



---

## Appeal Decisions

Hearing held on 26 November 2024

Site visits made on 25 & 26 November and 10 December 2024, and 9 January 2025

**by Jessica Graham BA (Hons) PgDipL**

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

**Decision date: 19 February 2025**

---

### **Appeal A ("The Planning Appeal") Ref: APP/D0840/W/24/3347998 Land east of Trago Farm, East Taphouse, Liskeard, Cornwall PL14 4NH**

- 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 Mr S Ayres against the decision of Cornwall Council.
  - The application Ref PA23/09811, dated 3 December 2023, was refused by the Council by notice dated 15 April 2024.
  - The development proposed is the change of use of the land to a private Gypsy Site consisting of five pitches including 5 mobile homes, 5 touring caravans, 5 utility buildings and associated works.
- 

### **Appeal B ("The Enforcement Appeal") Ref: APP/D0840/C/24/3347999 Land east of Trago Farm, East Taphouse, Liskeard, Cornwall PL14 4NH**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr S Ayres against an enforcement notice issued by Cornwall Council.
  - The notice was issued on 19 June 2024.
  - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the land from agricultural to residential (Gypsy Site) through the stationing of caravans for residential purposes along with associated operational development, including the construction of timber outbuildings/utility buildings, kennels, domestic sheds, raised timber decking, erection of fencing and the creation of hardstanding areas and access track.
  - The requirements of the notice are to:
    1. cease the residential use of the land outlined in red on the attached plan
    2. remove from the land outlined in red on the attached plan all services connected to the caravans for the purposes of independent human habitation, including but not limited to electric cabling, water pipes, sewage pipes, septic tanks, soakaways, gas bottles etc
    3. remove all caravans from the land outlined in red on the attached plan
    4. demolish and remove the timber outbuildings, utility buildings and raised timber decking from the land outlined in red on the attached plan
    5. remove from the land all materials, paraphernalia, outbuildings, and debris resulting from the residential use of the land, including but not limited to fencing, sheds, washing lines, plant pots, outdoor furniture, dog kennels, non-agricultural motor vehicles etc.
    6. demolish and remove the hardstanding areas and access track from the land outlined in red on the attached plan and restore the land to its former condition before the breach took place
    7. remove from the land all materials and debris resulting from compliance with the requirements of (2),(3),(4),(5) and (6) above, and restore the land to its former condition before the breach took place.
-

- The period for compliance with the requirements is eighteen months.
  - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- 

## Summary of Decisions

1. The **Planning Appeal** is allowed, and planning permission is granted in the terms set out below in the Formal Decision.
2. The **Enforcement Appeal** is dismissed, the deemed application for planning permission is refused, and the enforcement notice is upheld.

## Procedural Matters

3. The application for planning permission made in December 2023 described the proposed development as "Continued use of the land as a private gypsy site consisting of five pitches including 5 mobile homes, 5 touring caravans, 5 utility buildings and associated works", which reflected the fact that permission was being sought, under the provisions of S.73A of the 1990 Act, for development that had already been carried out before the date of the application. However, the development for which planning permission is required is not the continuation of an existing use, but a material change of use from agriculture to a Gypsy Site. I have amended the description of the development accordingly.
4. The Enforcement Appeal was originally proceeding on ground (a) only: that is, that planning permission should be granted for the breach of planning control constituted by the matters stated in the enforcement notice. The Appellant subsequently added an appeal on ground (b) (that is, that the matters stated to have constituted a breach of planning control have not occurred): this related solely to the Council's calculation of the fee payable for the appeal on ground (a), which treated the proposed mobile homes as buildings. At the Hearing, the Council confirmed that it considers the mobile homes on the Appeal Site to be caravans, not buildings. As a consequence, the appeal on ground (b) was formally withdrawn by the Appellant.
5. The Appellant made an application for an award of costs against the Council, relating solely to the calculation of the fee payable for the appeal on ground (a). That costs application is the subject of a separate Decision Letter of even date.
6. I made an unaccompanied site visit the day before the Hearing, in the course of which I walked the route between East Taphouse and the Appeal Site, but did not enter any private land. After the Hearing closed I made an accompanied site visit to the Appeal Site, the driveway to Trago Farm, and the grounds of Stuart Cottage. I made further unaccompanied visits, on 10 December and 9 January, to look at the site from more distant viewpoints, and (as requested by the Council) to see its visual impact during hours of darkness.
7. After the Hearing had closed the Government published, on 12 December, revised versions of its *National Planning Policy Framework* ("the NPPF") and *Planning Policy for Traveller Sites* ("the PPTS"). Since my determination of the

appeals must have regard to national policy as it stands at the date of my decision (rather than as it stood at the date when the Council decided the application) I provided the Council and the Appellant with the opportunity to comment on the implications the revisions may have for their respective cases.

### **Main Issues**

8. It is common ground that the occupiers of the Appeal Site meet the Government's definition of "Gypsies and Travellers"<sup>1</sup> and that, if planning permission were to be granted, a condition should be attached to restrict occupation solely to those meeting this definition. Both Appeals therefore need to be determined against the national and local planning policies concerning the provision of sites for Gypsies and Travellers.
9. The main issues for both appeals are:
  - the effect upon the character and appearance of the area;
  - whether the development would dominate the nearest settled community;
  - the accessibility of the site by sustainable modes of transport;
  - the impact on nearby Heritage Assets;
  - the need for Gypsy and Traveller sites, and the availability of suitable alternative sites; and
  - the personal circumstances of the Appellant and other occupiers, and the best interests of the children.
10. The Planning Appeal and the Enforcement Appeal both concern, and seek planning permission for, the same type of development: that is, the material change of use of the Appeal Site from agriculture to a Traveller Site. However, there are important differences between the two in terms of layout. This means that while there are some matters that are common to both (for example, the accessibility of the Appeal Site) there are others where impacts will differ (for example, in relation to nearby Heritage Assets). I shall consider the two schemes together, but draw distinctions where necessary.
11. In the interests of clarity, it is worth noting here that while the Enforcement Notice does not identify the number of caravans on the Appeal Site, it is common ground that there are currently six mobile homes. Ordinarily, planning permission for a "pitch" is sought on the basis that it will be occupied by one household, meaning a single adult or two or more adults living together as a family or household, with or without children, who have both a static and a touring caravan; it is usual practice to impose conditions preventing the stationing of any further caravans. The Appellant has explained that in this case, one of the households provides care for a relative whose medical needs are such that they require a separate, but closely positioned, unit of accommodation. This means that in both appeals the permission sought is for five pitches, but with conditions framed to allow the stationing of a sixth static caravan on Pitch 2.

---

<sup>1</sup> As set out in Annex 1 to the PPTS

## Reasons

### The effect upon the character and appearance of the area

12. The Appeal Site lies within undulating agricultural countryside, which is part of the Mid Fowey Area of Great Landscape Value (AGLV). The field pattern is predominantly of medieval enclosure, with small fields and narrow lanes defined by Cornish hedge boundaries. The Appeal Site is a roughly rectangular parcel of land of some 4,418m<sup>2</sup>, at the top end of a small and gently-sloping field. It is located to the north of East Taphouse, a small linear village on the A390, and to the east of Trago Farm. Access is taken from an unadopted lane, that runs from the A390 to Trago Farm. The northern boundary of the Appeal Site is a stone hedgebank that is listed Grade II and flanks the former access to Trago Farm, part of which is incorporated within the Appeal Site.
13. The proposed development that is the subject of the Planning Appeal consists of five pitches, arranged so that pitches 1 – 4 run along the eastern boundary of the site, with pitch 5 set opposite, and slightly below, pitch 4. There would be no pitch, or any other development, sited on the area of the Appeal Site which was part of the original access to Trago Farm. The proposal includes reinstating and re-planting the missing section of the southern boundary of that former access route. The existing development which is the subject of the Enforcement Appeal also consists of five pitches, with pitches 1 – 4 in roughly the same location, but with pitch 5 located on the former access to Trago Farm.
14. It is important to bear in mind that there is nothing in the PPTS, or the Cornwall Local Plan, that precludes the provision of Gypsy and Traveller sites in rural areas. Travellers have long tended to live in or on the edge of the countryside, for access to work across a wide area, and because they are likely to be excluded from urban sites by high land prices and objections from the settled community. Traveller sites can therefore be a common sight in the countryside, and are not an intrinsically “discordant” or “intrusive” form of development.
15. However, in this case the regular spacing of the mobile homes along the top end of the field, seen together with the utility buildings, outbuildings, extensive areas of gravel and high close-boarded timber fencing, has resulted in a line of development along the ridge that appears as a substantial and unsympathetic addition to the surrounding agricultural landscape. Public views from East Taphouse are mainly limited to glimpses between the buildings and vegetation, but there are some longer range views from gateways and breaks in the vegetation at Middle Taphouse, and the road which leads through to the A38, in which the elevated location of the Appeal Site and the regimented spacing of the mobile homes draws the eye.
16. In the course of the appeal process the Appellant commissioned a Landscape Architect to consider how to improve the Appeal Site’s existing landscape fabric, minimise its landscape and visual amenity impacts and improve the biodiversity value of the land. The ensuing “Landscape Strategy” includes proposals to plant 25 native trees and 1,115m<sup>2</sup> of native woodland buffer plantation, along with new native hedgerows and other planting. These measures would, over time, provide visual screening of the development and assist its assimilation within the landscape.

17. It is fair to note that planting new woodland on the Appeal Site, incorporating both trees and understorey species, would change the character and appearance of what was previously an open agricultural field. However, since patches of native woodland, along with hedgebanks incorporating hedgerow shrubs and trees, are existing and distinctive features of the countryside in which the Appeal Site is set, the landscape proposals would not be harmful in and of themselves. Nevertheless, it would take a number of years for the planting to reach maturity, and although public views of the Appeal Site are not extensive, the adverse visual impact of the development would subsist throughout that time.
18. In other words, I do not share the Appellant's view that the Landscape Strategy would constitute enhancement: there would still be harm to both the character and appearance of this part of the countryside. But once the planting had matured sufficiently to provide effective screening, it would go some way towards reducing the extent of that harm. In order for this to weigh in the planning balance, a method of securing the implementation of the proposed Landscape Strategy would be vital. The plan submitted by the Appellant shows the provision of the landscaping proposals in conjunction with the existing development (that is the subject of the Enforcement Appeal), so if planning permission for this development were granted, it could be made subject to an appropriately worded condition.
19. As to the proposed development that is the subject of the Planning Appeal, the plans submitted with it included the planting of trees along some of the boundaries and the reinstatement of the Cornish hedgebank that had flanked the southern side of the former access to Trago Farm, but did not include woodland buffer planting. At the Hearing, it was suggested by the Appellant that a condition requiring implementation of the Landscaping Strategy could be imposed, in the same way as for the development that is the subject of the Enforcement Appeal. The difficulty with this is that it would conflict with the layout of the proposed development: a large part of the area identified for woodland buffer planting would be occupied by Pitch 5. It would however be possible to impose a less specific condition, requiring compliance with a scheme of landscaping to be agreed by the Council, as there is some scope for the provision of buffer planting in the field to the west of Pitch 5.
20. The Appeal Site does not lie within the designated "Bodmin Moor International Dark Sky Landscape Core Area", nor within the 2 mile buffer zone for that area. Nevertheless, its location in open countryside means that the use of some forms of external lighting (for example, eaves- or pole-mounted security lamps) can adversely affect the tranquil character and dark night skies of the open agricultural landscape. This is however something that could be controlled by imposing a condition, on any grant of planning permission, to prevent the use of any external lighting other than that which had been specifically approved by the Council.
21. In summary, I conclude that in both Appeals the development would have an adverse, albeit localised, effect on the existing agricultural character of the landscape, and would detract from the intrinsic scenic beauty of the countryside, through the introduction of residential development on a previously undeveloped field. The location and massing of the development along a ridge line makes it visible as a significant new man-made feature in public views from the wider area, in which it has an adverse visual impact. The proposed

landscaping and planting measures would, over time, considerably reduce the extent of the adverse visual impact, but would not negate it. I therefore conclude that in both appeals, the development conflicts with the objectives of Policies 12 and 23 of the Cornwall Local Plan, which seek to ensure that the local distinctiveness and character of Cornwall's natural environment is protected and, where possible, enhanced.

#### Whether the development would dominate the nearest settled community

22. The Appeal Site lies roughly half a kilometre from the nearest settlement, which is the village of East Taphouse. The larger villages of Doublebois and Dobwalls lie some 2km and 3km respectively to the east, and the town of Liskeard is around 6km to the east. The closest properties to the Appeal Site are the three dwellings at Trago Farm to the west (consisting of the farmhouse and two converted farm buildings known as Johns House and Venoon House), and Stuart Cottage to the south-east.
23. The PPTS states that local planning authorities should ensure that Traveller Sites in rural areas "respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure." This is reflected in Policy 11 of the Cornwall Local Plan, which states that Traveller Sites will be approved where they "Are of appropriate size and proportionate in scale to and avoid dominating any nearby settled community." Neither the PPTS nor the Local Plan provides any guidance on what constitutes a community, or how dominance should be assessed.
24. The Council confirmed at the Hearing that it regards East Taphouse as the nearest community to the Appeal Site. East Taphouse has a primary school, a garage with an associated shop, and over 150 dwellings. In my view a settlement of this size could not reasonably be regarded as being "dominated" by a Traveller Site of five pitches in the countryside outside the village.
25. My attention was drawn to an existing Traveller Site at Doublebois, some 1.7km from East Taphouse. That site currently consists of five pitches, but an application has been submitted for planning permission to extend it to provide nine additional pitches.<sup>2</sup> The evidence of the Council is that it is very likely this will be approved. That site closely adjoins the village, next to existing businesses, a holiday park, and an Industrial Estate. There is no suggestion that it dominates Doublebois, or that it would do so if the nine proposed additional pitches were permitted.
26. As I understand it, the Council's case is that domination of the settled community would result from the cumulative impact of Traveller Sites in the local area. In support of this, it drew my attention to an Appeal Decision concerning a Traveller Site at Henfield, a rural village in the South Downs National Park. In that case, the Inspector concluded that the development would "to a limited degree" dominate the nearest settled community. However, that conclusion was based on the impact of three Traveller Sites, all located within one area of the same small village. The Inspector found that this amounted to an over-concentration of sites. The circumstances are very different in the current case. The Appeal Site is close to the village of East Taphouse but not within it, and the other nearest Traveller Site is clearly part of Doublebois, rather than East Taphouse.

---

<sup>2</sup> Ref PA23/09789, dated 8 January 2024

27. I find that neither the 15 pitches at Doublebois or the 5 pitches proposed here at East Taphouse are development that is out of keeping with the scale of those villages. I am told that the residential use of the Appeal Site has necessitated additional refuse collections, but there is no evidence to indicate that this, or any other aspect of its occupation, places undue pressure on local infrastructure.
28. It seems to me that the concern expressed about cumulative impact relates to the perceived over-provision of Traveller Sites within what is a relatively small rural parish. I do not dismiss such concern lightly: after all, the PPTS makes it clear that the government's overarching aim is to ensure fair and equal treatment for Gypsies and Travellers *while respecting the interests of the settled community* [my emphasis]. However, I am not persuaded that the development on the Appeal Site would bring the provision of Traveller Sites in the locality to such a level that, considered objectively, they could reasonably be described as overwhelming or dominating other types of residential development in the area.
29. The situation regarding the dwellings closest to the Appeal Site is less clear cut. For some purposes they would logically be considered part of the village community, but the submissions of the occupiers make it clear that they regard themselves as a community in their own right, distinguishable from the settlement at East Taphouse. It is also fair to note that the occupiers are members of "the settled community" (as distinct from "the travelling community"), so in these terms they could reasonably be regarded as the nearest settled community for the purposes of the PPTS and the Local Plan. In any event, and however the terms of policy are interpreted, the effect of the development of the Appeal Site upon these nearby dwellings is clearly a relevant and material consideration.
30. The development involves locating five new households a fairly short distance from the four existing households at Trago Farm and Stuart Cottage. I appreciate that the existing residents would not wish to see any type of residential development in this location; many of them chose their properties precisely because of their location within undeveloped countryside. However, from what I saw at my site visit I share the Council's view that the separation distances between the existing dwellings and the pitches on the Appeal Site, together with the intervening boundary treatments and vegetation, serve to prevent any overshadowing, significant loss of outlook or reduction in privacy. In addition to the condition discussed above that would restrict external light levels at the Appeal Site, other conditions are proposed which would prevent any commercial activity, and limit the number of commercial vehicles present. This would help to ensure that any noise and disturbance would be kept to a level commensurate with residential use.
31. In terms of the requirements of Policy 11, I do not consider that the size and scale of the Traveller Site at issue in these two appeals is such as to be disproportionate to, or dominate, the existing nearby dwellings. It is set sufficiently apart from them that it avoids the "overbearing impacts" and other harm to living conditions that Local Plan Policy 12 seeks to prevent, but also accords with the PPTS guidance to avoid giving the impression that the site and its occupants are "deliberately isolated from the rest of the community." I therefore find no conflict, in this respect, with the Development Plan or national planning policies.

### Accessibility by sustainable modes of transport

32. Criteria 3 of Local Plan Policy 11 states that Traveller Sites should be “located so as to ensure reasonable access (defined as within approximately three miles for transit sites and less for permanent sites) by a range of transport modes, where possible including walking, cycling, public transport and car sharing to services including GP and other health care provision, education facilities, shops and public transport.”
33. The nearest settlement is East Taphouse, around half a kilometre from the Appeal Site. It has a primary school, and a small convenience store attached to a garage, but no other shops or any healthcare provision. There are however bus stops, which provide public transport services to Lostwithiel and St Austell to the west, and Dobwalls and Liskeard to the west. Liskeard, which is some 4 miles from the Appeal Site, is a sizeable town with a full range of services and facilities.
34. It would certainly be possible to walk and cycle between the Appeal Site and the nearest settlement of East Taphouse: the distance is less than a mile, and there is a pedestrian footway, from the junction of the access lane with the A390, to the village. However, the access lane itself has no footways, is unlit, and is narrow with few passing places. These conditions are likely to discourage some potential pedestrians, particularly those using pushchairs or walking aids. Realistically, it is likely that access to shops and other services would mainly involve the use of private cars. These would however mostly be short journeys, with opportunities for car sharing (for example, when taking the children to and from school).
35. The Appeal Site is not remote, but rather has good access to the major road network for those who need to travel widely for work. As the NPPF recognises, sustainable transport solutions will vary between urban and rural areas; in terms of rural Cornish villages, East Taphouse is fairly well connected by public transport. Nevertheless, the Appeal Site is some distance further away from healthcare provision, and other important facilities, than the “less than three miles” proposed by the adopted Development Plan. I therefore find that in this regard, the development in both appeals conflicts with the terms of Local Plan Policy 11.

### The impact on Heritage Assets

36. There are two designated heritage assets close to the Appeal Site, both of which are Grade II listed buildings. These are Trago Farmhouse, and a stone hedgebank extending out to the east from the former yard of Trago Farmhouse. In the course of the appeal process the Appellant commissioned a heritage conservation consultant to produce a report on the impact of the development on the historic environment. This report contains considerably more information than was provided to the Council at application stage.
37. It explains that the earliest record of “Treago” is the *Lanhydrock Atlas*, a series of maps recording the land owned by the Lanhydrock Estate in 1695-1696. On the site of what is now known as Trago Farm, the map shows a “townplace”. A later edition of the Atlas notes that townplaces were reached by lanes that typically swelled to form irregular spaces, and around them were arranged buildings, and small enclosures defined by hedges, of several households. The townplace identified on the map as “Treago” includes the long narrow strip of

land which has the Grade II listed stone hedgebank as its northern boundary: part of that strip of land now forms the northern section of the Appeal Site.

38. Trago Farm appears to have been developed in the 18<sup>th</sup> Century, and the parish tithe map of 1841 shows this strip of land as its access lane, connecting to a straight drive up from what is now the A390, via an access marked by granite gate posts which are still in place today. The OS Map of 1888 shows a new lane, running from roughly halfway along the straight drive, passing to the west of Trago Farm on to the gunpowder Mills at Trago Mills. That onward route is now blocked to public access, but the new lane became the route to Trago Farm: the narrow strip of land which is part of the Appeal Site evidently fell out of use as an access, along with the section of the drive leading to it, once the new lane was established. In the 20<sup>th</sup> Century two of the barns at Trago Farm were converted to dwellings, now known as Johns House and Venoon House.
39. The significance of Trago Farmhouse, in heritage asset terms, derives mainly from its physical fabric and character as an 18<sup>th</sup> Century farmhouse of a form typical for the local area. Some of its significance also derives from its setting. It lies within a primarily medieval farming landscape, where the small fields, field boundaries and hedgebanks largely retain their historic pattern. The relationship of the original farmstead to this setting has been considerably altered, through its subdivision into three separate self-contained dwellings, and the sale of its farmland into separate ownership. Nevertheless, the predominantly agricultural character of its setting enables an appreciation of Trago Farmhouse's original function and status.
40. While the development of the Appeal Site would not alter or obscure the fabric and origins of the farmhouse itself, it would result in a localised change to the agricultural character, and historic field pattern, of part of the landscape within which Trago Farmhouse lies. This change in the setting would cause some, albeit limited, harm to the significance of this designated heritage asset. It is common ground between the Appellant and the Council that the harm would, in the terms used by the NPPF, be "less than substantial". I agree.
41. As to the other designated heritage asset, the list description refers only to the stone hedge flanking the northern side of the original entrance to Trago Farm; specifically, to an "incorporated" section, of about 1m wide and 3m long, which includes the carved 1795 datestone. The southern hedgebank is not listed in its own right. However, s.1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 explains that for the purposes of that Act, the definition "listed building" includes (a) any object or structure fixed to the building and (b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1<sup>st</sup> July 1948. This means that the length of the northern hedgebank, within which the 3m listed section is incorporated, is to be treated as part of that listed building by virtue of being fixed to it.
42. In my judgment, the southern hedgebank must also be part of the listed building under the provisions of s.1(5)(b) above. It falls within the curtilage of the northern hedgebank, and is its functionally necessary counterpart both in establishing the presence and form of the access lane, and in separating it from the surrounding fields. While this is not a point taken by the Council, I note that the Appellant's heritage conservation consultant is of the view that the southern hedgebank "could be considered a curtilage listed structure", and that in

October 2024 the Appellant submitted an application for Listed Building Consent for the works proposed to the hedgebank as part of the planning application.<sup>3</sup>

43. The significance of the northern and southern hedgebanks is that together, they enclose and define a strip of land which originally formed the access to the 17<sup>th</sup> Century settlement at Treago, pre-dating the current collection of buildings at Trago Farm. Its use as an access has long since ceased, and its eastern end has been blocked. However, as noted in the Appellant's Historic Environment Impact Report, this strip of land is a readily identifiable vestige of the late 17<sup>th</sup> Century landscape recorded in the Lanhydrock Atlas: the Cornish hedgebanks which flank it, and the age and form of the trees upon them, enable it to be appreciated as a route to somewhere of importance. The enclosed strip of land, then, is a crucial part of the setting of the paired hedgebanks.
44. Google Earth images provided by the Appellant show that prior to his purchase of the Appeal Site there were two corresponding gaps roughly halfway along this strip of land, one in each hedgebank, and an additional gap in the southern hedgebank, close to its eastern end. The evidence of the Appellant is that after purchasing the Appeal Site, it was found that the section of the southern hedgebank to the east of this gap contained a tree that was dying, and therefore unsafe. On removing the tree it was discovered that the hedgebank was also in poor condition, so that was removed too: a wooden fence was constructed in its place.
45. Looking firstly at the proposed development that is the subject of the Planning Appeal, the five pitches would all be located in the field to the south of the former access lane. That field forms part of the setting of the listed hedgebank. The new residential use, and associated domestic structures and landscaping, would alter the undeveloped agricultural character of this part of the setting and this would in turn harm the significance of the heritage asset; in my judgment that harm would be limited, and less than substantial, because the form and layout of the former access would remain largely intact and clearly legible within the landscape, alongside the new development.
46. In contrast, the existing development that is the subject of the Enforcement Appeal has involved creating a pitch on top of the former access way, on the strip of land between the two stone hedgebanks. The Appellant contends that the presence of a mobile home, hard standing, parked vehicles and other domestic paraphernalia at the eastern end of the enclosed strip of land does not take away from the significance of the heritage asset, as its role as an access route has long since been lost. I do not share that view. For the reasons set out above I consider the strip of land between the two hedgebanks a crucial part of their setting; while no longer in use as an access it retains its historical configuration, and remains – as the Appellant accepts – a readily identifiable vestige of the late 17<sup>th</sup> Century landscape.
47. In my judgment the domestication and residential use of part of this strip of land, in conjunction with the domestication and residential use of part of the adjoining field, has the effect of obscuring the clear functional distinction between the former access way and the surrounding agricultural fields. The siting of the mobile home and other domestic paraphernalia has completely changed the character and appearance of this section of the strip of land, such that it now appears to be a residential plot within an attractive walled garden,

---

<sup>3</sup> Ref PA24/08161

rather than part of an historic access route. This materially alters the way in which the heritage asset is experienced, and greatly reduces the extent to which its origins and function as an access route can be appreciated. If planning permission were granted for this form of development the significance of the heritage asset would not be completely lost, but it would be very seriously damaged. I conclude that in the terms used by the NPPF, the harm would be substantial.

48. The proposed development that is the subject of the Planning Appeal includes rebuilding and replanting the missing section of the southern stone hedgebank on the Appeal Site. After the Hearing the Appellant submitted a revised Landscape Strategy Plan for the development that is the subject of the Enforcement Appeal, such that the reinstatement of the southern hedgebank could also be conditioned to form part of that development, if planning permission were granted.
49. However, because the southern stone hedgebank is part of the listed building the Council could, if it considered it expedient to do so, take enforcement action against the unauthorised removal of this structure, and require its replacement. This means that while the reinstatement of the hedgebank would be beneficial in heritage terms, it is not a public benefit which would weigh in favour of granting planning permission since it could be secured by other means, independently of the proposed development.
50. In summary, I conclude that in each of the two appeals the development would conflict with the expectations of Local Plan Policy 24, which are that development proposals will sustain designated heritage assets and take opportunities to better reveal their significance. I have found that the development that is the subject of the Planning Appeal would cause less than substantial harm to two designated heritage assets. The development that is the subject of the Enforcement Appeal would cause less than substantial harm to Trago Farmhouse, but substantial harm to the listed hedgebanks, due to the location of one of the pitches on top of the historic access route they define.

#### The need for Gypsy and Traveller Sites, and the availability of suitable alternatives

##### *The need for pitches*

51. It is common ground, between the Appellant and the Council, that there is substantial unmet need for pitches in Cornwall.
52. The most recent assessment of the accommodation needs of Gypsies and Travellers in Cornwall was carried out in 2015, and established a total need of 318 pitches by 2030. This informed the current Local Plan, which was adopted in 2016. The Local Plan states that "A Travelling Communities Site Allocations Development Plan Document will identify and manage the delivery of a network of sufficient, suitable and appropriately located sites to meet the accommodation requirements of the travelling communities".
53. No such Site Allocation Plan was ever produced, and the Council admits that it has no timetable for meeting the established need for pitches through the planned system: it adopted a "Gypsy, Roma and Traveller Strategy" in July 2024 but that document does not allocate any land for sites, or identify any that might be suitable for allocation. I was told at the Hearing that there are Officers and Councillors who are keen to move things forward, and have some good ideas for

how that should be done. That may well be the case, but eight years have now passed since the adoption of the Local Plan, and the “network” of appropriately located sites it said it would identify and deliver has signally failed to materialise. The Statement of Common Ground records that the Council has in fact *never* allocated land for pitches through the Development Plan process.

54. The Council’s Monitoring Report of September 2024 established that 160 pitches have been provided to date, leaving a shortfall of 158 to be delivered within the next five years. In the Statement it provided for the current appeals, the Council sought to split this figure between three geographical areas of Cornwall (west, central, and east).
55. However, that is not the approach taken in the Local Plan. Policies 2a, 3 and 4 provide guidance as to how the “spatial strategy” set out in Policy 2 will be implemented, and set locational targets for the specified quantity of housing, office and other employment floorspace. No such localised targets are provided for the 318 Gypsy and Traveller Pitches required by Policy 2a. Policy 11 sets out a range of criteria against which proposals for Traveller Sites will be assessed, and those criteria do not include any reference to geographical location within the county. Nor is there any reference in the Council’s “Gypsy, Roma and Traveller Strategy” to addressing need on a localised basis.
56. An additional consideration is that the revised version of the PPTS, published on 12 December 2024, amended the definition (for planning policy purposes) of Gypsies and Travellers; it now includes “all other persons with a cultural tradition of nomadism or of living in a caravan”. This means that such persons who did not meet the old definition, because they had ceased to travel for a reason other than educational or health needs or old age, will meet the new definition whatever their reason for not currently pursuing a nomadic habit of life. While there is no current evidence as to the numbers involved, the terms of the definition have been expanded rather than restricted, so there will be more people who meet the definition of Gypsies and Travellers for planning policy purposes than were originally accounted for in the Council’s assessment of accommodation needs. As a consequence, while not all of them will be in need of a pitch, it is reasonably certain that the current level of need will increase.
57. It is important to be clear that the urgency of addressing the substantial and long-standing unmet accommodation needs of Gypsies and Travellers is not simply a matter of “hitting targets” or being “politically correct”, as suggested in some of the objections to the development here at issue. The Council’s continuing failure to meet the need has real and serious consequences for human lives. As long ago as 2014, the Council adopted a “Gypsy and Travelling Communities Strategy” (a forerunner of the more recently adopted “Gypsy, Roma and Traveller Strategy”) which identified a “real shortage” of approved sites in Cornwall, and explained that this was resulting in cramped and overcrowded conditions at existing sites; an increase in unauthorised sites and encampments; and increased conflicts between the settled community and the travelling community.
58. In summary, there is a substantial shortfall in the existing provision of Gypsy and Traveller pitches across Cornwall. There are no allocated sites – at all – for the delivery of any pitches, and no indication of any intention to make site allocations in the near future. Nor has the Council outlined any alternative method by which it proposes to address the need for pitches. The extent of this

unmet need, and the lack of any proposed method to resolve it, weigh very heavily in favour of granting planning permission.

59. Further, the Council does not have the five year supply of deliverable sites for pitches required by the PPTS. It accepts that there has been a longstanding failure of policy, since 1994, to meet the need for pitches in Cornwall (and its former districts) through the plan-led system, and that this is contrary to the requirements of national planning policy. This is a serious failure of policy which carries, in its own right, considerable weight in favour of approval.

*The availability of suitable alternative sites*

60. A number of the written representations made in the course of the appeals asserted that some of those currently living on the Appeal Site either still have, or have recently left voluntarily, pitches at other existing authorised Traveller Sites. The possibility of new pitches becoming available at the site in Doublebois, if planning permission is granted there (see paragraph 25 above), was also raised.

61. However, the Appellant has provided evidence as to the personal circumstances of those currently living on the Appeal Site, which include their reasons for leaving their previous sites, why they cannot return to them, and why the new pitches at Doublebois would not be available to them. It would not be appropriate to rehearse that evidence here, but it has been reviewed by the Council, and the Council accepts that there are no suitable, acceptable and affordable alternative sites available.

The personal circumstances of the occupiers, and the best interests of the children

*The personal circumstances of the occupiers*

62. The occupiers of the Appeal Site are all Romany Gypsies, and are all part of the same extended family, which includes a grandparent and 13 children under the age of 16. One of their number has ceased to work due to a chronic medical condition, and now requires the support of their family and a full-time carer, a role which is undertaken by one of their family members.

63. All of the children of primary school age attend Baddock Primary School in East Taphouse, and some of the younger ones attend the nursery attached to it. Five of the children have medical conditions which require regular check-ups. One has a medical condition which necessitates regular stays in hospital of 7 to 10 days at a time.

64. Two of the households have never had an authorised pitch, and having nowhere to stay, have previously led a roadside existence, being moved on from place to place. One household was living doubled-up on a site owned by a family member, and when that was sold, had nowhere to go: another had to leave a Council-run site due to the impact of conditions there on their children, and subsequently lived at various unauthorised encampments in Plymouth, mostly on industrial sites.

65. If both appeals fail and they have to leave the Appeal Site, none of the households have anywhere else they can lawfully go. Since there are no other available alternative sites, there is a very strong likelihood that they would end up living on the roadside. It is worth noting here that making the occupiers of the Appeal Site homeless would engage Article 8 of the European Convention on

Human Rights, set out in UK law within Schedule 1 of the Human Rights Act 1998, which is the right for respect for private and family life. This is a "qualified" right, which means that determining whether it may be infringed involves balancing the fundamental rights of individuals against the legitimate interests of others, and the wider public interest.

*The best interests of the children*

66. It is well established that the best interests of the children is a primary consideration for decision makers in any planning appeal proceedings in which children are involved: no other consideration can be inherently more important than the best interests of the children, but the weight given to each consideration will depend on all the circumstances of the case. It is also well established that Traveller communities have worse health outcomes than the population as a whole, and that children are likely to have lower educational attainment and experience other harm from the disruption if they miss school regularly or have to move between different schools.
67. Establishing authorised pitches on the Appeal Site would provide the occupiers with a secure and stable base to bring up their children. A permanent address would improve their access to healthcare provision and education: without a fixed address, it is harder to register for, and sustain, healthcare and schooling. There are social benefits to everyone having proper health care, and all children attending school regularly.
68. In this case, a secure and settled base would be of particular benefit to the children who have medical conditions, in terms of securing continuity of care from healthcare providers and medical teams with whom they were able to build trusting relationships, without the disruption caused by needing to register with different providers every time they were moved on. The provision of a permanent home on the Appeal Site would also provide a safer and healthier environment for the children than the overcrowded pitches, unauthorised encampments and precarious roadside stopping places where they have formerly been obliged to live.
69. Eight of the children are enrolled at the Primary School in the village, which is within walking distance of the Appeal Site. While the absence of footways on the access lane would make it unsuitable for young children to walk unaccompanied, the close proximity of the school makes it readily accessible by car sharing, or as part of a linked trip to work, shops or other services. Having a fixed and permanent home on the Appeal Site would enable all of the children living there to attend school consistently, and build relationships with teachers and other children from the settled community.
70. Conversely, refusing planning permission for the proposed development and upholding the enforcement notice would make it very likely that the children would, along with their parents, be rendered homeless. There would be serious adverse impacts in terms of the stability of their home life, and the conditions in which they would be living if they had to leave the Appeal Site with nowhere to go. There would also be serious adverse impacts on the continuity of their education and healthcare if, as a result of having to leave the Appeal Site, their families had to move further from their current schools and healthcare providers and so were no longer able to keep the children registered with them.

71. In light of the evidence that there are no suitable and available alternatives to the Appeal Site which could provide these children with a settled home base, granting permission for the proposed development would clearly be in their best interests.

### Other matters

#### *Highway Safety*

72. Local residents are, understandably, concerned about the impacts of an increase in the number of vehicles using the Trago Farm access lane, and its junction with the A390. It is fair to note that statistically, increasing the number of vehicles increases the likelihood of collisions. However, the NPPF makes it clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

73. The Council consulted its Highway Development Management team as to the acceptability of the development in highways terms. Their professional assessment was that visibility at the junction of the access lane with the A390 is adequate in both directions, and they raised no highways objection to the development. The access lane itself, which is in private ownership, is narrow and unlit; it has several bends and few passing places. However, that is not unusual in rural areas. There are many other similar lanes, throughout Cornwall, carrying traffic that includes agricultural vehicles and caravans. While the increase in vehicle movements may cause some inconvenience to existing road users, I saw nothing in the particular configuration of this access lane to indicate that the additional movements associated with the use of the Appeal Site would have an unacceptable impact on highway safety. I am satisfied that the development accords with the requirement of Local Plan Policy 11 to provide safe road access.

#### *The Written Ministerial Statement on "Intentional Unauthorised Development"*

74. The Written Ministerial Statement of 17 December 2015, which remains in force, made intentional unauthorised development a material consideration in planning applications and appeals. It explains that the reason for this is the Government's concern about the harm caused where the development of land has been undertaken in advance of obtaining planning permission. It states that in such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place.

75. In this case, the Appellant and other members of his extended family moved their caravans on to the Appeal Site and began living there some months before submitting an application for planning permission. Knowingly acting in breach of planning control is a consideration which weighs against the grant of planning permission. However, it is relevant to note that the Appellant and his family had nowhere else they could lawfully go: the Council accepts that there are no suitable alternative sites available. The Appellant did not simply wait for the Council to take enforcement action, but attempted to regularise the situation by engaging a planning consultant, and other professional advisers, to prepare and submit a planning application, and subsequently a revised application addressing the concerns raised by the Council. The applications included proposals to limit or mitigate the harm that has already taken place, and those proposals could be secured by condition.

76. In these circumstances, I consider that the intentional breach of planning control carries a limited amount of weight in the overall planning balance.

#### *Biodiversity and drainage*

77. Concerns have been raised about the adequacy of the Ecological Survey submitted with the planning application, given that this was not carried out until after the development had taken place. Clearly that is less than ideal. However, the Appeal Site does not lie within or near a designated or non-designated conservation site, and there are no other indications that any protected species are present that would be harmed by the development (for example, certain ground-nesting birds). The survey suggests measures that would help to minimise adverse impacts on wildlife – for example, keeping external lighting to a minimum to protect the foraging habitat of bats – and these could be secured by condition. In my judgment, the fact that the survey was carried out after the development had taken place detracts from its usefulness, but does not render it valueless.

78. Concerns have also been raised about the adequacy of surface water drainage provision. I share the Council's view that this is a matter which can be addressed through the imposition of an appropriately worded condition.

#### **The Planning Balance**

79. Planning law requires applications for planning permission to be determined in accordance with the Development Plan, unless material considerations indicate otherwise.<sup>4</sup> Material considerations include the Government's national planning policies and guidance, as set out in the NPPF and the PPTS.

80. Paragraph 28 of the PPTS states that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the NPPF apply.<sup>5</sup> That paragraph sets out the "presumption in favour of sustainable development", and goes on to explain what this means for decision-taking. Sub-section (d) addresses what to do in situations where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out of date: this has always included situations where the Council cannot demonstrate a 5 year supply of housing sites and now, per paragraph 28 of the PPTS, includes situations where a Council cannot demonstrate a 5 year supply of Gypsy and Traveller sites.

81. The approach set out in paragraph 11(d) is that in these situations, planning permission should be granted unless: (i) the application of policies in the NPPF that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. A footnote explains that the reference in 11(d)(i) to "areas or assets of particular importance" includes (among others) designated heritage assets.

82. In summary, the "presumption in favour of sustainable development" enshrined in the NPPF does not displace the statutory requirement: it remains the case

---

<sup>4</sup> S.38(6) of the Planning and Compulsory Purchase Act 2004 and s.70(2) of the Town and Country Planning Act 1990

<sup>5</sup> For clarity, it is worth noting here that this is an amendment made in the December 2024 revision of the PPTS: the earlier version of the PPTS, in force at the time when the Council determined the planning application, did not contain this requirement.

that these appeals should be determined in accordance with the relevant policies of the Development Plan unless material considerations indicate otherwise. The presumption in favour of development is one such material consideration.

### *The Planning Appeal*

83. I have found that the proposed development would conflict with Policies 11, 12, 23 and 24 of the Cornwall Local Plan, and since these are the policies that are most relevant to the proposal, it conflicts with the Development Plan as a whole. However, there are a number of other material considerations which need to be taken into account. These include the NPPF "presumption in favour of sustainable development". The Council accepts that it is unable to meet the PPTS requirement to demonstrate a five year supply of deliverable sites, which means that the provisions of 11(d) apply. These state that planning permission should be granted unless one of two exemptions apply.
84. The first of those exemptions is where NPPF policies that protect designated heritage assets provide a "strong" reason for refusing the development proposed. Since I have found that the harm to the significance of each of the two designated heritage assets would be less than substantial, the relevant NPPF policy is at paragraph 215. It says: "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal."
85. In my judgment, there would be significant public benefit in meeting some of Cornwall's substantial and long-standing need for Gypsy and Traveller pitches, in circumstances where the lack of any alternative available sites means that the occupiers would otherwise very likely be living on the roadside. There is also considerable public benefit in providing universal access to health care and education. These benefits are encapsulated in the PPTS aims of addressing under-provision, reducing unauthorised encampments, and providing Travellers with access to education, health, welfare and employment infrastructure.
86. While considerable importance and weight attaches to the harm that would be caused to Trago Farmhouse and the stone hedgebanks of its former access, I find that this is clearly outweighed by the public benefits of the proposed development. I therefore conclude that on the application of paragraph 215, there is not in this case a strong reason for refusing the development on the grounds of its impact on designated heritage assets. It follows that the presumption in favour of sustainable development is not disapplied by virtue of paragraph 11(d)(i).
87. The second exemption is where any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Looking firstly at adverse impacts, there would be the harmful, albeit localised, effect on the character and appearance of the landscape. There would also be the less than substantial harm to the significance of Trago Farm and the stone hedgebanks of its former access.
88. The Appeal Site is further than the "less than three miles" distance from services required by Local Plan Policy 11. However, since there are no other alternative sites available that would be closer to services, and since leading a roadside existence would be likely to decrease rather than increase the

Appellant Group's opportunities to use sustainable modes of transport instead of private vehicles, I do not consider that the location of the Appeal Site gives rise to any quantifiable adverse impact in this respect. The development was undertaken in advance of obtaining planning permission, and in accordance with the government's Written Ministerial Statement of December 2015, that is a material consideration in this appeal. But in my judgment it is not one which here gives rise to any "adverse impacts" for the purposes of paragraph 11d(ii), because the planning application, and subsequent appeal, provide the opportunity to limit or mitigate harm through the imposition of conditions; the enforcement action taken by the Council relates to a substantially different layout, which is the subject of a separate appeal.

89. The harm caused to the character and appearance of this part of the landscape, and the less than substantial harm to two designated heritage assets, are serious adverse impacts that carry considerable weight. However, the benefit of addressing part of the substantial and long-term unmet need for pitches, in the context of the ongoing failure of policy to address that need, and the lack of any suitable and available alternative sites, is also considerable. To this must be added the benefits of providing the occupiers with a settled base from which to access healthcare and education provision, and the importance of this to the wellbeing of their children, in circumstances where refusing permission would effectively render them homeless. In my judgment, the adverse impacts of granting permission do not outweigh the benefits. It follows that the presumption in favour of sustainable development is not disapplied by virtue of subsection 11(d)(ii).

90. I conclude that while the proposed development conflicts with the Development Plan, the other material considerations in this appeal – which include the NPPF presumption in favour of sustainable development – are of such weight as to overcome that conflict and justify granting planning permission.

#### *The Enforcement Appeal*

91. For largely the same reasons as the proposed development that is the subject of the Planning Appeal, I have found that the existing development conflicts with the Development Plan, and gives rise to other material considerations that need to be taken into account. A key point of difference, however, is the extent of the harm caused to one of the designated heritage assets, and its implications for the presumption in favour of sustainable development.

92. Again, the Council's inability to demonstrate a five year supply of deliverable sites means that the provisions of paragraph 11(d) apply. But because I have concluded that in this case substantial harm would be caused to the stone hedgebanks of the former access to Trago Farm, the relevant NPPF policy for the purposes of the exemption at paragraph 11(d)(i) is paragraph 214. That states that where a development will lead to substantial harm to a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm, or that four specified criteria can each be satisfied.

93. The first criterion is that the nature of the heritage asset prevents all reasonable uses of the site. In this case, that criterion is not satisfied because the use of the Appeal Site as an agricultural field (its former use, which remains its existing lawful use) is not prevented by the listed hedgebank. The next step is

therefore to consider whether the substantial harm caused by the development is necessary, to achieve substantial public benefits that outweigh that harm.

94. For reasons discussed above, I consider that the provision of five pitches on the Appeal Site would achieve substantial public benefits. However, in view of my conclusion that planning permission should be granted for the development that is the subject of the Planning Appeal, which (unlike the existing development) does not involve locating one of those pitches on top of the former access to Trago Farm, the substantial harm to the designated heritage asset is not necessary: the same public benefits could be achieved, without that degree of harm, by implementing the planning permission. Since none of the provisos in paragraph 214 are met, its terms are that consent for the development should be refused. I consider this to be a strong reason for refusing the development, in accordance with paragraph 11(d)(i), and this means that the presumption in favour of development does not apply in this case.

95. The balance to be undertaken is therefore the ordinary one, set out in statute, as opposed to the "tilted" one, instigated by paragraph 11 of the NPPF when particular circumstances apply. I have found that the existing form of development conflicts with Policies 11, 12, 23 and 24 of the Cornwall Local Plan. The material considerations that weigh in favour of the proposal are the substantial unmet need for pitches, and the ongoing failure of policy to address that need. While the personal circumstances of the occupiers and the best interests of the children remain material considerations, the weight they carry in favour of approval must be tempered to reflect the fact that granting planning permission for the development that is the subject of the Planning Appeal provides a suitable and available alternative site, which meets the needs of the occupiers and their children. Material considerations that weigh against approval are the fact that the development was intentionally carried out without authorisation; and the NPPF policy that since substantial harm to a designated heritage asset would be caused and the provisos of paragraph 214 are not met, consent should be refused.

96. Having carefully considered the weight of these material considerations for and against the existing form of development, I am not persuaded that taken as a whole, they justify a departure from determining the appeal in accordance with the Development Plan. I therefore conclude that planning permission for the existing development should not be granted.

97. In situations where a permanent grant of planning permission for Gypsy and Traveller pitches is refused, it is necessary to consider the alternative of granting permission for a temporary and limited period. In this particular case I am not persuaded that the balance of considerations would justify a grant of temporary planning permission for the development in its existing configuration. That is because planning permission is being granted for five permanent pitches on the Appeal Site in a different configuration, which does not cause substantial harm to a designated heritage asset, and this provides the Appellant and his family with a suitable alternative means of meeting their accommodation needs.

## **Conditions**

98. The Council and the Appellant agreed that if I were to grant planning permission, the list of conditions set out in the Officer's Committee Report of 15 April 2024 should be attached. These were discussed at the Hearing, with

particular regard to amendments needed to reflect the fact that the change of use has already taken place, but with a different layout.

99. As set out in paragraph 8 above, I have determined the appeal on the basis of national and local planning policies concerning the provision of sites for Gypsies and Travellers. It is therefore necessary to impose a condition (1) limiting occupation of the pitches to those who meet the government's definition of Gypsies and Travellers, contained in Annex 1 of the PPTS.

100. The standard condition governing commencement is not appropriate, since the development has already taken place, but the standard condition requiring compliance with the application plans is needed, to ensure clarity as to the permitted location of the pitches (2). The agreed condition limiting the numbers of caravans on each pitch is also needed, to prevent any increase in the scale and impact of the development; I have amended this to make provision for the temporary inclusion of an additional static caravan on pitch 2, which is required for the provision of the appropriate level of care to one of the family members (3).

101. There are some matters of such fundamental importance to the acceptability of the proposed development that it would be usual to impose a condition requiring them to be put in place before the proposed new use began. Since in this case the change of use has already occurred, it is necessary to frame the condition in such a way as to require the use to cease, and the associated operational development and equipment to be removed, if the requirements are not met within a specified timescale.

102. Condition (4) does this by setting a three month time limit for the submission of a Site Development Scheme, for approval by the Council. The Site Development Scheme must provide details of (and a timetable for) landscaping and planting, based on the "landscape strategy" submitted at appeal, but updated to take account of the position of pitch 5 in the location shown on the "proposed block plan" submitted with the planning application; the more detailed proposals for the reinstatement of the hedgebank set out in the application for Listed Building Consent; and the removal of the existing pitch that has been created on top of the former access to Trago Farm. The Site Development Scheme must also provide details of external lighting, measures to protect and enhance biodiversity, and the provision and future maintenance of foul and surface water drainage. The condition goes on to provide time limits in the case of any appeal or legal challenge, and to ensure the future retention of the approved details.

103. In order to protect the living conditions of neighbouring residents, conditions preventing any commercial activity at the site (5), and limiting the number and size of commercial vehicles parked at the site (6), are necessary.

## **Conclusions**

104. For the reasons set out above, I have concluded that planning permission for the proposed development (that is, the subject of planning application ref PA23/09811) should be granted subject to conditions, but planning permission for the existing development (that is, the matters alleged by the enforcement notice) should be refused. It follows that the enforcement notice will be upheld.

105. By operation of s.180(1)(a) of the 1990 Act, the enforcement notice ceases to have effect so far as it is inconsistent with the permission granted on the Planning Appeal. What this means, in practical terms, is that the notice will only continue to apply in so far as it relates to development which is not included in the grant of planning permission. The most important example of this is the pitch that has been created on top of the former access. That strip of land is not included within the "red line" area of the planning application, and so does not benefit from planning permission for its change of use. The enforcement notice is therefore still operative, and requires the use of that area as a pitch to cease, the associated operational development to be removed, and the land to be returned to its former condition.

## **Formal Decisions**

### *The Planning Appeal*

106. The appeal is allowed and planning permission is granted for the change of use of the land to a private Gypsy Site consisting of five pitches including 5 mobile homes, 5 touring caravans, 5 utility buildings and associated works, on Land to the east of Trago Farm, East Taphouse, Liskeard, Cornwall PL14 4NH in accordance with the terms of the application Ref PA23/09811, subject to the conditions in the attached schedule.

### *The Enforcement Appeal*

107. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*Jessica Graham*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Dr S Ruston	Ruston Planning
Mr R Crandon	TDA Ltd
Mrs N Burley	Heritage Vision Ltd

### FOR THE LOCAL PLANNING AUTHORITY:

Mr J Lee	Planning Appeals Officer
----------	--------------------------

### INTERESTED PARTIES:

Mrs J Pascoe	Councillor, Liskeard South & Dobwalls
Mr J Dingle	Pinnock Parish Council
Mr D Tilney	Stephens Scown LLP
Mr J Wills	Local Resident
Miss J Staughton	Local Resident

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. The Council's *Planning Fees and Charges Supplementary Guidance Document* (revised October 2024)
2. Copy of the comments made by the Council's Historic Environment Team in response to the Appellant's application for Listed Building Consent to reconstruct the stone hedgebank
3. The Council's response to the Appellant's application for an award of costs
4. Plan provided by Miss Staughton, indicating viewpoints of the Appeal Site for the Inspector to visit

## **DOCUMENTS DISCUSSED AT THE HEARING AND SUBMITTED AFTERWARDS**

5. Drg.No. TDA 2987.01 Rev A: Proposed site layout & landscape strategy, showing pitch numbers
6. Drg.No. TDA 2987.01 Rev B: Proposed site layout & landscape strategy, showing pitch numbers and proposed Cornish hedgebank
7. Appeal Decision ref: APP/D0840/W/22/3299411 (Dragon's Corner, St Neot)

## SCHEDULE OF CONDITIONS

- 1) The site shall not be occupied by any persons other than Gypsies and Travellers as defined within Annex 1(3) of *Planning Policy for Traveller Sites* (amended December 2024) or its subsequent replacement.
- 2) Subject to the provisions of conditions (3) and (4) below, the development hereby permitted shall accord with the approved plans:
  - 01 Block Plan
  - 02 Rev B Proposed Block Plan
  - 03 Floor Plans, Elevations and Section through hedge
  - 04 Rev B Proposed Landscaping
  - 05 Location Plan
- 3) There shall be no more than five pitches on the site, located and retained in the positions shown on plan 02 Rev B. On each of the five pitches, 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] shall be stationed at any time, of which only one caravan shall be a static caravan SAVE THAT on pitch no.2 a second static caravan (in addition to the two authorised caravans) may be temporarily stationed, for such time as it is needed to accommodate a family member requiring full-time care, and shall be removed when it is no longer needed for that purpose.
- 4) 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 three months of the date of failure to meet any one of the requirements set out in i) to iv) below:
  - (i) Within three months of the date of this decision a Site Development Scheme shall be submitted, and shall include the following details:
    - (a) An updated landscaping scheme for the site. This shall be based on the landscape strategy plan submitted in the course of the appeals (drg.no. TDA.2987.01 Rev B; Hearing Document 7) amended so as to accommodate Pitch 5 in the position shown on Plan 02 Rev B. The landscaping scheme shall identify all woodland buffer, hedgerow, tree, shrub, understorey and ornamental planting, including details of species, plant sizes and proposed numbers, as well as details of surface treatments, and the material and height of boundary treatments. It shall also include updated details of the reinstatement of the Cornish hedgebank, as proposed in the application for Listed Building Consent (Ref PA24/08161) submitted to the Council in October 2024, and a method statement for the removal of the development carried out on the former access lane to Trago Farm (identified as "Pitch 5" on drg. no. TDA.2987.01 Rev B) and the restoration of that land to its former condition. The landscaping scheme shall also include a schedule of maintenance for a period of five

years, to include provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within five years of planting or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted;

- (b) A "Site Plan", based on the approved block plan 02 Rev B, as updated to show the landscaping proposed under provision (a) above, the location of the utility buildings, and the position of the caravans including the additional static caravan on pitch 2;
- (c) details of all external lighting within and on the boundary of the site, to include its location, angle, level of illuminance, and the measures proposed to minimise light pollution;
- (d) the measures that will be undertaken to protect and enhance the biodiversity of the site, in accordance with the recommendations of the Extended Phase One Habitat Survey dated June 2023 by Spalding Associates (Environmental) Ltd;
- (e) details of the means of foul and surface water drainage of the site, including the "aco drains" located on the access track, with a management and maintenance plan which shall include arrangements to secure the effective operation of the foul and surface water drainage systems throughout the lifetime of the development; and
- (f) a timetable for the implementation of each element of the Site Development Scheme.

ii) If within 11 months of the date of this decision the local planning authority refuses to approve the Site Development Scheme or fails 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 Site Development Scheme shall have been approved by the Secretary of State.

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

Upon implementation of the approved Site Development Scheme specified in this condition, its provisions 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.

- 5) No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans hereby permitted, and it shall not exceed 3.5 tonnes in weight.
- 6) No commercial activities shall take place on the land, including the storage of materials.