



Appeal Decision

Site visit made on 12 August 2025

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2025

Appeal Ref: APP/Q3115/W/25/3365899

Land known as Field Adjacent to Burial Ground, Driveway off B4526, Reading Road, Goring, Oxfordshire RG8 0LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr N Rogers against the decision of South Oxfordshire District Council.
 - The application Ref P25/S0178/DIS sought approval of details pursuant to conditions 4, 5 and 6 of a planning permission granted at appeal under Ref. APP/Q3115/W/3336646 for change of use of land for mixed use of equestrian and residential, through the formation of 1 No. Gypsy/Traveller pitch providing 1 Static Caravan/Mobile Home and 1 Touring Caravan, alongside ancillary development.
 - The application was approved in part and refused in part by notice dated 7 May 2025.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission was granted for the development in the banner heading above, subject to conditions 4, 5 and 6 that require the submission of a Site Development Scheme (SDS), Biodiversity Compensation Scheme (BCS) and Contamination Risk Assessment (CRA) to the Council within 4 months of the decision. The SDS and BCS were submitted in time, but the CRA was not. As such, condition 6(i) therefore appears to have been breached.
3. Nonetheless, the Council confirmed in its decision notice dated 7 May 2025 that the CRA was satisfactory and it has fully discharged Condition 6. Consequently, my focus in this appeal is on the SDS and BCS submitted pursuant to Conditions 4 and 5, which the Council refused to discharge.
4. The appellant's appeal statement responds to the Council's refusal notice and includes a letter from Scottish & Southern Electricity Networks (SEN) outlining the costs of providing a mains electricity connection. The Council and interested parties have had an opportunity to consider those details and make comments upon them. Accordingly, no prejudice would be caused if I were to do the same.
5. The SDS drawing shows a small tool shed close to the Mobile Home. However, the approval makes no reference to this operational development and Condition 9 removes national permitted development rights for buildings. The shed would therefore require planning permission and should be removed from the SDS drawing.

Background and Main Issues

6. The appeal development is located within the countryside and the Chilterns National Landscape (CNL). Section 245 (Protected Landscapes) of the Levelling-up and Regeneration Act 2023 (LURA) places a duty on decision makers to seek to further the statutory purposes of a Protected Landscape such as the CNL.
7. In this context, the previous Inspector reasoned that it was necessary for operational development, landscaping, external lighting and other related matters to be provided and/or controlled through the SDS, including the delivery of significant native hedgerow and tree planting to better assimilate the site into its surroundings and ameliorate longer and shorter distance views of the appeal development¹. He concluded that subject to such controls being secured there would be only limited harm to the character and appearance of the area, and a minor level of harm to the scenic beauty of the CNL².
8. The Inspector also found that noise from running the on-site electricity supply generator was unacceptably harmful to the amenity of occupiers of the nearest dwellings during quiet periods³. Therefore, the SDS secures a timetable for the disconnection and permanent removal of any/all generator(s) from the site, and a connection to mains electricity. The BCS under condition 5 was imposed to ensure that the development causes no net loss of biodiversity.
9. Assessed against the background of the Inspector's decision and the evidence before me, the main issues in this appeal are whether the details submitted pursuant to Conditions 4 and 5 should be approved, having regard to:
 - The effect on the character and appearance of the area, including the CNL.
 - The effect on the living conditions of the occupiers of the nearest dwellings, with particular regard to the external lighting of the development and noise from the electricity generator.
 - Biodiversity.
10. In determining this type of appeal, it is not for me to question whether the conditions meet the tests for conditions in the National Planning Policy Framework. I am required to consider whether the submitted details should be approved.

Reasons

Character and appearance, and living conditions

11. The planning permission permits a single touring caravan on the development site. I share the view of the appellant that it could be uncoupled from the towing vehicle and manoeuvred through the gates 'by hand'. Consequently, I do not find the SDS site layout to be unsatisfactory in that regard.
12. Aside from the manoeuvrability of a touring caravan, the Council raises no objection to the internal layout of the site shown on the SDS drawing, including the full extent of the proposed residential pitch, the location of the mobile home, hard-standings, septic tank, soakaway, boundary treatments and internal means of enclosure. Having regard to the Inspector's reasons for controlling those aspects

¹ Paragraphs 36 and 38 of appeal decision APP/Q3115/W/3336646

² Paragraphs 40 and 55 of appeal decision APP/Q3115/W/3336646

³ Paragraphs 42 and 43 of appeal decision APP/Q3115/W/3336646

of the development⁴, I am satisfied that the details on the SDS drawing, insofar as they relate to Condition 4(i)a. would sufficiently control and limit the spread of the approved development to the northeastern corner of the field. Accordingly, those details are satisfactory.

13. The Inspector heard during the Inquiry that the appeal site was accurately described by the Council's evidence⁵ as within the defined Chilterns Escarpment Character Area. Whilst I was not a party to that evidence, it is apparent from my visit that the baseline condition of the appeal site as a tranquil field would have been consistent with the rural character and appearance of its surroundings.
14. In respect of Condition 4(i)b. the Inspector clearly had in mind the visibility of the appeal development and its urbanising effect in the landscape in both shorter and longer distance views through gaps in the boundary planting⁶. He identified the need for significant native hedgerow and tree planting to infill those gaps and ameliorate those views of the development. Having seen for myself the gaps in those boundaries through which the development shown on the SDS drawing would be visible, I share the Inspector's conclusion on the need for hedgerow and tree planting. I saw that the mobile home on the land was visible in views through gaps in the front and side boundaries.
15. Whilst the Council had no objection to the written details of the proposed landscaping, the locations of the proposed hedgerow planting and trees were not shown on the SDS drawing. Therefore, it had not been demonstrated with sufficient precision that those gaps in the boundaries would be infilled by significant native hedgerow and tree planting, as the Inspector had clearly stated would be necessary to make the development acceptable.
16. The appellant sought to rectify this deficiency through the appeal submission by showing, on a partial extract of the SDS drawing in the Statement of Case⁷, some trees and a line of hedgerow planting along the eastern boundary, and trees either side of the site entrance. However, the partial extract of the SDS drawing does not show any new hedgerow planting to infill the gaps in the northern boundary, or any new hedgerow planting or new trees to infill gaps along the boundary with the burial ground.
17. Consequently, I cannot be satisfied that gaps would not remain in those boundaries through which the urbanising development shown on the SDS drawing would be clearly visible. Therefore, the submitted planting details are insufficient to better assimilate the site development into its surroundings and ensure there would be only limited harm to the character and appearance of the area, and a minor level of harm to the scenic beauty of the CNL. It follows that without sufficient mitigation planting to those boundaries, the development in the SDS would have a greater magnitude of harm to the character and appearance of the area, and the scenic beauty of the CNL, than envisaged by the previous Inspector. The photographs showing a planting scheme on a different site are of limited relevance to my considerations in this appeal.
18. The main parties disagree over the duration of the management of planting in the SDS. Condition 4(i)b. requires the SDS upon approval to be retained and any soft

⁴ Paragraph 36 of appeal decision APP/Q3115/W/3336646

⁵ Paragraph 31 of appeal decision APP/Q3115/W/3336646

⁶ Paragraph 31 of appeal decision APP/Q3115/W/3336646

⁷ Paragraph 2.25 of Appellant's Statement of Case.

landscaping so planted that dies, becomes seriously damaged or destroyed within 5 years of the completion of the development, to be replaced. Any of the planting in the SDS that also forms part of the BCS would have to be maintained in accordance with the BCS. I shall return to this matter below.

19. In respect of Condition 4(i)c. the Inspector clearly found it necessary for external lighting to comply with an E1 Environmental Management Zone. Specifications for all lighting equipment and isolux diagrams showing the spread of light overlaid over the site and adjacent areas as required by the condition have not been submitted. As such the SDS lacks the necessary technical evidence to demonstrate that it would comply with the requirements of Condition 4(i)c.
20. In that context, I am unconvinced by the appellant's assertions that there would be very little light spill and that light would not intrude into the rural surroundings, which lack substance. It follows that the details pursuant to Condition 4(i)c. are insufficient to demonstrate that external lighting would contribute to minimising harmful effects on the character and appearance of the area, including the CNL, and avoiding unacceptable effects on the amenity of occupiers of neighbouring properties. I see no reason why a lighting scheme that complies with the terms of the condition could not be deliverable on the appeal site.
21. There appears to be no dispute that the details of the groundworks to provide for a connection to the mains electricity service, pursuant to Condition 4(i)d. are satisfactory, and I see no basis to consider otherwise.
22. In respect of Condition 4(i)e. SSEN have formally offered to supply mains electricity to the property with a planned completion date described as a maximum of 3 months from acceptance of the offer. A minimum of 28 days should also be allowed for installation of the electricity meter. Based on the timescales given by SSEN, it would appear highly probable that mains electricity could be supplied to the appeal property within a period of 6 months, allowing a contingency for any unforeseen delays, including some that fall within the control of the appellant and others that do not, such as faults in the distribution network. This would enable the disconnection and permanent removal of the generator(s) from the site in as short a period as reasonably possible, thus ending their persistent and unacceptably harmful noise effects on the occupiers of neighbouring properties.
23. The timetable for implementation of the SDS pursuant to Condition 4(i)c. would not have been objectionable if it had been found to be acceptable in all respects.
24. Whilst some elements of the SDS are satisfactory for the reasons given above, the landscaping details and external lighting do not accord with the requirements of the condition and are insufficient to ensure that the development would (i) satisfactorily assimilate with its surroundings, ameliorate views of the development and minimise its harmful effects on the character and appearance of the area, including the CNL, and (ii) avoid unacceptable effects on the living conditions of the occupiers of the nearest dwellings. Consequently, the SDS when taken as a whole is unacceptable, and should not be approved.

Biodiversity

25. The appellant has submitted further details of the BCS in their appeal statement, including the seed mixture of the wildflower meadow, details of ground preparation and ongoing management. However, there is no quantitative element to the BCS.

26. Whilst not explicit to the wording of Condition 5, in order to demonstrate that the development would not result in a net loss of biodiversity, some form of quantitative assessment appears more than likely to be necessary and is lacking from the appellant's BCS. For example, some form of metric would be needed to compare the appeal site's baseline biodiversity value with that of its developed condition in the SDS drawing, and the biodiversity value of any new habitat needed to balance out their different values and avoid a net loss.
27. Nonetheless, even if I was to accept that a qualitative assessment would be sufficient to inform the BCS, there can be no doubt that the condition requires the BCS to have been prepared by a qualified ecologist. This is unsurprising given that an expert level of knowledge of the subject matter would be needed to properly evaluate the development's effect on the site's biodiversity value, along with the actions necessary for the creation, implementation and ongoing management of any new habitat that is required to avoid a net loss in biodiversity.
28. As it has not been demonstrated that the BCS has been prepared by a qualified ecologist, I cannot have sufficient confidence that the development on the SDS drawing would not result in a net loss of biodiversity. A BCS prepared by a qualified ecologist could also take account of the effect of the existing stable (as described by the Council) in the northwest corner of the site.
29. For those reasons, the BCS is not acceptable and should not be approved.

Other Matters

30. Based on the sanctions in the disputed conditions the dismissal of the appeal places the appellant at risk of enforcement action by the Council. Such action could place them at risk of losing their home on the appeal site. That would represent a significant level of interference with their rights under Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998, which include the right to a person's peaceful enjoyment of possessions including property, and respect for family and private life, home and correspondence.
31. I have also had regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which includes having due regard to the need to eliminate unlawful discrimination and to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, and to foster good relations between them. Gypsies share a protected characteristic for the purposes of the PSED.
32. Conditions 4 and 5 sought to control the development to make it acceptable in the public interest through securing mitigation that would reduce and minimise its harmful effects on the character and appearance of the area, including the scenic beauty of the CNL, avoid unacceptable impacts on the amenity of occupiers of neighbouring properties, and ensure no net loss of biodiversity. Those are legitimate aims of the planning policies referred to by the previous Inspector, who also had a duty under the LURA to seek to further the statutory purposes of the CNL.
33. As the SDS and BCS are unsatisfactory the development's harmful effects on the character and appearance of the area, the scenic beauty of the CNL, and the living conditions of occupiers of nearby properties would not be adequately mitigated.

Consequently, the magnitude of those harmful effects would be greater than those found to be acceptable by the Inspector in granting planning permission for the development, including in having regard to the statutory duty in the LURA, and it has not been demonstrated that there would be no net loss in biodiversity.

34. The inadequate SDS and BCS therefore lead me to conclude that the harmful effects of the development are determinative in this instance and justify the dismissal of the appeal. The potential consequences of dismissing the appeal in terms of interfering with the Article 1 and Article 8 rights of the appellant and his family under the HRA, and not advancing equality of opportunity under the PSED, would be proportionate in this instance.

Conclusion

35. For the reasons given above, the submitted details are not sufficient or acceptable for the details reserved by conditions 4 and 5 to be approved having regard to the requirements of the conditions, the reasons why they were imposed, the nature of the development, and the submissions of the parties. I conclude that the appeal should be dismissed.

G Sylvester

INSPECTOR