



Appeal Decision

Site visit made on 16 September 2025

by **I A Dyer BSc (Eng) FCIHT**

an Inspector appointed by the Secretary of State

Decision date: 28 October 2025

Appeal Ref: APP/F2605/W/25/3364054

**Land off Reephams Road, Grid Ref 605629 321646, Bawdeswell, Dereham
NR20 4RX**

- 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 Mrs M McDonough against the decision of Breckland Council.
 - The application Ref is 3PL/2023/1145/F.
 - The development proposed is proposed change of use of land for the formation of 1no. Gypsy/Traveller pitch, comprising 1 static caravan, 1 touring caravan, and erection of 1 dayroom.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal the appellant submitted evidence regarding the personal circumstances of her family. Whilst this evidence was submitted late, as it has direct relevant to the personal circumstances and wellbeing of both the appellant and her child, I have, exceptionally, taken the evidence provided into account when determining this appeal.
3. There is one child under the age of 18 on the site and the appellant has informed me that she is pregnant, consequently I must also consider the best interests of the both the under-18 and the unborn child in this case. It has been established that the best interest of the child is a primary consideration, and no other consideration is inherently more important. However, it may not be a determinative factor.
4. As required by the Public Sector Equality Duty (PSED) under the Equality Act 2010, I will also have due regard to the three aims identified in the Act – to eliminate discrimination, advance equality of opportunity and foster good relations. The appellant and their family are Irish Gypsies which is an ethnic minority, and they have the protected characteristic of race under section 149(7) of the 2010 Act. Further the appellant has raised issues of her mental wellbeing, and that of her family. Therefore, the PSED is engaged in the appeal, and the decision must be proportionate to achieving legitimate planning aims.
5. The appellants have requested that I determine whether, or not, the use of the land for an equestrian use is lawful. However, that matter lies outside the remit of this appeal.

Main Issues

6. The main issues in this appeal are: -
- Whether safe and suitable access to the site can be achieved for all users; and: -
 - Whether in a planning balance any harmful effects arising from the proposal would be outweighed by other considerations.

Reasons

Access

7. The proposal lies to the south of Reepham Road (the road). It is accessed from the road via a rural track. Across the track lies the Old Workhouse Paddocks. The site and the Old Workhouse Paddocks are surrounded by open countryside.
8. The road is subject to a 60MPH speed limit. Vehicle speed surveys indicate an 85th percentile speed of about 55MPH in each direction. The road caters for traffic travelling across the county for short- to medium-length journeys between settlements and routes of greater strategic importance.
9. The road comprises a single carriageway with grass verges of varying width either side. Its alignment is relatively straight and from my observations on site, forward visibility is good. This, and the width of the road, are sufficient that vehicles could overtake in the vicinity of the access.
10. Whilst traffic levels on the road, at some 2644 two-way movements, is not as high as on some rural roads in the county, it is nonetheless a busy road with little by way of active frontage with high vehicle speeds approaching the national speed limit for a single carriageway.
11. The road is used by vehicles travelling between settlements at speeds above 40 MPH. As such its “movement” function predominates significantly over its “place” function. Under such circumstances it is reasonable to use the geometric design standards set out in the Design Manual for Roads and Bridges when determining appropriate visibility splays at accesses. For a 60 MPH speed limit, this would require a visibility splay of 215 metres at a set-back from the carriageway edge of 2.4 metres.
12. The local highway authority (LHA), consider that it would be reasonable to reduce this, based on the data gathered for vehicle speeds by the appellant. Use of the 85th percentile speed, which is the appropriate speed for such considerations, would require splays of 186 metres in either direction at the same setback. I see no reason to dispute this conclusion.
13. However, to ensure the availability of visibility splays they must be either under the control of the owner of the access, or in public ownership. In the case of this access the visibility splays cross land that is outside the red line denoting the limit of the site, and pass through mature, dense hedging along the road frontage to either side of the access. This hedging severely curtails the available visibility between approaching drivers on the road and drivers emerging onto the carriageway. There is dispute between the parties regarding the extent of the public highway. I have based my deliberations on the detailed evidence and

measurements of the LHA in regard to the extent of their control, and my observations on site.

14. It has been suggested that visibility splays to the south-west could be measured to the centreline of the road. Such a measure would only be suitable where vehicles are unable to cross the centre line, as a vehicle doing so would then be outside the available visibility. I have identified above that the road is relatively straight, and overtaking is possible. Thus, measuring the visibility splay to the centreline would be inappropriate in this case.
15. It has been further suggested that the setback from the carriageway edge used to measure the visibility splay could be reduced from the normal 2.4 metres to 2 metres. Manual for Streets advises that such a reduction may be considered in some very lightly-trafficked and slow-speed situations. However, neither of these applies to the situation here and using this value would mean that the front of some vehicles will protrude slightly into the running carriageway of the road. Given the speeds involved and the shortfall in visibility available, drivers would have little opportunity to see this overhang and to manoeuvre around it.
16. The LHA estimate that residential occupancy of the site could generate up to 12 vehicle movements a day at the junction. The appellant has not quantified existing movements, although, in addition to providing access to the appeal site the track serves an existing dwelling.
17. I am mindful that other agricultural uses could operate from the site, and these may use larger vehicles. The manoeuvring characteristics of these may not be dissimilar to that of a vehicle towing a touring caravan. However, in neither case would such manoeuvres happen often.
18. Whilst the LHA's figure is based on occupancy of both the static and touring caravan, even the presence of a single household would generate the regular movements necessary for the occupiers' day-to-day living and it is unlikely that agricultural uses would generate movements of a similar scale and pattern.
19. I note the suggestion by the appellant that the site would allow for residents to use walking or cycling as an alternative to the private car, and this may reduce trips by motor vehicle. Whilst a cyclist or pedestrian entering or leaving the site would have adequate views along the road, the road is unlit and subject to high-speed traffic. It is unlikely that, given these factors and the distances involved, that walking or cycling would prove an attractive option for many occupiers of the site to reach nearby services and facilities, particularly during the hours of darkness or inclement weather, or for walkers or cyclists accompanied by small children.
20. It is therefore likely that future occupiers would be heavily reliant on the private car to meet their transport needs. Thus, the use of the access would be intensified.
21. Given the substandard visibility at the access junction, drivers would be forced to emerge onto a fast road with limited ability to see oncoming drivers. Similarly, drivers on the road would not have appropriate warning of an emerging vehicle and this would result in an increased risk of collision.
22. The track has a narrow metalled central section, wide enough for a single vehicle. The metalled central strip is flanked by grass verges to either side and, between the site and the road, the track is generally of sufficient width to allow two cars to

pass each other. However, close to the carriageway, the width of the track is restricted to a single vehicle width by a fence. Thus, there is potential for conflict between vehicles entering and leaving the site and this would occur close to the running carriageway of a road carrying fast traffic.

23. Vehicles may be forced to wait on the main carriageway or, worse, be forced to reverse out from the junction into the running carriageway, to allow a vehicle to exit. Given the limited visibility for emerging drivers, this would, again, harmfully increase the risk of accident and, given the speeds involved, any collision has significant potential to result in life changing injuries or death. Given the potential severity of injuries, I find the increased risk of accident would be materially harmful to public safety and I give this great weight in my deliberations.
24. The access has been in existence for some time and local drivers may be aware of it. The appellant has drawn my attention to a recent Council decision, 3PL/2023/1003F, where the Council considered this a material factor in reaching its decision. However, I do not have full details of that proposal and cannot be certain, given that the road is on the strategic network, that all passing drivers will be aware of the access.
25. The appellants have suggested improvements to the access. However, they do not appear to be in control of the necessary land, and therefore it is unclear how such access improvements would be secured.
26. Whilst there is agreement between the LHA and the appellant that visibility could be improved by cutting back the hedging on either side of the access, the onus for this would fall on the owners of the frontage planting, rather than the appellant or the LHA. Thus, a requirement for the provision of appropriate visibility splays could not reasonably be secured through a planning condition.
27. Even were the hedges to be cut back to their trunks, it has not been demonstrated that full visibility splays could be provided to the required standard. Excessive cutting back would be likely to undermine the health of the planting, with consequent risk of impact on the appearance of the area and biodiversity. There may also be an increase in spaciousness on the road, and this may, following the underlying ethos of Manual for Streets and how the local characteristics of a road affect driver behaviours, change driver behaviour and vehicle speeds on the road.
28. The appellant has identified that the speed limit on the road reduces to 40MPH approximately 185 metres to the south-west of the track access and that, from this point, the alignment of the road changes to incorporate a number of bends that are likely to affect driver behaviour and vehicle speed. There is no dispute between the parties that other accesses exist onto the road in the wider area. However, I have considered this proposal on the basis of the evidence provided in regard to actual vehicle speeds in the vicinity of the access, which provide the relevant basis for design of splays at that access.
29. The appellant has brought my attention to several other developments in the area which they consider relevant as they have access onto the road near to the appeal site, including Council Refs: 3PL/2021/1554/F and 3PL/2016/1196/F to which the LHA objected on the grounds of inadequate visibility. However, I do not have the full details of these proposals and cannot be certain that they are directly comparable to the proposal before me. I have, in any case, determined this appeal on its own individual merits.

30. There is no dispute between the parties that the length of Reepham Road in the vicinity of the site has had no personal injury accidents in the last five years. The proposal is, however, altering conditions on the network and in my consideration of this appeal I have assessed the potential effects of that change.
31. I therefore conclude that safe and suitable access to the site cannot be achieved for all users. The proposal is thus contrary to Policies COM01, HOU08, TR01 and TR02 of the Breckland Local Plan (2023) (the Local Plan) in as much as these seek, amongst other things, that development, including provision for Travellers and Travelling Showpeople has safe, suitable and convenient access to the highway and does not adversely impact on the safety of the road network.

Other Considerations

The need and supply of sites

32. In 2023, Breckland District Council commissioned a Gypsy, Traveller and Travelling Showpeople Assessment (GTAA) for the period up to 2046, which is the end of the development plan. This established that there is an overall accommodation need in the study area for the local plan period for 71 additional pitches, using the ethnic definition of gypsies and travellers, or 66 pitches using the definition in the Planning Policies for Gypsies and Travellers of 2023.
33. The appellant also identifies that, following presentation of a report to the Council's Planning Committee on 11 March 2025, in light of the changes made by Government in December 2024, the Council now has an acknowledged 3.25-year supply of housing land. This is below the requirements identified by the Government of 5 years.
34. Unmet need for gypsy and traveller sites can only be met through windfall sites coming forward or through the extant allocations within the LP. Further, no alternative sites for the development have been identified.
35. The provision of an additional traveller pitch would contribute to meeting the unmet need for traveller accommodation, providing, together with a well-designed place for travellers to live, access to school and medical care for members of the traveller community. Therefore, having regard to the scale of the under supply of pitches, I attach moderate weight to this consideration as a public benefit.

Personal circumstances of the appellants and their family

36. There is no dispute between the parties that the appellant is an ethnic Irish Gypsy, with a particular culture, language or values, are protected from discrimination by the Race Relations [Amendment] Act 2000, The Equalities Act 2010 and the Human Rights Act 1998. The appellant states that they have problems with their mental health. However, no expert evidence from a healthcare professional has been submitted to explain this further including how it is affecting the appellant and being treated.
37. Under the PSED set out in s149 of the Equality Act 2010, it is necessary for me to consider how the modest increase of one pitch in the supply of sites arising from the development could positively contribute to the advancement of equality and good relations. This is because s149 places a responsibility on public authorities to avoid discrimination and be proactive in promoting equality. The equality

implications arising from the development are an important factor in my deliberations and I will consider them further below.

38. There is no dispute between the parties that the family unit includes a child and that the appellant is expecting another child.
39. There is evidence to demonstrate that the family does not have a permanent site and is moving from location to location under some degree of duress. I have no doubt that this is stressful for the family and that there are concerns for the wellbeing of the mother during her pregnancy and the child and baby in the provision of a stable base to receive healthcare and education during their formative years. Under the circumstances it is understandable that this is affecting the appellant's wellbeing.
40. Were I to allow this appeal the family would have such a stable base from which to access healthcare, and education for the children. Their cultural and psychological aversion to bricks and mortar accommodation rules this out as an option and I agree that a pathway to the settled community is not a desirable or realistic option for the appellant, having due regard to the fact that the appellant is an Irish Gypsy and race is a protected characteristic under the PSED.
41. Article 8, a Convention Right¹, affords a person the right to respect for their private and family life, their home and their correspondence. Article 8 also imposes a positive obligation to facilitate the Gypsy way of life to the extent that the vulnerable position of Gypsies as a minority group means that some special consideration should be given to their needs and different lifestyle in the regulatory planning framework and in reaching decisions on particular cases. However, Article 8 is a qualified right that requires a balance between the rights of the individual and the needs of the wider community.
42. In the alternative to being able to live on the site, the family would be likely to remain living on the roadside, subject to being repeatedly moved on.
43. In conclusion the personal circumstances of the appellant has substantial weight in my decision.

Best Interests of the child

44. The appellant has a young child and is pregnant with her second. As identified above, a stable location for the family to live would provide access to healthcare and education for the children, both during the pregnancy and during the children's formative years.
45. However, I have found that the proposal would not have safe vehicle access, and this risks injury to the children when passengers. I therefore conclude that, the benefits to the children of a stable home and access to healthcare and education are offset by the need for them to safely access the site and their best interest is served by dismissing the appeal.

Protected Sites

46. There is no dispute between the parties that the proposed development is within the Zone of Influence of Natura 2000 Designated Protected Sites (Protected Sites)

¹ Article 8 of the European Convention on Human Rights, enshrined into UK law by the Human Rights Act 1998.

covered by the Norfolk Green Infrastructure and Recreational Disturbance Avoidance and Mitigation Strategy (GIRAMS). The relevant Protected Sites in Norfolk comprise: Breckland SPA and Breckland SAC; The Broads SAC and Broads SPA; North Norfolk Coast SAC; North Norfolk Coast SPA; The Wash and North Norfolk Coast SAC; Norfolk Valley Fens SAC; The Wash SPA; The Wash Ramsar.

47. The Habitats Regulations require the Competent Authority to consider whether or not the development could adversely affect the integrity of a protected site, either alone or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.
48. Had I been minded to allow the appeal, it would have been necessary for me to undertake an Appropriate Assessment (AA). The AA is required on a case-by-case basis to determine whether or not the project would adversely affect the integrity of a Protected Site. It would also have required a consideration of whether or not any proposed mitigation would be adequate, effective, could be appropriately secured and delivered in a timely manner. However, as I am dismissing the appeal for other reasons, I do not need to consider the matter further as it could not change the outcome of this appeal and, whilst the issue of the effect of the development on Protected Sites remains unresolved, the outcome could only be, at best, neutral in my considerations.

Planning Balance and Proportionality Assessment

49. The appeal scheme would be at odds with Policies COM01, HOU08, TR01 and TR02 of the Local Plan for the reasons given above. Thus, there is conflict with the development plan taken as a whole. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise.
50. The PPTS has a requirement that where a 5-year supply of pitches cannot be demonstrated Paragraph 11d(i) of the Framework is engaged, in a similar way to that where a five-year supply of housing land cannot be demonstrated. This means that, under such circumstances, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the 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.
51. Paragraph 115 of the Framework, which is one of those policies to which I must have particular regard as identified in Footnote 9 of the Framework, requires that safe and suitable access to the site can be achieved for all users. Paragraph 135 is also a policy to which particular attention is drawn, and requires that developments create places that are safe, inclusive and accessible and which promote health and well-being.
52. I have found that the proposal would not provide safe and suitable access for all users and that serious accidents may result. This would be severely detrimental to the health of any injured member of the public.
53. Consequently, my initial assessment of the merits of the case lead me to conclude that in this instance the adverse impacts of the development would significantly

and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This is a material consideration that indicates the proposal should not be determined otherwise than in accordance with the development plan.

54. I have considered whether a temporary permission for the development would be suitable under the circumstances. However, whilst the time period during which the intensified use of the access would occur would be limited, the increased risk of accident would be ongoing throughout that time, with consequent harm to the safety of the travelling public and, in this case, the use of a temporary permission would be inappropriate.
55. The operation of Article 8 is engaged. I have to be satisfied that the refusal of planning permission would be no more than necessary to achieve the objective of protecting the safety of the public. Whether the interference with the appellant's rights is necessary is dependent on it being proportionate. In the context of Article 8 the aim is to ensure a fair balance between the demands of the general interest of the wider community and the protection of the individual's fundamental rights.
56. In this particular case I consider that continuation of a roadside existence would have adverse effect on the wellbeing of the family members and create problems in accessing healthcare and education during the appellant's pregnancy and the children's formative years. This would have a serious adverse impact on the quality of their lives. The interference with home and family life would be very serious, to which I attach significant weight.
57. However, against this the regulation of land use is in accordance with the statutory framework. Planning law requires that applications for planning permissions must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework confirms that development should be provided with safe and appropriate access for all users and seeks to protect the wellbeing and health of the public in their day-to-day lives. I attach great weight to protecting the safety of the travelling public, including the appellant and her family.
58. In view of the particular circumstances in this case my conclusion is that the interference with the Article 8 convention rights of the appellant and their family by refusing planning permission would be proportionate. Such an outcome would be no more than is necessary in pursuit of the legitimate aim of ensuring the safety of highway users.
59. I have reached a similar conclusion in regard to the best interests of the child and my PSED.

Conclusion

60. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

I A Dyer

INSPECTOR