

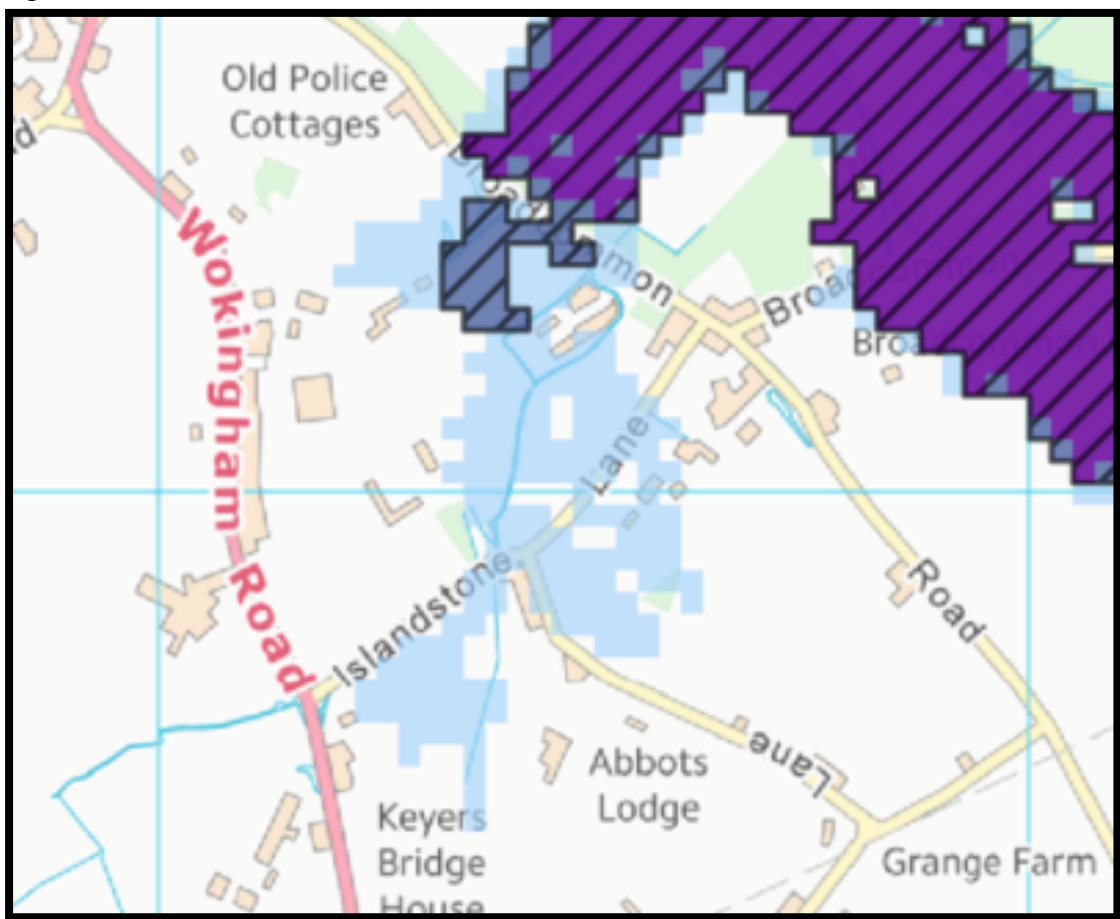
Permission is sought for the change of use of the agricultural land to allow an enlarged Gypsy and Traveller site to comprise 6 pitches (4 net additional).

Site context

The application site comprises an existing two pitch Gypsy and Traveller site (of which one is understood to be present and occupied) with an associated area of agricultural land to the south. The site is located within the countryside and is detached from any defined settlement.

The Environment Agency flood map for planning identifies the site as being located wholly within Flood Zone 2. The council's Strategic Flood Risk Assessment (SFRA)¹, which is supported by updated hydraulic modelling, shows the extent of Flood Zone 2 to be slightly reduced in this area, however around two thirds of the site remain within the zone.

Figure 1: Extract from SFRA



Principle of development under the adopted development plan

The principle of development is guided by MDD Policy TB10 and Core Strategy CP2. Policy TB10 states that planning permission may be granted for new Gypsy and Traveller pitches or extensions to existing sites where a number of criteria are

¹ Available at: <https://www.wokingham.gov.uk/planning-policy/evidence-studies>

satisfied. Of particular note are criteria a) and d). Criteria a) requires a site to be within or adjacent to a defined settlement. Criteria d) requires no significant barriers to development, with reference made to flooding.

The application does not meet criterion a). With the site being subject to flood risk, a judgement is required on whether this presents a significant barrier to understand compliance with criterion d). It is noted that the application is not supported by a sequential test.

Comment is not made here on other criteria or other relevant policies within the development plan. The case officer should fully consider these within their assessment.

In summary, the application does not comply with Policy TB10 and as such is contrary to this aspect of the development plan.

Principle of development under the emerging Local Plan Update

The Local Plan Update (LPU) will supersede the adopted Core Strategy and MDD local plans. The LPU Proposed Submission Plan was published in September 2024 and is expected to be submitted for examination in February 2025.

The LPU Proposed Submission Plan includes Policies H9 and H10 intended to meet the accommodation needs of Gypsies and Travellers. Actions include the allocation of specific sites, delivery within strategic allocations and approving applications where suitable. Policy H10 sets criteria to consider planning applications against, which includes support for sites in the countryside when well related to defined settlements.

Turning to the application site itself, the site was promoted into the local plan process for 4-5 Gypsy and Traveller pitches (site reference 5HU055). The [Housing and Economic Land Availability Assessment \(HELAA\) \(2024\)](#) published alongside the Proposed Submission Plan provides an assessment of the site. It concludes that the site is unsuitable for development:

“The context of the site is considered unsuitable for additional Gypsy and Traveller pitches, being inappropriate in terms established settlement form and pattern, landscape character, accessibility and flood risk.”

The site was not included as a proposed allocation within the Proposed Submission Plan.

It should be noted that assessments made as part of the HELAA are high level with the purpose of informing options within plan-making. The assessment is not comparable to that required for planning applications.

Weight to be attributed to the emerging policy is informed by paragraph 49 of the NPPF 2024. This advises that weight can be applied according to the plan's stage of preparation, the extent to which there are unresolved objections, and the degree of consistency with the NPPF. At the time of writing, the council is not able to advise on the extent of unresolved objections to individual policies.

Context for decision taking

The national planning policy document 'Planning Policy for Traveller Sites' (PPTS) was updated in December 2024. The update included an amended definition of Gypsies and Travellers contained within Annex 1 which now includes individuals with a cultural tradition of nomadism. The requirement to maintain a deliverable supply of pitches to meet 5 years' worth of sites remains, however the update amends the consequences of a lack of 5-year supply which now engages the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF), commonly referred to as the tilted balance.

In the absence of a locally set requirement for pitches, the sufficiency of supply is considered against assessed need. The latest full assessment of the accommodation needs is the [Gypsy and Traveller and Travelling Showperson Accommodation Assessment \(2023\)](#) (GTAA 2023). The assessment identified a cultural need for 86 net additional pitches between 2022/23 and 2039/40. 53 of the 86 pitches represented the need of nomadic households. In reaching this conclusion, the assessment took into account all sites with permission for additional pitches. An overview of the need identified by the GTAA 2023 is set out in the table below.

Table 1: GTAA 2023: Pitch requirement 2022/23 to 2039/40		
<u>Period (years)</u>	<u>Cultural need (pitches)</u>	<u>Of which PPTS Superseded need (pitches)</u>
5yr pitch need (2022/23 to 2026/27)	35	35
Longer-term need (2027/28 to 2039/40)	51	18.2
Total pitch need (2022/23 to 2039/40)	86	53

The consequence of the change in definition of Gypsies and Travellers introduced by the PPTS 2024, is that the deliverable supply is now calculated against the cultural need, and not the nomadic need as was previously the case.

Whilst the council has a strong track record of permitting new pitches, the new baseline position including extant pitch permissions coupled with the change in definition means that the council is currently unable to demonstrate a sufficient deliverable supply of pitches.

As reference above, the PPTS 2024 at paragraph 28 states:

“If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply.”

The NPPF 2024 at paragraph 11d) states for decision taking:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance⁷ provides a strong reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination⁹.”*

Footnote 7 states that the policies referred to in the NPPF include amongst other matters areas at risk of flooding.

Given the application site is subject to flood risk, the tilted balance does not apply to the determination of this application. Consideration remains under the normal balance, i.e. determination should be made in accordance with the development plan unless material considerations indicate otherwise.

Flood Risk

Whether the Environment Agency or SFRA mapping is used, the majority of the applications site is within Flood Zone 2. The proposed development represents a highly vulnerable use, and therefore development within Flood Zone 2 requires the application of the sequential test and exception test. The Environment Agency / DEFRA [guidance on sequential tests](#) sets out potential sources of alternatives, summarised as follows:

- Sites in adopted or draft local plans that have already been allocated for development and could be suitable for the development proposed;
- Sites that haven't been allocated in the local plan, but that have been granted planning permission for a development that's the same or similar to the development you're proposing;
- Windfall sites that aren't allocated in the local plan and don't have planning permission, but that could be available for development.

In addition to allocated sites and sites with permission (including those discussed in the alternative sites section below), a number of sites have been submitted as part of the Local Plan Update, the locations of which are all publicly available (see online map [here](#)). The most recent Housing and Land Availability Assessment (HELAA) is available [here](#) as well as the LPU Sequential and Exception Test [here](#). It would be

reasonable to expect that all sites within the borough concluded to be deliverable, developable or potentially developable for the same or similar type of development are considered through the sequential test, with a conclusion drawn as to whether each is reasonably available now for the proposed use.

If there are no sequentially preferable sites within the borough, the exception test must then also be passed. For the exception test to be passed it should be demonstrated that both of the following elements are satisfied:

- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

The applicant on the one hand seeks to rely on NPPF 2024 paragraph 176, and footnote 62 to justify not requiring a sequential test (as per paragraph 5.87 to 5.92 of the [Planning Statement](#)). The crux of their argument is that changes of use do not require the sequential test to be carried out and the exception “*changes of use to a caravan, camping or chalet site*” does not apply as the site is already a caravan site in its entirety, with the paddock use being ancillary to that use.

Notwithstanding the above, the planning statement then contradicts this position at paragraph 5.93 by stating: “*However, a sequential test is still required due to the application being a full planning submission for the expansion of the existing gypsy and traveller site.*”

I agree that this is the correct interpretation and that a sequential test is required. The former position is incorrect, as the lawful permissions relating to the site have only established the change of use of the northern part of the land within the applicant's ownership to Gypsy and Traveller use. The additional area of land to the south which is now included within the application redline plan, has been previously excluded from permissions. Therefore – as per the description of development on the council's website which states: “*Full application for the material change of use of land from agricultural to provide an enlarged caravan site and alterations to provide 4 additional pitches (total of 6 pitches) with associated hardstanding and ancillary day rooms*” – the proposal does comprise, at least in part, a change of use to caravan site. The sequential test is therefore required and this is absent in the application submissions, despite various submissions on sequential test case law. The council would expect to see evidence, as a minimum, that the sites listed in the following section and sites promoted through the LPU for Gypsy and Traveller use, with reference to the LPU Sequential and Exception Test, have been considered.

Regarding the Exception Test, this has been provided as part of the submitted Flood Risk Assessment. The council's drainage specialists will need to comment on whether the development will be safe for its lifetime. As to whether the development would provide wider sustainability benefits to the community that outweigh the flood risk, material to that consideration is the current lack of a five-year land supply and the contribution the proposal would make towards meeting identified needs.

Alternative sites

It is recognised that there is no requirement in planning policy, or case law, for an applicant to prove need for development. However, should an applicant wish to justify departure from policy on the basis of need, it is reasonable for the availability of alternative sites to be considered when considering the weight that should be attached.

No evidence of a search for alternative accommodation has been submitted as part of the application.

The council has approved a number of pitches in recent years. Those which have yet to be implemented could potentially be available to the applicants. Pitches with permission which have yet to be implemented are as follow:

- Land at 23a Nine Mile Ride (212274) – 2 pitches

This permission relates to land to the rear of an existing site at 23a Nine Mile Ride, which benefits from permission for 1 pitch (F/2004/2522). This site has been established for many years, but has been completely cleared since at least summer 2022. Consequently, there is potential that 3 pitches at this location are available (the 2 unimplemented pitches most recently granted permission and the established 1 pitch which appears to have been abandoned).

Additionally, permissions at Belvedere Park (173022, 192174) are understood to have been implemented, but there is a reasonable possibility pitches may also be available on this site given the non-personal nature of the permissions and likely turnover on this private site.

An additional permission (241486) was granted in August 2024 to expand an existing site from two pitches to five. The permission was sought to provide pitches for additional family members of the original occupiers. On the basis of the information available, that permission is not considered an available alternative.

Conclusion

The proposed development is contrary to Policy TB10 with regard to its location and flood risk. This will need to be considered in the round with other policies and material considerations.

The council is currently unable to demonstrate a 5 year supply of Gypsy and Traveller pitches. Notwithstanding, the presumption in favour of sustainable development (the tilted balance) set out in the NPPF at paragraph 11 is not engaged due to the site being at flood risk. Accordingly, any decisions must be made under the normal balance.

The applicant needs to demonstrate that the sequential test and exception test can be passed. The applicant has not submitted a sequential test.

Planning permission should only be granted should the case officer be satisfied that the material considerations outweigh the conflict with the development plan.