



Appeal Decision

Site visit made on 7 July 2025

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11TH August 2025

Appeal Ref: APP/J1860/W/25/3363238

Hillbee Farm, Welland Road, Upton Upon Severn WR8 0SN

- 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 Finney against the decision of Malvern Hills District Council.
 - The application Ref is M/23/01701/FUL.
 - The development proposed is additional mobile homes on existing Gypsy site, erection of stable block, siting of shipping container and associated development.
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Decision

1. The appeal is allowed and planning permission is granted for four additional pitches to include a static caravan and a touring caravan on each pitch and, the erection of a stable block, siting of a shipping container, and associated development at Hillbee Farm, Welland Road, Upton Upon Severn WR8 0SN in accordance with the terms of the application, Ref M/23/01701/FUL, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by the appellant against the Council. This is subject of a separate decision.

Preliminary Matters

3. I have altered the description of the development set out in the formal decision to that used on the Decision Notice and appeal form, as it more accurately describes the development being permitted.
4. The proposal before me is for four additional Gypsy and Traveller pitches. There is no dispute between the parties regarding the Gypsy status of the appellant. The proposal does not include any changes to the existing pitch. Any matters relating to the lawfulness of the existing pitch would be outside the remit of this appeal and would need to be addressed by the Council separately.
5. On my visit I saw that the stable block has been constructed, the hardstanding comprising a stone track has been extended and there was an additional mobile home on the site. From my observations the development appeared to broadly reflect the submitted plans, except for the position of the additional mobile home. While the additional mobile home was in a similar position to the one that would serve proposed Pitch No. 2 on the proposed site layout plan¹, it appeared to be

¹ Drawing No: 2400025/02A

closer to the boundary fence than the 3 metres indicated. For the avoidance of doubt, I have determined the appeal on the basis of the submitted plans.

Main Issue

6. The main issue in this appeal is the effect of the proposal on the living conditions of the occupants of nearby dwellings, with particular regard to noise and disturbance.

Reasons

7. The appeal site is located on the A4104 Welland Road, not far from the village of Tunnel Hill. Although it is located outside of the built-up area associated with the village, there are residential properties close by, including a group of 6 houses. The appeal site lies adjacent to this group of houses and shares a boundary with the rear gardens serving West Bank Gables and 1 West Bank.
8. The proposal would increase the number of pitches on the appeal site from 1 to 5. This would result in a density of around 10 pitches per hectare, which would not be dissimilar from the density of the adjacent group of houses. The pitches, stables and outbuildings, including the shipping container, would be fairly evenly spread across the site with an adequate amount of space between them and around them not to feel or appear cramped.
9. It has been brought to my attention that the proposed pitches do not include an amenity building as recommended in the Government's Designing Gypsy and Traveller Sites Good Practice Guide (2008). Nonetheless, this is not a policy requirement and, although the 2008 guidance provides a useful guide to assessing Gypsy and Traveller sites, it has been withdrawn.
10. The Council refer to the advice set out in the South Worcestershire Design Guide Supplementary Planning Document Overarching Design Principles (2018) (Design SPD) regarding the provision of 20 sq. metres of usable garden space per bedroom. While this is a useful guide, this standard appears to relate to houses, and in particular rear extensions to houses, rather than Gypsy and Traveller sites.
11. The proposal includes a communal play area, as well as grassed areas around the mobile homes on proposed Pitches Nos. 3, 4 and 5, and a larger grassed area adjacent to the stables. The submitted plans do not show a grassed area around the mobile home on proposed Pitch No. 2. Nonetheless, the total amount of amenity space across the site would be sufficient to provide drying space for washing, play areas for children, as well as areas for sitting and relaxing outside. The proposal also includes two parking spaces per pitch, as well as a touring caravan storage area.
12. From the evidence before me and my observations on site, there is nothing to demonstrate that the proposal would amount to an overdevelopment of the site. The proposed development would be a similar scale to the adjacent group of houses, and modest in terms of the community of Tunnel Hill. It would therefore not dominate the settled community nor place undue pressure on the local infrastructure.
13. The proposal would result in an increase in activity on the site, as well as an increase in comings and goings to and from the site. From my observations during my visit, the appeal site and surrounding area is reasonably quiet. However, the

background noise arising from the vehicle movements on the A4104 is frequent, which diminishes the sense of tranquillity.

14. West Bank Gables and 1 West Bank do not have overlong gardens separating them from the appeal site, and I appreciate that, despite being set back from the boundary, the mobile home on proposed Pitch No. 2 would be reasonably close to these houses. Taking this into account, any addition to the movement patterns and increase in activity on the appeal site, especially those associated with proposed Pitch No. 2, would likely result in an increase in noise and disturbance to the occupants of the adjacent houses. As would the use of the shipping container, which is also positioned close to the boundary with the neighbouring houses.
15. Nevertheless, while I appreciate that there would be no control over where on the site the additional activity would take place, the remaining 3 pitches, Nos 3, 4 and 5 would be positioned quite a distance from the adjacent houses on the other side of the existing pitch and bungalow. The increased level of activity in close proximity to the adjacent dwellings would therefore be limited. Furthermore, the absence of a grassed area to serve Pitch No. 2 would likely discourage some activities, such as play, from taking place on this pitch, which would reduce the amount of activity taking place in close proximity to the adjacent houses.
16. Given this, and that it would not be uncommon for some level of noise and disturbance to arise from the activities and comings and goings associated with the adjacent houses, I am of the view that the increase in noise and disturbance arising from the proposal would not be to such a degree that it would result in harm to the living conditions of occupants of the neighbouring houses.
17. Accordingly, the proposal would not conflict with Policy SWDP 17 of the South Worcestershire Development Plan (2016) (Local Plan), which sets out a number of criteria that proposals for Gypsy and Traveller sites should be assessed against, including whether there is any significant impact on privacy and residential amenity for both site residents and neighbouring properties.
18. Policy SWDP 21 of the Local Plan seeks to ensure that all development provides an adequate level of privacy, outlook, sunlight and daylight, and would not be unduly overbearing. The policy does not refer to noise and disturbance and therefore is not directly applicable in this regard.

Other Matters

19. I have taken careful account of the representations of those who live and own land nearby, including concerns regarding the accessibility of the appeal site, as well as the effect of the proposal on highway safety, surface water flooding and the living conditions of the occupants of the adjacent properties, with specific regard to outlook and privacy.
20. Planning Policy for Traveller Sites (PPTS) does not prohibit Traveller sites in rural areas. The appeal site is not located away from existing settlements, rather it is located close to the village of Tunnel Hill and not too far from Welland and Upton Upon Severn. The proposal would therefore help support the local services and vitality of these rural communities.
21. Given the lack of any footway or street lighting between the appeal site and the nearest settlements or public transport services, it is more than likely that future

occupants of the proposal would access nearby facilities and services by private vehicle. Nonetheless, the PPTS does not require local services and facilities to be accessible by foot, and the Planning Policy Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. I am also mindful of the needs and aspirations of the traveller community, which bears a general preference for sites in rural or semi-rural areas and a traditional lifestyle that involves a travel pattern that is not normally supported by planned public transport routes. Given this, I am of the view that, despite the limited accessibility of the appeal site by more sustainable forms of transport, future occupants of the proposal would have reasonable access to health services, schools and employment.

22. In terms of whether the existing access would be suitable and safe for the proposal, in this case, the Council consider it to have been indicated and justified that acceptable visibility can be provided in both directions from the site access onto the A4104 that is suitable for the proposed use. The splays provided in both directions are compliant with the guidelines set out in the Worcestershire County Council Streetscapes Design Guide (2022). The Highways Authority has no objection to the proposal, subject to conditions. From the evidence before me and my observations on site, I can find no reason to disagree.
23. I note the planning history of the appeal site and appreciate that several previous applications at the site have been refused due to a lack of safe and suitable access. I have carefully considered the technical evidence provided in this regard, including the Access Review prepared by The Hurlstone Partnership², the Technical Note prepared by Rappor Consultants Ltd³, and the peer review undertaken by Firlands Transport Planning⁴, as well as the representations of the Highways Authority.
24. During my visit, I observed that vehicle movements are frequent, but not constant, with some significant gaps between passing vehicles. While the speed surveys informing the technical evidence were undertaken some time ago, there is no substantive evidence before me to indicate or demonstrate that the speed of the traffic on the A4104 would have increased by any significant degree since 2019. I am also mindful that the speed limit of the road is 40 mph.
25. Given this, I consider the absolute minimum visibility splays measuring 85 metres to the west and 118 metres to the east to be a reasonable requirement. In coming to this view, I have taken into account that the number of additional trips would not be significant, and that the proposal would use an existing vehicle access with no evidence of a highway safety problem.
26. From the evidence before me and my observations on site I am satisfied that the absolute minimum visibility splays could be achieved. Although sensitivity checking of the visibility splays found that the achievable distance to the east falls to 106 metres for the 0.6 metre vertical threshold, this could be addressed by regrading or lowering the verge embankment. The Council and Highways Authority have indicated this to be within the publicly maintained highway and, as such, the works could be secured by condition.

² Access Review, Proposed Residential Gypsy/Traveller Pitches at the Hillbee Farm, Welland Road, Upton on Severn, Worcestershire, WR8 0SN, Reference: JPH/231101/D2, dated December 2023, prepared by The Hurlstone Partnership.

³ Technical Note, Hillbee Farm, Welland Road, Upton-upon-Severn, dated September 2024, prepared by Rappor Consultants Ltd.

⁴ Peer Review – Application M/23/01701/FUL, The Hillbee Farm, Welland Road, Upton Upon Severn, WR8 0SN, Job Reference: 24/080, Document Reference: TN01, dated 25th November 2024, prepared by SJH of Firlands Transport Planning.

27. Notwithstanding this, I am of a similar view to the Council, that a condition, in this regard, would not be necessary. I have found that it would be unlikely for future occupants of the proposal to access services and facilities by foot. The Council's Committee Report explains that the technical breach in visibility would only occur for a brief period when a child is standing at the 2.4m setback position and the approaching car is over 100m away. For many reasons, not the least that it would be unlikely for a small child to be walking unaccompanied on the grass verge, the likelihood of the situation arising is very limited. Moreover, if it did arise, a driver would have sufficient time to slow down or stop in the event that the child entered the carriageway. While further concerns have been raised that, in general, the visibility splays would be obstructed by pedestrians using the verge, the likelihood of the verge being used by pedestrians is reasonably low. Pedestrian movement within a visibility splay is not uncommon. Furthermore, pedestrians are unlikely to be static, especially in this location, and a driver would simply need to wait until their view was unobstructed before pulling out onto the A4104.
28. Overall, from the evidence before me and my observations on site, I am satisfied that the proposal would provide safe and suitable access and would not result in an unacceptable impact on highway safety or a severe impact on the road network.
29. The appeal site is located within Flood Zone 1 and there is no substantive evidence before me that it is vulnerable to surface water flooding or that the proposal would result in unacceptable effects in this regard. In any event, foul and surface water drainage systems could be secured by condition.
30. I am of a similar view to the Council that, given the proposed caravans would be single storey and set back from the boundary with the adjacent houses, the proposal would not result in the opportunity for any harmful overlooking, or any adverse impacts in terms of overbearance to the neighbours at West Bank Gables.
31. In terms of No. 1 West Bank, the shipping container would not be visible from the garden or ground floor windows, as it is screened by the new boundary fence on the appeal site. I saw on my visit that the new boundary fence is taller than the existing fence and trellis and, as such, the top half of the new boundary fence can be seen above it. Although this increases the sense of enclosure of the garden space to a degree and reduces the openness of the outlook, the fence is not overbearing and helps maintain the privacy for the occupants of both sites, which has also been raised as a concern. Overall, while the outlook would change, the effect would be limited, as would any effect on the amount of light received by the rear windows and garden space and neither would be to such a degree that it would result in harm to the living conditions of the occupants of No. 1 West Bank.
32. It has been brought to my attention that the appeal site was not included in the Regulation 19 consultation version of the South Worcestershire Traveller and Travelling Showpeople Policy and Site Allocations Development Plan Document (DPD) after having been referenced as a potentially deliverable site during the preparation of the document. Nonetheless, while I do not have a copy of the DPD before me, the appeal sites removal from the document does not, in itself, demonstrate that the site is not suitable for the proposed use.
33. Interested parties have raised concerns regarding the behaviour of the current occupants of the appeal site, including persistent dog barking, foul language,

amplified music, litter, illegal fires and the operation of a construction business, as well as harassment and criminal damage. I sympathise with anyone experiencing anti-social behaviour towards them and appreciate the adverse impact it could have on someone's mental health and well-being. Nevertheless, although many of the interested parties have referred to numerous incidents of anti-social behaviour being reported to the police and well documented by the authorities, there is no substantive evidence before me to demonstrate this or that any incidents would not be appropriately dealt with by relevant enforcement agencies.

34. It has been put to me that the unauthorised development currently on the site raises concerns of future unauthorised development, such as the conversion of the stables into a dwelling. Nonetheless, while there is evidence that some unpermitted development has taken place on the appeal site, the breaches have been reasonably minor. The planning history shows a persistence to obtain permission for development on the site and the application subject of this appeal seeks to regularise any currently unauthorised development, including the new boundary fencing. I therefore afford this limited weight in my decision.
35. The Council has no concerns regarding the welfare of the horses as it has been clarified by the agent that they graze on a different field and will not be kept on the site full time. From the evidence before me and my observations on site, I can find no reason to disagree.
36. However, the Council has raised concerns regarding the storage of manure from the stables. In my view it is most likely that it would be stored close to the stable block, which is on the other side of the appeal site to the adjacent houses. In any event, the exact storage arrangements could be secured by condition.
37. The blocking of driveways or any damage to property resulting from the proposal would be a private matter between the parties involved.

Conditions

38. The Council has suggested 5 conditions be imposed on any grant of permission, which I conclude on below. In imposing conditions, I have had regard to the approach in the Framework and the Planning Practice Guidance. I have accordingly modified the wording or form of certain conditions without altering their fundamental aims. The numbers in brackets (x) refer to the conditions being imposed, with the order being prescribed by the time when the condition needs to be complied with.
39. In addition to the statutory time limit condition (1), a condition specifying the plans that are approved, and that the development shall be undertaken in accordance with them (2) is required in the interests of certainty. For the same reason and to protect the living conditions of future occupants of the site and occupants of nearby houses, conditions setting out the total number of pitches (4) and caravans permitted on the site (5), and the arrangements for manure storage (7) are also necessary.
40. The site is justified for occupation by those meeting the definition of Gypsies and Travellers and so a condition restricting occupancy accordingly will be required (3).

41. To be certain that the development does not increase flood risk on or off the site, a condition is required to ensure that the development includes adequate foul and surface water drainage systems (6).
42. The Highways Authority have suggested some further conditions regarding visibility splays and cycle parking. Nonetheless, the existing access can achieve the required splays, which the Council and Highways Authority have indicated cross the publicly maintained highway. Also, given the nature of the development and the highway conditions, it is unlikely that the occupants of the site would cycle to local facilities and services. In any case, there is sufficient space on the site to store bicycles if needed. These conditions are therefore not necessary to make the proposal acceptable.

Conclusion

43. I have found the proposal would not harm the living conditions of the occupants of nearby dwellings in terms of noise and disturbance and would accord with the development plan read as a whole. It has not been demonstrated that there are any material considerations of sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore allowed, subject to the conditions set out in the attached schedule.

Hannah Guest

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the information provided on the application form and the following approved plans: P1 Rev 1 Elevations and Plan View; 2400025/03 Site Location Plan; 2400025/02A Proposed Site Plan.
- 3) The site shall not be occupied by any persons other than Gypsies and Travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites 2024 (or its equivalent in replacement national policy).
- 4) There shall be no more than 5 pitches on the site.
- 5) No more than 10 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 5 shall be static caravans) shall be stationed on the site at any time.
- 6) Prior to first occupation of the development hereby permitted, all foul and surface water drainage systems to serve the development shall have been provided in accordance with details previously submitted to and approved in writing by the Local Planning Authority. Thereafter the foul and surface water drainage systems shall be maintained in accordance with the approved details.
- 7) Unless within 1 month of the date of this decision a scheme for the storage of manure is submitted in writing to the Local Planning Authority for approval, and unless the approved scheme is implemented within 2 months of the Local Planning Authority's approval, the use of the stable block hereby permitted shall cease until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 4 months of the date of this decision, the use of the stable block shall cease until such time as a scheme approved by the Local Planning Authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained in accordance with the approved details.

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.