
Appeal Decision

Hearing held on 13 November 2025

Site visit made on 13 November 2025

by **JP Sargent BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 January 2026

Appeal Ref: APP/P1133/W/25/3363601

Land North Of Haldon Race Course (Car park C19), Kennford, Devon EX6 7XA

- 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 S Bowden against the decision of Teignbridge District Council.
 - The application Ref is 24/01962/FUL.
 - The development proposed is the change of use of land to a traveller site for a temporary period of 3 years
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Decision

1. The appeal is allowed and planning permission is granted for Change of use of land to traveller site for a temporary period of 3 years (resubmission of refused application 22/02044/FUL) at Land North Of Haldon Race Course (Car park C19), Kennford, Devon EX6 7XA in accordance with the terms of the application, Ref 24/01962/FUL, and subject to the conditions in the attached Conditions Schedule.

Main Issues

2. The main issues with this case are
 - a) whether the scheme could have a suitable means of foul drainage,
 - b) whether it would have a likely significant effect on the integrity of the Exe Estuary Special Protection Area and the Dawlish Warren Special Area of Conservation, and
 - c) whether this is intentional unauthorised development.

Reasons

Foul drainage

3. This appeal concerns a small former car park that is between the racecourse and the A38. It is bounded on 3 sides by woodland, while an unnamed road (the road), from which access is taken, is on the fourth side. Since 2022 it has been occupied by New Age Travellers on 5 pitches. I was told the residents comply with the definition of gypsies and travellers found in the glossary of the current iteration of the *Planning policy for traveller sites*, and they live in tourers only, with no intention of bringing static caravans onto the land.
4. Irrespective of its relationship to designated wildlife sites and similar, in order to avoid pollution and to achieve basic health standards this use needs a satisfactory means of disposing of foul drainage and 'grey water', if it is to be occupied on a

continuous basis for a temporary period of 3 years as now proposed. I was told that the residents on the site at present do not use the bathroom facilities in their caravans. Instead, the toilet for the 5 pitches comprises what the agent described as a DIY compost toilet, which is located away from the former car park in the surrounding wood. This would not be retained to serve the development subject of this appeal, being outside of the application site. Rather, new provision is now intended within the site itself.

5. In considering the most appropriate means of foul drainage, the Council has drawn attention to a wastewater hierarchy based on the *Planning Practice Guidance* and *Approved Document H: drainage and waste disposal* of the Building Regulations, in which primary consideration is given for a development to connect to the public sewer. If this is not reasonably practicable the next preference is an appropriately managed package sewage treatment plant, with a septic tank and then a cess pit being considered only if that too is not realistically feasible. Whilst this hierarchy is of a value, compliance with it is not a requirement of Policy EN4 in the *Teignbridge Local Plan 2013-2033* (the Local Plan). Rather, that policy says

'Planning permission will not be granted for any proposal which as a consequence of inadequate provision of water services or surface water drainage and disposal, would pollute the water environment'.

This reflects guidance in the currently adopted version of the *National Planning Policy Framework* (the Framework), which says development should be prevented that would contribute to unacceptable levels of water pollution. While reference has also been made to the *Model Standards 2008: Caravan Sites in England* these do not apply to sites occupied by gypsies and travellers, though their drive for drainage that does not cause pollution is captured in any event in the Local Plan and the Framework. I accept too that a licence for a caravan site is required from the Environmental Health Officer, and this would include addressing wastewater drainage. As is clear from the above though, this still remains a material consideration to be taken into account when determining planning schemes.

6. I was told there is no public sewer in the vicinity, and so I consider that option can be reasonably discounted. Moreover, given permission is not sought for permanent occupation but rather to use the site for a temporary period of only 3 years, it was contended that it would be disproportionate and unrealistic to install, and then have to remove, either a treatment plant or a septic tank. Despite the submission of no financial information, this seems a reasonable view, and so I discount those options too.
7. The appellant therefore proposes constructing a compost toilet facility on the site, or, if that is not feasible, using a chemical toilet provision, though no details were submitted to show the practicality of either. Both of these would require the agreement of and the adherence to a management plan to ensure they were suitably provided, and acceptably maintained and used thereafter, with an appropriate method of disposing of liquid and solid waste. The precise number of toilets would also need to be agreed. These matters though could be secured through conditions.
8. At the Hearing, the Council accepted these 2 options would fall within the above hierarchy as forms of cess pools or septic tanks. It also did not express the view

that it would be unreasonable for the residents to rely on these for a limited period of 3 years. I have no reason to conclude differently.

9. I consider that the compost toilet would be the preferred option as it would be more sustainable, although I note uncertainty over the disposal of liquid waste due to limited space within the site and an expectation of poor infiltration on this ground. However, even if such a system was not achievable, the option of chemical toilets is a fall back, and no firm basis to consider this to be unreasonable, unsuitable or infeasible has been raised. Accordingly, I am satisfied that the site could have an appropriate means of foul drainage. Moreover, although no details of these drainage methods were submitted, based on what I was told I am also satisfied that a reasonable solution can be addressed through the imposition of a condition.
10. 'Grey water' from washing was currently spread on the ground. This is not an approach that necessarily ensures there is no pollution, and if water is to be piped to the site (as opposed to being collected in containers as at present), the amount of such water being discharged would be likely to increase. I therefore consider a sluice facility or similar should be provided as part of the wastewater regime to receive such 'grey water'.
11. There was a concern about the possible effect of pollution from the development at present on local wildlife sites and similar. No determinative evidence one way or another was submitted in relation to the effect of this to date, but with the approval, installation and management of suitable compost or chemical toilet facilities, along with a satisfactory means of disposing of 'grey water', any possible harm in this regard should be addressed.
12. Despite having no costings, it is reasonable to assume that the expense of managing compost or chemical facilities could well be unduly onerous if these options were intended as part of a permanent occupation of the site. Indeed they could well become comparable to or exceed that of fitting a treatment plant. However, as a temporary permission of only 3 years is sought, I would not expect the costs to be so great as to be unreasonable, and, being spread over a period of time means the pressures of such finance are different when compared to the 'up front' costs needed if a treatment plant is to be installed at the outset. Furthermore, reliance on compost or chemical toilets could well facilitate an easier discontinuance of the use once the 3 years had expired. I therefore consider such an approach would be acceptable.
13. Accordingly, I conclude it has been demonstrated sufficiently that, for a temporary period of 3 years, the connection to the mains sewer, or the provision of a treatment plant or a septic tank, are not reasonable or proportionate options. However, I further conclude that the delivery of suitably designed, managed and operated compost or chemical toilet facilities would be acceptable as they would not pollute the water environment, and so would not conflict with *Teignbridge Local Plan* Policy EN4, or the Framework.

Effect on designated wildlife sites

14. The appeal site is within 10km of the Exe Estuary Special Protection Area (the SPA), which contains an internationally important population of migratory birds and waterfowl. It is also within 10km of the Dawlish Warren Special Area of Conservation (the SAC), whose qualifying features concern a valued mosaic of sand dune, grassland and wetland habitats. The SPA and the SAC are each

vulnerable to recreational pressure from visitors, and given the proximity to the development its residents could well go to one or both of these sites for recreational purposes. Consequently, a likely significant effect on the integrity of the SPA and the SAC, whether alone or in combination with other plans and projects, could well arise from the development due to increased visitor numbers.

15. To mitigate this a legal agreement under section 111 of the *Local Government Act 1972* has been submitted, and this makes a financial contribution to fund the management and control of visitors in the interests of the habitats provided by the SPA and the SAC. Although this contribution is only sufficient to cover 3 years of occupancy, I have no basis to conclude it would not be appropriate to ensure suitable mitigation over this timeframe. I therefore consider this agreement would comply with the requirements of Regulation 122 in the *Community Infrastructure Levy Regulations 2010* and so conclude the scheme would not conflict with Local Plan Policy EN10, which seeks to safeguard and protect such areas.

Intentional unauthorised development

16. On the evidence before me I have no reason to consider the occupation of the site was undertaken without knowing that it required planning permission. I therefore consider it to be intentional unauthorised development, and so, in accordance with the Government's Written Ministerial Statement of December 2015 this is a material consideration.

Other Matters

17. With regard to the principle of the development, the site lies in the open countryside. Policy S22 in the Local Plan seeks to restrict development in such an area, but cites, as an exception to this, gypsy and traveller development. Local Plan Policy WE6 then says that traveller pitches will be permitted in the open countryside provided there is not a 5-year supply for such pitches, and the development is occupied by those complying with the definition. The Council accepted it currently has only 2.6 years' supply, and so cannot meet the 5-year figure. However, this is based on an earlier definition of gypsies and travellers and so it is possible there is a greater shortfall in reality. Therefore, subject to a condition restricting the occupancy to those falling under the current definition of gypsies and travellers, I therefore find the development to be acceptable in principle. Although the emerging local plan is seeking to resolve this, it has not yet been adopted and so any weight it can be afforded does not allay the situation that exists at present.
18. The woodland on 3 sides, and the further woodland across the road, mean this relatively small site is well-concealed. As a result, and given its previous use as a car park, if suitable conditions are imposed I consider the development would not detract unduly from the character and appearance of the area.
19. A concern was raised about this being a precedent for developing the woodland between this site and the existing caravan site to the north. However, each application is viewed on its merits, and introducing caravans into that dense intervening woodland would raise different issues to siting them on this car park. That is therefore not a basis to resist the scheme.
20. I am aware of the concerns of the landowner but I have no basis to find they offer a reason to conclude differently on the planning merits of the case.

Planning Balance

21. Accordingly, although I am aware of the emerging local plan, even the level of supply accepted by the Council means there is at the moment a notable shortfall in pitches for gypsies and travellers. I therefore find this scheme would secure pitches where they are currently lacking, and I afford this significant weight. Furthermore, this shortfall means that the countryside location is acceptable in principle and not in conflict with policy in that regard. I also consider that, with suitable conditions, the scheme would not harm the character and appearance of the area, and the use of suitably managed compost or chemical toilet facilities would not pollute the water environment, although these are neutral factors in any balancing. Overall, I therefore find that the benefits of the scheme would outweigh any harm resulting from this being intentional unauthorised development.

Conditions

22. Given the limited mitigation provided to the SPA and the SAC, and mindful of the potentially onerous and unreasonable nature of managing compost toilets or chemical toilets on a permanent basis, I consider a condition should be imposed to restrict the permission to 3 years only. This would allow opportunity for the occupiers to find alternative accommodation in the meantime.
23. Having regard to the water environment, details of the disposal of foul drainage and 'grey water' should be agreed. Given the fundamental nature of this to the acceptability of the development, if, for whatever reason, no scheme is approved (whether by the Local Planning Authority or on appeal) then the use should cease.
24. In the interests of wildlife and the character and appearance of the surroundings all external lighting should be first agreed by the Local Planning Authority. Moreover, having regard to the character and appearance of the area the grassland verge should be seeded, and the site shall be for 5 pitches only and occupied by touring caravans and not static caravans. Any fencing and gates should also be approved by the Local Planning Authority, as should a management plan to ensure the site is appropriately managed. A condition would need to be imposed to ensure the land was suitably re-instated once the use ceased. Rather than just requiring it to be put back to how it was before the development commenced, such a condition should require an explicit scheme, along with a timetable for its implementation, to be agreed for the avoidance of doubt.
25. No further bunding or below-ground works are proposed (other than possibly fencing), so there is no need for protective fencing around trees by the site boundary, or to limit when 'works' can occur. I also have no basis to grant a personal permission, as the site's specific residents has not been determinative .

Conclusions

26. For the reasons given above, I conclude that the appeal should be allowed.

JP Sargent

INSPECTOR

CONDITIONS SCHEDULE

- 1) 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 show people or circus people travelling together as such, in accordance with *Planning Policy for Traveller Sites* or replacement planning policy or guidance.
- 2) The use hereby permitted shall be limited to a maximum period of 3 years from the date of this decision. At the end of this 3-year period the use hereby permitted shall cease, all caravans, equipment and materials brought onto the land for the purposes of such a use shall be removed and the land restored in accordance with the site restoration scheme and timetable approved under condition 3.
- 3) Within 3 months of the date of this decision full details shall be submitted to the Local Planning Authority for approval of the intended site restoration scheme for when the 3-year period in Condition 2 has expired, together with a timetable for its implementation.
- 4) Within 3 months of the date of this decision full details shall be submitted to the Local Planning Authority for approval of the intended wildflower grassland, plus other biodiversity enhancements, together with details of their management and maintenance and a timetable for their implementation. The intended wildflower grassland, and the other biodiversity enhancements, shall then be implemented, managed and maintained in accordance with the approved details and timetable.
- 5) Within 3 months of the date of this decision full details shall be submitted to the Local Planning Authority for approval of the intended site management, and the site shall thereafter be managed in accordance with the approved site management details.
- 6) Unless within 3 months of the date of this decision a scheme for the disposal of foul drainage and the disposal of 'grey water', together with a timetable for its implementation and details of its management, has been submitted in writing to the Local Planning Authority for approval, and unless the approved scheme is implemented within the approved timetable, then the use of the site as a traveller site shall cease and all caravans, equipment and materials brought onto the land for the purposes of such a use shall be removed.

If no scheme in accordance with this condition is approved by the Local Planning Authority within 9 months of the date of this decision, then, unless an appeal has been made to, and accepted as validly made by, the Secretary of State, the use of the site shall cease and all caravans, equipment and materials brought onto the land for the purposes of such a use shall be removed.

If a scheme has been approved at appeal by the Secretary of State that scheme shall be implemented in accordance with the approved timetable.

Otherwise, the use of the site as a traveller site shall cease and all caravans, equipment and materials brought onto the land for the purposes of such a use shall be removed.

Upon implementation of the approved scheme for the disposal of foul drainage and the disposal of 'grey water' specified in this condition (whether it be approved by the Local Planning Authority or on appeal by the Secretary of State), that scheme shall thereafter be retained and managed in accordance with the approved scheme for the duration of the permission.

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

- 7) Any external lighting shall be in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
- 8) The scheme shall have no more than 5 pitches. No more than 2 touring caravans, as defined in the *Caravan Sites and Control of Development Act 1960* and the *Caravan Sites Act 1968* as amended shall be on each pitch at any one time and no static caravans shall be stationed on the site at any time.

APPEARANCES

FOR THE APPELLANT:

C McKinley	Parent of residents
S McKinley	Resident
Dr S Ruston	Planning consultant
K Stanley	Resident
L Watkins	Travellerspace
A Whitehead	Travellerspace

FOR THE LOCAL PLANNING AUTHORITY:

G Crawford	Senior Planning Officer
R Rainbow	Drainage and Coastal Management

DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

BY THE APPELLANT

APP1: Email from Ann Grange (received 17 January 2025)

APP2: Letter from Ellen Tout (dated 10 July 2024)

APP3: Letter from Helen Kidney (dated 28 June 2024)

APP4: Patient summary (dated 4 July 2024)

APP5: Email to the Planning Inspectorate concerning Condition 6
(dated 11 December 2025)

APP6: Email to the Planning Inspectorate concerning Condition 6
(dated 17 December 2025)

BY THE LOCAL PLANNING AUTHORITY

LPA1: Update on the emerging local plan

LPA2: S111 Agreement under the *Local Government Act 1972* (dated 13 November 2025)

LPA3: *South East Devon Wildlife – Joint Habitats Sites Mitigation Strategy (2024)*

BY NATURAL ENGLAND

NE1: Email to the Planning Inspectorate confirming sufficient mitigation for the likely significant effects on the SAC and the SPA is offered (dated 5 December 2025).