



Appeal Decisions

Hearing held on 12 August 2025

Site visit made on 13 August 2025

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 28 November 2025

Appeal A Ref: APP/Y1138/C/25/3365184

South Fork, Land at NGR 310236 115114, Culmstock, Devon, EX15 3HW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Mathew Tucker against an enforcement notice issued by Mid Devon District Council.
- The notice was issued on 14 April 2025.
- The breaches of planning control as alleged in the notice are:
 - a) A change of use of the Land from agricultural use to residential use by the siting of 1 mobile home and associated works, the siting of one touring caravan, the change of use of stable block to a utility room and residential storage, the siting of residential items on the Land including but not limited to children's play equipment, garden furniture, portable toilet and other residential items not used in connection with agriculture; and
 - b) Operational development by the laying of hard standing beyond what is lawful.
- The requirements of the notice in summary are to:
 - 1) Cease the use of the Land for residential purposes;
 - 2) Remove the mobile home together with all fixtures and fittings and remove all resultant material from the Land;
 - 3) Remove the touring caravan together with all fixtures and fittings and resultant material;
 - 4) Remove all items associated with residential use and all resultant material;
 - 5) Cease the use of the stable for residential purposes and remove all domestic items;
 - 6) Remove all stone chippings used to extend the hardstanding;
 - 7) Remove all resultant material from requirements (2) to (6); and
 - 8) Return the Land to the state it was in prior to the unauthorised development.
- The period for compliance with the requirements is 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: the appeal is dismissed and the enforcement notice is upheld with corrections and variations.

Appeal B Ref: APP/Y1138/C/25/3365185

South Fork, Land at NGR 310236 115114, Culmstock, Devon, EX15 3HW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mrs Chantel Tucker against the same enforcement notice and on the same grounds as Appeal A.

Summary Decision: the appeal is dismissed and the enforcement notice is upheld with corrections and variations.

Appeal C Ref: APP/Y1138/W/25/3365163

South Fork, Culmstock, EX15 3HW

- 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 Mathew Tucker against the decision of Mid Devon District Council.
- The application Ref is 24/00848/FULL.
- The development proposed in the application is the change of use of land to a Gypsy and Traveller site for one family, to include (1) mobile home and (1) touring caravan (retrospective).

Summary Decision: the appeal is allowed and planning permission is granted in the terms set out below in the Formal Decision.

Main Issues

1. A preliminary question arising in the appeals against the notice under ground (b) is whether the matters alleged by the notice have in fact occurred. The parties were agreed at the hearing that the allegation was capable of correction, with concomitant changes to the requirements. I deal with this further below in relation to the appeals on ground (b).
2. The Council's refusal of planning permission cited harm to the character and appearance of the area, including the Blackdown Hills National Landscape. Thus the impact of the development on the character and appearance of the area is the main issue in the appeals.
3. The Council's notice refusing planning permission went on to say that the 'cumulative impact' of the harm to the character of the area, harm to the National Landscape and departure from the Mid Devon Local Plan justified the refusal of permission. The enforcement notice did not refer to any cumulative impacts but was issued for the principal reason that the development was considered to harm the character and appearance of the area including the BHNL. This issue is encompassed by the first main issue identified above.
4. The second reason for issuing the notice referred to the prior testing of the residential use of the site by two previous planning applications, one of which was dismissed on appeal in March 2024 (and the other of which is Appeal C now under appeal). This raises the question of consistency in decision making, or put another way it raises the question of what if any material change in circumstances has arisen that would justify a decision inconsistent with that of the previous Inspector.
5. Such circumstances, as well as any material differences between the substance of the applications, may include consideration of, as identified by the parties, the best interests of the children, personal circumstances, the availability of alternative sites and likelihood of a roadside existence, unmet need and the five-year supply of sites, Human Rights and the application of the Public Sector Equality Duty.
6. An interested party points out that my considerations on appeal are not limited to the Council's reasons for refusing planning permission or for issuing the notice. In addition to those matters already mentioned, the issues of ecology and flood risk are also raised, as is the question whether intentional unauthorised development has taken place.
7. These are therefore the main considerations arising in the appeals. If the notice is to be upheld then further issues concern the time for compliance with the notice and whether the 12 months given is too short.

Reasons

The appeals on ground (b)

8. The appellants contend, and the Council concede, that no siting of a mobile home and associated works has taken place on the site. The residential use of a mobile home forms the subject of Appeal C, being the appeal against the refused application for planning permission. Although that application is partly retrospective, because the residential use of the site has already begun, no mobile home has been brought onto the site.

9. Following discussion at the Hearing there is no good reason why this aspect of the allegation, and the concomitant requirement to remove the mobile home, cannot be omitted from the notice. The appellants do not contend that the notice is a nullity. The appeals on ground (b) will succeed to this extent.

The section 78 appeal

10. Several policies of the Mid Devon Local Plan 2013 – 2033, adopted July 2020, were cited in the Council’s notice of refusal, with the most relevant being policy DM7 which applies to applications for Gypsy and Traveller pitches. Of the several criteria required to be satisfied in order to support a grant of permission, the dispute arises in respect of only one of them. Criterion (c) requires that the site will not cause unacceptable landscape or ecological impact and that it is not located in an area at high risk of flooding. Whilst interested parties contend there are conflicts with all aspects of this criterion, the Council’s reason for refusing permission related only to the landscape impact. Criterion (c) requires this to be ‘unacceptable’ if permission is to be refused. What this means will depend on the context, and requires consideration of other policies in the Local Plan.
11. The site lies adjacent to the protected National Landscape of the Blackdown Hills. Policy DM27 applies to development proposals affecting this area, requiring them to demonstrate that the special qualities of the landscape will be conserved or, where possible, enhanced. Policies DM1, S1 and S9 each seek high quality design which sustains or reinforces local character.

Protected Landscape and character and appearance

Policy context

12. The statutory and policy position is largely the same as that considered by the previous Inspector in relation to similar development on the site under reference APP/Y1138/W/23/3328724 in a decision issued on 12 March 2024. Section 85(1) of the Countryside and Rights of Way Act 2000 (as amended) requires me, in exercising or performing any functions in relation to, or so as to affect, land in a National Landscape, to seek to further the purpose of conserving and enhancing the natural beauty of that landscape.
13. What this means has received recent judicial consideration in the cases of Wadhurst Parish Council v SSHCLG [2025] EWHC 1735 (Admin) and in R (CPRE Kent Branch) v SSHCLG [2025] EWHC 1781 (Admin), heard together earlier in the year. Other recent cases in the New Forest and the Lake District have concerned the application of the related duty in National Parks. The amended duty was also applicable to the previous Inspector. As was common ground in those High Court cases, the new duty to ‘seek to further’ the purpose of conserving and enhancing the protected landscape is a strengthening of the former duty merely to ‘have regard to’ that purpose. Nonetheless, the duty is discharged where the decision maker is satisfied of the absence of harm to the natural beauty of the protected landscape: ‘conserve and enhance’ are to be read disjunctively.
14. Since the previous Inspector’s decision, Defra has promulgated some non-statutory guidance on the application of the duty. Relevant authorities (which include me) should, in seeking to further the purpose, consider whether measures can be embedded in the design of plans and proposals. They should ‘as far as is reasonably practical... seek to avoid harm and contribute to the conservation and

enhancement of the natural beauty, special qualities, and key characteristics of [the protected landscape]'. One question for consideration in exercising the duty is how any measures would align with the relevant Management Plan for the landscape.

15. The 2019 – 2024 Blackdown Hills Management Plan featured in the parties' written cases in the appeals, to be replaced by the 2025 – 2030 plan. Policy LC6 of the 2019 Plan, providing that *the deeply rural setting of much of the land adjoining the AONB boundary forms an essential setting for the AONB and care will be taken to maintain its quality and character* is replaced largely in terms by policy PL19 of the 2025 Plan, save for the replacement of the first 'setting' by 'character' and of 'AONB' by 'National Landscape' or 'Blackdown Hills'.
16. The particular special qualities of the Blackdown Hills are enumerated at some length. It is a managed and settled pastoral landscape of small scattered villages with some panoramic views and high-hedged winding roads in the valleys. It is relatively both wild and tranquil with dark night-time skies and supporting a rich assemblage of wildlife.
17. Also post-dating the previous Inspector's decision is the Mid Devon LCA Review, a local landscape character assessment review published in October 2024 and placing the appeal site within the 'Culm Valley Lowlands Character Area', DCA18, typified by undulating landforms, abundant hedgerows and semi-regular field shapes in predominantly pastoral use. It is relatively densely settled along the rivers, and with 'smaller nucleated villages' and scattered farms throughout.
18. As to the local character type, the site falls within LCT3A, 'upper farmed and wooded valley slopes', summarised as comprising an undulating and rolling farmland landscape with irregular fields enclosed by hedges, and where the settlement patterns reinforce the historic character of the landscape. In contrast to the description of the DCA, the LCT is described as 'lightly-settled'.
19. The site itself adjoins, but is not within, the Blackdown Hills National Landscape ('the BHNL'). One question arising is nonetheless whether it is located within a 'valued landscape' as set out in national policy. The National Planning Policy Framework ('the Framework') enjoins decision-makers to recognise the intrinsic character and beauty of the countryside, and to protect and enhance valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.
20. Whether the site is or forms part of a 'valued landscape' in its own right forms no part of the Council's case and I am not alerted to any relevant provisions of the development plan, save for the reference in policy DM27 to the LCA, to identify its qualities against which to assess its protection or enhancement. Third parties to the case draw my attention to the Landscape Institute's Technical Guidance Note in relation to assessing landscape values outside of nationally-designated areas. It is said that the site makes a particularly positive landscape contribution to the natural and cultural heritage and distinctiveness and function of the area.
21. Nonetheless the site's principal contribution, as recognised in policy DM27 and in the Council's case, is in its location in the setting of the National Landscape of the Blackdown Hills. In respect of such Landscapes, the Framework reflects the relevant statutory duty by requiring great weight to be given to conserving and

enhancing landscape and scenic beauty in such areas. The conservation and enhancement of wildlife and cultural heritage are also important considerations.

22. The Framework goes on to provide that the scale and extent of development within such designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. This advice has to be read in the context of the statutory duty to seek to further the purpose of conserving or enhancing the natural beauty of the protected area itself, but it is plainly not a prohibition on any development. It must be read, here, in the context of a Local Plan policy S14 that seeks to permit appropriate rural uses in the countryside including gypsy and traveller accommodation, where the relevant policy for traveller sites (DM7) includes no countryside locational restriction subject to sustainability considerations, and where national policy is permissive of countryside traveller sites that are well-related to existing settlements.

The site

23. The appeal site constitutes a small triangular field on the southern edge of Woodgate, itself a hamlet a mile or so from Culmstock, where the appellants' eldest child is enrolled in school. Although the hamlet itself has few facilities, the previous Inspector found that there was no objection to the development of the site on locational sustainability grounds. I have no reason to disagree with that assessment.
24. The site slopes north to south and with a small brook on or adjoining its western boundary. It is largely enclosed by hedgerows and mature trees, although there has been some site clearance as a result of the development that has already taken place. Glimpsed views into the site are possible notwithstanding the existing hedgerows, and clear views are possible from around the entrance which is about halfway along the site's eastern boundary which abuts the road.
25. The site is the subject of an existing planning permission for a stable building, which has been constructed to the north of the site. Associated with this building is a fairly extensive area of hardstanding laid to the site entrance. The hardstanding now laid (and that sought) is an extension of that, but the enforcement notice does not seek the removal of most of it. There is some dispute about whether the lawful 'fallback' position is of an agricultural or an equestrian use of the remainder of the site. The site itself is of a size unlikely to support either use without access to other land.
26. The site is surrounded by existing, albeit sporadic, residential and other development. Immediately to the south of the site is a farm access track that leads to the farmstead to the west of the site. Between the farm and the site is another field, which is in the domestic and horticultural use of one of the dwellings to the north. To the north of the site lies a cluster of residential dwellings. Immediately opposite, to the east, lies the substantial property of 'Bartletts' which consists of a large two-storey dwellinghouse and an attached single storey barn conversion. The long western side of the barn lies immediately adjacent to the narrow highway. The barn has been joined to the house by a timber-clad single storey extension that also borders the road.
27. At approximately a crossroads with the farm access track just described, running south of the application site, lies another spur from the highway to the north on

what appears to be an unadopted road leading to what appears a substantial farmstead to the south east. To the north, the road divides close to the 'main' cluster of dwellings where there is a postbox at the junction, and further residences are found adjacent to the roadside for a few hundred metres in each direction.

28. Views over rolling countryside to the south, largely not in the BHNL, may be obtained from the narrow lane adjoining the site. The properties to the east of the lane lie within the BHNL and those to the west outside of it. Immediately opposite the site, the long barn and boundary wall of Bartletts provide a punctuation mark; a well-defined boundary of the edge of the BHNL.
29. The site lies due west of the Culmstock Beacon, a local Grade II listed landmark and vantage point from which to view the surrounding countryside, and which itself lies at the south western end of Black Down Common. There is no intervisibility between the appeal site and the Beacon, or between it and any other long range viewpoints in the area.
30. The appeal site is not readily perceived from within the BHNL. Those accessing the road from the farmstead track to the east would have a momentary view of the site when approaching the road junction. The road itself is not within the BHNL but it is a thoroughfare used by vehicular traffic as well as by walkers accessing the Common and from which the BHNL may be appreciated. From the south it is evident that one is approaching a small settlement of domestic properties, with Bartletts and its neighbouring Woodgate House both visible for some distance. Approaching from the north and thus through the settlement, the site would be the last residential element to the west before a field separates the settlement from the next dwelling.
31. The appeal site's eastern boundary is to the road, and thence to the grounds of Bartletts for its full length. I was afforded a view of the site from within the house at Bartletts. The existing caravan is plainly visible, with the entrance way to the site being located directly opposite the side of the house. The existing caravan lies due west of the entrance. The pre-existing stable building lies to the north of the site, adjacent to the road. An area of hardstanding is laid to the northern end of the site including around the existing caravan. Some but not most of this hardstanding is required to be removed by the enforcement notice, if upheld.
32. I see no reason to depart from the previous Inspector's description of the site, or of its qualities, or of her finding that the location of the appeal site lies within the setting of the BHNL. One point of difference is that she recorded that the stable itself would be previously-developed land, but that the remainder of the site was not. In view of the requirements of the enforcement notice that do not seek to remove a large part of the hardstanding, it appears that more of the site is previously-developed than was assumed by the previous Inspector. Specifically this is the part adjoining the site entrance at which the interior of the site is most visible.
33. The previous Inspector found that the previously largely undeveloped nature of the appeal site, enclosed by hedgerows, contributes to the National Landscape's deeply rural setting. That contribution is now moderated by the hardstanding that is to remain whatever the outcome of the appeals. I consider that the southern part of the appeal site lying opposite the Bartletts barn makes a minimal contribution to the setting of the BHNL, because of the punctuation that the barn itself provides.

The proposal

34. The principal differences between the two proposals lie in the siting, layout and materials, and in the landscaping proposals.
35. The plans considered by the previous Inspector provided for the retention of most of the hardstanding and for the provision of two parking bays to the western side. A mobile home was proposed to be situated slightly to the south-west of the hardstanding, towards the western side of the site. The previous Inspector found that harm to the setting of the BHNL would be 'localised'. The development of the site as then proposed would, she found, result in harm to the intrinsic character and appearance of this rural area and would harm the natural beauty of the BHNL through harmful development in its setting. Additional landscaping would not have mitigated the harm identified.
36. The plans now before me are considerably different. They propose (unlike the previous ones) to retain a touring caravan, and to locate this to the northern part of the site, behind the existing stable block. It will be likely to be fleetingly visible from the lane. The mobile home is to be significantly re-sited. The plans show it to be located to the south of the site, on the eastern side. That is to say, that after allowing for a triangular section of proposed native tree planting and native buffer planting at the corner of the site, the mobile home is to be situated nearly adjacent to the lane. The car parking pitches are to be south of the entrance, one each side of a proposed footway to the mobile home. West of the site entrance, beyond the partly retained hardstanding area, would be further native tree planting.
37. The southern boundary and part of the eastern boundary of the site are proposed to be the subject of a 1.2m high post and rail timber fence, to be on the inside of the proposed tree and buffer planting. A hedgerow is proposed to surround the car parking area, with further tree planting close to the site entrance. Bulb drifts, wildflower margins and ornamental grasses are proposed elsewhere.
38. The mobile home itself is proposed to be clad in timber. This is not the material of most local buildings, but it is found in some domestic outbuildings, opposite at Bartletts, and in agricultural or equestrian buildings locally including the stable to the north of the appeal site. It would not thus be an 'alien' material to the area. The touring caravan would be of a type that could be found on any domestic driveway.
39. The effect of these changes will be to orient the mobile home opposite the long western wall of the Bartletts barn. That is a (tall) single storey brick and timber building of considerably greater size than any mobile home. As stated above, that barn provides a clear boundary to the BHNL and legibly separates the protected landscape from the land outside it. Re-siting the mobile home would much diminish the intervisibility of the main development of the appeal site from the protected landscape area, and it would not legibly be read as part of any 'spillover' of that protected area.
40. The appeal site would be read as a residential site, immediately in the context of Bartletts and the residential/agricultural access track to its south, and against the evidence of some previous development in the form of the stable building. It does not amount to a tangible extension of the Woodgate settlement but infills the remainder of the roughly rectangular field that it shares with Bartletts (demarcated in an arc by the road) and is contained to the south by the access track, marking the settlement's southern extent, which leads to the farmstead beyond to the

northwest. Aligning the mobile home against the roadside, compared with its previous proposed position at the rear edge of the site nearly opposite the entrance, would be much more of a piece with the pattern of residential development in the hamlet, where most of the dwellings that are accessed from the arms of the Woodgate road either directly abut it or are set back only slightly.

Conclusions on this issue

41. The mostly previously-undeveloped nature of the appeal site makes a contribution to the BHNL's deeply rural setting, as found by the previous Inspector. The retention of the stable and extensive hardstanding, whatever the outcome of the appeals, moderate that contribution. Local and national planning policy are not intended to prevent any development, and a traveller site is a type of use of land that is expected to be found in the countryside, but it does need to be sensitively designed and managed if the BHNL is to be conserved and enhanced. Here the layout changes to the site mean that the development will be more commensurate with the pattern of development found elsewhere in the hamlet, where dwellings closely abut the roadside. The appeal site itself will remain mainly open, with the built (or rather caravan) development moved to the site extremities and with proposals to strengthen the tree and hedgerow planting around the site edges which is reflective of the boundary treatments in the area. This relocation of the mobile home would largely overcome the issue of visibility of the development at the site access identified by the previous Inspector. The view of the site from the roadside where it adjoins the access would not be very much different than upon compliance with the enforcement notice.
42. The relocation of the mobile home would also be to a part of the site which makes little contribution to the setting of the BHNL, as it is opposite the point where the BHNL is bounded by the roadside wall of the Bartlett's barn. The pattern of development in the hamlet and the historic boundary formed by the southern access track means that the development of the appeal site would be a logical completion of the nucleated settlement that is typical of the character area. I acknowledge that the BHNL may be subject to development pressures around its edges, as reported to me at the hearing, but the extent to which this may be harmful to it is very much dependent on the context. In the context of the lack of any designation of the site itself or of any policy that there can be no development within it, I do not find that there would be harm to a 'valued landscape'. It is the type of development that policy S14 anticipates will be found in the open countryside when well related to existing settlements, as this is.
43. As the previous Inspector found, the site is well related to residential development within Woodgate, and the cladding proposals to the mobile home would, if sensitively executed, give it congruity with other development in the area, particularly with the timber extension to Bartletts and to the stable building on the appeal site with which it would be most closely associated. There are other examples of single-storey residential development in the hamlet including the Bartletts barn conversion opposite. With sensitive surface treatment the proposal would not be notably out of character with the appearance of the area.
44. Therefore I do not find that the development as now proposed would fail to conserve or enhance the BHNL, and so it would be consistent with policies S1 and S9 and with the Framework in that regard, as well as with the BHNL Management Plan. It is development of a type supported by countryside policies in the Local

Plan, and would relate well to the existing settlement and would not result in harm to a valued landscape. In terms of policy DM7, it would not have an unacceptable impact on the landscape and would not fail that element of criterion (c) of the policy.

Ecological impact

45. The relevant element of criterion (c) of policy DM7 provides that gypsy and traveller pitches will be permitted where the site will not cause unacceptable ecological impact. Policies S1, S9 and DM1 are all concerned with obtaining biodiversity gains or avoiding losses. Policy DM9 requires the retention of nature conservation interests where buildings are converted, and the supporting text to policy DM28 suggests that surveys will be required where protected species may be affected by any development.
46. The main parties agree that the statutory concept of Biodiversity Net Gain does not apply, because it is a retrospective application. The Council, after consulting the County Ecologist, considered that biodiversity, and tree protection, matters could be achieved through the imposition of planning conditions where relevant. The application was accompanied by an ecological impact assessment of January 2023 together with update reports to support the present application and, now, appeals. Criticism of the approach taken is made in particular by the professional ecologist Mr Sibbett on behalf of one of the local residents.
47. Decision-takers should have sufficient relevant information available so that an informed decision may be taken about the likely ecological impacts of any development and the scope for mitigation; it is not appropriate to leave the discovery of such matters to control by planning conditions.
48. Here, works have taken place on the site since the first ecological impact assessment conducted on behalf of the appellant. That assessment made a number of recommendations, upon concluding that the site comprised tussocky grassland of relatively low ecological value, with some limited potential to support foraging and commuting bats and common reptiles. A bat roost was present in the stable. Mitigation and compensation measures were proposed to minimise impacts, including careful working methods, tree protection and pollution prevention measures, and the control of lighting. Enhancement measures were also proposed involving boundary strengthening and the provision of meadow and amenity grassland.
49. The assessment relied on a desk study and a walkover of the site by the appellant's ecologist. Further surveys were not recommended. Save for the possible impact of lighting on foraging bats, any adverse effects arising without mitigation would be felt only at the site level and hence further survey work would have been disproportionate. Nonetheless the absence of complete information resulted in the suggested mitigation and compensation measures applied in accordance with the precautionary principle.
50. The appellant subsequently moved onto the site, involving the mowing of the grassland and the laying of additional hardstanding. The extent to which the recommendations of the ecologist were followed is the subject of some dispute between the parties. However, the appellant's own ecologist noted in 2024 that it appeared that all hedgerows/boundaries had been retained and the amenity lawn then created did not extend right to the base of the hedgerows, with an area of

ruderal/scrub beneath taller woody vegetation. Some planting of cherry laurel has taken place, and the parties are agreed that this would degrade the habitat and should be removed.

51. Bramble habitat has been removed which may have resulted in dormice disturbance and is the loss of suitable breeding habitat. Lakeway, the appellant's ecologists, had previously concluded that the site did not support sufficient quantity of habitat to support a breeding population. They would be likely to use the vegetated boundary features when dispersing through the wider landscape. The the actual extent of any disturbance to dormice is unknown in the absence of prior surveys, but the retention of the hedgerow means that the need for any such survey is unlikely to have been provoked, and the appellant's ecologist notes that the scrub was removed at an appropriate time of year.
52. As to reptiles, there is no evidence of Great Crested Newts at the site. The appellants moved onto the site in September 2023 and the caravan sited on the pre-existing hardstanding, that had been laid in association with an earlier permission for the stable building (which was granted free of any conditions relating to biodiversity or ecology). The overgrown area was cut back at around the same time which was an appropriate time of year for reptiles. There is no evidence that the ecologist's earlier recommendations were not followed. This being the case then, in the light of the ecologist's earlier finding that previous site management would have limited the available habitat for reptiles, this would have been unlikely to provoke the need for further surveys.
53. The position now is that a night bat roost in the stable is known to have been lost, and the present use of the stable for ancillary domestic functions could affect its potential as a day roost: whether it was so used is again unknown owing to the absence of survey. The stable permission is free of any planning conditions concerning illumination, although it is not being put to the use then permitted. The appellant's ecologist strongly recommends removing the lights, to prevent barriers to foraging or commuting bats and permit access to the bat roost. It was noted that the stable building was not intended to be used for domestic purposes if the appeals are allowed. It appears that the application of a condition prohibiting interior or exterior lighting will ameliorate the situation.
54. The County Ecologist's view was that any impacts to protected species (if any) have already likely occurred, given the retrospective nature of the application. The use of the stable building as a domestic annexe does not form part of the proposals before me (there being no ground (a) appeal against the enforcement notice) and the cessation of that activity can be achieved by a planning condition.
55. The requirement of policy DM7 is that the proposed development should not have an unacceptable impact on ecological interests. Notwithstanding the persuasive interventions of Mr Sibbett I consider the approach taken by the appellant's ecologist to have been appropriate and proportionate. Adherence to planning conditions requiring landscaping measures to re-stock and improve the hedgerows, to remove the cherry laurel and to provide the grassed areas depicted on the plans can be expected to produce benefits to habitats. Similarly the removal of lighting and the cessation of domestic use of the stable. Subject to those matters I find no overall conflict with the development plan on this issue.

Flooding

56. The final element of criterion (c) of policy DM7 requires that the application site is not located in an area at high risk of flooding. This is not an objection raised by the Council in either these or the previous appeals, with the Council's report on the present application reporting that the site is in Flood Zone 1, with the lowest probability of sea or river flooding. There are, it continued, some known surface water issues with some risk of flooding near the site access and a flowpath identified within the site. The Lead Local Flood Authority recommended a planning condition, and the present application was accompanied by a sustainable drainage statement proposing water harvesting, reed beds and a sewage treatment plant.
57. The Framework requires that inappropriate development in areas at risk of flooding should be avoided by directing development away from such areas, but where it is necessary then made safe for its lifetime without increasing flood risk elsewhere. A sequential approach should be taken, to steer new development to areas with the lowest risk of flooding from any source. Where it is not possible for development to be located in areas with a lower flooding risk, the application of the 'exception test' requires the demonstration of wider community benefits and that the development will be safe for its lifetime.
58. The site lies within Flood Zone 1 but flood maps show that parts of the site are at some risk from surface water flooding. The current map (Appellant Appendix 2 to final comments) shows a low risk of flooding in the northern corner of the site. For the years 2040 – 2060 this low risk appears to apply to a larger area of the site. The flood risk map shows a water course from the north east potentially aligning with the north-eastern spur of the Woodgate road, and then splitting just north of the site and passing along two flood routes before uniting to the southwest. Overlaying the site map onto that, the western boundary appears to pass between the two routes. In reality, the western boundary is formed by a present bund and ditch, and it is not clear which of the two flood routes this is intended to represent. I expect that it is the western one, meaning that the post-2040 map anticipates some flooding across the middle of the site. The appellants' application documents acknowledge that there is some identified surface water flooding across the site. On site, I observed that the northern part of the site was reasonably boggy, and the so-called 'ditch' to the western boundary consisted of a running watercourse notwithstanding the prolonged spell of dry weather at the time of my visit.
59. Nonetheless as the Council point out the flood risk is deemed to be low and this in itself does not trigger the application of the sequential test. Whilst the touring caravan would be kept in the northern part of the site, the proposed location of the mobile home is well away from either of the potential flooding routes and the site access is also unaffected. Were it necessary to consider the question, there is no evidence that the development would not be safe for its lifetime. It is also suggested that the development of the site has, and would, increase flood risks elsewhere. I was informed at the hearing that the hardstanding laid on the site is permeable, and the application plans show for the removal of some of this. The flood risk mapping shows that any watercourse over the site would not drain in the direction of the road but across the fields to the southwest. There is no evidence that the development of the site would cause the flow to divert to the east.
60. I am referred to a decision of an Inspector in West Sussex (SJ5) where permission was refused for the absence of a sequential test. The facts of that case are

considerably different from those here, where there was a high risk of groundwater flooding and the site access fell within the identified flood risk area.

61. The site is not, pursuant to criterion (c) of policy DM7, located in an area at high risk of flooding and the risks of surface water flooding at the site, now or in the future, do not appear to be sufficient to provoke the application of the sequential test. With the application of appropriate conditions as recommended by the LLFA I find no conflict with the development plan on this issue.

Other Matters

Historic Environment

62. I am obliged by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act of 1990 to pay special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses.
63. The appeal site has no intervisibility with any nearby listed buildings, but it does fall within the wider setting of both Woodgate Farmhouse and the Culmstock Beacon. As to the Farmhouse, this lies to the north of the site and historically appears accessed by the track on the site's southern boundary, as well as from the centre of the hamlet close to the road junction, which forms the focal point of the hamlet.
64. Although the site may be encountered on the approach to the Farmhouse (and to the associated curtilage listed Walders Court) and quite possibly forming part of the original farmsteading, it does not affect the appreciation of either asset. Whilst the wider setting of the farmhouse is of pastoral farmland, in the close context it is adjoined by other houses in the agriculturally-based nucleus including Bartletts and Woodgate House. The appeal site falls within this development cluster. The development proposed would not affect the historic understanding of the farmstead and there is no detriment to its setting.
65. As to the Culmstock Beacon, that has a much wider setting because it is designed to operate as one of a chain of relay beacons each as a warning signal, visible for many miles. Development of the land below it in the way proposed here does not adversely affect any understanding of that historic function, and there is no detriment to the asset or to its setting.
66. I am also conscious of the area's literary associations. Further development of the site would result in some change to the landscape but for the reasons I have explained above, the development proposed can be acceptably accommodated.

Living conditions of neighbouring occupiers

67. Policy DM1 of the Local Plan requires that new developments are designed to avoid unacceptably adverse effects on the privacy or amenity of neighbouring properties. It is suggested that unacceptable impacts will arise from overlooking and noise, as well as from the lighting at the site. The external lighting will be made the subject of a planning condition. The effects on the privacy of neighbouring occupiers appear to me negligible, given the proposed siting of the mobile home. The use proposed is not inherently noisy and is unlikely to be unacceptable in this residential area. A planning condition will prohibit commercial or business activities from taking place at the site.

Alternative sites

68. It is suggested that sufficient Gypsy or Traveller sites exist in the area, meaning that there is no need for the development of this one. Policy DM7 is not subject to any overarching criterion requiring the need for any site to be demonstrated. As I have found that the criteria of that policy, and of the development plan as a whole, are met by the development, the existence of potential alternative sites is not a relevant consideration.

Intentional unauthorised development and precedent

69. A Written Ministerial Statement of 2015 provides that intentional unauthorised development is a material consideration in planning decisions. The Statement explains that the Government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases there is no opportunity to appropriately limit or mitigate the harm that has already taken place.
70. It appears here that the appellants moved onto the land in the knowledge that planning permission was required, and thus I find that the development that has taken place has been intentionally unauthorised. That is not the same as the development now sought, although the residential and some other elements are common to both.
71. The retrospective nature of the development having been intentionally unauthorised attracts some adverse weight against it, but I consider this is insufficient to justify a decision to refuse permission for development that is otherwise in accordance with the development plan for the area. The works that have been undertaken appear reversible, and the appellants have sought to regularise the position. As to the question of precedent, I have decided this appeal on the facts of the particular case before me. I have been presented with a considerable number of other appeal decisions, all of which were also decided on their own facts.

Other matters

72. I have had regard to all other representations raised, and note a number of other concerns such as those about highway safety, drainage and the absence of local amenities. I have no reason to disagree with the previous Inspector about the acceptability of the site's distance to services and facilities. Other matters can appropriately be dealt with by the imposition of relevant planning conditions.

Conditions and the implications for the notice

73. Any conditions to be applied in the event of a permission being granted were the subject of a large measure of agreement at the hearing. The appellants do not seek to retain what is on the site at present, and I am not asked to grant permission for what is alleged in the notice, there being no ground (a) appeals. The issue is how to grant permission for an acceptable development whilst ensuring that the presently unacceptable development is removed if that permission is not carried out.
74. Section 180 of the 1990 Act provides that where, after the service of an enforcement notice, permission is granted for any development already carried out, the notice shall cease to have effect so far as inconsistent with the permission

granted. Thus although I shall uphold the notice (subject to the corrections required as a result of the ground (b) appeals succeeding) it will largely cease to have effect, save in respect of those elements for which permission is not granted on the section 78 appeal. This will mean that the notice, although upheld, could not be relied upon to secure the cessation of the use for residential purposes but instead, if the permission is not complied with, the Council would have to look to the terms of the permission itself.

75. It is therefore necessary to secure by condition a requirement to cease the use of the land, and to remove all traces of the use, if the measures required to make the development acceptable are not taken and maintained. This will require a site development scheme to be submitted to the Council for approval, which will include matters concerning the site layout, landscaping, means of access and enclosure, tree and hedgerow retention, lighting, storage, cladding of the mobile home and biodiversity measures. The scheme must then be implemented and retained as approved. Concomitantly, any permitted development rights that might otherwise arise to erect fences or other means of enclosure will be removed.
76. There was some discussion at the Hearing about the extent of the need for a biodiversity mitigation and enhancement plan. The County Ecologist appears to have made erroneous reference to a local policy requirement for net gain that applies only to major developments. Nonetheless the principle of achieving net gains is accepted by the appellant and the Framework seeks to facilitate that. I shall therefore impose that element of the condition in the form sought by the local residents.
77. Separately, a scheme for foul and surface water drainage is required and notwithstanding the low flooding risk I agree with the local residents that full information as to percolation is obtained before the details of any such scheme can be discharged. I shall provide for that scheme to be submitted for approval within six months in order that percolation tests over the forthcoming wet season may be obtained.
78. The permission to be granted is justified because the appellant is a Gypsy. I have referred extensively to the relevant Local Plan policy, DM7, in this regard, which makes special provision to facilitate gypsy and traveller site developments in the area and whose policy requirements are different from those that apply to the population who are not averse to living in bricks and mortar accommodation. Therefore a requirement that the site only be occupied by gypsies or travellers is needed. It is also appropriate to require, if the use should cease, the caravans and associated works to be removed.
79. To the extent that the site development scheme does not already require it, a requirement that no more than two caravans, of which no more than one can be a static caravan or mobile home, may be stationed on the site at any time is required. This is to avoid visual clutter and to limit the intensity of the site's use to that set out in the application. Similarly, a requirement limiting the size of any vehicles that may be parked or stored on the site is also required and to prohibit commercial or storage use. Should the mobile home be replaced in future, a condition requiring the approval of its cladding materials will be imposed.
80. In order to ensure safe access and egress to and from the site, a requirement for visibility splays to be maintained will be imposed.

The appeals on grounds (f) and (g)

81. As I have resolved to uphold the notice, it follows that the remaining grounds of appeal against it require consideration. However these grounds will fail, because the reasons for making them are predicated on a refusal of permission for the residential development. As that is being allowed, any decision in relation to grounds (f) or (g) could not be any more advantageous to the appellants than is obtained by the permission to be granted on the section 78 appeal.

Conclusions and Formal Decisions

Appeal C

82. For the reasons given above, I conclude that, subject to the imposition of relevant conditions, the proposed development complies with the development plan for the area and that the appeal should be allowed. The impacts on the landscape or ecology are not unacceptable and the site is not at a high risk of flooding. Thus all elements of policy DM7, which is the key applicable local policy, are satisfied. I recognise that my decision will come as a disappointment to the local residents, who have marshalled an impressive and impassioned case. The differences between the present proposal and the one considered by the previous Inspector are however considerable, as is the position as to the extent to which the site is previously developed. Thus I have concluded that the present proposal does not conflict with the provisions of the development plan for the area. No material considerations of sufficient weight indicate that I should make a decision otherwise than in accordance with it. Subject to the imposition of relevant and necessary planning conditions, therefore, permission will be granted.

Appeals A and B

83. I shall direct that the notice be corrected to reflect the erroneous inclusion of a reference to an existing mobile home on the site, by both deleting its presence from the allegation and its removal from the requirements. Subject to that, the appeals will be dismissed and the notice will be upheld. As noted above, however, its requirements will be limited to those that are inconsistent with the permission to be granted under Appeal C.

Formal Decisions

Appeal C

84. Planning permission is hereby granted, partly retrospectively, for the use of land at South Fork (NGR 310236 115114) Culmstock, EX15 3HW as a Gypsy and Traveller site for one family, to include one mobile home and one touring caravan, in accordance with the application made to the Mid Devon District Council under reference number 24/00848/FULL, subject to the following conditions:
- (1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan and Existing Block Plan, Drawing KRAD.20.038.200; and
 - Proposed Site Layout and Outline Landscape Scheme, Drawing TDA.2971.01 (Rev A)
 - (2) The site shall not be occupied by any persons other than Gypsies or Travellers, defined as persons of nomadic habit of life whatever their race

or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have cease to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

- (3) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than one shall be a static caravan or mobile home, shall be stationed on the site at any time, and no caravan shall at any time be stationed anywhere on the site except in the locations marked on the Proposed Site Layout and Outline Landscape Scheme Drawing TDA.2971.01 (Rev A) depicting the 'Touring Caravan' and 'Mobile Home'.
- (4) When the land ceases to be used for the purposes authorised by this permission, within three months of such cessation all caravans, structures, hardstanding, materials and equipment brought onto or erected on the land and all works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development having taken place.
- (5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land and no commercial or business activities, or (or including) the storage of materials or any burning of materials, shall take place on the land.
- (6) The stable building existing at the site shall not be the subject of any interior lighting and shall not be used as residential accommodation or as a domestic annexe, save for storage purposes.
- (7) Within six months of the date of this permission a detailed scheme for foul and surface water drainage, to include the detailed results of percolation tests at the site, shall have been submitted to the local planning authority for approval, which approval may include amendment by them. The scheme, which shall include a timetable for its implementation, shall be carried out as approved and thereafter retained and maintained.
- (8) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within three months of the failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within three months of the date of this decision a scheme ('the site development scheme')
 - to achieve, save where departures from it are required by any other requirements of this or any other planning condition, compliance with the application plan Proposed Site Layout and Outline Landscape Scheme, Drawing TDA.2971.01(Rev A) including the removal of hardstanding except as shown on that plan;
 - to include a detailed landscaping strategy, including hard and soft landscaping based on Drawing TDA.2971.01 Rev A) to

include details of species, plant sizes and proposed numbers and densities. For all surfacing, details shall include the nature of the sub-base and finished surfacing in order to demonstrate that it will be permeable;

- to include details of all means of enclosure including entrance gates, which gates shall not be sited within five metres of the adjoining carriageway of Woodgate Road;
- to include details for the retention and protection of the existing trees and hedgerows, to include an Arboricultural Method Statement and Tree Protection Plan;
- to include details of any external lighting within or at the boundaries of the site;
- to include details of the storage and collection areas for refuse and recyclables;
- to include the details of the method of cladding the mobile home in timber boarding, to include the type and appearance of the timber, details of any treatment for it, and proposals to secure its ongoing maintenance, repair or replacement; and
- to include the details of a biodiversity mitigation, enhancement and management plan ('the Biodiversity Plan') to demonstrate a net gain in biodiversity on the site. The Biodiversity Plan shall make provision for protected species surveys and appropriate mitigation or compensation strategies; shall set out the timing of any site clearance works; shall set out a detailed scheme of biodiversity enhancement; shall give details of a soft landscaping scheme including buffer planting; shall set out the details of darkened corridors for foraging and commuting bats; and shall specify the subsequent measures to be taken to maintain and manage all such matters

shall have been submitted for the written approval of the local planning authority and the site development scheme shall include a timetable for its implementation;

- (ii) within 12 months of the date of this decision if the local planning authority refuse to approve the scheme or have failed to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
- (iii) if an appeal is made in pursuance of paragraph (ii) above, that appeal shall have been finally determined and the site development scheme shall have been approved by the Secretary of State;
- (iv) the approved site development scheme shall have been carried out and completed in accordance with the approved timetable.

Following the implementation of the site development scheme required by this condition, there shall be no change to any of the approved details. The parking and turning areas identified shall be retained for those purposes. The area to be surfaced in a hard-bound material shall be maintained as such thereafter. The loss of any planting comprised in the landscaping including boundary treatments approved under the scheme within five years of such approval shall be replanted within the first planting season following the loss with plants of the same species as those lost.

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 shall be suspended until that legal challenge has been finally determined.

- (9) If within a period of five years from the implementation of the site development scheme, any trees or plants which formed part of the approved scheme die, are removed or become seriously damaged or diseased they shall be replaced in the next available planting season with others of a similar size and species.
- (10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order replacing that order with or without modifications) no walls, fences, gates or other means of enclosure other than those depicted on the approved plans shall be erected on the site.
- (11) No replacement mobile home or static caravan shall be stationed on the land before details of its method of cladding in timber boarding, to include the timing of its provision, the type and appearance of the timber, details of any treatment for it, and proposals to secure its ongoing maintenance, repair or replacement, shall have been submitted to and approved by the local planning authority. No replacement mobile home or static caravan shall be stationed on the land except in accordance with the approved details.
- (12) The site visibility splays shown on Drawing TDA.2971.01 (Rev A) shall be provided within one month of this decision and thereafter retained in perpetuity.

Appeals A and B

- 85. I direct that the notice be corrected and varied by the deletion, from paragraph 3(a), of the words “the siting of 1 mobile home and associated works,”, by the deletion of paragraph 5(2), and by the deletion in paragraph 5(7) of “2)” and its replacement with “3)”.
- 86. Subject to those corrections and variations, the appeals are dismissed and the enforcement notice is upheld.

Laura Renaudon

INSPECTOR

Appearances

For the Appellant

Marc Willers KC	Counsel
Hannah Cameron	HC Planning
Rhodri Crandon	Tirlun Design Associates Ltd
Mr M Tucker	Appellant
Mrs C Tucker	Appellant

For the Council

Mr J Millar	Mid Devon District Council
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Interested Parties

Cllr Bass	Parish Councillor
Cllr Clist	District and County Councillor

Mrs S Forsyth, local resident, was represented by Ian Dudley, of Rowellian Environmental Consulting Ltd; Nicholas Sibbett of Sibbett Ecology; and Steve Jarman of Opinion Research Services.

Other local residents and interested parties had input or were also in attendance and I have had careful regard to all of their written and oral representations.

Hearing Documents

- 1 Surface water map 2040-2060
- 2 Application plans 21/01499/FULL
- 3 Application plans 24/000848/FULL including site layout and outline landscape scheme
- 4 Additional representations
- 5 5 year Deliverable Supply Statement for Travellers Sites in Mid Devon, June 2025