



Appeal Decision

Hearing held on 16 September 2025

Site visit made on 16 September 2025

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th September 2025

Appeal Ref: APP/M2372/W/25/3364334

Land at Hall Moss Farm, Bolton Road, Darwen BB3 2TT

- 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 Thomas Young against the decision of Blackburn with Darwen Borough Council.
 - The application Ref is 10/24/0512.
 - The development proposed is the change of use from agriculture to gypsy caravan site with 6 number plots. Each plot to have utility block, porous stone hardstanding and associated fencing.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of the hearing, four of six plots were occupied, and it was common ground between the main parties that works undertaken on site did not accord with the plans submitted with the application that are before me. For clarity, I have assessed the proposals based on the plans submitted with the application that are before me.

Main Issues

3. The main issues are:
 - Whether the appeal site represents an appropriate location for the proposed development, having regard to the spatial strategy for the area and the accessibility of services and facilities;
 - The effects of the proposed development on the character and appearance of the area;
 - The effects of the proposal on highway and pedestrian safety with particular reference to the proposed access;
 - The effects of the proposal on natural habitats and biodiversity; and
 - Whether any harm arising from the proposed development would be outweighed by other considerations.

Reasons

Location

4. The appeal site lies beyond any development boundary and is classified as open countryside within the Blackburn with Darwen Local Plan (2024) (LP). Policy CP2 of the LP sets down the spatial strategy for the area, and broadly what types of development might be acceptable in the countryside. The appeal proposal does not fall within any of the circumstances and types of development deemed acceptable.
5. Policy DM04 of the LP relates specifically to assessing planning applications for Gypsy, Traveller and Travelling Showpeople Sites including those on unallocated sites. It says, amongst other things, that the broad location of sites will have good access to local services and facilities (criterion i) and primarily be located in urban areas (criterion ii). It then lists four further criteria that a sites specific location would be assessed against. Criterion v, says amongst other things, that sites should be in reasonable proximity to public transport accessibility, and prioritise walking and cycling.
6. In respect of its broad location, the appeal site is not within an urban area, but the inclusion of the word 'primarily' does not preclude sites outside of urban areas. This would be consistent with the provisions in the Planning Policy for Traveller Sites (PPTS) (2024) where Policy C indicates that some sites may be located within a rural setting, whilst ensuring that they do not dominate the nearest settled community. However, in the case of the appeal site, it is located within an upland and exposed landscape, accessed by a long rough track from the settlement. As such, although it is not far from Darwen, I find the site constitutes "open countryside that is away from existing settlements" where paragraph 26 of the PPTS seeks to very strictly limit new traveller sites.
7. Turning to whether the site has good access to services and facilities, the appeal site is not located far from the settlement Darwen, which is one of the key urban areas containing numerous services and facilities. Although it is not far from the settlement edge, it is accessed by an unlit, long, narrow and in parts steep, rough track such that, I consider that there would be a general reliance on private motor vehicles to access local services and facilities.
8. Journeys made by car to Darwen would be reasonably short. Moreover, accessibility needs to be considered in the context that members of the travelling community are generally reliant on vehicles wherever they live given their lifestyle. Additionally, in broader sustainability terms, a settled base can reduce incidents of unauthorised encampments, reduce the need for continuous travel and facilitate consistent access to schools and medical services. These elements moderate the extent of harm from the appeal site's location. However, there would still be harm nonetheless, and an ensuing policy conflict in respect of criterion i), ii) and v) of Policy DM04. The absence of harm in relation to criteria iii), iv) and vi) does not alter or outweigh the conflict with the other three criteria and thus Policy DM04 when taken as a whole.
9. I therefore find that the appeal site does not represent an appropriate location for the proposed development, having regard to the spatial strategy for the area and the accessibility of services and facilities. As such, I find conflict with the requirements of Policies Policy CP2 and DM04 of the LP and the provisions of the

PPTS, when taken together and in so far as they relate to this main issue. These say, amongst other things that outside villages, within the designated countryside areas, the amount of new development will be tightly limited.

Character and appearance

10. The appeal site was previously an open parcel of land and is located within an upland landscape above Darwen. The site, prior to works, and its immediate surroundings are characterised by a combination of open and exposed grassland, blanket bog, plantations, and sporadic farm holdings. The topography around the appeal site and these landscape features creates a large-scale landscape with panoramic views.
11. An extensive network of public rights of way passes through the area, including on three sides of the appeal site where the site is prominent. The site is also highly visible in longer views of the upland landscape from across the valley, such as along Cranberry Lane.
12. The proposed development would include static mobile homes, utility blocks and extensive areas of formal hard surfacing. In addition, the visible manifestations associated with the intensification of the site as part of its residential occupation, would include extensive fencing, lighting, and various domestic accoutrements that are associated with permanent occupation. I accept that the design and layout of the scheme before me is typical of a gypsy and traveller site and there are isolated sporadic properties located within this part of the landscape. Even so, the accumulation of development, and the size of the site, would significantly erode the open character and scenic qualities of this part of the upland landscape.
13. The appellant proposes additional landscaping. However, full details are not before me. The proposed site layout plan shows laurel or other hedging along the frontage with the access track. However, a laurel hedge would be a type of planting that would be at odds with the prevailing planting within this upland landscape. Even if alternative planting, were proposed this would take time to establish, and it would not fully mitigate my concerns given the size of the site, its elevated exposed landform and the extent of intrusion into the upland landscape. Instead, the extent of fencing and its height, surrounding the site and dividing each of the plots, would in combination with the development and associated use, result in an overtly urbanising feature. This would be at odds with the exposed open qualities of the upland landscape.
14. I have been referred to a site that is visible from the appeal site where numerous caravans are stationed. However, I have little information before me regarding the circumstances that led to its existence. From my observations, the site forms part of a commercial enterprise with other large utilitarian buildings. It is positioned on a lower ground level surrounded by numerous trees and does not form part of the same open and exposed upland landscape as the appeal site. In this regard, whilst it does intrude into the countryside from views from the appeal site, this does not justify the harm I have identified from the appeal scheme.
15. To conclude on this main issue, the proposed development would have a harmful effect on the character and appearance of the area. Accordingly, it would not accord with Policies CP8, DM22, and DM27 of the LP, or paragraphs 135 and 187 of the National Planning Policy Framework (2024) (the Framework), when taken together and in so far as they relate to this main issue. These say, amongst other

things, that development likely to affect landscapes or their key features will only be permitted where there is no unacceptable adverse impact (either in isolation or cumulatively) on them. The level of protection afforded will depend on the quality, importance and uniqueness of the landscape in question.

Highway and pedestrian safety

16. The appeal site is accessed from a single access point onto Whitehall Road. The Council are concerned about the visibility from this point, which they consider to be substandard. The appellant has not disputed the Council's concerns regarding the extent of visibility and has not provided any technical evidence regarding what can be achieved.
17. From my observations on site, the visibility is constrained by both a mature tree and dense planting at a lower level. The angle of the access point onto the footway also, in combination with the vegetation, restricts visibility to the west. The appellant suggests that the visibility could be improved by reducing the extent of vegetation. However, the vegetation lies outside of the appellant's control and forms part of the park contributing to its amenity value. I am not therefore satisfied that adequate visibility at the access point can be achieved.
18. I also have concerns regarding the nature of the access route, which is steep and narrow with sections where sharp corners have restricted visibility. The track is a public right of way and there are footpaths crossing it that connect the cemetery and Whitehall Park. In my view, due to the informal, narrow nature of the track and its location within the wooded recreational area, users including children, would have a lowered guard and awareness of the potential for vehicles travelling up and down the track. Overall, these circumstances lead me to find that there is a tangible risk of collisions with users of the rights of way.
19. I also have concerns regarding the limited number of passing places along the access track. Due to its length, steepness, and narrowness meeting vehicles would necessitate one vehicle reversing potentially considerable lengths in a constrained environment. Such difficult manoeuvres would be exacerbated by the potential for caravans being towed.
20. I was told at present that the track is used by two to three properties. In this regard, although the highway and pedestrian safety risk is an existing risk, the amount of traffic is likely to be low. The introduction of six additional plots would be a considerable increase, and thus also increase the risk. Traffic would be travelling slowly, and I recognise that the chance of a scenario leading to a collision with vehicles or pedestrians along the track, or at the access point, may not necessarily be high. However, the potential consequences from such collisions would be significant and unacceptable.
21. The Council also has concerns regarding the structural stability of the bridge along the track, which it says has been assessed to have a weight limit of 1.5 tonnes. Although I accept that the bridge has been used by existing properties without such a weight restriction, there is no substantive evidence before me to dispute this weight restriction. This adds to my concerns regarding the suitability of the track to accommodate the proposal and whether the access would function well.
22. The track was historically used by a small quarry. However, I was told that this ceased approximately 50 years ago. Given this passage of time, it does not alter

my assessment of the scheme based on the current use of the track and the wider park users.

23. I therefore find that the proposal would have an unacceptable effect on highway and pedestrian safety with particular reference to the proposed access. As such, I find conflict with the requirements of Policies DM04 and DM29 of the LP, and paragraphs 116 and 135 a) of the Framework, when taken together and in so far as they relate to this main issue. These say, amongst other things, that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

Natural habitats and biodiversity

24. The appeal site forms part of an area designated within the LP as an Environmental Opportunity Area. This has been designated for its specific value in terms of its habitat, biodiversity, and carbon management qualities. The land is part of an area known to contain blanket bog, which are defined in the Framework as an 'irreplaceable habitat'.
25. Records from 2012 indicated that the area supported Purple Moor Grass, different species of Bog-Moss and deep peat. The appellant does not dispute these records, or the categorisation of the appeal site and surrounding land as 'irreplaceable habitat'.
26. It was put to me that an assessment of the site, and the extent to which it contains peat, the nature of the habitat, an assessment of the effects on the habitat, and any mitigation or compensation, could all be secured by way of a condition were I minded to allow the scheme. However, such an approach would be at odds with paragraph 193 of the Framework. This says that development resulting in the loss or deterioration of irreplaceable habitats should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. This is reinforced in Policy CP6 of the LP which says, amongst other things, that new development will be required to conserve and enhance biodiversity ensuring that priority habitats are protected, enhanced and supported.
27. Further development would still be undertaken on the site in respect of plots three and four, but also for development to accord with the plans in relation to the other plots. In this regard and based on the evidence before me, I am unable to conclude that there would be no losses or deterioration of irreplaceable habitat from the proposed development.
28. Moreover, the circumstances in this instance are not of such an extraordinary nature as to warrant a different course of action to that outlined in the Framework, even if the size of the land edged red is such that enhancement of habitat beyond the developable boundaries of the plots is possible.
29. The appellant also raised the prospect of an exemption to the biodiversity net gain provisions if the scheme were considered to be self-build housing. However, the scheme does not involve the building of a house. In any case, the 10% biodiversity net gain requirement does not apply when there is loss of irreplaceable habitat, and the proposal would still need to be considered against the provisions of paragraph 193 of the Framework and Policy CP6 of the LP.

30. As such, in the absence of any survey work to understand the potential effects on irreplaceable habitats, I am unable to conclude that the proposal would not have a harmful effect on natural habitats and biodiversity. Accordingly, there would be conflict with the requirements of Policies CP5, CP6, DM14, and DM15 of the LP and paragraph 193 of the Framework, when taken together and in so far as they relate to this main issue. These say, amongst other things, that the Council will ensure that proposals for development during the plan period seek to protect, enhance and maintain the natural capital of Environmental Opportunity Areas.

Other considerations

31. The PPTS requires local authorities to set pitch targets and to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites against this target.
32. During the Hearing the Council provided an update to its figures, following the change in definition of gypsies and travellers within the updated PPTS. As a result, the Council indicate that using the 'cultural definition' within its Gypsy and Traveller and Travelling Showperson Accommodation Assessment (2019) (GTAA), there would be a need for 24 Gypsy and Traveller pitches in the period between 2024-2029. This contrasts with a need for 10 pitches between 2024-2029 based on the now superseded definition.
33. The Council indicate that the supply of deliverable sites is made up from the allocated George Street West site and the Branch Road site, which the Council consider can accommodate five pitches each. Any further remaining need is expected, according to the supporting text for Policy CP4, to be met by windfall sites based on the criteria approach set down in Policy DM04 of the LP. During the Hearing the Council confirmed that the Branch Road site had planning consent for permanent housing, and the owner, who was at the Hearing, confirmed it was not available for pitches.
34. On this basis the Council accepted that they were unable to demonstrate a five-year supply against the identified need. I attach moderate weight to this consideration, noting the Council's criteria based policy under which windfall sites can be considered and approved. I will come back to this matter in the planning balance.

Personal circumstances

35. 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. Article 8 of the Human Rights Act states that everyone has the right to respect for his private and family life and his home. Dismissing the appeal would represent an interference with the home and family life of the proposed occupiers, such that both Articles would be engaged. There is also a positive obligation imposed by Article 8 to facilitate the gypsy way of life.
36. Where Article 8 rights are those of children, as in this case, they must also be seen in the context of Article 3 of the United Nations Convention on the Rights of the Child. This requires a child's best interests to be a primary consideration. More particularly, case law identifies that, although a primary consideration, the best interests of a child are not a determinative planning issue, but no consideration

must initially be regarded as more important or, in advance of the subsequent assessment of the individual circumstances, be given greater weight.

37. The Guidance advises that decision-makers need to consider whether children's best interests are relevant to any planning issue under consideration. In doing so, it similarly advises they will want to ensure the approach is proportionate. Decision-makers need to consider the case before them and need to be mindful that the best interests of a particular child will not always outweigh other considerations including those that impact negatively on the environment or the wider community.
38. The occupants of the proposed pitches are, as Gypsies, an ethnic minority, and thus have the protected characteristic of race under s149(7) of the Equality Act 2010. The proposal would meet the needs of those persons with a relevant protected characteristic, by reason of race, and so, as required by section 149(1) of the Equality Act 2010, the public sector equality duty is applicable. There is therefore a need to have due regard to eliminating discrimination, advancing equality of opportunity and fostering good relations.
39. The six households have a wish to have a settled base together for the first time so that they can support each other with the children and other caring responsibilities. Some of the children attend a school in Ramsbottom, approximately 10 miles away, most are currently home schooled. The appellant set out that it is their wish to have a settled base for all their children to attend school, albeit not at the local school in Darwen. The appellant and his wider family are registered at different health service providers within the wider area and have different health needs, which were explained at the Hearing.
40. If the appeal is dismissed, then the family might revert to living in temporary locations such as on the roadside, unless an alternative windfall site was found and granted. Considering the Council's criteria based approach in Policy DM04 of the LP it is not therefore inevitable that the family would revert to a roadside existence. Such an existence, I accept, would not support the children's welfare and development.
41. In any case, the children's welfare would be seriously disrupted by the uncertainty and any changes. Instead, an enduring settled base would enable access to education, healthcare and generally supporting the children's welfare by, for example, attending clubs, making friends and being close to family. I therefore accept that the best interests of the children would, in principle, be served by a permanent and secure home, whilst having regard to the fact that none of their educational needs are currently being or would be met by a school in Darwen.
42. The merits of the case presented are such that I afford the benefits, of this development to the best interests of the children, significant weight and give moderate weight to the other personal circumstances as a factor in favour of the scheme.

Other Matters

43. The appellant indicates that the land is classified as Grade 4 Agricultural Land. As such, the proposal would not involve the loss of any best and most versatile agricultural land. However, the absence of harm in relation to this or other matters weighs neither for nor against the proposal.

Planning Balance

44. The appeal site does not represent an appropriate location for the proposed development, having regard to the spatial strategy for the area and the accessibility of services and facilities. The proposed development would also have a harmful effect on natural habitats and biodiversity, the character and appearance of the area and an unacceptable effect on highway and pedestrian safety with particular reference to the proposed access.
45. Therefore, the proposed development would conflict with the requirements of Policies CP2, CP5, CP6, CP8, DM04, DM14, DM15, DM22, DM27 and DM29 of the LP. As such, it would not accord with the development plan as a whole. Taken together with the harms I have identified these are matters of considerable weight given the potentially serious consequences from the highway and pedestrian safety risk and my considerations into irreplaceable habitats. These, by definition, are technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed.
46. Paragraph 28 of the PPTS confirms that as the Council does not have a five-year supply of pitches the provisions of paragraph 11(d) of the Framework is potentially engaged. This states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
47. As set out, the proposal is contrary to paragraph 193 of the Framework as the evidence before me leads me to conclude that there would be loss or deterioration of irreplaceable habitats and no suitable compensation strategy exists. The proposals would therefore be contrary to guidance in the Framework relating to irreplaceable habitats. In such a scenario, the so called 'tilted balance' towards granting permission set out at paragraph 11(d) of the Framework would not apply. This is because policies in the Framework that protect areas of particular importance (in this case relating to irreplaceable habitats) provide a clear reason for refusing the proposals.
48. I have attached moderate weight to the accommodation needs and personal circumstances of the appellant and the other adults, and significant weight to the best interests of the children. Nevertheless, I attach considerable weight to the substantial collective harm to highway and pedestrian safety, natural habitats and biodiversity, character and appearance and the location having regard to the spatial strategy for the area and the accessibility of services and facilities. In the overall planning balance, the benefits of the proposal, including that the development would provide a settled base for six households, are not sufficient in this case to outweigh this collective harm.
49. The appellant has not sought a temporary permission, but I have also considered whether a temporary permission would be appropriate. However, it would not overcome my concerns in relation to the main issues as set out above. Moreover, whilst Planning Practice Guidance states that temporary permissions may be appropriate if planning circumstances are likely to have changed at the end of the period, there is nothing before me to indicate that this would be the case.

50. The human rights interference associated with this conclusion is in accordance with the law and is necessary in a democratic society to protect irreplaceable habitats, the environment, the countryside, and safeguard pedestrian and highway safety by restricting inappropriate development, which are legitimate objectives. The relevant planning policy objectives could not be achieved by means less imposing or intrusive, and the minimum action necessary to achieve those important ends, would not have an excessive or disproportionate effect on the interests of the persons affected. This includes the particular interests and accompanying rights of the children, which I attach significant weight.
51. The public interest cannot be served by means that cause less interference with the appellant's rights. Therefore, dismissing the appeal is a proportionate response in all the circumstances and a violation of rights under Article 1 and Article 8 would not occur.
52. In accordance with the public sector equality duty, due regard has been paid to minimising the disadvantages suffered by the intended occupiers of the site and to meeting their needs in so far as they are different to those without a relevant protected characteristic. Whilst ultimately the appeal is to be dismissed, these considerations have been at the forefront of the decision-making process. Because of the considerable objections identified the outcome is proportionate.

Conclusion

53. My overall conclusion is that the proposal would be contrary to the development plan, and that this finding would not be outweighed by all other material considerations including all relevant provisions of the Framework and the PPTS. In accordance with section 38(6) of the Planning and Compulsory Purchase Act, 2004, I find no basis for planning permission to be granted.
54. For the above reasons, the appeal is dismissed.

Mr R Walker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Alan Morris	Briarcroft Projects
Jack Young	Member of Appellant's Family
John Young	Member of Appellant's Family
James Young	Member of Appellant's Family

FOR THE LOCAL PLANNING AUTHORITY:

Martin Kenny	Blackburn with Darwen Borough Council
Darren Tweed	Blackburn with Darwen Borough Council
David Dunlop	Greater Manchester Ecology Unit

INTERESTED PARTIES:

Julie Slater	Councillor
Anthony Shaw	Councillor
Steven Duncan	Councillor
Mark France	Local resident
John Wharton	Local resident
Peter Lynch	Local resident

DOCUMENTS:

Unauthorised Encampment Site & Welfare Assessment Records