



Appeal Decision

Hearing held on 18 February 2025

Site visit made on 19 February 2025

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2025

Appeal Ref: APP/T0355/W/24/3352872

Old Oak Farm, Pool Lane, Waltham St Lawrence, Reading RG10 0GQ

- 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 Lucas Owen against the decision of the Royal Borough of Windsor and Maidenhead.
 - The application Ref is 24/01264.
 - The development proposed is 'the siting of a residential caravan to be occupied for human habitation by a traveller family'.
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Decision

1. The appeal is allowed and planning permission is granted for 'the siting of a residential caravan to be occupied for human habitation by a traveller family' at Old Oak Farm, Pool Lane, Waltham St Lawrence, Reading RG10 0GQ in accordance with the terms of the application, Ref 24/01264, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have used the description of development agreed between the main parties, apart from the words 'retrospective consent for' which I have omitted as this is not an act of development.
3. However and notwithstanding how the description has been phrased, the appellant confirmed at the Hearing that permission was in effect sought for the material change of use of land for residential habitation by a Traveller family, facilitated by the siting of a residential caravan which would sit on a concrete pad. I have considered the appeal on that basis.
4. At my visit, I saw that residential use was occurring on the land, albeit not in accordance with the originally submitted plans in respect of the position of the concrete pad and residential caravan within the site. In addition, the appellant's written evidence had argued that the proposal would sit within an existing area of hard surfacing provided in connection with a planning permission for development described as 'Construction of an agricultural barn, retention of the mobile home as a day/rest room and hardstanding'¹ ('the Barn Permission'). At the Hearing however, I raised with the parties that the concrete pad and residential caravan as shown on the submitted plans appeared to be positioned on land falling outside of the boundary of the Barn Permission site. This was not disputed by the appellant.

¹ Application ref 21/02335

5. To address this matter, the appellant sought during the Hearing to submit an amended proposed block plan (Plan No. GP/02/24, 18 February 2025) ('the Amended Block Plan'), reducing the extent of the proposal and showing the concrete pad and residential caravan positioned on part of the site that was within the boundary of the Barn Permission land. The Council did not object to the submission of the plan which I am satisfied would not involve a fundamental change or substantial difference to the development originally applied for. Given also that it would effectively reduce the extent of the proposal, the significant separation retained to neighbouring property and that matters of layout within a caravan site are often the subject of planning conditions, I am also satisfied that my acceptance of the Amended Block Plan would not cause unlawful procedural unfairness to any party. I have therefore taken it into account in determining the appeal, and I have based my assessment on the layout and siting of the residential caravan shown on the Amended Block Plan, not what I saw on site.
6. In this respect and in the interests of clarity, the current appeal does not show any proposal for hard surfacing beyond the extent of the Barn Permission site area and the hard surfacing that I observed outside of the Barn Permission site is not part of the development that is before me now. Other mechanisms would be available to the main parties to confirm, regularise or enforce against any breach of planning control in respect of that hard surfacing, and would not be affected by my determination of this appeal.
7. During the Hearing, the appellant sought to submit a single page 'merged 3D model output showing site elevations' which they asserted showed the development would be in flood zone 1. Given however that the output was inconsistent with the site layout shown on the Amended Block Plan which the appellant had requested I base my assessment on, they accepted that it would not assist my decision. Accordingly, I did not accept it as additional evidence.
8. The Government published revised versions of the National Planning Policy Framework ('the Framework') and Planning Policy for Traveller Sites ('PPTS') in December 2024. The main parties were able to comment on any implications for their cases before and during the Hearing and I have determined the appeal having regard to the comments made and in light of the Framework and PPTS.

Main Issues

9. The main issues are:
 - i) the effect of the proposal on flood risk;
 - ii) whether or not the proposal would be inappropriate development in the Green Belt;
 - iii) the effect of the proposal on biodiversity;
 - iv) the effect of the proposal on the character and appearance of the area; and
 - v) whether or not the proposal would incorporate adequate measures to adapt to and mitigate climate change.

Reasons

Flood Risk

10. Mapping produced by the Environment Agency ('the EA') shows the appeal site to include areas of Flood Zones 2 and 3. However, the appellant's Flood Risk

Assessment ('FRA') provided further detail including in respect of expected flood levels and extents to determine the design flood level, indicating that the development would be in Flood Zone 2. This was not disputed by the Council or the EA. I note that the Amended Block Plan now shows the caravan and concrete pad in a slightly different location within the site, but the evidence indicates that it would remain in Flood Zone 2 and I have considered the appeal on that basis.

11. The Framework sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, it should be made safe for its lifetime without increasing flood risk elsewhere. In support of these objectives, the Framework outlines requirements for application of the sequential test, and, in some cases, the exception test.
12. The Council accepts that the appeal proposal would pass the sequential test and I have no firm reason to find differently. Noting also that the development would provide a Traveller site for which there is an acknowledged need in the borough and in the absence of proposals likely to otherwise meet this need in the short term, I am satisfied that it would provide wider sustainability benefits to the community that outweigh the flood risk. On that basis, part a) of the exception test would be passed and the Council has not offered evidence to the contrary.
13. To pass part b) of the exception test, it should be demonstrated that a development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
14. In terms of being safe for its lifetime, the FRA set out that the caravan would be raised a minimum 600mm above the design flood level in accordance with EA standing advice. The FRA also includes a flood response plan recommending that site occupiers should be registered for flood alerts and identifying an evacuation route. This route would pass through areas of Flood Zone 3, but the FRA advises that it should only be used where adequate flood warning is given, which would be likely given the source of the flood risk at the site, and no flood water is observed in Pool Lane. If water is observed on Pool Lane the caravan would offer a safe refuge for occupiers. Subject to these measures and noting that the Council and EA have not raised concerns in these respects, I consider the development would be safe for its lifetime.
15. During the Hearing, the appellant took a different position to the FRA, suggesting that the caravan would instead be raised 600mm above ground level which their evidence indicates is around 181mm below the design flood level. I acknowledge that the resulting reduction in the height of the caravan above design flood level would be relatively small and that the design flood level has itself been conservatively estimated. Even so, I do not find these sufficiently convincing grounds to depart from the EA advice which reflects the inherent uncertainty in estimating flood levels, particularly given that the appellant's flood response plan relies in part on the caravan providing a safe refuge. Whether or not existing caravans on Pool Lane are also raised above flood level is not a compelling reason to put additional occupiers and property at risk of flooding and in my view, internal floor levels should accordingly be raised a minimum of 600mm above the design flood level as was originally proposed in the FRA. The appellant accepted that this could be achieved in the event I were to consider it necessary, and I am satisfied that suitable raising of the floor levels could be secured by a planning condition.

16. On that basis, I find that the development would be safe for its lifetime taking account of the vulnerability of its users.
17. As for flood risk elsewhere, the appellant's evidence asserts that there would be no obstruction to flood flows on the site and that flood storage capacity would be maintained. This would in part depend on the form of the concrete pad, but provided that it did not result in raising of the existing ground level, I see no reason that it would reduce available flood storage and details could be secured as part of a planning condition to ensure that this was the case. The raising of the caravan to be at least 600mm above flood level would also leave an underfloor void which would not displace flood water, with the raising struts of negligible scale such that there would be no meaningful loss of flood storage currently available on the site.
18. The Planning Practice Guidance ('PPG') advises that the use of stilts and voids should not normally be relied upon for compensating for any loss of floodplain storage. It states that this is because voids do not allow water to freely flow through them, trash screens get blocked, voids get silted up, they have limited capacity and it is difficult to stop them being used for storing belongings or other materials. However, the use of the phrase 'should not normally be relied on' suggests to me that there may be instances where such measures could be acceptable.
19. In this case, the void essentially comprises the entire underside of the caravan. It would be open to all sides so that there would be no obstruction to water flowing freely through it and it could not in my view reasonably be described as having limited capacity. Subject to screening around the void comprising bars or similar with suitably spaced apertures rather than a mesh, I am satisfied that this could provide a physical barrier preventing use for storage while also allowing a through flow of water so that flood flow routes would not be deflected. A maintenance plan could additionally ensure that the void did not become silted up or otherwise obstructed. From the Council's evidence and noting the requirement in each case for clear actions and that there would be a physical mechanism to restrict storage beneath the caravan, I am unclear why conditions to secure these measures would be unenforceable or otherwise ineffective or unreasonable in contrast to other conditions that have been suggested.
20. I therefore find that the reasons given in the PPG for the general position that voids should not normally be relied on would not apply here. From the evidence before me, I find that the void would offer adequate floodplain compensation and on that basis, I see no reason that the proposal would increase flood risk to surrounding land.
21. I acknowledge that the exception test further seeks reduction in flood risk overall, but this is 'where possible'. There is similar provision in Policy NR 1 of the Borough Local Plan 2022 ('the LP') which includes requirements that development should increase the storage capacity of the floodplain where possible and reduce flood risk both within and beyond sites wherever practical.
22. Although the appellant referred to provision of a detention basin, no details have been provided and it is unclear that the proposal would otherwise include measures to increase flood storage capacity or to reduce flood risk more generally. In my view however, this is not unreasonable having regard to the very limited scale of the development and the feasibility of providing such measures, and I consider that the failure to reduce flood risk should not weigh against the proposal in this case.

23. With the imposition of conditions, I therefore find that the proposal would be safe for its lifetime without increasing flood risk elsewhere, and it would pass the exception test.
24. For these reasons, I conclude that there would not be an unacceptable increase in flood risk, and the proposal would accord with Policy NR 1 of the LP insofar as it seeks to manage flood risk in accordance with national policy and includes requirements that development does not impede the flow of flood water, reduce the capacity of the floodplain or exacerbate flooding problems. I also find no conflict with the Framework insofar as it sets out a sequential, risk-based approach to flooding.

Inappropriate Development

25. The PPTS provides that Traveller sites in the Green Belt are inappropriate development unless exceptions set out in the Framework apply. Of relevance here, paragraph 155 of the Framework provides that the development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate where four listed criteria apply.
26. Paragraph 155 (a) requires that the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. The definition of 'grey belt' in the Framework excludes land where the application of certain policies would provide a strong reason for refusing or restricting development. In light of my conclusion on the first main issue however, these policies which include policies relating to areas at risk of flooding do not provide a strong reason for refusing or restricting the development. In addition, the Council has not argued that the land would strongly contribute to any of the Green Belt purposes relevant to the definition of grey belt. I have no firm reason to reach a different view and I therefore find that the site would comprise grey belt land.
27. Despite having raised concerns that the proposal would fail to safeguard the countryside from encroachment contrary to one of the purposes of Green Belt, the Council also accepted at the Hearing that the proposal would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. Given the very limited scale of the proposal and the circumstances of the appeal site, I agree.
28. Accordingly, the proposal would satisfy paragraph 155 (a) of the Framework. There is also no dispute between the main parties that there is a demonstrable unmet need for the type of development proposed, satisfying paragraph 155 (b).
29. Paragraph 155 (c) requires that the development would be in a sustainable location with particular reference to paragraphs 110 and 115 of the Framework, and in respect of Traveller sites, PPTS paragraph 13. The Council's written comments on the revisions to the Framework suggested that the proposal would fail to accord with the requirements of paragraphs 110 and 115. However, the accessibility of the site did not form part of any reason for refusal and the Council did not offer substantive evidence to pursue this line further.
30. I note that options to access services and facilities by sustainable transport modes from the site would be relatively limited, restricting opportunities to prioritise sustainable transport as sought by paragraph 115 of the Framework. Even so, there are bus stops in Waltham St Lawrence which would not be remote, and a

range of services in settlements within relatively short driving distance. Paragraph 110 of the Framework also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

31. Moreover, the Council accepted that save for its concerns about flood risk, the proposal would comply with PPTS paragraph 13. Paragraph 13 (g) of PPTS indicates that Traveller sites should not be located in 'areas at a high risk of flooding, including functional floodplains' but the proposal would not be on functional flood plain and I have found that there would not be unacceptable flood risk to the development. I therefore find that the proposal would comply with PPTS paragraph 13 which highlights the desirability of providing a settled base that reduces the need for long-distance travelling. Given the appellant's existing agricultural activity on the site, the proposal would also reduce travel to work journeys which PPTS paragraph 13 identifies can contribute to sustainability.
32. Overall, I am satisfied in this context that the development would be in a sustainable location for the purposes of paragraph 155 (c) of the Framework. The PPTS further indicates that the 'golden rules' which are the subject of paragraph 155 (d) of the Framework do not apply to Traveller sites.
33. Given the above, I find that paragraph 155 of the Framework is satisfied and I conclude that the proposal would comprise an exception to inappropriate development in the Green Belt. It would accordingly comply with Policy QP 5 of the LP which sets out that the Green Belt will be protected against inappropriate development, but that certain forms of development are not considered inappropriate in the Green Belt as defined in the Framework.
34. As an exception to inappropriate development, the proposal should further not be regarded as harmful to the openness or purposes of Green Belt, and there is no requirement for very special circumstances to be demonstrated in order to justify the development in the Green Belt.

Biodiversity

35. Concerns raised in respect of biodiversity matters relate both to effects on existing biodiversity and protected species, and provision for biodiversity net gain ('BNG').

Existing Biodiversity and Protected Species

36. The appeal site is part of the 'Wet Meadows' local wildlife site ('LWS') which comprises a relatively large semi-improved grassland with unimproved elements and a pond encroached by scrub. The LWS is noted as including areas of remnant Lowland Meadow which is a habitat of principle importance listed under section 41 of the Natural Environment and Rural Communities Act 2006 (as amended) ('the NERC'). The 'Downgrove Ditches' LWS encompasses the Broadmoor Lane Ditches watercourse adjacent to the site and includes the county notable species fine-leaved water dropwort. The EA also highlights a nearby historic record of water vole which is a species of principle importance listed under s41 of the NERC and a protected species under the Wildlife and Countryside Act 1981 (as amended).
37. The PPG outlines that ecological surveys will be necessary in advance of a planning application if the type and location of development could have significant impact on biodiversity and existing information is lacking or inadequate.

Government Circular 06/2005² further indicates that the presence of a protected species is a material consideration when considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat and that ecological surveys should only be left to coverage under planning conditions in exceptional circumstances.

38. The appellant made repeated reference to details submitted to discharge conditions on the Barn Permission in relation to external lighting and biodiversity enhancements and has provided a copy of the approved Ecological Enhancement Plan January 2024. However, I have no detailed ecological surveys or assessment of the site in respect of the appeal proposal.
39. That said, the appeal development no longer includes any proposal for hard surfacing beyond the land forming part of the Barn Permission site area. Insofar as the caravan and concrete pad now proposed would be within the area of the Barn Permission site and the extent of existing hard surfacing, there would not be additional meaningful direct physical effects on flora or the nearby LWSs.
40. At the Hearing, there was some discussion around the potential for indirect effects on the LWSs and/or protected species through external lighting, activity or drainage. However, the appellant suggested that there would be no requirement for additional external lighting at the site to that of the Barn Permission. Even if there were, and taking a precautionary approach assuming that bats could be present, it seems to me that there would reasonably be scope for lighting to be the subject of a planning condition to ensure no unacceptable effects on areas that could be of biodiversity value in the same way as the Barn Permission.
41. The position of the caravan would focus residential activity on part of the site away from the Downgrove Ditches LWS, effectively beyond the welfare caravan. In the context of the existing site condition, this would be unlikely in itself to cause harm to biodiversity interest here. Activity within the site area would also be unlikely to adversely affect grassland within the Wet Meadows LWS.
42. In respect of drainage, the planning application form had indicated that foul sewage would be disposed of through a package treatment plant, but no details of the plant were provided. In the absence of such details and any assessment of potential effects on the Downgrove Ditches LWS and water vole (or up to date evidence demonstrating that water vole would not be present or affected), I am unable to determine that the arrangement would not adversely affect biodiversity.
43. However, the appellant advised at the Hearing that foul sewage could instead be managed using a sealed unit. This would reflect the existing situation on site and would avoid the need for connection or discharge to any nearby watercourse. Given the extent of the appeal site, I am also satisfied that any unit could be located sufficiently far away from the site boundary and bank of the Broadmoor Lane Ditches such that potential adverse effects on the watercourse could be avoided. From the information before me, it would therefore be possible to provide for foul water drainage without detrimental effects on biodiversity or protected species, and the development need not be dependent on a system that might affect the Downgrove Ditches LWS or protected species. In that context, I consider that details of provision for foul water drainage to include ongoing servicing and

² Biodiversity and geological conservation – statutory obligations and their impact within the planning system

maintenance could appropriately be secured through a planning condition, ensuring no adverse effects on biodiversity.

44. While no up to date surveys or assessment have been provided, I am satisfied that even if protected species were present in the vicinity of the site, there is a sufficient basis to determine in this case that there would not be a reasonable likelihood of species being affected by the development and that subject to conditions, the appeal development would not cause unacceptable harm to protected species or habitat. In the specific circumstances of this case, further surveys would not therefore be necessary in order to reach a decision.
45. The failure to provide detailed ecological surveys or assessment would be contrary to the requirements of Policy NR 2 of the LP. From the evidence before me however and subject to conditions, existing biodiversity and protected species would not be unacceptably harmed.

Biodiversity Net Gain

46. Schedule 7A of the Town and Country Planning Act 1990 (as amended) ('the Act') outlines a general biodiversity condition which is deemed to apply to every planning permission granted and effectively mandates a requirement for 10% BNG unless exemptions or transitional provisions apply. In this case, the appellant selected the exemption for retrospective planning permission on the planning application form and while I note that the caravan is in a different position to that shown on the plans, the residential use applied for is occurring on the site.
47. The Council commented that regulations to modify or exclude the application of BNG requirements in relation to retrospective planning permission granted under section 73A of the Act³ have not been made. However, the Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024 set out that the relevant provisions in Schedule 7A of the Act are commenced other than planning permissions relating to development to which section 73A of the Act applies. Furthermore, the PPG confirms that the mandatory BNG condition does not apply to retrospective planning permissions made under section 73A as would be the case here. Accordingly, I find that the proposal would not be subject to the mandatory 10% BNG requirement.
48. Nevertheless, there remains a requirement in the Framework for provision of net gains for biodiversity. Policy NR 2 of the LP also sets out that proposals are expected to demonstrate how they maintain, protect and enhance biodiversity and to identify areas where there is opportunity for biodiversity to be improved.
49. No details have been provided to demonstrate biodiversity enhancements or any net gain as part of the proposal. However, there was no dispute at the Hearing that a gain need only be positive with no requirement for a particular quantum. Given the baseline condition of the site largely comprising hard surfacing and its size, I am satisfied that there would be adequate scope to provide planting or other measures to secure enhancements for biodiversity and a measurable BNG, and that this could be ensured by a planning condition.
50. On that basis, the proposal would make adequate provision to enhance biodiversity and achieve BNG in accordance with LP Policy NR 2.

³ As referred to at Schedule 14, Paragraph 20 of the Environment Act 2021

Conclusion on Main Issue

51. I have had regard to the purpose of conserving and enhancing biodiversity in accordance with s40 of the NERC. For the reasons above, I conclude that with the imposition of conditions, the proposal would not cause unacceptable harm to biodiversity or protected species and it would make adequate provision to enhance biodiversity and achieve BNG. The lack of ecological assessment would put the proposal in conflict with Policy NR 2 (4.) of the LP but the proposal would otherwise be acceptable in accordance with requirements in this policy broadly seeking to protect, maintain and enhance biodiversity.

Character and Appearance

52. The appeal site is located within countryside surrounding Waltham St Lawrence where open fields and parcels of woodland provide for a generally rural quality to the area. Nevertheless, there are some ribbons of development, including along Pool Lane where there are existing static caravans along the north side of the road including opposite part of the appeal site.
53. There are no proposed elevations of the development before me. The appellant explains that this is because caravans are not permanent structures and could be replaced by a different structure falling within the definition of a caravan within legislation⁴. Approving specific elevation drawings could therefore pose difficulties.
54. Nevertheless, I have noted above that the appeal is essentially seeking a material change of use of land for residential habitation facilitated by the siting of a residential caravan which I observed on the site, albeit not in the position now proposed. Any replacement caravan would also need to comply with the maximum dimensions stipulated in the legislation. Although my findings on flood risk mean there would be a requirement to raise the caravan above the design flood level, I am satisfied in these circumstances that the lack of elevations does not preclude an assessment of the effects of the proposal on the character and appearance of the area.
55. The introduction of residential use including the caravan as well as potential for associated paraphernalia would result in a loss of openness and some urbanisation of the site which is currently agricultural, eroding the rural quality of the area. However, there is already a welfare caravan on the site and the residential use and appearance of the proposed caravan would not be out of keeping with other similar development on Pool Lane. Even taking account of the requirement to raise the floor level, the caravan would result in only a fairly modest loss of openness on the site and would not be significantly out of scale with existing caravans in the vicinity.
56. Fencing and vegetation around the site provide some screening, but I noted partial views of the existing caravan, including from rights of way which adjoin the site to the south west and run along the east of the appellant's wider landholding. The extent of visible structure would also be likely to increase given my finding that any caravan would need to be set above flood levels raising its height above the boundary. That said, views would be relatively localised and where the development would be appreciated, this would generally be against the context of the development along Pool Lane including the existing Gypsy and Traveller site and the much larger barn already on the site.

⁴ The Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968

57. Drawing these matters together, the proposal would result in urbanisation and loss of openness which would cause some erosion of the rural quality of the appeal site. However, effects would be limited and localised, and the development would not be an alien or incongruous feature in the wider area. I therefore conclude that there would be only modest harm to the character and appearance of the locality. While modest, this harm would be contrary to Policy QP 3 of the LP and Policy GEN2 of the Hurley and the Walthams Neighbourhood Plan 2017 ('the NP') insofar as they include requirements broadly seeking development that would respect and enhance local character and reflect the character of the landscape.

Climate Change Adaptation and Mitigation

58. Part 1 of Policy SP 2 of the LP specifies climate change adaptation and mitigation measures which are to be incorporated into development. Of these, the measures stipulated at 1 (a.) and 1 (b.) refer specifically to buildings while 1 (c.) refers to buildings along with streets and amenity areas. Given that the appeal scheme does not include these elements, relating instead to change of use of the land and a caravan which the Council's Statement of Common Ground confirms is a structure and not a building, I am not persuaded that these measures would be applicable in this case. Furthermore, the Council has not raised concerns about surface water runoff and I have found that there would be adequate mitigation and resilience measures to river flooding which are the subject of part 1 (d.) of the policy.

59. Part 3 of Policy SP 2 advises applicants to refer to guidance documents and in this respect, the Council has drawn my attention to the Sustainability Supplementary Planning Document 2024 ('the SSPD') which provides detailed guidance and requirements, including in respect of climate change.

60. These requirements include the submission of a Sustainability and Energy Statement ('SES') including, amongst other things, calculation of energy demands and carbon dioxide emissions and proposals to reduce emissions including through use of on-site renewable energy technologies. However, the 'Requirement Boxes' which stipulate requirements for these details to be submitted in a SES indicate that the requirements apply to new residential dwellings and non-residential floorspace over 100sqm.

61. I acknowledge that the proposal would provide for residential occupation on the site, but the appeal seeks permission for change of use of the land, rather than a new residential dwelling. While the Council suggested requirements would apply to caravans, I find no compelling grounds to substantiate this claim contrary to the wording of the SSPD. From the evidence before me, I am not persuaded that the stated requirements in the SSPD for SES and details of energy and carbon calculations should be applicable in this case.

62. In my assessment, the absence of a SES should not therefore weigh against the proposal. Furthermore, I have not been directed to any other policy that would require the proposal to achieve zero carbon. In that context, I find that the failure to demonstrate achievement of zero carbon or to secure a potential financial contribution to carbon offsetting would not be unacceptable.

63. In any event, the SSPD is guidance rather than development plan policy. LP Policy SP 2 does however include requirements for all developments to demonstrate how they have been designed to incorporate measures to adapt to and mitigate climate change and for adaptation measures to be built into new developments. No

separate statement has been provided detailing such measures. However, opportunities to incorporate measures to adapt to and mitigate climate change as part of the structure of any caravan would be likely to be restricted by its essentially 'pre made' nature, and would realistically be further limited by the lifespan of caravans which may also be replaced without comprising development.

64. Moreover, I note that the proposal does include flood resilience measures which take into account climate change. In addition, the PPTS highlights the desirability of providing a settled base for Travellers to reduce the need for long-distance travelling. The appellant's occupation of the site would also be likely to reduce comings and goings that would otherwise be associated with the existing agricultural activity. In these ways, the proposal would make some contribution to adapting to and mitigating climate change as required by Policy SP 2 of the LP.
65. I acknowledge objectives in local and national policy seeking mitigation and adaptation to climate change and moves to a low carbon economy. Nevertheless, I find having regard to the specific circumstances of the appeal development and the evidence before me that the proposal would incorporate adequate measures to adapt to and mitigate climate change meeting requirements within Policy SP 2 of the LP. It would also comply with Policy EP 1 of the LP insofar as it seeks to minimise the impact of development on climate change and the environment.

Other Considerations

66. Although an interested party had suggested that the appellant did not previously lead a nomadic life, the appellant advised at the Hearing that they travel including for work. In any event, the Council has not disputed that the appellant would meet the definition of Gypsies and Travellers in the current version of the PPTS which includes those with a cultural tradition of nomadism or of living in a caravan.

Need for and provision of sites for Gypsies and Travellers

67. Policy HO 4 of the LP sets out that need for Gypsy and Traveller Accommodation will be assessed through the proposed Traveller Local Plan. However, the Council indicate that this was delayed and there are no current allocations to meet needs.
68. The most recent published assessment of need is the Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2021 Update. This identifies a 'cultural need' for 96 pitches which I agree with the main parties would now provide the most appropriate published indication of need having regard to the current PPTS definition of Gypsies and Travellers. I note the appellant's suggestion that actual needs could be higher given the relatively low proportion of existing Gypsy and Traveller households interviewed, but I consider even the published figure to indicate significant need for pitches in the borough.
69. Against the need, I was informed that permanent planning permission has been granted for 4 pitches leaving an unmet need of at least 92 pitches, and the Council accepts that it is unable to demonstrate a 5-year supply of deliverable sites for Gypsies and Travellers as required by the PPTS.
70. Moreover, the information before me indicates that unmet need in the borough has persisted for a considerable period and at least since 2016 when an appeal decision in respect of Land South of Hilarion Cottage, Shurlock Road⁵ was issued.

⁵ Appeal ref APP/T0355/W/15/3029921

The Council refer to work on a Gypsy Site Allocations Plan to address needs with 'issues and options' stage consultation in early 2019, but there appears to have been little if any progress since and the Council were unable to indicate firm timescales for future stages. In my view, the likelihood of an adopted plan coming forward within a reasonable timescale is therefore highly uncertain at best and there appears little realistic prospect that unmet needs will be addressed in the short-term.

71. Against this background, I consider there has been a policy failure in the borough in terms of meeting needs for Gypsies and Travellers. This is consistent with findings in a number of appeal decisions submitted by the appellant, and the Council accepted at the Hearing that there had been no change in circumstances which would justify my reaching a different view.
72. Given the scale of the unmet need for pitches, the lack of a five-year supply and the historic failure of policy to meet needs, the provision of an additional pitch on the site which would contribute towards supply is an important material consideration which attracts significant weight in favour of the proposal.

Availability of Pitches

73. Although an interested party referred to a vacant pitch on the existing Pool Lane Gypsy and Traveller site, the Council was unable to provide information substantiating any existing pitch availability on sites in the area. Nor did it dispute the appellant's evidence referring to waiting lists or low turnover and I have no firm reason to doubt the appellant's position that there are no available pitches that would be suitable to meet their needs.
74. As the Council accepted at the Hearing, there is no duty or requirement on the appellant to provide an alternative sites assessment demonstrating that the appeal site would be the only appropriate site for the development, and the Council itself identified no specific alternative sites in the Borough.
75. From the information before me, there are no other suitable and available pitches that would be available for the proposed occupiers.

Personal Circumstances

76. Article 8 of the Human Rights Act 1998 states that everyone has the right to respect for his private and family life and his home while Article 1 of the First Protocol sets out that a person is entitled to the peaceful enjoyment of his possessions and that no one shall be deprived of his possessions except in the public interest. I am also mindful that where Article 8 rights are those of children, as in this case, they must be seen in the context of Article 3 of the United Nations Convention on the Rights of the Child. The best interests of a child are not a determinative planning issue, but I have regarded no other consideration as inherently more important and I have given no other consideration greater weight in advance of the subsequent assessment of the individual circumstances.
77. In addition, the Public Sector Equality Duty contained in the Equality Act 2010 ('the PSED') sets out the need to, amongst other things, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not. Occupiers of the site would have the protected characteristic of race and I have therefore had due regard to the PSED.

78. The appeal site is occupied by the appellant, his partner and three children including two children under the age of 18. I heard that before coming to the site, the family were on the roadside most of the time and would have no choice but to return to a roadside existence should the appeal be dismissed.
79. This would result in uncertainty for the family and disruption to the education of the two youngest children. I also heard about family members' medical needs. No supporting documentary evidence of these needs has been provided and the appellant referred only to relatively infrequent appointments for check ups, but I am in no doubt that a settled base would provide all occupiers with better access to healthcare and would support their welfare more generally.
80. The benefits of a settled base which would provide a home enabling occupiers to access regular education and healthcare while also facilitating a nomadic way of life would help to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not, and I afford significant weight to the benefit of the proposal for the occupiers including two children.

Other Matters

81. The application has been made retrospectively, limiting opportunities for pre-development assessments of the site. However, while the provision of hard surfacing beyond the area of the Barn Permission site may have resulted in damage to the affected land, this is not part of the proposal that is now before me. The Act provides a right to make retrospective applications and in this case, I have found that planning conditions would offer scope to address potential adverse effects of the development including in respect of flood risk and biodiversity. In this context, the carrying out of unlawful development attracts only limited weight against the proposal.
82. I have taken into account matters raised by interested parties including concerns about whether the barn on the site is in accordance with the Barn Permission; vermin attracted by animal feed, hay and haylage; storage use taking place on the site and land raising, surfacing, drainage and access works that have been carried out. However, these are not matters forming part of the development that is before me in the current appeal.
83. Given the limited extent of those physical works that would form part of the appeal development, noise or disruption during construction would be likely to be limited and of temporary duration, and would not warrant withholding permission. The residential use of the site for a single household would not in itself give rise to undue noise or disturbance that would be detrimental to nearby occupiers' living conditions and there are other mechanisms which exist to deal with potential noise or other nuisance.
84. There is no firm evidence to suggest that the proposal would place undue strain on services or utilities including water supplies, and whether or not connection to utility supplies is authorised would be a matter for the relevant statutory undertaker.
85. None of the other matters raised, either individually or collectively, would result in a level of harm that would justify dismissal of the appeal, and they do not alter my findings on the main issues.

Planning Balance

86. I have found that the proposal would comprise an exception to inappropriate development in the Green Belt. Subject to conditions, it would not unacceptably increase flood risk or cause unacceptable harm to local biodiversity and protected species and there would be adequate provision for BNG. The proposal would also make adequate provision to adapt to and mitigate climate change.
87. However, while there would not be harm to local biodiversity or protected species, the failure to provide an ecological assessment would be contrary to Policy NR 2 of the LP. There would also be harm to the character and appearance of the area resulting in conflict with Policy QP 3 of the LP and Policy GEN2 of the NP. The conflict in these regards weighs against the proposal. The carrying out of the unauthorised development also weighs against the proposal, albeit to a limited degree.
88. On the other hand, the significant unmet need for pitches, the lack of a five-year supply and the historic failure of policy to meet needs along with the absence of alternative pitches for the appellant and their personal circumstances attract significant weight in favour of the proposal. The best interests of two children is also a primary consideration. In my judgement, the cumulative weight of these factors is sufficient to outweigh the harm to the character and appearance of the area, the lack of an ecological assessment and the resulting conflict with the development plan as well as the carrying out of unauthorised development.
89. The proposal would be contrary to the development plan when it is read as a whole, but I find that there are therefore material considerations which justify a decision other than in accordance with the development plan in this case.

Conditions

90. I have considered suggested conditions in light of the discussion and amendments proposed at the Hearing, and against the tests set out in the Framework. Where necessary, I have made minor amendments for clarity, brevity, to save duplication or to ensure compliance with the relevant tests.
91. A plans condition (1) is necessary for the avoidance of doubt and in the interest of certainty. A site development scheme (2) is necessary to provide the Council certainty that development would be implemented on the site in an acceptable way and within a timely manner. It requires details of measures to manage flood risk, means of foul water drainage, external lighting, the internal layout of the site (including provision for parking, cycle parking and refuse and recycling) and provision for BNG which are necessary in the interests of flood risk, biodiversity, the character and appearance of the area, promoting sustainable transport and to ensure adequate provision for occupiers.
92. Condition 2 includes a strict timetable for compliance because permission is being granted retrospectively and so it is not possible to use a negatively worded condition to secure the approval and implementation of the details before the development commences. The condition will ensure that the development can be enforced against if the details are not submitted for approval within the period given by the condition, or if the details are not approved by the Local Planning Authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.

93. The condition includes a 3 month period for submission of the site development scheme. Although there was a suggestion during the Hearing of a longer 6 month period being given, this was in the context of the Council's suggested requirement for further ecological surveys which may be season dependent. Since I have found a requirement for further surveys would be unnecessary, I consider a 3 month period to be reasonable.
94. The Council's suggested conditions included a requirement to show turning space for vehicles, but given the large site area, I am satisfied that turning within the site would be possible and I do not consider it would be necessary to seek details. In addition, a suggested requirement for measures to return the river corridor to a more natural state would be unduly onerous and unreasonable having regard to the development to be permitted. The use of native species in planting for ecology would also be a matter for assessment of any submission. I have therefore omitted these specifics from the site development scheme.
95. A condition to restrict occupation of the site to specific occupiers (3) is necessary because the acceptability of the proposal is due partly to the appellant's personal circumstances and in view of the relationship with the existing agricultural activity on the site. However, the main parties agreed at the Hearing that given the pre-existing site condition, it is not necessary for a condition to also provide for restoration of the site when it ceases to be occupied by those named individuals. As the permission would be personal, it is not necessary to also restrict occupation to Gypsies and Travellers as defined in the PPTS.
96. A condition to restrict the number of caravans on the site (4) is necessary in the interests of certainty as the proposal as submitted justifies only the single caravan applied for. I have also imposed a condition to require that the flood response plan set out in the FRA is implemented (5) which is necessary in the interests of flood risk.
97. In view of my findings on the fifth main issue and the nature of the proposal relating to change of use, a suggested condition to require details of measures to minimise heat loss would be unreasonable and unnecessary and I have not imposed it.

Conclusion

98. For the reasons given above, I conclude that the appeal should be allowed.

J Bowyer

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Unless otherwise amended under the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: Location plan (extent of the site only) and GP/02/24 Proposed Block Plan (received 18 February 2025).
- 2) 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 30 days of the date of failure to meet any one of the requirements set out in i) a. to e., ii), iii) and iv) below:
 - i) Within 3 months of this decision, a 'site development scheme' shall be submitted, including:
 - a. A scheme to manage flood risk, including details of the concrete pad hereby permitted; details to demonstrate how the internal floor level of the caravan and any subsequent replacement will be provided at least 600mm above the flood level of 37.281m AOD; details of how the caravan will be anchored; details of screening to be provided around the void beneath the caravan; a plan for maintenance of the void beneath the caravan for the lifetime of the development to ensure that it remains free of obstructions at all times; and a timetable for implementation.
 - b. Means of foul water drainage of the site including a timetable for implementation and details of ongoing maintenance and servicing arrangements. Drainage shall only include a connection to any watercourse where details demonstrate that this would not adversely affect biodiversity, any protected species and the integrity of the watercourse.
 - c. Details of any proposed external lighting including, where lighting is proposed, a report detailing how it has been designed to avoid adverse effects on wildlife including a layout plan with beam orientation, a schedule of equipment, measures to avoid glare and an isolux contour map showing light spillage to areas of potential importance to commuting and foraging bats and any proposed locations of bird or bat boxes and a timetable for implementation.
 - d. The internal layout of the site, including provision for parking, covered and secure cycle parking facilities and provision for the storage and collection of refuse and recycling, and a timetable for implementation.
 - e. Details of biodiversity enhancements to achieve measurable biodiversity net gain, including a timetable for implementation.
 - ii) If within 11 months of the date of this decision the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

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

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

- 3) The residential occupation of the site hereby permitted shall be carried out only by Lucas Owen and Michaela Smith and their resident dependents.
- 4) No more than one caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, in residential use shall be stationed on the land at any time.
- 5) The requirements of the Flood Response Plan forming part of the Flood Risk Assessment (Job Number 1093.1, May 2024) prepared by Flume Consulting Engineers shall be adhered to at all times whilst the site is in use.

End of Schedule

APPEARANCES

FOR THE APPELLANT:

Alan Masters	Counsel
Tony White	White Planning
Tom Quigg	Flume Consulting Engineers
Lucas Owen	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Maria Vasileiou	Royal Borough of Windsor and Maidenhead
David Brett	Royal Borough of Windsor and Maidenhead
Sam Cox	Environment Agency
Lesley Sproat	Environment Agency

DOCUMENTS SUBMITTED AND ACCEPTED AT THE HEARING

BY THE APPELLANT

- APP1 Appeal decision ref APP/M3645/W/23/3331609 Land North of Effingham Road.
- APP2 Appeal decision refs APP/P0240/W/22/3291001, APP/P0240/C/24/3346787 and APP/P0240/C/24/3346788 The Huts Thorncote Road.
- APP3 Note dated 17 February 2025 titled 'BNG Pool Farm'.
- APP4 Proposed Block Plan GP/02/24, 18 February 2025.