing perceived separation.
21. The study also fails to grapple with the assessment that defined and justified the Green Wedge designation and in doing so identified it as an important and distinctive landscape. Moreover, whilst I agree that the northern part of the land parcel has a higher scenic quality and condition than the south, it does not mean the southern part is ordinary countryside when all factors are considered. As a result, I afford the Neighbourhood Plan study limited weight. In any event, I have come to my own conclusions for the reasons given.
22. To ascertain the sensitivity of the landscape both Mr Dawson and Mrs Boland considered landscape value and susceptibility. Mr Dawson's methodology indicates that a landscape would be of 'high' value if it is of particular local value. My analysis above indicates that this is one such circumstance.
23. The susceptibility of the study area to accommodate a travelling Showperson's site of around 2.65 hectares in size is informed, in part, by the findings of relevant landscape character assessments. In this respect, the 2006 Landscape Character Assessment (CD 78) indicates that the Green Wedge has a high susceptibility to change, although this appears to be with reference to development that would be on the upper valley slopes where it could break the skyline and be more apparent in cross valley views. It is also important to note that the Green Wedge designation does not prohibit development.
24. However, the Landscape Appraisal for the NP explains that development in the Green Wedge needs to be compatible with, and contribute to, the river corridor character and condition. This is an indication that the Green Wedge landscape is of high susceptibility to development that is incompatible with the rural river valley character. Mixed use residential and commercial storage development such as a travelling show person's site is incompatible in this respect.
25. Moreover, when considering that the openness of the river valley is an important landscape attribute, and the role and function of the Green Wedge is to limit urban sprawl, it follows that the landscape has limited ability to accommodate sprawling development away from the urban edge. This is a finding outlined in the Broomfield Landscape Assessment, where the least susceptible area to development is that which adjoins the settlement edge at a point where it is set back from the valley slopes and behind a knoll. As a result, the landscape away from the settlement edge has high susceptibility to the type of development proposed.
26. Consequently, as the landscape as a receptor is of high value and susceptibility, it is of high sensitivity. I prefer Mr Dawson's methodology in respect of these matters as it includes a more comprehensive portfolio of tables that can be used to guide professional judgments.

27. The appeal scheme would involve several large plots being established within an extensive yard. The area would also be enclosed with fencing and there would be regular comings and goings due to the various working patterns and care needs¹³. The residential areas would incorporate mobile homes, other caravans and vehicles being sited and parked. In addition, there would be equipment stored within the commercial storage areas. This could be quite extensive. During my site visit I observed shipping containers, rides and lorries. The plots would also incorporate hard standings which would be linked to a new access road and there would be some external lighting. None of this would have a rural character consistent with the river valley of the Green Wedge. The impact of this would be a highly urban intrusion into the Green Wedge that would significantly alter the undeveloped meadow character of the appeal site. Moreover, the impacts of the development would be aggravated by its position away from the settlement edge and close to the river. It would therefore be a stark intrusion into the river valley when considered spatially.
28. Conditions limiting the number of caravans, the height of equipment, fixing the site layout and requiring internal hedging as a means of softening the proposal would provide some mitigation. Indeed, there would be space to allow internal hedges to mature but it is unlikely they would reach 4.95m for many years if at all given the impact this could have on living conditions. There may even be scope for tree planting. However, this would not address the inherent harm that would occur from siting this proposal in this location. Furthermore, the package of offsite landscape enhancement and mitigation is meagre, focussing on the gapping up of one hedge. This would be some way from offsetting the harm that would otherwise occur to the Green Wedge. It is also unclear how it would be maintained being outside the appeal site.
29. Indeed, the impact would result in an expansion of the settlement edge into the Green Wedge. This is because as things currently stand the well-defined settlement edge of Broomfield is the housing north of the British Legion building, with the Roselawn Farm complex being an uncharacteristic projection. The appeal scheme would move the edge of the settlement to the eastern edge of the proposal, leaving only a small gap with the ambulance station on the far side of the river. This would result in urban sprawl into the Green Wedge and a sense of settlement coalescence between Broomfield and Springfield. The proposal would therefore seriously undermine at least two of the roles of the Green Wedge as defined in Policy S11.
30. The scale of the change would be high as would the geographical influence, as Parcel CN2 would be dominated by the scheme, it being located towards the centre of the land parcel. The duration of the impact would also be high if permitted permanently. As a result, the magnitude of effect on the landscape as a receptor would be high. When the high sensitivity of the landscape is married with the high magnitude of the impact, then the overall significance of the effect on the landscape as a receptor i.e. the character of the area, would be 'major adverse', in that there would be a negative alteration to a highly sensitive valued landscape. Or as Mrs Boland's methodology puts it, 'an important change to a landscape of local importance'.
31. Turning to visual impacts. Despite winter views not being submitted the landscape experts agreed at the Inquiry that the proposal would have a

¹³ Some of the appellants travel from fair to fair but others will travel from the appeal site to fairs/events and then return to the site. Others intend to live at the site on account of education and care needs.

negligible visual impact on receptors in the study area. This analysis was informed by an assessment of agreed representative viewpoints.

32. Indeed, there is no footpath along the A1016 so receptors in this location would be travelling in vehicles and thus concentrating on driving. They would be of low sensitivity. Views would be oblique to the direction of travel and although they would be looking across a valued landscape, views would be filtered by hedges and trees and from a distance. Users of Mill Lane would be pedestrians moving slowly through a valued landscape, but the topography and intervening planting effectively screens the proposal from this position. Only the entrance gate into the site is visible from the eastern end of Saxon Road, but this is a distant view. The view from the southern end of Little Waltham Road is elevated and the development can be seen. However, this is not a well-used route. The view is filtered and from distance. Any receptor would need to be looking for the development rather than it being strident or overly apparent.
33. As a result, I broadly share the views of the landscape witnesses that the visual impacts would be minor. Given that the study area is a valued landscape, I have elevated the effect to minor adverse from negligible as the sensitivity is higher. In effect, there would be a limited harmful change to a view obtained by sensitive receptors.
34. It is worth recording that the emerging NP seeks to allocate (through draft Policy BFD10) the land immediately to the west of the appeal site for a small rural exception site and public open space. This is also an aspiration in the Broomfield Village Design Statement 2011. In addition, Community Action 6 in the draft NP seeks to provide a cycle/pedestrian route through Land Parcel CN2. This would skirt around the appeal site. Were either of these actions to occur then the visual perception of the appeal scheme would change. In effect, the harm could increase notably as views from public land would be possible. The proposal could also be prominent in Important View 12 as identified in the NP. However, it is common ground that this matter should only currently be given limited weight due to the NP's stage of preparation and the extent of unresolved objections¹⁴.
35. Given the foregoing, the proposal would have a major adverse impact on the landscape as a receptor but a minor adverse impact on visual amenity. These findings need to be considered holistically in reaching an overall judgment. Mr Dawson's evidence does not do this, but then Mrs Boland's focusses on the modest visual impact. When considered in the round the overall impact on the character and appearance of the area, encapsulating the role and function of the Green Wedge, would be moderate adverse.
36. Accordingly, there would be a conflict with Policy S11 of the LP because a moderate adverse effect, inclusive of urban sprawl and coalescence, equates to material harm to the role, function and intrinsic character and beauty of the Green Wedge. For the same reason there would be a conflict with Policy DM10 of the LP. A conflict with Policy S1 would also occur because the river valley landscape would not be respected.
37. Policy DM3 of the LP relates specifically to applications for windfall plots for Travelling Showpeople. The fourth criteria in this policy states that such

¹⁴ See Inquiry Document (ID) 7 – Note on objections to the NP

development should not result in a significant adverse impact on the intrinsic character and beauty of the countryside. It is not entirely clear whether this is referring to an impact of significance (i.e. one that is material, it matters) or a significant magnitude of effect. If it is the former, then the appeal scheme would result in a clear breach, as a moderate adverse impact on the landscape matters. However, if it is the latter, then the proposal has not reached the threshold of having a significant overall magnitude of effect on the intrinsic character and beauty of the countryside when considered in the round (i.e. landscape and visual impacts combined).

38. The latter approach is appealing as it could be considered contradictory to allow, as a matter of principle, Travelling Showperson sites in the countryside but then seek to prevent them if they simply have a material impact on the countryside¹⁵. This is because it would be hard to deliver a Travelling Show Persons site in the countryside without it having a material impact. It seems to me that Policy DM3 has a raised threshold for a policy breach in this regard. Indeed, Policy S11 seeks to prevent development in the rural area where an 'adverse impact' on the intrinsic character and beauty of the countryside would occur, whereas Policy DM3 raises this to a 'significant adverse impact' for Travelling Showperson sites. This appears to be a deliberate distinction. As such, I do not find a conflict with the fourth bullet point in Policy DM3.
39. However, Policy DM3 states that Travelling Showperson sites will only be granted where all the stated criteria are met. In this respect the fifth criteria states that there should be no adverse impact on 'natural environment assets'. This term is not defined but I share the view of the Council that the river valley landscapes designated as Green Wedges can be considered 'natural environment assets'. Indeed, I consider this term encapsulates valued landscapes, which are intended to have a higher level of protection.
40. Mr Basely confirmed that a 'natural environmental asset' for the purposes of Policy DM3 had the same meaning as 'natural landscape feature' in Policy DM17. Paragraph 8.107 of the LP explains that landscape features can include, but are not limited to, trees, hedgerows, meadows, field margins and water features. In this instance, the appeal site prior to development was a meadow situated within a distinctive river valley designated as a Green Wedge. Thus, it is, and forms part of, a natural landscape feature, that being the Green Wedge. I see no reason why the Green Wedge, which is in essence a portion of a river valley, cannot be a landscape feature.
41. Moreover, the supporting text to Policy DM3 explains that sites for Travelling Showpeople are not considered appropriate in the Green Wedge. As a result, there would be synergy between this statement and an approach that considers Green Wedges a natural environmental asset that the policy states should not be adversely affected. In effect, the threshold for a policy breach in the Green Wedge is reduced from a 'significant adverse impact' to only an 'adverse impact'. This approach means the threshold for a breach of Policy DM3(v) is consistent with those in Policies DM10 and S11. In effect, the LP as a whole seeks to prevent any development, including that for Travelling Showpeople, from having an adverse impact on the Green Wedge.
42. As a result, the proposal would be at odds with the fifth bullet point of Policy DM3 and thus the policy taken as a whole. The proposal would also conflict

¹⁵ Or any 'detrimental impact' as per the supporting text in Paragraph 8.21

with Policy DM17 which seeks to prevent unacceptable harm (i.e. harm that cannot be mitigated) to natural landscape features.

43. In conclusion, the proposal would moderately harm the character and appearance of the area. This harm would occur to a valued landscape, this being the Green Wedge. On account of its impacts, the proposal would be at odds with Policies S1, S11, DM3, DM10 and DM17 of the LP, which are up to date and carry full weight as they are consistent with Paragraphs 131, 135, 139 and 180 of the Framework, including the aim to protect valued landscapes. Accordingly, I afford this development plan conflict significant weight. Indeed, I find a significant conflict with the development plan taken as a whole.
44. In coming to this view, and for reasons I will come to when discussing the Roselawn Farm complex as a possible alternative, I have found no conflict with the first bullet point in Policy S1. The proposal would not be a failure to optimise the use of previously developed land. The proximity of Broomfield means the proposal is focussed on a 'high order' settlement and therefore a conflict with the seventh bullet in Policy S1 would not occur either. This latter point needs to be considered in the context that Policy DM3 does not prevent, as a matter of principle, traveller sites outside settlement boundaries.

Other considerations

45. A planning application should be determined in accordance with the development plan unless material considerations indicate otherwise. The other considerations that are relevant in this instance are considered below.

Intentional unauthorised development (IUD)

46. The occupation of the appeal site has taken place without planning permission and Mr Bibby, who is the site landlord, was fully aware that planning permission would have been required. This is because he had sought pre application advice from Council Officers and they had responded with a clear opinion that planning permission is required and unlikely to be supported. Mr Bibby is also reasonably familiar with the planning system after engaging with a planning consultant to review several possible sites. Furthermore, occupation, which occurred on a weekend, was planned and coordinated to hamper immediate enforcement action. As a result, intentional unauthorised development (IUD) has occurred, and this is a material consideration in my assessment given the provisions of a Written Ministerial Statement (WMS)¹⁶.
47. The WMS explains that the Government is concerned about the *harm* that is caused where the development of land has been undertaken in advance of obtaining planning permission. I have emphasised the word 'harm' because I do not consider the WMS is meant to be punitive. Indeed, the planning system does not prevent an individual undertaking works and then applying retrospectively. The risk of such a course of action can be high though. Nevertheless, harm can occur if development is undertaken without controls. Moreover, local planning authorities will often need to expend time and expense addressing such a breach through enforcement action.
48. The IUD has resulted in an extensive area of hard standing being laid. Physical damage to the land has therefore occurred. That said, the hard standing is

¹⁶ Green Belt Protection and Intentional Unauthorised Development 2015

compacted hard core so it could be removed, and the meadow re-established. This would take time and expense though.

49. In addition, the Council are concerned that the hardcore may include contaminated material¹⁷ and that vehicle and equipment maintenance has occurred on site without measures to trap or intercept any spillages. This is also a concern outlined in the Ecological Impact Assessment¹⁸. However, evidence¹⁹ provided by the appellant indicates that the material used to construct the hard standing comprised cleaned crushed stone and was therefore uncontaminated. Furthermore, there is no evidence before me of any leaching of fuel, oil or chemicals into the land or river. Whilst acknowledging this I, like Mr Dunks, observed other materials mixed into the hard surface including plastics and such like. It may be that this has accumulated or been added since the initial hardstanding was laid. As a result, there may be some contamination in the surface material.
50. Nevertheless, the Council's Public Health and Protection Service did not raise any concerns in this respect and did not request a predetermination land contamination assessment despite the sensitive nature of the end users. The Officer's report also found that the proposal would comply with Policy DM3 in respect of land contamination. Thus, the evidence before me indicates that any contamination that may have resulted from the IUD is unlikely to have been extensive.
51. Some of the hard surfacing appears to have been constructed in the root protection areas of trees and hedges. As a result, damage to trees and hedges cannot be ruled out. That said, and although aware of this (as it is discussed in the Officer's report), the Council has not requested an arboricultural assessment or sought views from an arboriculturist to gauge the possible extent of damage. This appears to be because the Council is of the view the effects can be remediated through the imposition of a condition(s). I have no reason to take an alternative view. Again, this suggests the damage may not be extensive.
52. Added to this, the unauthorised occupation would have hampered biodiversity surveys and archaeological investigation. However, the biodiversity information before me in the Ecological Impact Assessment suggests the site prior to development was probably of low value to wildlife. That said, the trees and hedges around the site are of high value. I cannot rule out the possibility of some disturbance from noise and lighting on biodiversity in these higher value areas, including bats. Indeed, the Ecological Impact Assessment recommended the imposition of a condition requiring a Construction Environment Management Plan to safeguard biodiversity during construction. The development commenced without this though. On the other hand, the works to date are unlikely to have disturbed important archaeology as they have generally been undertaken at surface level. Thus, the IUD in this respect is unlikely to have resulted in significant impacts.
53. The IUD is extensive and has occurred in a sensitive Green Wedge. The adverse effect on the landscape as things currently stand is greater than had the development taken place as proposed. The scale of the IUD and the

¹⁷ See ID11

¹⁸ See p23 – low risk of pollution to non-statutory designated sites linked by the River Chelmer

¹⁹ ID8 – ID10 – Information from the supplier of the hardcore

impact on the landscape to date therefore needs to be factored in when considering the weight to afford the IUD. Indeed, this seems to be the primary driver behind the Council instigating enforcement action, which included seeking an injunction. This has been both time consuming and costly to the Council. The Council has not been able to recuperate its costs in full.

54. That said, the appellants appear to have adhered to the injunction and ceased works when instructed to. This is unlike the situation in an appeal I have been referred to²⁰, where enforcement action was ignored and the harms arising from IUD included adverse impacts on highway safety and irreversible loss of archaeology. It is also of relevance that the works undertaken to establish the yard the subject of this appeal, whilst extensive, were not excessive. They are generally commensurate with what would be necessary to establish a temporary home pending the outcome of the planning application.
55. The appellants also submit that they had nowhere else to go. However, I have considered these personal factors below. It would be double counting to reduce the weight to IUD for this reason and then also add it as a positive factor later in my considerations. Overall, when considering the scale and impacts of the IUD I find that it adds significant additional weight as a consideration against the proposal.

The general need for plots

56. Paragraph 10 of the Planning Policy for Traveller Sites (PPTS) states that local planning authorities should, in producing their Local Plan, identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set target.
57. The most up to date evidence on the need for plots is contained in a recently published GTAA²¹. It places the need at 38 plots. This is a significant increase from the last GTAA, which suggests the locally set target may now be out of date. However, the Council has not at this stage fully considered, and then adopted, the 38-plot figure as its locally set target which it intends to plan for in the emerging local plan. It would therefore be inappropriate at this stage to use the 38-plot figure as the locally set target against which the supply should be measured for the purposes of Paragraph 10 of the PPTS. Instead, the indicative increase in need is a separate material consideration. In this instance, it is encapsulated in my analysis of the appellant's accommodation needs discussed later in this decision letter because the increase in need derives from the appellants.
58. Policy S6 of the LP established the locally set target in this instance, this being 24 permanent plots in the period 2016-2036. This target is based on an assessment undertaken in 2017 which, when removing the appellants' needs, does not appear especially out of date²². The LP was adopted in 2020 and the strategy for delivering the 24 plots is to accommodate them within four strategic growth sites. The trajectory in the LP envisaged the plots being delivered from 2024/25. This has resulted in a planned temporary shortfall between 2016 and now.

²⁰ APP/L2820/W/20/3249281

²¹ Chelmsford City Council Gypsy and Traveller Accommodation Assessment Final Report September 2024

²² A provisional figure of 25 plots was included in the most recent GTAA (i.e. the original 24 plots identified in the LP plus 1) but this was revised to 38 to account for the needs of the appellants.

59. As things currently stand, the relevant five-year period for the purposes of Paragraph 10 of the PPTS is taken as 2024/25 to 2028/29. The trajectory in the LP anticipates the delivery of 15 plots in this period, with the remaining nine plots at Northeast Chelmsford strategic allocation being delivered between 2029/30 and 2033/34. However, within his rebuttal proof Mr Dunks has provided an updated trajectory which indicates that all 24 plots will be delivered by 2026/27. The Council therefore submits that it can demonstrate a deliverable five-year supply of plots, albeit that the temporary shortfall would be extended by a couple of years.
60. To be considered deliverable a site should meet three tests. The first two are that the site should be available now and offer a suitable location for development. There was disagreement between the planning witnesses over the interpretation of the former. Mr Basely seemed to suggest that for a site to be available now, it should be available for occupation now. Mr Dunks on the other hand said that for a site to be available now, it simply needed to be available for an applicant to pursue a development, including an application for planning permission. To be successful in this regard there would need to be stated support from the landowner.
61. Neither party has provided legal authority on this point or referred to other appeal decisions. Ultimately, Mr Dunks' approach is favoured because Mr Baseley's would require planning permission to be in place for occupation to lawfully occur now. However, both parties agreed at the Inquiry that planning permission did not need to be in place for a site to be considered deliverable, as that would exclude allocations. Mr Basely did not resolve this contradiction.
62. Therefore, as all 24 plots are on strategic sites allocated in the LP, they are both available now, in that the landowner would be supportive of the development, and offer a suitable location for development, such suitability having been considered at the allocation stage. The deliverability of the allocated plots therefore turns on the last of the three tests, which is whether the sites are achievable with a realistic prospect that development will be delivered on the site within five years. I share the view of the Council that a realistic prospect is not a particularly high bar to surmount. In this respect, I do not have to be certain, or even be satisfied that delivery is more likely than not. As the Council puts it, a 'realistic prospect' can be taken to mean something which is not fanciful. Taking each in turn:
63. Strategic Growth Area 1, Location 2, West Chelmsford – An outline application for this development was submitted in August 2021 and included five serviced plots as per the allocation. However, consideration of the application is still ongoing. The reasons for this delay are not before me as the Council's most recent trajectory is not supported by substantive underpinning evidence²³. It is therefore of limited weight. This is a large allocation of 800 homes which would be complex to deliver. Indeed, the trajectory in the LP had commencement in 2021/22 with completion in 2029/30. It is unclear when the trigger point would be for delivery of the plots. The Council's 'advice note'²⁴ suggests halfway, although the LP trajectory suggests plots would be delivered three years after commencement of the houses²⁵. Therefore, even if outline

²³ The Council's suggestion that the trajectory is based on the evidence used to inform Annual Monitoring Reports and discussions with developers is entirely unevicenced.

²⁴ Travelling Showperson Sites Planning Advice Note 2024

²⁵ Housing starting in 2021/22 and plots in 2024/25

permission were granted tomorrow²⁶, a reserved matters application was quickly approved in mid-2025, conditions were discharged promptly and works started soon after (say mid to late 2026), the trajectory in the LP suggests delivery of the plots in late 2029. This very generous and frankly fanciful analysis would still result in delivery outside the five-year period.

64. Strategic Growth Area 2, Location 6, Northeast Chelmsford – This is a very large and complex allocation of 3000 homes. An application was submitted in 2022 for the approval of a masterplan. Discussions are still ongoing and the evidence before me does not explain what the stumbling block is or provide an up-to-date timeframe for commencement and completion. The trajectory in the LP has commencement in 2022/23 and completion in 2035/36. The bulk of the housing is to come in the latter stages. As already stated, the trajectory in the LP for the delivery of plots is from 2029/30, which is around 7-8 years after commencement on the first houses. Given this, it is entirely unclear why the Council's most recent trajectory has pulled delivery forward to 2026/27. Mr Dunks was unable to explain this at the Inquiry. Given the above, it would be more prudent to push commencement back further into the 2030s. Based on the evidence before me, it would be entirely fanciful to include these plots as being achievable in the five-year period.
65. Strategic Growth Area 2, Location 7a, Great Leys – Land at Moulsham Hall – This is a self-contained application for five plots which has a resolution to approve from April 2024. The delay in issuing the permission appears to be the completion of a planning obligation. Again, it is unclear what is holding up negotiations and the issuing of planning permission. Nevertheless, I understand that the site has its own access and can therefore proceed independently of the wider allocation. As a result, there seems to be a realistic prospect that the plots will be delivered within the five-year period.
66. Strategic Growth Area 3, Location 10, North of South Woodham Ferrers – A hybrid application was submitted for this large allocation in 2021. The application includes the provision of five plots, but I understand this is part of the outline application rather than the full. Matters have progressed with a resolution to grant planning permission achieved in February 2023. This is, however, subject to the completion of a planning obligation the discussions relating to which are ongoing. The Council has not explained the reason for the delay. The trajectory in the LP suggests the plots would be delivered around three years after commencement²⁷. On the assumptions that outline planning permission is imminent, a reserved matters application follows promptly (and is approved quickly), and commencement can be achieved soon after, then the plots would likely be delivered around 2029/30 at the earliest. There seems a bit more certainty over delivery than West Chelmsford given the resolution to grant, but it would be fanciful to consider delivery within five years given the sparsity of evidence before me in this respect.
67. In summary, the evidence presented by the Council indicates that only 5 of the 24 allocated plots are likely to be delivered in the five-year period. As such, and in the context of this appeal, the Council are currently unable to demonstrate a supply of specific deliverable sites sufficient to provide a five-year supply against its locally set target. This results in general unmet need and a situation that is at odds with Paragraph 10 of the PPTS. The

²⁶ There is nothing to suggest the granting of planning permission is imminent

²⁷ Commencement of the housing in 2021/22 and the plots in 2024/25

circumstances indicate that the Council's strategy of relying on strategic allocations is presenting some problems.

Alternatives

68. The appellants submit that there is no suitable alternative accommodation available to them. There is some force to this when considering the situation in Chelmsford. As already discussed, the Council has not approved any plots since adopting the LP and the allocated sites are unlikely to come forward for some time. Even if they do, they will only cater for the needs established in 2017 and not the additional immediate need identified in the most recent GTAA i.e. those flowing from the appellants needs, which the authors of the GTAA place in Chelmsford. This is reasonable given their local connections.
69. The Council have indicated that I should disregard the appellants' accommodation needs because it derives from their IUD, but that would only be a reasonable position if they had alternatives. Furthermore, the PPTS is clear that there is no requirement for the appellants to have a local connection.
70. Most of the appellants reside, or resided, at plots in Buckles Lane in Thurrock. I understand that some of these plots do not have planning permission. All the indications are that the Buckles Lane site is acutely overcrowded resulting in unsuitable and unsafe living conditions. Thus, moving back to Buckles Lane, or staying there in some cases²⁸, would not be a reasonable or suitable alternative. There also appears to be a trend of travelling showpeople being asked to leave because their large plots can generate more revenue for landlords if subdivided and rented to non showpeople. Mr Bibby met with Thurrock Council to address this situation without success.
71. There is also the added issue that through subdivision and growing families, the plots at Buckles Lane were becoming smaller, meaning it was difficult to store equipment within the plots. This is the traditional way showpeople live. The appellants tried to make this work for some time, but the situation became untenable resulting in most of them collectively moving to the appeal site. Those that stayed are in overcrowded accommodation and/or have been asked to leave once the appeal is determined. It seems to me that the appellants were in accommodation need long before Roselawn Farm was purchased, they left their previous plots or the application was made.
72. The general picture painted by all the witnesses was a bleak one with overcrowding and living by the roadside being reoccurring themes due to the sparsity of suitable plots at Buckles Lane and more generally. Some of the appellants lived at an unauthorised site in Dartford but had to leave following injunction proceedings. In addition, all the future residents have explored living at relatives plots in locations such as Writtle, Witham and even Gloucestershire, but there is no room to accommodate them. I have no reason to doubt this.
73. Mr Baseley also made a general point, which I consider to be a fair one, that plots for travelling show people are difficult to source for many reasons. Sometimes it can be down to prejudice but there is also the inherent difficulty given the land take and mixed-use nature of the activity. Traditional showpeople plots include both a residential area and a commercial storage

²⁸ Some appellants currently reside on Buckles Lane as it would be a breach of the injunction to move to the site

yard. The latter is often required for business efficiency and security. Indeed, the definition of a travelling Showperson's site, or yard, in the PPTS is a mixed-use plot for travelling showpeople which may/will need to incorporate space to store equipment. The lack of any windfall permissions in Chelmsford and the overcrowded nature of Buckles Lane attest to the difficulties in finding suitable sites for travelling showpeople.

74. It is within this context that Mr Bibby's site search should be viewed. It is also of note that there is no requirement for the appellants to prove there are no alternatives. Over a period of three years, when Mr Bibby was living in unsuitable overcrowded accommodation, he discussed around 50 possible windfall sites with his (then) planning consultant. None were considered suitable due to planning designations such as Green Belt, or the sites being isolated or in open countryside. In undertaking his search, Mr Bibby was not significantly constrained by access to funds as evidenced by his ability to put down a large 10% deposit when buying Roselawn Farm at auction. He was also motivated to find a home for his family on account of his wife being pregnant. Thus, there seems to have been some genuine, albeit unsuccessful, attempt to identify a site where planning permission would be forthcoming.
75. That said, the assessment is unevidenced and this effects the weight I afford it. There is not, for example, a schedule of the sites considered, and the reasons given for discounting them. This would not have been unduly onerous to prepare given that correspondence²⁹ took place between Mr Bibby and his previous planning consultant. In the absence of such a schedule, it is difficult to gauge whether the geographical area of the search was as extensive as the extent of travelling that is purported to occur, some of the appellants going as far afield as Kent for example. There is also an indication that the search focused on Green Belt sites which would be inherently constrained. It is also unclear why Mr Bibby settled on Roselawn Farm, which is much larger than what the appellants need. In the more local context of Chelmsford, there is no evidence that the search area included land outside the Green Belt or Green Wedge, where the controls in Policy DM3 are less onerous. Accordingly, even Mr Baseley conceded that the site search was not entirely robust.
76. However, the Council's argument ultimately boils down to a speculative suggestion that there *might* be other sites that *could* be available. No substantive evidence has been presented to support this proposition, including anything to suggest there may be sites available further afield. I have already explained why Buckles Lane in Thurrock does not appear to be an option. Nor is there anything of substance to suggest the other appellants would have been any more successful in identifying a pitch than Mr Bibby. Mr Bowden, Mr Brothers, Ms Pettigrove and Mr Flack have likewise referred to unsuccessful searches around the Great London/Essex area. Thus, Mr Bibby's evidence is corroborated, and I prefer it to the Council's as an illustration of the lack of alternative opportunities. Indeed, the Council has not listed any other sites that might have been suitable but were not explored save Buckles Lane, which I have already discussed, and the Roselawn Farm complex.
77. On face value the Roselawn Farm complex appears an attractive alternative to the appeal site as it is situated within the built-up area of Broomfield (and thus outside the Green Wedge). Furthermore, the complex already includes

²⁹ Mr Bibby confirmed when giving evidence that he used to send details over to his planning consultant

buildings and hardstanding, and a careful and comprehensive redevelopment could enhance the setting of the area.

78. However, Roselawn Farm is not owned by Mr Bibby. Instead, it is owned by an investment company, Roxa Nixy, of which Mr Bibby is a director and shareholder. Mr Bibby's verbal evidence is that there is another shareholder who is a person of significant control. He approached them after putting the deposit down on the farm at auction. The shareholder invested because of the value in the 'built' part of the holding, which is within the settlement boundary and therefore could generate capital value if redeveloped. It also currently generates rental income. For these reasons, Mr Bibby indicated that the company would not wish to release the Roselawn Farm complex for redevelopment as a travelling showpersons yard. In essence, the Roselawn Farm complex is not available now because the landowner, Roxa Nixy, has not positively indicated that it would support an application for a change of use to plots. Furthermore, there is a planning obligation preventing residential development. An application could be made to vary this, but there is a reasonable question over the site's suitability whilst the obligation is in place.
79. In considering this matter I have struggled with aspects of Mr Bibby's evidence. It is odd that he put down a sizeable deposit on a farm 'in haste' without having the balance of the funds. He was then fortuitously able to secure a financial backer in short time, who apparently invested a very large sum of money in land which is subject to a planning obligation preventing development. It was therefore a risky investment for this unevidenced financial backer to take. Moreover, Mr Bibby's written evidence does not mention the financial backer. Instead, he states that '*I bought land at Roselawn Farm in September 2020 as a possible future option for us if we ever needed it....*' and '*I own 49 acres of land at Roselawn Farm*'.
80. The implication trailed by the Council is that Mr Bibby may have more control over Roselawn Farm than he indicated when giving his evidence. To support this, the Council point to the fact that Mr Bibby declined to include a cycle path through the farm and not Roxa Nixy. If Mr Bibby does have more control than suggested, then a more suitable alternative may be available to him. I would emphasise the *may* in this regard. However, that would only be an alternative for Mr Bibby and his family. He cannot be compelled to make provision for the whole appellant group. Overall, in the prevailing circumstances it would be imprudent to rely on this as a possible alternative home for Mr Bibby and the appellants, at least in the short term.
81. In summary, the evidence I heard indicates that in general there are no alternative options available to the appellants to secure a suitable home. There are currently no vacant, allocated or approved sites available, and this is unlikely to change in Chelmsford for some years. Existing family sites are full, and Buckles Lane is acutely overcrowded. Mr Bibby has been looking for a possible windfall site and although the search lacks robustness, it provides some evidence to illustrate the problems that showpeople have finding sites. The Council has not identified any sites the appellants should have considered save for the Roselawn Farm complex. The evidence as to whether this is a genuine alternative is unclear. On balance, I lean more towards a conclusion that there are no current alternatives available to the appellants. They will therefore likely be homeless if the appeal is dismissed. Their accommodation needs are acute. This an important matter in my deliberations.

Personal Circumstances

82. There is agreement that the appellants are all travelling showpeople and therefore meet the planning definition in the PPTS. In this respect the PPTS seeks to facilitate the traditional and nomadic way of life of traveling showpeople as an important aspect of achieving the sustainability sought by Paragraph 13 of the PPTS. This is a general point that weighs in favour of permitting the plots, especially as refusing the appeal would increase the likelihood of another unauthorised encampment occurring due to the current lack of alternatives. Such a roadside existence would benefit no one and I was able to hear about the adverse effects on wellbeing such a lifestyle incurs.
83. Article 3(1) of the United Nations Convention on the Rights of the Child states that the best interests of a child shall be a primary consideration. This means no other consideration is more important. All the indications before me are that if the appeal is dismissed the families, including those with children, would have to return to a roadside existence or remain living in very unsuitable accommodation. This would place stress upon the children. Moreover, if they are unable to find a settled base locally, and there is little evidence that they will, then the children's education and health care would be disrupted with the inherent, and likely significant, disadvantages this would entail. Thus, their best interests would be served by establishing a settled base so there is certainty over where they will go to school and receive medical treatment. A settled base would also support the children's welfare more generally by, for example, affording them a sense of security and continuity and enabling them to attend clubs and make friends.
84. The adults in the group would also benefit from a settled base. Some are at retirement age and others have delayed marriage for want of a home. All would need access to healthcare and some the support of nearby family members. The practical realities of modern living also require a settled base. I heard about the difficulties experienced in pursuing a traditional Showperson lifestyle without this. For example, problems purchasing insurance, maintaining their vehicles, or undertaking banking. This places their livelihoods at risk, as does reliance on a yard without secure tenure. It is also difficult for them to integrate into a community without a settled home. Allowing the appeal would also enable some of the appellants to leave overcrowded accommodation at Buckles Lane. The personal circumstances of the appellants are important circumstances weighing in favour of the appeal.
85. Taking these personal circumstances into account would not be to condone a wilful breach of planning law and nor would it convey a benefit on the appellants from their occupation of the site unlawfully. This is because their acute accommodation needs arose prior to the submission of the application and not from moving onto the site. This is because of the unsuitability of their living conditions at other sites or on the roadside, and a lack of alternatives. As a result, their accommodation needs would have been an important material consideration even if the appellants had not moved onto the site.

Planning Balance

86. The appeal scheme would result in moderate harm to the character and appearance of the Green Wedge. The harm would be to a valued landscape and therefore carries significant weight. There have also been some adverse impacts flowing from the IUD. As such, the cumulative impacts carry weight of

a high order against the appeal scheme. Indeed, the proposal would be contrary to the development plan as a whole, including Policy DM3, which is specifically concerned with windfall schemes such as that proposed. A permanent permission would therefore be undesirable.

87. However, allowing the appeal scheme would prevent the appellants having to resort to a roadside lifestyle, or occupy/remain living in overcrowded accommodation. This would seriously affect their livelihoods and wellbeing if it were to occur. Meeting the accommodation needs of the appellants would be in the best interests of several children. This is a primary consideration; no other matter is more important. The proposal would also result in a small benefit to biodiversity and the local economy, and the site is not away from a settlement, being a short walk from Broomfield. The public benefits would not be overriding matters in isolation. However, the public benefits and personal circumstance taken collectively are important material considerations weighing in the proposal's favour.
88. This dichotomy needs to be considered in the context that the Council are currently working on a new Local Plan. Part of this process will involve planning for the identified needs of travelling showpeople. There are benefits from a plan led approach. As explained above, the most recent evidence in the GTAA is that there is a need for 38 plots in Chelmsford. This includes the needs of the appellants. Although the Council has not yet formally adopted this figure as its locally set target, it is nevertheless up to date evidence.
89. Accordingly, there is a strong possibility the Council will seek to plan for the needs of the appellants through the emerging Local Plan. Doing so would present an opportunity for a holistic review. This process could provide a route for identifying plots for all the appellants which meet their accommodation needs in a more satisfactory way than at the appeal site. Such a review could even consider the Roselawn Farm complex. The Local Development Scheme anticipates adoption of the new Local Plan within three years. The Council will no doubt be aware that it will probably become more difficult to resist sites in sub optimal locations if it flounders. This will give it the impetus to see through the production of the Local Plan. As a result, circumstances may change significantly in three years' time. Put another way, it has not been demonstrated that permanent harm to the Green Wedge is currently necessary.
90. As a result, the circumstances point towards a temporary permission. Indeed, A temporary permission would ensure the harm was short lived and that the families' circumstances need not change immediately. It would allow time for the appellants and the Council to find a long-term solution. Thus, a three-year temporary permission would be reasonable in this instance. Such an approach is supported by the PPTS, which states that the inability of a local planning authority to demonstrate an up-to-date five-year supply of deliverable sites should be a significant material consideration in considering an application for a temporary permission. The application has not been framed in this way, but the appellants have advanced it as an option to be considered.
91. It may be that the appellants would need to move at the end of the temporary period, but they would have ample time to prepare and therefore this need not affect their wellbeing significantly. It seems to me that the best interests of the children would be better served with a temporary permission, albeit with the

future prospect of a move (preferably to another plot planned for in the interim) than immediately resorting to life on the roadside or such like.

92. In arriving at this view, I accept there will be some practical issues. The site would need to be rearranged to better adhere to the submitted drawings and details required by conditions, such as those relating to drainage and tree protection. The appellants may also be reluctant to invest in the site when they may need to move in the future. Therefore, it is unlikely the landscaping scheme would be implemented in full. However, any effects in this regard would be tempered by the temporary nature of the harm.
93. Ultimately, a temporary permission would be a proportionate response that balances the qualified Article 8 Human Rights of the appellants for respect of private and family life and home with the proper planning of the area and its economic well-being, including the protection of the environment.

Other Matters

94. At the inquiry no representations were made by interested parties against the scheme. I have however carefully considered the written submissions. Interested parties have raised concerns about the safety of the access into the site and the effect on the highway network more generally. These points have been considered in a technical Transport Assessment and addendum submitted by the appellants. There is no alternative technical assessment before me. The Local Highway Authority have reviewed this information, which includes a swept path analysis and an assessment of vehicle trips. They have raised no objections. I have no substantive reason to depart from this expert view. The swept path analysis indicates large vehicles, which could include fire engines, would be able to access the site.
95. Concerns have also been raised that vehicle movements will result in excessive noise and dust. The access road is unbound and consequently there may be something to this point. However, substantive evidence is not before me demonstrating this. I observed some movements during my second site visit, and they did not result in extensive dust and were short in duration. The overall number of trips would not be high if the occupants often travel from fair to fair as suggested in their evidence. Ultimately, the proposal is granted temporarily so any adverse effects would be time limited in any event.
96. There is nothing of substance before me to demonstrate schools would be unable to cope with the modest increase in population. The same can be said of infrastructure more generally. The evidence before me in the Ecological Impact Assessment indicates the proposal would result in a net gain in biodiversity and this can be secured by condition. Substantive evidence is not before me to demonstrate that the effect on property values would be so significant as to be a matter of public interest. Representations have been made that the appellants have no lawful right to occupy the site as access is over a private road they do not own. This would be a separate civil matter.
97. The proposal would not prevent the emerging allocation in Policy BFD10 coming forward. As a result, there is no conflict with this policy. Similarly, the proposal need not prevent the provision of a cycle path in accordance with Community Action 6. In any event the latter is not an emerging development management policy that the scheme could offend. If it were, then it would be

called a policy in the NP. For similar reasons the proposal would not offend the ambition in Policy S11 of the LP to provide for cycling and walking.

Appropriate Assessment and Planning Obligation

98. The appeal site is located within a zone of influence placed around relevant Habitat Sites³⁰ as established in the Essex Recreational Disturbance Avoidance and Mitigation Strategy (Essex RAMS). There is agreement that population growth resulting from all forms of new residential development within this zone would likely result in an increase in harmful recreational disturbance at the Habitat Sites, especially from dog walking. Accordingly, the proposal in combination with other plans and projects would be likely to have a significant adverse effect on the relevant Habitat sites when following a precautionary approach. As such, an appropriate assessment, in accordance with the Habitat Regulations³¹, is required to consider the implications of the proposal on the Habitat Sites in view of their conservation objectives.
99. The Habitat Sites have been designated because they include habitats that support rare bird species. The overarching conservation objectives can be summarised as avoiding a deterioration of habitats and minimise disturbance, thereby ensuring the integrity of the sites is maintained.
100. In this instance, it is highly likely that the plots would be occupied regularly during the travelling season because of school, health and work patterns and fully during the off (winter) season. That said, the residential occupation would not be full time. The permission is also temporary. As such, Natural England have suggested that the level of mitigation does not need to be the same as a bricks and mortar house.
101. The appellant has confirmed a willingness to provide a financial contribution in line with the methodology in the Essex RAMS, which is a document and approach supported by Natural England as the Statutory Nature Conservation Body. The contribution of £983.16 is offered, this being 50% of the usual figure. Natural England are supportive of this amount. The funds would be pooled with others and used in a strategic way for access management at the Habitat sites in line with that set out in the Essex RAMS.
102. The contributions would be secured through the planning obligation (in the form of a unilateral undertaking – ID17) submitted pursuant to s106 of the Town and Country Planning Act 1990. The contribution would be directly related to the impacts of the proposal on the Habitat Sites and necessary to make the development acceptable. It would also be fairly and reasonably related in scale and kind to the development because it follows the methodology in the Essex RAMS, albeit adjusted in the way explained above.
103. The Council have been afforded an opportunity to review the obligation and have not raised any concerns with the document. The planning obligation does not include any requirement that the Council spend the funds in the way envisaged. However, there is no reason to doubt that the Council, as a responsible public body, would spend the money in the way it is intended. There is also published mechanisms (Essex RAMS) in place to ensure the money is diverted to strategic mitigation. Thus, the contribution is an obligation that can be taken into account. As a result, the proposal would not

³⁰ The Blackwater Estuary Special Protection Area and the Essex Estuaries Special Area of Conservation

³¹ See Regulation 63 Conservation of Habitats and Species Regulations 2017 (as amended).

adversely affect the integrity of the Habitat sites, the conditions of which need not deteriorate. Adherence with Policies S4 and DM16 of the LP would occur.

Conditions

104. Turning to conditions. I have had regard to the advice in the Planning Practice Guide and the conditions suggested by the Council and appellant. I have also made minor changes to the conditions to make them more precise and enforceable, although their aim and meaning has not been altered.
105. Development has commenced and therefore a commencement condition is unnecessary. However, for the reasons given above, a temporary permission is appropriate. On this basis it is necessary to impose a condition to secure a temporary permission (Condition 14).
106. A drawings condition is necessary (Condition 1) in the interests of certainty although I have removed reference to the layout plan because the layout of the site is to be addressed through a site development scheme (SDS). An SDS is necessary in the interests of the character and appearance of the area, biodiversity, drainage, the living conditions of future occupants of the proposal and highway safety (Condition 4).
107. The SDS must include a land contamination assessment because the proposal involves sensitive end users and contamination may have occurred as part of the IUD. The assessment would also detail how vehicle maintenance will be undertaken without contamination occurring. Surface and foul water drainage is also included in the interests of the environment and living conditions. I have removed reference to additional planting in lieu of biodiversity mitigation and enhancement as recommended in the submitted report. This will likely require some planting and therefore the condition includes a requirement to protect such. To ensure enforceability, the condition has been drafted to ensure all development ceases and is removed if the SDS is not adhered to.
108. Given the potential for as yet unknown archaeological deposits, it is necessary to secure a scheme of archaeological investigation prior to the commencement of any further ground works, including any related to drainage and hard surfacing (Condition 2). To protect wildlife and the character and appearance of the area, it is necessary to secure details of external lighting (Condition 3). Indeed, it seems to me that external lighting should be minimised.
109. The personal circumstances of the 11 family groups have tipped the balance in favour of temporarily allowing the appeal. As a result, it is necessary to ensure the permission is personal to them (Condition 13) and the number of plots do not exceed this number (Condition 5). It is also necessary to control the number and siting of residential caravans within each plot in the interests of living conditions and the character and appearance of the area (Condition 6). This way the site would not morph into a new Buckles Lane.
110. To protect the character and appearance of the area and living conditions, it is necessary to limit a commercial activity to the storage and maintenance of the occupants vehicles and equipment (Conditions 7 and 10), to limit the height of the vehicles and equipment that can be stored (Condition 8), to prevent the use of generators (Condition 11) and the testing of public address and music systems (Condition 9). In the interests of safeguarding the character and

appearance of the area and wildlife, it is necessary to remove permitted development rights to erect fencing, walls and enclosures (Condition 12).

Conclusions

111. The appeal scheme would not adhere to the development plan. However, there are material considerations which, when taken with a temporary permission, indicate the appeal should be determined otherwise than in accordance with the development plan and allowed for a temporary period of three years.

Graham Chamberlain
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Christian Hawley, Counsel for the appellant
instructed by Nick Baseley (IBA Planning)

Called:

Nick Baseley, MA (Hons) MRTPI, Director, IBA Planning

Sara Boland, BA (Hons) and PgDip Landscape Architecture, CMLI, Managing
Director, Influence Landscape Planning and Design

Daley Bibby, appellant

Lauren Bibby, appellant

Dusty Pettigrove, appellant

Rio Nail, appellant

Jay Burdon, appellant

Keith Brothers, appellant

Danny Bibby, appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mark O'Brien O'Reilly, Counsel for the Local Planning Authority
Instructed by Chelmsford City Council

Called:

Peter Dawson BA (Hons) PGDip CMLI, Built Environment Manager at Place Services

Stephen Dunks BA, Senior Planning Officer, Chelmsford City Council

Kirsty Dougal MSc MRTPI Planning Environment Manager, Chelmsford City Council

INTERESTED PERSONS

Alex Ponweera, local resident

Rosalind Mercer, local resident

Tanya Mcgettigan, local resident

Barbara Moss, local resident

Sheila Hasler, local resident

INQUIRY DOCUMENTS

The flowing is a list of documents submitted at the Inquiry

ID1	Appellant's opening submissions
ID2	Council's opening submissions
ID3	Rosalind Mercer's submissions
ID4	Barbara Moss submissions
ID5	Mr Dunk's note on the development potential of the Roselawn Farm complex
ID6	Parish Council's response to the Examiner regarding the emerging Broomfield Neighbourhood Plan
ID7	Mr Dunk's note on unresolved objections to the NP
ID8	Seales Road Haulage Ticket
ID9	K4 Soils Laboratory Hardcore Test Report
ID10	Extract from Seales Road Haulage website
ID11	Mr Dunk's note on possible contamination
ID12	LPA's closing submissions
ID13	Appellant's closing submissions
ID14	<i>R v Leominster District Council ex p. Potheary</i>
ID15	<i>Cherley Campaign v Mole Valley [2014] EWCA Civ 567</i>
ID16	Final lists of suggested planning conditions (also CD 120-123)
ID17	Copy of final planning obligation - signed and dated unilateral undertaking

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 01 (Site Location Plan 1:2500) and 02 (context and Ownership 1:5000).
2. No further ground works shall take place within the site until a Written Scheme of Investigation for a programme of archaeological work has been submitted to and approved in writing by the Local Planning Authority. The ground works should thereafter be undertaken in accordance with the approved Written Scheme of Investigation.

During the groundworks associated with the development, a programme of archaeological monitoring will be undertaken, in accordance with the approved Written Scheme of Investigation. A report detailing the results of the monitoring will subsequently be submitted to and approved in writing by the Local Planning Authority.

3. No external lighting shall be installed at the site until such time as a lighting strategy has first been submitted to and approved in writing by the Local Planning Authority. The strategy shall:

a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and

b) show how and where external lighting will be installed (through provision of appropriate lighting contour plans and technical specifications).

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

4. The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within 4 months of the date of failure to meet any one of the requirements set out in i) to iv) below:

i) Within 4 months of the date of this decision, the submission of a site development scheme detailing the following:

- a) The internal layout of the site, including the layout of the plots with clear splits between equipment storage areas and residential areas, the siting of the caravans and the arrangement of parking spaces;
- b) boundary treatments;
- c) a scheme for biodiversity mitigation and net enhancement based on the recommendations in the submitted Ecological Impact Assessment
- d) the extent and position of hardstanding and other hard surfaces informed by an arboricultural assessment;
- e) facilities for the storage of refuse and recyclable materials;

- f) tracked access and egress and a turning area for a standard waste collection vehicle;
- g) designated space within the site for the siting of bins for collections;
- h) means of foul and surface water drainage for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development; and
- i) contaminated land assessment including any measures to prevent, mitigate and remediate contamination.

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 7 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.

Should any of the above requirements fail to be met, the use hereby permitted shall not recommence until such a time as the detailed scheme has been approved in writing by the Local Planning Authority, or otherwise the Secretary of State, however the case may be, and implemented in full.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained and retained.

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.

If any retained tree or hedgerow or any other soft landscape feature planted by virtue of this condition is removed, uprooted, destroyed or dies prior to the carrying out of further development, during the implementation of the development, or within the temporary approved period after the full implementation of the development, replacement planting shall be carried out in accordance with the previously approved details or in accordance with details to be agreed in writing with the Local Planning Authority within the next available planting season.

5. There shall be no more than eleven individual plots on the site.

On Plot 1, as shown on the approved plans, there shall be no more than 4 caravans (as defined in the Caravan Sites and Control of Development Act 1960, as amended) (of which no more than 3 shall be static caravans or mobile homes) sited for residential occupation at any one time.

On Plot 7, as shown on the approved plans, there shall be no more than 3 caravans (as defined in the Caravan Sites and Control of Development Act 1960, as amended) (of which no more than 1 shall be a static caravan or mobile home) sited for residential occupation at any one time.

On all other plots, there shall be no more than 2 caravans (as defined in the Caravan Sites and Control of Development Act 1960, as amended) (of which no more than one shall be a static caravan or mobile home) sited for residential occupation at any one time.

6. No caravans, other than those being stored, shall be sited within the equipment storage areas as indicated on approved site development scheme. No fairground equipment shall be sited within the residential areas as indicated on the approved site development scheme. At no time shall any caravan sited within the equipment storage areas be used for residential purposes.
7. There shall be no use of any part of the site as a fairground or for any other commercial activities other than the storage and maintenance of fairground equipment in the non-residential areas of the plots.
8. No fairground equipment over 4.5m in height and no towing vehicles over 4.95m in height shall be stationed or stored on the site.
9. No musical sound systems or public address systems shall be tested or used on the site.
10. No equipment, machinery or vehicles shall be stored at the site, or brought onto the site for the purposes of its maintenance and repair, other than equipment, machinery and vehicles owned or leased by the residents of the site.
11. There shall be no use of generators on any part of the site.
12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no walls, fences or other means of enclosure other than those shown on the approved plans and subject of conditions attached to this permission shall be erected on the site without a further grant of planning permission.
13. The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants:
 - Plot 1 – Charles Beach Snr, Donna Beach, Charles Beach Jnr, Serai Bennett, James Beach, Daley Bibby and Lauren Bibby
 - Plot 2 – William Lodge and Natasha Lodge
 - Plot 3 – Danny Bibby Snr and Deena Bibby
 - Plot 4 – Dusty Pettigrove
 - Plot 5 – Jay Burdon and Sally Burdon
 - Plot 6 – William Morgan and Candy Morgan
 - Plot 7 – Stanley Flack, Loraine Flack, Ellis Flack, Olivia Flack and Joseph Danter
 - Plot 8 – Clarke Bowden and Brogan Bowden

- Plot 9 – Keith Brothers and Jardine Brothers
- Plot 10 – Danny Bibby Jnr and Ellis Bibby
- Plot 11 – John Nail, Rio Nail and Jane Howard

14. The development hereby permitted shall be for a limited period being the period of 3 (three) years from the date of this decision. Thereafter, the development hereby permitted shall be discontinued and all mobile homes, caravans, structures, vehicles, materials and equipment brought on to or erected on the land, and/or works undertaken in connection with the use, shall be removed. Within three months of the end of the limited period, the land shall be restored to its pre-development condition as of August 2023, as described as the baseline condition in the Ecological Impact Assessment RSE_7294_R1_V1_LECIA.

End of Schedule