
Appeal Decision

Site visit made on 11 June 2025

by **Matthew Jones BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 December 2025

Appeal Ref: APP/P1133/W/24/3354578

Land At NGR 282175 76309, Newton Road, Bovey Tracey, Devon, TQ13 9DU

- 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 L Stoneman against the decision of Teignbridge District Council.
 - The application Ref is 19/00664/FUL.
 - The development proposed is described as *'the proposal is for the use of a small portion of land at Newton Road, Bovey Tracey for gypsy pitches. It is suggested that it could accommodate up to 9 families. The application also comprises associated works including improved access, the provision of services and utilities and proposes an overall Landscape Management Plan for the wider site, including replanting and enhancing the remainder through increased tree cover and biodiversity. The proposal is policy compliant and in line with national policy guidelines for Gypsy Sites. The application is supported by a range of accompanying studies which demonstrate the suitability of the site for the proposed use'*.
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Decision

1. The appeal is allowed and planning permission is granted for 9 gypsy pitches, access, the provision of services and utilities at Land At NGR 282175 76309, Bovey Tracey, TQ13 9DU in accordance with the terms of the application Ref 19/00664/FUL, subject to the conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Mrs L Stoneman against Teignbridge District Council. This application is the subject of a separate decision.

Procedural Matters

3. I have adopted the description of development given on the Council's decision notice in my own decision above, as it is more accurate and omits extraneous details which do not comprise acts of development.
4. In deciding this appeal I have carried out an Appropriate Assessment as to the potential effects of the scheme on the South Hams Special Area of Conservation. Natural England were consulted as part of that assessment, and have offered no objection to the proposal.

Main Issues

5. The main issues are the effect of the proposal on:
 - biodiversity, with particular regard to biodiversity net gain and the protection of locally important and priority habitats;

- the integrity of the South Hams Special Area of Conservation (the SAC), with reference to its Landscape Connectivity Zone;
- the question of the need for and supply of gypsy and traveller sites.

Reasons

6. The site comprises an area of treed scrubland, allocated in the long term by the development plan for mineral (ball clay) extraction, to the immediate west of the A382 Newton Road, which is the main road towards the settlement of Bovey Tracey. Newton Road at this point is known locally as the Bovey Straight. The site has vehicular access on to Newton Road at its northeast corner.

Biodiversity

7. Given that the planning application as submitted in 2019, the Government's statutory biodiversity net gain requirement does not apply. Nonetheless, Policy EN8 of Teignbridge Local Plan 2013-2033 (adopted 2014) (the TLP) seeks schemes to secure an increase in biodiversity. Policy LE4 of the Bovey Parish Neighbourhood Plan 2021-2033 (made 2022) (the BPNP) further requires that all development shall protect and enhance the natural environment by ensuring that a net gain in priority habitats and species occurs. Under its terms, proposals are required to demonstrate a 10% or greater net gain in biodiversity.
8. The appellant's evidence indicates that a 18.63% net gain in biodiversity with regard to habitat creation and 48.45% in respect to hedgerows could be achieved through the development. However, the Council has challenged the data in specific relation to the accuracy of the baseline assessment, the potential omission of habitat visible on site and the feasibility of the provision and maintenance of elements of the proposed enhancements. These criticisms have not been answered and, whilst there would be a degree of gain, I do not therefore have requisite assurance that the requirements of Policy LE4 would be met.
9. Policy EN9 of the TLP states that to protect and enhance areas of biodiversity, proposals must take account of the importance of any affected habitats or features. It lists a hierarchy of applicable sites. Whilst this includes County Wildlife Sites (CWS) it also includes, at the bottom of the hierarchy, simply areas of land or features of biodiversity value.
10. The site was delisted as a CWS in 2018 but is identified as the 'Newton Road proposed County Wildlife Site' by the BPNP. Since 2018 invasive species such as brambles have propagated and the priority habitats which supported the site's CWS status, its remnant heathland and acid grassland vegetation, have diminished to the point that the site now offers little value to the species it previously supported. I witnessed this myself when I visited the site.
11. However, it still offers value to the dingy skipper butterfly and the pearlbordered fritillary butterfly through small numbers of suitable food plants amongst the extant grassland. The grass may also support reptiles, given slow-worm, common lizard and grass snake were recorded on the site in 2015. The site therefore offers some important habitat and comprises land of value to biodiversity in Policy EN9's terms.
12. The development would lead to the loss of the majority of the remaining grassland habitat. In such circumstances, Policy EN9 goes on to say that developments will not be permitted unless, amongst other things, any unavoidable losses are fully

compensated. Whilst the scheme puts forward various biodiversity enhancements at the site, the removed grassland habitat would not itself be directly compensated. Taking into account the weight to be attached to the protection of the features of biodiversity value on the site, the requirements of Policy EN9 would not be met.

13. The scheme also has the potential to affect the adjacent Butterfly Conservation CWS and the Great Plantation CWS. The laying of a simple service line through a small part the Butterfly Conservation CWS, to be recovered by soil, would have a negligible and immediately reversible effect on that CWS. Much of the verge aside Newton Road comprises a thin layer of woodland detritus above a concrete drainage system. This area is therefore likely to be of limited value to biodiversity and the root systems of trees within the Great Plantation CWS. As such, the effect of the proposed pavement on that CWS would also be negligible and acceptable.
14. Drawing this issue together, whilst there would be no significant effect on the adjacent CWSs, the effect of the proposal on onsite biodiversity, with particular regard to biodiversity net gain and the protection of locally important and priority habitats, would be unacceptable. In these respects, the proposal would conflict with the relevant objectives of Policies S22, EN8 and EN9 of the TLP, Policy LE4 of the BPNP and the National Planning Policy Framework (the Framework).

Special Area of Conservation

15. The SAC is focused on component SSSIs. The qualifying species supported by these habitats is the Greater Horseshoe Bat (GHB). The objectives of the SAC are to ensure that its integrity is maintained and/or restored to ensure that the site contributes to achieving the Favourable Conservation Status of the GHB.
16. Whilst not directly within the SAC or any of its related sustenance zones, the site is within the Landscape Connectivity Zone identified for the SAC. GHB has been monitored travelling infrequently across the west and east sides of the site. Possible impacts on the integrity of the SAC may arise through effects on the ability of GHBs to commute along these routes. Significant effects are therefore likely in the first instance and an Appropriate Assessment is required under Regulation 63 of the Conservation of Species and Habitats Regulations (2017) as amended (the Habitats Regulations).
17. The Council considers that, in order to protect the integrity of the SAC, the scheme must maintain at least one robust bat corridor feature, positioned to give good connection to adjoining habitat beyond the site boundary. I agree and believe that would be achieved in relation to the corridor along the east site boundary. Where GHB activity has been recorded, at the north end, the existing access will be replaced with new hedgerow planting and planting either side of the removed access will also be augmented, enhancing the route by bridging an intermittent landscaping gap of around 12m. The new access would be less intrusive in its size and around 90m to the south in a more densely treed area.
18. The lighting plan supporting the scheme shows that, owing to the depth of planting, around 6-7m aside the nearest pitches, the east movement corridor would not be prejudiced by lighting on the site. Management of this route could be secured by a Landscape and Ecological Management Plan via a condition. The design of the lighting at the site could also be addressed with a condition. It follows that, with the mitigation provided, I find no potential for a detrimental impact on the

SAC alone or in combination with other development proposals. This is consistent with the opinion of Natural England that the SAC would not be affected.

19. I therefore conclude my Appropriate Assessment that the proposal would not harm the integrity of the SAC. It would accord with Policies S22, WE6, EN9, EN10 and EN11 of the TLP, Policies LE7 and LE17 of the BPNP and the Habitats Regulations insofar as they seek to secure the long-term protection of such sites and mitigate any adverse effects on their integrity.

The question of the need for and supply of sites

20. The Council acknowledges that it does not have a five-year supply of gypsy and traveller sites, which attracts significant weight. There is significant unmet need for gypsy and traveller pitches across the plan area.
21. The latest evidence identifies a need for 48 pitches in the current period between 2022-2026. Subsequent changes to the Planning Policy for Travellers Sites (PPTS) include the broadening of the definition of gypsies and travellers to now encompass everyone with a cultural tradition of nomadism or living in a caravan. The level of unmet need is therefore likely to be even higher than that established within the GTAA. The site would make a clear contribution to addressing this unmet need for an extended period until the site may be required for mineral extraction, a further significant factor in the scheme's favour. Albeit, in these circumstances the temporary nature of the permission means it would not therefore address any permanent need for pitches within the plan area.

Other Matters

22. Lesser Horseshoe Bat (LHB) is also a protected species and has been recorded within the centre of the site in the most recent surveys that took place in 2024. This area would be kept free from development and reinforced with planting. Given the enhancements to the east movement corridor directly adjacent to and accessible from this area, I see no reason why it would become inaccessible to bats or how bat activity here would be prejudiced by the proposal. Moreover, the site is situated amongst an expansive, densely treed former plantation, and logically there are an abundance of alternative commuting routes for LHB in this area. The favourable conservation status of LHB would therefore be maintained.
23. In terms of its visual impact, the new access would be less prominent than the current access, and the existing and proposed roadside planting would be successful in significantly filtering views of the development from Newton Road. This location has good access to services and facilities for development of this type. The proposed pavement would offer a safe walking route, and the roadside verge would provide sufficient visibility (215m) in both directions to ensure safe access and egress to and from the site. I see no clear reason why the scheme would have a severe residual impact upon the highway network. Noise generated by the site would be experienced in the context of traffic noise from Newton Road. Conversely, there is no substantive evidence that the noise from the highway would have an unacceptable effect on the living conditions of future residents.
24. I have had full regard to the setting of the Scheduled Monument (the SM) Earthwork on Bovey Heath, which is around 200m to the north. The significance of the SM derives principally from its role in the defence of the town during the 1646 Battle of Bovey Tracey. Given the distance between it and the appeal site, and the

intervening screening, the significance of the SM would be unharmed by the proposed development.

Planning Balance

25. Given the unacceptable effect of the scheme on biodiversity, both in terms of achieving necessary biodiversity net gain and the protection of important habitat more generally, it would conflict with the development plan when read as a whole. However, the loss of important habitat would be modest and is already happening naturally. The likely total loss of extant biodiversity on the site is promoted by the development plan itself if the site is eventually put to the intended purpose of mineral extraction. These factors significantly reduce the weight I ascribe to the conflict with the relevant development plan policies that would arise in this case.
26. The absence of a five-year supply also engages Paragraph 11(d) ii) of the Framework. It states that in such circumstances permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the proposal, assessed against the Framework as a whole, having particular regard to certain key policies.
27. In my judgment, the adverse biodiversity impacts of the scheme would not significantly and demonstrably outweigh the benefits of the contribution the site would make to gypsy and traveller provision in this area. It follows that the scheme represents sustainable development for which the Framework establishes a presumption in favour; another significant consideration in support of granting planning permission.
28. Given such, the other considerations before me indicate that I should make a decision other than in accordance with the development plan in this case.

Conditions

29. The Council has provided a recommended list of conditions, some of which I have amended for the sake of clarity and precision. In addition to the standard time condition, a condition setting out the approved plans is necessary in the interest of certainty. Given the documented archaeological potential of the area, a condition is needed to secure a written scheme of investigation before work commences.
30. In the interest of biodiversity, ecology and the character and appearance of the area, a condition is required to secure details of and adherence to a landscape and ecological management plan. Again in relation to biodiversity, a plan shall ensure protection of relevant features during the construction phase. No compelling evidence has been provided to justify a condition requiring a construction environment management plan before work starts.
31. A condition will establish the means for the disposal of surface water from the site. The lighting strategy is required in the interest of protected species. To ensure that the development is adequately safe and accessible a condition will provide for the construction of the proposed roadside footpath prior to the occupation of the site. A condition will ensure that any unexpected contamination uncovered during works is dealt with appropriately. In the interest of highway safety, it is essential for a condition to provide for the construction of the access to the specification agreed.
32. As the scheme is acceptable on the balance of considerations, including the delivery of gypsy and traveller pitches, a condition shall restrict occupation to only

those that fulfil the definition of such as set out in the PPTS. In the interest of the living conditions of future residents, a condition is necessary to control the number of pitches and caravans on the site.

33. Finally, given the safeguarding of the site for eventual mineral extraction, it is reasonable and necessary that a condition shall ensure that the proposed use ceases, and the land is returned to an agreed state appropriate for extraction, in 20 years' time. This timeframe is consistent with the date and content of the mineral and waste authority's supportive consultation response on the subject, which sets out the likely practical timeframe for any ball clay extraction to begin.
34. The length of time responds to the specific issues relevant to this appeal, namely the presence of the mineral resource and the level of unmet need for gypsy and traveller sites. The condition aligns with the specific approach of Policy H2 in the Devon Minerals Plan (adopted 20xx) in relation to the provision of intervening uses within mineral safeguarding areas. I am also mindful that, whilst the Framework advocates for the designation of mineral safeguarding areas, it is also clear that that designation should not lead to a presumption that the mineral resource will inevitably be exploited.

Conclusion

35. For the reasons given above, and taking all other matters raised into account, I conclude that the appeal should be allowed.

Matthew Jones

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin before the expiry of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

1750-08-H Road Layout - Visibility Splay
1750-10-B Cross Section Proposed
1750-12-B Elevation - Proposed
1750-11A Utilities Plan - UTILITIES SURVEY & DETAILS
1750-30-C Footpath Proposed
1750-32-C Footpath Section A To C
1750-33-C Footpath Section C To E
1750-34-C Footpath Section E To G
1750-35-C Footpath Section G To I
1750-36-C Footpath Section I To K
1750-37-C Footpath Survey Section K To M
1750-40-A Footpath Sections 1 To 3
1750-41-A Footpath Sections 4 To 6
1750-42-A Road Gully Section
1750-01 C Location Plan
1750-02 L Site Plan
1750-05 O Proposed Plan
1750-06 N Block Plan

- 3) No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme.
- 4) Prior to commencement of the development details of hard and soft landscaping works, including a landscape and ecology management plan (LEMP), shall have been submitted to and approved in writing by the Local Planning Authority.

Details of soft landscape works shall include details of any hedge planting and trees, details of retention of any existing trees and hedges and finished levels/contours. The hard landscape works details shall include means of enclosure, boundary, and surface treatments. The development shall then be carried out in accordance with a timetable to be agreed with the Local Planning Authority and thereafter maintained in accordance with the approved details.

If within a period of five years after planting any tree or plant is removed, dies or becomes seriously damaged, defective or diseased, another tree or plant of the same species and size as that originally approved shall be planted at the same place, within the next planting season.

- 5) No development shall take place until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local

Planning Authority. The CEMP shall accord with the specification in BS42020: Biodiversity and subsequent applications and shall include the following:

- (a) Risk assessment of potentially damaging construction activities;
- (b) Identification of biodiversity protection zones;
- (c) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs;
- (d) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP and the actions that will be undertaken;

The approved CEMP shall be adhered to and implemented strictly in accordance with the approved details.

- 6) Prior to commencement of the development a scheme for the management of surface water shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out prior to the first occupation of the site and thereafter maintained in accordance with the approved details.
- 7) Prior to the installation of any external lighting on the site, a lighting strategy including full details of all external lighting (heights, mounting, cowling, and lamp bulb details) shall be submitted to and approved in writing by the Local Planning Authority. A dark areas/corridor map where lighting levels of less than 0.5 lux would persist shall be included within the details to be agreed by the Local Planning Authority. The detailed assessment shall include contour lux modelling.
- 8) Prior to the first occupation of any of the hereby approved pitches the footpath and pedestrian crossing shown on the approved plans shall be constructed.
- 9) If, during development, contamination not previously identified is found to be present then no further development shall be carried out until the developer has submitted to and obtained written approval from the Local Planning Authority for an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with. Development shall not thereafter proceed unless in strict accordance with the measures identified in the approved remediation strategy and verification plan. Prior to the occupation of any part of the site, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority.
- 10) Prior to the occupation of the site, the site access and visibility splays shall be constructed, laid out and thereafter maintained for that purpose in accordance with drawing reference 1750-08 Rev H. Thereafter the visibility splays shall be kept free of all obstructions to visibility above a height of 0.6 metres above carriageway level at all times.
- 11) The site shall not be occupied by any persons other than Gypsies and 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 ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

- 12) There shall be no more than 9 pitches on the site and on each of the 9 pitches hereby approved no more than 2 caravans [as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended], shall be stationed at any time, of which only 1 caravan shall be a static caravan.
- 13) The use of land hereby permitted shall cease within 20 years from the date of this permission, and all caravans, structures, materials and equipment brought on to or erected on the land, and/or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place in accordance with a scheme of work that shall first have been submitted to and approved in writing by the Local Planning Authority.