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## Appeal Decision

Hearing Held on 27 July 2022

Site visit made on 27 July 2022

**by David Murray BA (Hons) DMS MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 August 2022**

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**Appeal Ref: APP/Z2830/W/20/3260590**

**Land east of Northampton Road, Yardley Gobion, NN12 7UE.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr D Moran against the decision of South Northamptonshire Council.
  - The application Ref. S/2020/0836/FUL, dated 20 May 2020, was refused by notice dated 8 September 2020.
  - The development proposed is a change of use to create a 4 pitch gypsy/traveller site comprising the siting of 1 mobile home, one touring caravan, and the erection of one day room per pitch.
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### Decision

1. The appeal is allowed and planning permission is granted for the change of use to create a 4 pitch Gypsy/traveller site comprising the siting of 1 mobile home, one touring caravan, and the erection of one day room per pitch at land east of Northampton Road, Yardley Gobion, NN12 7UE, in accordance with the terms of the application, Ref. S/2020/0836/FUL, dated 20 May 2020 and the plans submitted with it (as modified by plans submitted pursuant to condition No. 11 below), subject to the conditions set out in the attached Schedule.

### Preliminary matters

2. The planning application was decided by South Northamptonshire Council however following reorganisation in 2021 the responsible body is now West Northamptonshire Council.
3. At the visit I was not able to enter the site itself because of security measures and dense undergrowth/hedges, however, I was able to see the general context of the site from the access point and the public footpaths to the north and east.

### Main Issues

4. The main issues are:
  - Whether the occupants of the pitch would be Gypsies or travellers as defined in the annex to the 'Planning policy for traveller sites' (PPTS);
  - Whether the principle of the proposal accords with the strategy in the development plan;
  - The effect on the character and appearance of the rural landscape;

- The effect on highway safety;
- The effect on the living conditions of the intended occupiers of the site through noise and disturbance;
- The effect on ecology; and
- The effect on pipelines which cross the site.

## **Reasons**

### *Background*

5. The appeal site comprises a generally rectangular area of open land which lies alongside and to the north of the A508 Northampton Road, a busy main road, from where there is an existing field access. About 500m to the south of this main road lies the village of Yardley Gobion. Two high pressure fuel pipe-lines are said to cross the site underground on an alignment parallel with the road. There is also a belt of mature trees which generally screens the site from the main road. It is proposed to form four gypsy/traveller pitches served off the existing access in a tandem layout with two pitches either side of the underground pipelines.

### *Gypsy status*

6. The Council advised that there was little evidence submitted with the original planning application to establish that the appellant and other site occupiers would be gypsies or travellers as defined in the annex to the PPTS. However, having considered the appellant's Personal Statement submitted with the appeal, the Council is satisfied that the occupiers of the proposed pitches would meet this definition and it is appropriate to consider the appeal with the relevant specific local and national policy guidance on development for gypsies and travellers. I have no reason to reach a different conclusion.

### *Policy context and development strategy*

7. The relevant parts of the development plan are the South Northamptonshire Local Plan (adopted July 2020) (referred to as the LP) and the West Northamptonshire Joint Core Strategy 2014 (JCS). In terms of the principle of development the appeal site lies in the countryside away from any settlement. CS policy S1 concentrates new development into the designated urban areas whereas it says new development in rural areas will be limited, with part (D) of the policy setting out the emphasis placed on maintaining the character of the area, shortening journeys and maintaining tranquillity. The policy also prioritises the reuse of previously developed land particularly in sustainable locations.
8. Given the isolated location of the appeal site as a green field site in the countryside its development as a residential caravan site would not accord with the basic strategy in the CS. However, as an exception to this, in order to make provision for the needs of gypsies and travellers, LP Policy LH11 sets out criteria for proposals for temporary or permanent sites to meet.
9. In relation to the first part of the policy Mr Gittins for the Council agreed that the evidence put forward by the appellant demonstrated that there was a need for additional gypsy and traveller accommodation. Moving on to the relevant

criteria, part 1 (a) access; part (c) amenity and part (e) landscape are related to other issues as described below.

10. In terms of part (b) regarding accessibility to a range of services, at the site visit I paid special attention to the way the site could function by means other than using a vehicle but there are no footpaths along the A508 nor is it a bus route with stops convenient to the site. Based on my observations I find that the site is poorly located, particularly to the general 'day to day' facilities available in the nearby settlement of Yardley Gobion, because of the severing effect of the A508, so that the site is not reasonably and safely accessible to essential services.
11. Part 2 of Policy LH11 relates to sites put forward outside settlements and requires an appellant to demonstrate a lack of alternative accommodation for the appellant. In this case it is common ground that at the moment there are no suitable alternative sites available in the district that the Council are aware of.
12. I will make an overall conclusion on the accord with Policy LH11 in the planning balance.

#### *Effect in the landscape*

13. The site lies within the Tove Valley Special Landscape Area which is a local designation where LP Policy NE2 applies. This requires new development outside of settlements to avoid having a harmful impact on the character and appearance of the area.
14. At the visit I considered the landscape setting of the site from around the A508 and the public rights of way (PROW) which run to the north and east of the site and lead down to the Grand Union Canal. The eastern side of the A508 is generally enclosed by trees and hedges and these exist along the frontage of the appeal site as shown on the submitted site plan. Although a small element of the mobile homes proposed on plots 1 and 4 would be likely to be seen through the gap caused by the widening of the existing access, the proposed pitches would mostly be well screened from the public realm of the A508 by the landscaping and an existing timber fence about 1.8m high.
15. In terms of wider views, generally land to the east of the main road slopes down towards the canal and the surrounding land is a mixture of open fields and 'pony paddocks'. From the PROW I saw that the actual site is well enclosed by trees and hedges along or close to the boundaries of the land in the appellant's control. These would provide a substantial natural screen for the proposed development viewed from places with public accessibility or in the wider landscape.
16. Overall on this issue I find that the proposed 4 pitch site would not have a harmful visual effect on the landscape character of the local part of the Tove Valley Special Landscape Area and there is no conflict with Policy NE2 or the relevant parts of criteria 1.e of Policy LH11.

#### *Effect on highway safety*

17. The A508 is a busy single carriageway main road which is unlit and generally has no footpaths. Speed surveys carried out on behalf of the appellant show that the 85<sup>th</sup> Percentile speeds recorded were close to the national speed limit

of 60mph for such roads in both directions. This is perhaps a reflection of the fact that the road in the vicinity of the site is long and straight.

18. The Council, on the advice of the highway authority, say that the intensification of the use of the existing but widened field access should not be accepted as it would be harmful to highway safety particularly as there would be an obstruction to traffic while a vehicle sits stationary on the carriageway whilst waiting to turn into the site against oncoming traffic resulting in extreme vulnerability to accidents. The highway authority advises that if the principle of development is acceptable any permission should be subject to a condition requiring the prior implementation of a 'right turn lane' within a widened carriageway.
19. The appellant's highway consultant says that sight lines for the access of 4.5m X 215m can be provided with little trimming of the roadside vegetation and this meets the relevant highway standard and at my visit I saw that there would be good visibility in both directions at the widened access. In relation to the issue of vehicles travelling from the south being stationary before turning right into the access, standards for 'stopping distances' such as those set out in MfS2<sup>1</sup> or DMRB<sup>2</sup> have not been referred to by the parties. Nevertheless, it appeared to me at the visit that there was no reason to dispute the appellant's highway consultant's conclusion that 'forward visibility is excellent and drivers approaching the site will be able to see any vehicles entering and exiting the site access in excess of 300m away and they will be able to slow accordingly'.
20. On the evidence submitted and my observations on site, and recognising that the proposal would involve from time to time turning movements of vehicles towing caravans, I find that the proposed use would not result in harm to highway safety as there would be adequate visibility on entering and leaving the site and for other road users travelling on the A508. Further, if permission is to be granted there is no clear justification for this to be dependent on the prior implementation of a 'turn right lane'. I conclude on this issue that there is no conflict with part (c) of Policy SS2 or part 1.a of Policy LH11. Neither would the proposal conflict with the guidance in paragraph 111 of the National Planning Policy Framework (the Framework) as there would not be a significant impact on highway safety.

#### *Effect on living conditions*

21. This issue is about the effect of road traffic noise on the residential environs of the proposed pitches and the people occupying the static mobile homes. It was confirmed at the hearing that there is no health/amenity issue arising from the presence of the underground pipelines. Moreover, the Council confirmed that the impact of the development on air quality levels would not cause substantial harm.
22. Since the refusal of the application the appellant has commissioned a Noise Impact Assessment (NIA) which considers the effects of noise within the mobile homes (internal) and around the site (external). The report concludes that the mobile homes can be constructed and insulated so that reasonable internal conditions can be provided to mitigate noise, so as to meet the full standard set out in BS8233:2014.

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<sup>1</sup> Manual for Streets, DOT Sept2010

<sup>2</sup> Design Manual for Roads and Bridges.

23. The NIA recognises that the mitigation of noise levels will only be achieved when windows are closed and that if windows are open, particularly at night, then internal noise levels could be exceeded by 16 dB above the guidance levels. To maintain thermal and acoustic comfort during overheating conditions the consultants say that alternative means of cooling and ventilation could be provided.
24. Bearing in mind the recent exceptional high temperatures in England, the Council questions the practicality of such mitigation and whether the provision of additional cooling could meet the planning test of 'enforceability'. Nevertheless, Mr Woods referred to other appeal cases where a suitable condition on meeting the guidance on thermal insulation had been imposed and he said that the appellant would accept a condition requiring additional mechanical/electrical equipment for internal cooling and ventilation in each mobile home.
25. On the basis of the specialist technical evidence put to me I am satisfied that the mobile homes could be designed and maintained, with additional cooling and ventilation, to provide reasonable living conditions commensurate with relevant guidance and that this can be secured by a planning condition.
26. In terms of external amenity space the NIA concludes that the upper guideline level of 55dB is unlikely to be realistically achievable at the worse affected areas (plots 1 & 2) closest to the road, but these plots could be designed to have small areas of relatively quieter space on the lee side of the day rooms. The NIA also highlights further guidance in the British Standards which suggest that there may be circumstances where if the noise level cannot be achieved, the lowest practical level in external amenity space should be achieved by site design, rather than prohibit development.
27. In this case I am conscious that three of the four families that seek to occupy the site have school age children at the moment and there is no outside play space put forward in the layout DD03/A. The Council also seeks the redesign of plot 2 as one of the parking spaces shown would be difficult to use in practice. While recognising the overall problem of the level of traffic noise affecting the external residential environment, a revision to the site layout of the parking spaces and the siting of the touring van on plots 1 and 2 could provide a limited area of quieter space to the north-east of each day room.
28. I conclude on this issue that the proximity of the site to the A508 would result in a level of noise which would be a poor residential environment within two of the proposed mobile homes, unless special internal cooling and ventilation is installed, and a poor external residential environment which would be harmful to the living conditions of the occupiers. The level of harm may be slightly reduced by a minor change to the design of the layout. Nevertheless, any harm means that the proposal does not accord with part 1.(f) of Policy SS2 and part 1.(c) of Policy LH11.

#### *Effect on ecology*

29. The submitted appeal documents now include a Preliminary Ecological Appraisal including a habitat survey. This concludes that the development can proceed with minimal impact to habitats and protected species and the development can provide enhancements to local wildlife by adding new facilities. The Council accepts that this evidence indicates that there is no outstanding

objection on ecological grounds subject to the imposition of a suitable condition on implementation of the recommended enhancements. On this basis there is no conflict with Policies BN2 or NE5.

#### *Effect on pipelines*

30. The British Pipeline Agency (BPA) advised of the location of two high pressure fuel pipelines running underground across the site. Their whereabouts are not visible above ground apart from a single marker which can be viewed from the air. In essence the BPA objection is about any physical encroachments within a 'no build' zone which provides a buffer between and to the side of each pipeline making 11m buffer in total. The amended plan submitted with the application recognises this zone apart from a single line of fencing between plots 2 and 3. The appellant says this fence line can be deleted and the end of the gravel driveway left open.
31. I am satisfied that the layout of the site can be amended to ensure that the alignment and future maintenance of the pipelines will not be prejudiced by the proposed development and the outstanding aspect can be addressed by condition.

#### *Other matters*

32. The Council accepts that the appellant has demonstrated a need for this gypsy and traveller accommodation to meet the first part of Policy LH11. Moreover it is common ground that the Council is not aware of suitable alternative sites that are available at the moment. Accordingly, I do not need to consider the need and supply of gypsy and traveller sites further.
33. I have also had regard to the appellant's Personal Statement which outlines the difficulties that the four families have had in finding a permanent site as opposed to living on the road-side or 'doubling up' on other sites within the wider family group. Moreover, the families stress that they seek a permanent base from where their children can secure proper education locally to meet their educational and social needs. A permanent base would also help secure ongoing treatment for the various medical conditions described in the Statement. These are factors which I give substantial weight.

#### *Planning balance*

34. In terms of the main relevant provisions in the development plan, the proposal conflicts with the strategy set out in Policy S1 as the residential caravan site would be located in the countryside away from any settlement. However the specific policy LH11 provides an exception to this for gypsy and traveller accommodation and the PPTS does not rule out the principle of such development in a rural area.
35. Going through the details of Policy LH11, the Council accepts that a need for the accommodation has been demonstrated as per the opening test of part (1) and I have found that the evidence shows that the widened access would have adequate sight lines and other road users on the A508 would have long distance visibility of vehicles turning into the site from both directions. As such there would be no additional harm to highway safety and criterion (a) of the policy is met.



36. Regarding criterion (c) and 'amenity', in order to mitigate the effects of road traffic noise the mobile homes proposed would have to be constructed to a full standard of BS8233/2014 and have additional cooling and ventilation systems, but even with a minor change to the layout the external spaces would be unlikely to meet the recognised standard. There is a policy conflict here. There is also a conflict with criterion (b) regarding the safe accessibility of the site to services as the site occupiers would be likely to have to drive by vehicle for day to day needs. This would not contribute to a sustainable pattern of growth, nevertheless, the NPPF says that solutions to sustainable transport will vary between urban and rural areas and account needs to be taken of the families itinerant lifestyle based on the movement of vehicles.
37. On criterion 1(e) regarding landscape impact I have found that the site is well screened and the proposed residential caravan site will not harm the character or appearance of the Tove Valley SLA and there is no conflict with this criterion or Policy NE2. Further, there is no evidence to suggest that the criteria set out in part 1(d) cannot be achieved.
38. Finally part (2) of Policy is met as the main parties agree that there are no suitable alternative sites available at the moment and the issue regarding the underground pipelines has largely been resolved.
39. Considering the policy as a whole, while the proposal does not meet some of parts (b) and (c) regarding accessibility and amenity, I am satisfied that the proposal accords with the general thrust and intentions of the policy to ensure that the needs of gypsies and travellers are provided for. Even if I were to treat the limited development plan policy conflict as material, this is outweighed by the established need for the development and lack of alternative sites being available, together with the personal needs of the appellant and other families to secure a permanent site which would also be in the best interest of the children.
40. I will therefore allow the appeal on a permanent basis but as I have placed substantial weight on the personal circumstances in the balance the permission needs to be subject to a condition limiting the occupation of the site only to the occupiers set out in the appellant's Personal Statement. Moreover, conditions on internal cooling within the mobile homes and minor revisions to the layout are necessary to make the proposal acceptable in planning terms. The appellant agreed to the imposition of these conditions which reinforces the need for the permission to be made personal to the appellant and other named occupiers.

#### *Conditions*

41. In terms of conditions the Council recommends 15 which although unnumbered I will consider in the same order. Moreover, where the condition is a 'pre-commencement' one it was agreed by the appellant at the hearing.
42. I agree that conditions (1) and (2) are necessary to regulate the commencement of the development and provide clarity on the details shown on the submitted plans and I will impose them. I will also impose conditions (3) and (9) as the development is for gypsies and travellers and has been considered under the relevant policies for such development. Moreover as I have taken account of the personal circumstances put forward in part justification to outweigh policy it is appropriate to make the permission

personal to the applicant and other families (8) and revise condition 10 accordingly. Condition (12) is need to protect the amenity of the area and (7) is reasonable to protect and enhance the interests of wildlife and ecology.

43. For the reasons given in paragraphs 19 and 20 above I will not impose conditions (4) and (5) as a 'turn right lane' is not justified on highway grounds but I will impose condition (6) to require the widening of the access and provision and retention of the parking spaces and turning areas in the interest of highway safety.
44. For the reasons set out above a revised site plan is necessary and I will require the submission and agreement of a Site Development Scheme to show minor changes to the layout.
45. In order to ensure that the mobile homes provide reasonable living conditions I will impose a condition requiring any mobile home used on site to meet in full BS BS8233:2014 and to have an additional mechanism for internal cooling and ventilation and details of this mechanism will be part of the submitted Site Development Scheme.
46. Finally, I will not impose conditions 14 and 15 regarding contamination as there is no evidence presented to show that this is present on the site or justify the condition.

### **Conclusion**

47. For the reasons give above I conclude that the appeal should be allowed.

*David Murray*

INSPECTOR



## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr A Masters	Of Counsel
Mr B Woods BA (TP) MRTPI	MD -WS Planning
Mr D Moran	Appellant
Mr C Carey	Appellant's relation and potential site occupier
Mr L Carey	Appellant's relation and potential site occupier

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr P Gittins	Planning Enforcement Manager (South Area) West Northamptonshire Council
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## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Statement of Common Ground signed by both parties.
- 2 Extract from JCS – pages 108-110 re Policy H6.
- 3 Extract from West Northamptonshire Joint Authorities Monitoring Report 2018/19.
- 4 Extract from O/S map showing location of public footpaths
- 5 (PROW) .  
Copies of appeal decisions APP/M1520/W/20/3251226 and APP/C3105/W/18/3219199.

### **Schedule of conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall not be carried out otherwise than in complete accordance with the approved plans and details unless a non-material, or minor material amendment, is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The approved plans and details are: Site Location Plan, J003418-DD01. received 20/5/2020; As proposed Site Plan, J003418-DD03, rev A, received 2/9/2020; As proposed Dayroom & Elevations, J003418-DD04. received 20/5/2020, other than where amended by plans submitted and agreed pursuant to condition No.11 below.
- 3) No more than 8 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 4 shall be static caravans or mobile homes) shall be stationed on the site at any time whatsoever.
- 4) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 5) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Mr Dave Moran and Ms Charlotte Carey; Ms Liana Carey; Mr Leonard Carey and Ms Tammy Carey; and Mr Leonard Carey and Ms Janette Carey.
- 6) When the land ceases to be occupied by those named in condition 5 above the use hereby permitted shall cease 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.
- 7) The access, parking, and turning, facilities shall be provided in accordance with the approved plans (as amended) before first occupation of the development hereby permitted. The access parking and turning facilities shall thereafter be retained for use in connection with the development for those purposes only.
- 8) The development shall be undertaken in accordance with the mitigation strategy set out in the recommendations in section 5 of the Preliminary Ecological Appraisal dated Feb 2021 undertaken by David Archer Associates.
- 9) No commercial activities shall take place on the land, including the storage of materials, and no vehicle over 3.5 tonnes shall be stationed, parked or stored on this site at any time whatsoever.
- 10) Any mobile home used for residential occupation shall have been constructed to the 'Enhanced 'fully' commensurate' standard set out in BS8233:2014 and shall be fitted with mechanical/electrical cooling/ventilation and as per the details approved under condition 11 below.

- 11) Prior to the commencement of development a Site Development Scheme shall be submitted to and approved in writing by the local planning Authority. The Scheme shall include:
- (a) A revised site plan to delete the fence shown between Plots 2 and 3; the relocation of the parking spaces on plots 1 and 2 so as to provide a small play area to the east of each day room; a 11m buffer zone along the alignment of the two underground pipelines.
  - (b) Details of the ventilation and cooling mechanism for each mobile home.

-End-