



Appeal Decision

Hearing Held on 27 September 2022

Site visit made on 27 September 2022

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2022

Appeal Ref: APP/X0360/W/21/3288874

Land opposite 136 - 144 Wargrave Road, Twyford RG10 9PN

- 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 R Baxter against the decision of Wokingham Borough Council.
 - The application Ref 202499, dated 23 September 2020, was refused by notice dated 11 June 2021.
 - The development proposed is replacement of stable building with residential mobile home and utility building and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for a temporary period for full application for the proposed demolition of existing building and change of use of land for the stationing of a mobile home for residential purposes (one Gypsy and Traveller pitch) and the erection of a single storey utilities building at Land opposite 136 - 144 Wargrave Road, Twyford, RG10 9PN, in accordance with the terms of the application Ref: 202499, dated 23 September 2020, and subject to the conditions in the attached schedule.

Procedural Matters

2. The description of development has been taken from the application form, though given the appellant's reliance on the same, the description on the Council's decision notice is recorded as: "*Full application for the proposed demolition of existing building and change of use of land for the stationing of a mobile home for residential purposes (one Gypsy and Traveller pitch) and the erection of a single storey utilities building*". I have therefore determined the appeal on the basis of the Council's description as it is more accurate.
3. An amended layout plan was submitted with the appeal showing the hardstanding and structures compressed to the southern side of the site. Subsequently, amended elevations and a floorplan of a smaller utility building were submitted. These plans were considered as part of a more recently refused separate planning application (Ref 221405). Given the relatively limited nature of the changes and given that I have the full set of consultee and third party responses on the revised plans, I do not consider that there would be any prejudice by taking them into account. Therefore, following the Wheatcroft principles¹, I have determined the appeal on the basis of the revised plans.

¹ Wheatcroft Ltd V SSE [1982]

4. At the hearing, the Council confirmed that it had no evidence on which to refute the appellant's conformity with the definition of a traveller as set out in Annex 1 of the Planning Policy Statement for Traveller Sites (PPTS). The appellant offered information about his travel patterns for economic purposes, on which basis it is considered that he comprises, for the most part, a person of a nomadic habit of life who complies with the definition of gypsies and travellers in PPTS. Whilst it was less clear whether his wife or children travelled or intended to travel at all in the future, it would be inappropriate to suggest that their accommodation needs should be addressed separately from the appellant, on whom they depend. The appeal therefore proceeded on the basis that the appellant met the PPTS definition and is of an Irish traveller ethnicity.

Main Issues

5. The main issues are:
 - a) whether the proposal would constitute inappropriate development in the Green Belt with regard to the development plan, National Planning Policy Framework (the Framework) and PPTS;
 - b) the effect of the proposed development upon the openness of the Green Belt, and upon the purposes of the Green Belt in relation to safeguarding the countryside from encroachment;
 - c) whether the location of the proposal accords with local policies that seek to limit the need to travel by private vehicle;
 - d) the effect of the proposed development upon trees;
 - e) the effect of the proposed development upon the character and appearance of the area;
 - f) the need for, and provision of, accommodation for gypsies and travellers within the area;
 - g) the availability of alternative accommodation;
 - h) the personal circumstances of the proposed occupiers, and;
 - i) if inappropriate development, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the scheme in the Green Belt.

The Site and Proposal

6. The existing site is a small paddock, which is largely laid to grass and is enclosed by post-and-rail fencing and mature trees. Despite that there is a stable building with two loose boxes on a small concrete pad, the lawful use for the keeping of horses does not appear to have been active recently. A static caravan sited alongside the stable building is alleged to have been sited in connection with the lawful use of the land, but now stands derelict.
7. The relatively flat site is situated on the urban edge of the settlement of Twyford, bound by the A321 road to the west and north. A number of houses are situated to the east along an offshoot of Wargrave Road, which is also a tree-lined pedestrian and cycle route between Twyford and the nearby Piggott School. South of the A4 road is broadly where the settlement boundary of Twyford ends and the extent of the Metropolitan Green Belt begins. The appeal site is outside of the former but lies within the Green Belt.

8. To the south of the site is a separate paddock which also sits within the road infrastructure of Wargrave Road and its roundabout junction with the A4. That paddock is a degree larger, more prominent, facing onto the roundabout itself, and is more visually permeable. It was also subject of linked appeals for a retrospective traveller proposal in 2018².
9. The proposal seeks to demolish the existing stable building and change the use of land to a residential use to include the stationing of two caravans (one tourer and one static). An area of hardstanding would extend from the access to facilitate the stationing of the caravans and parking area. A utility building would also be situated on the hardstanding in close proximity to the main static caravan.

Reasons

Whether inappropriate development

10. The development plan for the area includes the Wokingham Borough Core Strategy (CS) (adopted 2010) and Wokingham Borough Managing Development Delivery Local Plan (MDD) (adopted 2014). CS Policy CP12 sets out that planning permission will not be granted for inappropriate development within the Metropolitan Green Belt as defined. MDD Policy TB01 echoes the Framework's protection of the Green Belt and the list of development types which are not inappropriate development, provided that they maintain the openness of, and do not conflict with the purposes of including land in the Green Belt.
11. As traveller sites are not listed as one of the exceptions to inappropriate Green Belt development, it is commonly held that traveller proposals, whether temporary or permanent, are, by definition, inappropriate development and thus, harmful to the Green Belt. This is set out in the PPTS.
12. As the appellant is a traveller that meets the PPTS definition, PPTS policies apply in this case. The proposal, which involves both a change of use of the land and operational development, such as the construction of a building, hardstanding and acoustic fence, is therefore inappropriate development in the Green Belt by definition.
13. Whilst the case put forward for the appellant suggests that the Framework³, published later than the 2015 PPTS, excludes "*material changes in the use of land*" from the list of development types that are not inappropriate in the Green Belt, that is subject to such proposals preserving openness and not conflicting with the purposes of including land within it. I consider the effects on openness and any conflict with the purpose of including land within it below. In any event, I do not consider that the proposal can only be described as a material change of use of land.

Green Belt Openness

14. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The

² Appeal Refs APP/X0360/C/17/3174822 and APP/X0360/W/17/3174161

³ Paragraph 150

openness of the Green Belt is generally regarded as an absence of development that has both spatial and visual dimensions.

15. The site has a small stable building and concrete hardstanding which indicate that it is not entirely free of development. Whilst I do not consider that the existing caravan should form part of the baseline assessment of the site's condition, the site is partly previously developed. This suggests that the openness of the site has already been compromised to a degree.
16. The spread of development across a greater area of the site would inevitably have an effect on the spatial dimension of openness. Moreover, the increase in area of hardstanding, the additional structures required to facilitate the change in use of land and the 1.8 metre timber acoustic fence that would enclose the site would also change the visual perception of the site's openness. Despite attempts to offer a solution that would minimise the effects on openness, the site would become more visually enclosed, other than at its southern edge for a period of time, and available views would be of an urbanising form of development of greater collective mass and spread than the existing small-scale building and hardstanding.
17. Therefore, there would be moderate harm to the openness of the Green Belt, which is one of its essential characteristics. This would be in clear conflict with Policy TB01 of the MDD, CS Policy CP12 and the Framework.

Encroachment

18. The Framework also sets out that one of the five purposes of the Green Belt is to assist in safeguarding the countryside from encroachment.
19. If development of a residential nature were introduced onto the appeal site, it would appear to extend the northern limit of Twyford and would encroach further into the countryside. Though its close relationship with the settlement in both spatial and visual terms suggests that these effects would be limited, the proposal would result in encroachment into the countryside which would nonetheless be harmful.
20. The proposal would therefore undermine one of the purposes of including land within the Green Belt and would therefore conflict with the Framework.

Summary of Green Belt Harm

21. There would be harm to the Green Belt through a loss of openness and encroachment, and therefore, also definitional harm to the Green Belt through inappropriate development. The proposal therefore conflicts with the CS and MDD, Framework and PPTS.

Location of the site

22. Policy TB10 of the MDD is a criteria-based policy relevant to proposals for travellers. It sets out a range of criteria with which such proposals should accord in order to receive permission, including:

"(a) The site is located in the Borough's existing settlements or is adjacent to an existing settlement either within or adjacent to the Borough;

(b) Avoids impacting on the separate identity of settlements;

(c) The site has access to a range of local services such as shops; health facilities including doctors, schools, and a range of amenities including play areas and other recreation facilities...

23. The Council allege that whilst the site's location meets the expectations of (c) in that it has reasonable access to a range of local facilities, that there is still conflict with (a), in that it is neither *within* or *adjacent to* an existing settlement. I regard that Policy TB10 requirements are likely to be challenging to meet, given the high land values for residential land *within* or *adjacent to* settlements. However, it is clear that the site is not within or directly adjoining the settlement.
24. The PPTS sets out that new traveller site development should be strictly limited in open countryside that is away from existing settlements. However, it also goes on to state that sites in rural areas should not dominate the nearest settled community and avoid placing an undue pressure on the local infrastructure. In this sense, it is clear that the PPTS, published in 2015 and therefore after the MDD, envisages that some traveller sites will be in rural or semi-rural settings.
25. In this case, the appeal site is very near the settlement of Twyford, reportedly only around 150 metres away. It is also adjacent to the highway infrastructure that forms a gateway to the settlement and adjacent to Nos 138 – 144 Wargrave Road which are part of a short ribbon form of development extending north from the defined settlement edge.
26. Though there is technical conflict with MDD Policy TB10 (a), the weight to be attached to this is reduced given its degree of inconsistency with PPTS. Given the site's limited distance from Twyford, I consider that the proposal would accord with the expectations of the PPTS so as not to dominate the nearest settled community or place undue pressure on local infrastructure.

Trees

27. The appeal site is enclosed on three boundaries by largely native tree species. With the exception of the conifer trees on the southern boundary, the trees are all within highway land owned and managed by the Council. The tree-lined hedges provide a greenness that contributes positively to the locally-designated '*Green Route Enhancement Area*'.
28. The proposal seeks to retain all of the Council-owned trees outside of the site boundaries, albeit with the substitution of the fencing at the base of the trees and the layer of understorey planting. The trees on the southern boundary within the ownership of the appellant are more recently planted coniferous types which are not native to the area and form a more impenetrable green wall in front of the site in views from the south. These trees are to be removed and replaced with native tree species as part of a landscaping scheme.
29. The submitted '*Tree Survey, Arboricultural Implications Assessment & Method Statement*' (2022) sets out that there would be development, either of hardstanding or the floating foundations of the amenity building, within the root protection areas (RPAs) of a large number of trees. Some encroachment within the RPAs has already occurred with the siting of the existing stable block and concrete pad, with many limbs overhanging the same within the site. The RPA incursions would necessitate works being undertaken in specific ways,

such as 'no dig', arboricultural supervision and through the use of protective fencing. The appellant offered that such means could be required by planning conditions. I also note the intention to undertake some selective pruning works within the site, which would be of little consequence beyond the site boundaries.

30. Though I agree that designing the site before understanding the tree constraints is not the most logical way to devise a site-specific solution, given the nature of the development and existing site features, I consider that the potential risks to trees could be managed through planning conditions to ensure their longevity. I have considered the residual risks to the trees from the occupation of the site, but as they are outside the site and within the Council's ownership, and relied upon by the appellant to offer screening, the risks of further works beyond routine management would be limited.
31. In view of the above, and subject to conditions, the proposal could ensure the protection of trees and would therefore avoid conflict with, in particular, Core Strategy Policy CP3 and MDD Policy CC03. Amongst other things, these policies seek to protect and retain existing trees, hedges and other landscape features that contribute to the landscape.

Character and Appearance

32. The appeal site forms a part of the '*Wargrave-Twyford Arable Chalk Lowlands*' landscape character area (LCA) as described in the *Wokingham Borough Landscape Character Assessment* (2019). As the site is a very minor part of the overall LCA, only a few of the key characteristics can be described as specifically relevant to it, such as its distinctive flatness, sense of disturbance from the linear transport corridors and the concentration of the settlement around Twyford. The intensive working arable farmland, or farmland separation between Wargrave and Twyford is more apparent to the north, beyond the site, as too is the strong sense of openness, homogeneity and remoteness. I found that the open views across the flat landscape were not really applicable to the appeal site but applied to areas beyond it, to the east and north. The limited, filtered views of the site through gaps or upper parts of the trees were only available from a close range. In this sense, the small-scale, tree-enclosed appeal site is an irregular feature of the LCA, but nonetheless plays a role as a green buffer that softens the settlement edge and marks the transition between town and country.
33. There would be little interference with any features that are noted within the LCA as being characteristic of the area. Rather, the Council's case focusses on the visual harm that would occur and despite efforts to minimise the proposal's impact through reductions in the sizes of the amenity building and potential number of residential structures, along with retention of the native trees, this impact would still be unavoidable. Though the site is partly previously developed, an increase in the number of structures and the formal laying out of the site would make it appear as an extended part of the built-up area. These changes would be more visible in winter months than in summer due to the deciduous nature of the perimeter trees. That said, I do not consider that omitting the touring caravan would make a material difference in the extent of this impact, though the concentration of the use to the area currently occupied by buildings and structures as per the current layout plan would be beneficial.

34. I have had regard to the submitted Landscape Statement of Evidence and the analysis of viewpoints therein, which I also visited as part of my site visit. I am mindful that traveller sites should not need to be completely screened and that the PPTS advises that positive weight can be attached when sites are well planned or landscaped. The replacement of the conifers would be an enhancement which would have a negligible positive effect on openness. However, with the filtered views that would remain and slight additional degree of openness, the site's further urbanised qualities would be more apparent and there would be a further weakening of the settlement edge of Twyford. This weakening effect would not equate to harm to the separate identities of Twyford or nearby Wargrave, but to a degree that would constitute localised visual harm of a low to modest magnitude.
35. In view of the above, I consider that the proposal would result in negative effects on the character and appearance of the area which brings it into conflict with, in particular, Core Strategy Policy CP3 and MDD Policies TB10 and TB21. These Policies seek to ensure that proposals are of an appropriate scale and character to the area with a high quality of design, and ensure that the unacceptable impacts on the character and appearance of the surrounding landscape are minimised through the sensitive and appropriate design of the scheme. However, the relative containment of these effects to a localised area lessen the degree of harm and weight that attaches to this conflict.

Need for Traveller Pitches

36. The PPTS sets out that Councils should identify and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets for travellers meeting the PPTS definition, though Councils still have a statutory duty to meet the accommodation needs of ethnic travellers in or seeking to locate to its area.
37. The Council's Gypsy and Traveller and Travelling Showperson Accommodation Assessment Update Report (GTAA) was published in 2017. The GTAA identified the more immediate pitch needs for the period between 2017 to 2022, but also made recommendations on the longer-term needs of the traveller community until the end of the development plan period, i.e. to 2036. The PPTS-need for 2017 – 2022 was for 5 pitches, with a further 21 anticipated between 2022/23 – 2035/36. The cultural traveller need was for 18 pitches to 2022 and a further 72 between 2022/23 and 2035/36.
38. No allocations were included in the MDD for travellers sites, though it includes a criteria-based policy, TB10, that enables consideration of pitches for either PPTS-compliant or ethnic travellers and which has been used by the Council to grant permission since the base date of the GTAA. Against those targets, the Council says that it has delivered and granted permission for the totality of the GTAA identified PPTS need of 26 pitches, some 14 years in advance of the study period to 2036 and, can therefore, demonstrate in excess of 5 years' worth of supply. A number of the more recent permissions are alleged to be unimplemented⁴. A further appeal decision⁵ was supplied to the hearing which secures permission for two additional PPTS pitches which was granted in August this year.

⁴ As detailed in Table 4 of the Council's Statement of Case Policy Addendum

⁵ Appeal Ref APP/X0360/W/22/3296519

39. The main points of the appellant's case on this topic are that the GTAA is out of date, it being now over 5 years old with an evidence base of around 6 years old. On this basis, the appellant claims that the GTAA is incapable of being used to measure a five year supply and there is no target in policy against which to measure it either. It is further claimed that too little provision is being made towards the 90 pitches needed for ethnic travellers, which is evidently much higher than the need for PPTS-compliant travellers over the same period.
40. The appellant's evidence also relies on the appeal decision for '*Nelsons Lane*⁶', issued in 2018. Whilst I have a copy of the Statement of Case submitted on behalf of the relevant appellant in that case, not all of the evidence available to that Inspector is before me now. Moreover, the Council, despite not mounting a legal challenge in respect of the same, sought to dispute some parts of the reasoning and conclusions in that particular decision.
41. Two other appeal decisions before me which relate to '*Kybes Lane*' and the aforementioned paddock to the south of the appeal site contain broadly similar conclusions about the GTAA being useful and largely soundly-produced, but advising caution on the need figure as it was felt to be on the low side, with, amongst other things, queries about household formation rates and an absent figure for in-migration. The Kybes Lane decision is technically the most recent that deals with the issue, but was still issued some time ago in 2018.
42. Whilst there is a greater number of appeal decisions that suggest that the Council has been consistently proactive in seeking to meet the needs of travellers in its area, in my view, the effectiveness of this proactivity has waned recently, through perhaps the challenges of the COVID-19 Pandemic and, as highlighted at the hearing, the change in administration that the Council underwent in 2021. To this end, whilst the Council indicate that it has commissioned a new GTAA to provide an evidence base for the emerging Local Plan (eLP), the preparatory evidence-gathering is at very early stages and there is currently no Local Development Scheme for the production of the eLP which has already slipped considerably. Notably, it was suggested that the eLP will contain pitch allocations for both PPTS and ethnic travellers.
43. Consequently, my view is that, despite the Council's proactive approach in recent years and the GTAA being the best available evidence, and the Council's acceptance that it has aged and will be replaced when possible, the GTAA and figures therein are not appropriate as a basis to calculate the five year supply of PPTS pitches. As a particular issue of relevance, the GTAA was found to be absent of a figure for in-migration which applies in this case. This highlights that there is at least one family who wish to migrate into the area whose needs have not been specifically accounted for.
44. On the contrary, I do not regard that there has been a longstanding policy failure, and I do not consider that the unmet need is likely to be acute, given the number of permissions granted under MDD Policy TB10. But, in summary, with a further four years having elapsed since some aspects of the GTAA were found deficient, I cannot conclude that it is sufficiently reliable now.
45. Drawing together the findings above, in the absence of a GTAA need figure on which to base a robust finding, I conclude that the Council cannot demonstrate a five year supply of traveller sites to meet the PPTS requirement.

⁶ Appeal Ref APP/X0360/W/16/3150332

Alternative Sites

46. Irrespective of my finding on the five year supply position, the PPTS requires consideration be given to the availability of alternative accommodation. Of the 26 PPTS pitches that the Council had granted since the base date of the GTAA, it is set out that 7 pitches have permission, were unimplemented at the date of the hearing and are anticipated to be deliverable. The two pitches granted on appeal in August 2022 are additional to these and are not for named occupiers.
47. The appellant's agent indicated verbally that he regularly shared intelligence with other representatives of the traveller community and that his investigations had led him to conclude that the unimplemented pitches with permission would not be available to the appellant because they had been secured by, or for specific traveller families. He also indicated that the Council could not prove that there were any pitches that may be available to the appellant and that there are no Council-owned sites with space.
48. The appellant and his family currently reside outside of the Borough. The appellant said that he did not have the financial means to consider alternative sites as he had committed his available resources to the appeal site. However, should this process not yield the necessary permission to enable a residential use of the site, there appears little reason why the site could not be sold in order to enable the acquisition of a suitable alternative.
49. I accept that there is no requirement to prove that a comprehensive search of alternative sites has been undertaken, but weight can be attached where there is evidence of such. In the absence of clear, robust evidence to the contrary, I conclude that the unimplemented and non-personal PPTS permissions qualify as suitable and deliverable alternative local accommodation.
50. Given the above, I cannot satisfactorily conclude that there are no available, less harmful, alternative sites.

Personal Considerations

51. The appellant and his family currently reside on a single pitch with his parents and 3 siblings who also have their own respective families with children. It was stated that the pitch was overcrowded and that the relevant Council had recently threatened enforcement action. Whilst this was disputed by the Council, neither party offered more than anecdotal evidence to this effect. However, I can be reasonably certain that overcrowding to the extent suggested is not a desirable long-term solution, irrespective of whether it is tolerated by the respective Council. The appellant's need for accommodation is therefore not disputed.
52. The appellant indicated his preference to relocate specifically to Twyford given his longstanding association with the area for work purposes despite that he does not have an existing familial connection there. The appellant has a young family and, of his three children of age five and below, two are attending either nursery or primary school at a location closer to the family's current base. However, the appellant's desire to provide a settled base for his family is understandable and would provide opportunities for them all to access healthcare and educational facilities. These would be benefits in favour of granting planning permission.

Overall Planning Balances

Permanent Permission

53. The proposal would represent inappropriate development and would also have a moderate effect on openness and a limited effect on one of the purposes of the Green Belt. The totality of the harm by reasons of inappropriate development, loss of openness and effect on a Green Belt purpose together attract substantial weight. There would also be harm to the character and appearance of the area. For all of these reasons, the proposal is in conflict with the development plan when taken as a whole.
54. Weighing against the substantial harms is the absence of a five year supply of PPTS traveller sites in Wokingham based on an outdated evidence base. Whilst the PPTS advises that this factor should be a significant material consideration, the weight to this is tempered by the fact that alternative options do appear to exist, some of which could be less harmful given that the Green Belt designation is reported to only cover around 16% of the Borough.
55. I have considered the personal circumstances of the appellant's family, and whilst I acknowledge the desire to live in the area and the financial commitment made in this regard, there does not appear to be anything particularly unique, uncommon or special about the circumstances that attracts more than limited weight. However, Article 3 of the United Nations Convention on the Rights of the Child requires a child's best interests to be a primary consideration, and no other consideration must be regarded as more important or given greater weight than the best interests of any child. The best interests of the children would be more properly served by a settled base on which the family could reside with certainty of tenure and access to day-to-day services. Granting permission would, therefore, undoubtedly be in the best interests of the children and this in itself attracts substantial weight. The effective use of a partially previously developed site also attracts limited weight in favour of granting permission.
56. Overall, the weight to be attached to the best interests of the children is no less than the substantial weight to be attached to the Green Belt harm. However, in my view, the Green Belt harm and other harms, are not outweighed by the range of other considerations and benefits when taken as a collective whole, such that they constitute the very special circumstances necessary to justify allowing the appeal on a permanent basis.

Temporary Permission

57. Possibilities for a temporary permission require a second balancing exercise taking into account the reduced harm arising from the limited duration of any permission and any reasonable expectation of a change in planning circumstances, such as a greater range of alternative sites becoming available through the development plan process within a specific period. Given the anticipated timeframe of the eLP production, the parties agreed that a period of five years would be appropriate for any temporary permission.
58. I again have had particular regard to the best interests of the children, and to the likely practical difficulties of finding alternative authorised accommodation.
59. In my assessment, the balance of the arguments, and including all personal circumstances, changes when temporary permission is considered as whilst the

harm to the Green Belt and character and appearance of the area would occur, it would be incurred for a strictly limited period of time only and, given the Council's expressed commitment, there is a reasonable prospect of legitimate alternative sites becoming over the five year period, additional to those which already exist.

60. I find that a period of five years is likely to minimise harm whilst allowing the Council reasonable time to complete the process of formulating and adopting the eLP and for appropriate efforts to be made by the appellant to otherwise avoid homelessness.
61. I find that when all other material considerations are added together, they would clearly outweigh the temporary harm arising from a five-year occupation. Very special circumstances justifying the grant of a temporary five-year permission personal to the appellant and his family therefore exist.

Proportionality

62. The Human Rights Act⁷ establishes a right to respect for private and family life. Dismissing this appeal for permanent planning permission and granting a time limited personal permission would interfere with the proposed occupants' statutory rights as they do not have a lawful base otherwise. Consequently, the concept of proportionality is crucial.
63. I consider that interference would be in accordance with the law and in pursuance of a well-established and legitimate public aim of protecting the Green Belt and related matters. The relevant planning policy objectives could not be achieved by means less imposing or intrusive and, as the minimum action necessary to achieve those important ends, would not have an excessive or disproportionate effect on the interests of the persons affected, and including the particular interests and accompanying rights of the children.
64. I have also had regard to the Public Sector Equality Duty⁸ which requires that a public authority must foster good relations between persons who share a relevant protected characteristic and those who do not. I do not consider that a refusal of permanent permission and granting a temporary permission would result in a failure to meet the relevant Public Sector Equality Duties.

Conditions

65. I have considered the conditions suggested by the Council and the appellant. In doing so, I have had regard to the Framework and Planning Practice Guidance on the use of planning conditions. In the case of each of the pre-commencement conditions identified, I consider that resolution of the matters specified to be of sufficient significance to the achievement of satisfactory development such that it would be inappropriate to proceed further without the certainty that would arise from their approval.
66. A condition is also necessary to restrict occupancy to the appellant, his wife and his dependants as their circumstances have weighed in favour of granting a temporary permission and as I find a permission only to be acceptable on those terms. It is also necessary to impose a condition to restrict occupation to persons defined as gypsies and travellers by Annex 1 of PPTS.

⁷ Article 8 of the European Convention on Human Rights as enshrined in the Human Rights Act (1998)

⁸ Public Sector Equality Duty under the Equality Act, 2010

67. As the scheme is also only acceptable on the basis of the particular details submitted, a condition is necessary to limit the number and type of caravans. Similarly, a condition is necessary to ensure that the development is undertaken in accordance with the relevant plans.
68. In the interests of the character and appearance of the area, details are required of the landscaping measures to be implemented and the supervision of works within the root protection areas of trees.
69. A condition is necessary to require details and implementation of surface water and foul drainage measures to ensure protection of the local environment.
70. To ensure the adequate living condition of future occupiers, a condition is necessary to seek details and the provision of an acoustic fence.
71. In the interests of highway safety and the free flow of traffic on the highway, a condition is needed to ensure that vehicle parking spaces are provided and that the initial part of the access road is provided as a consolidated surface.
72. To protect the biodiversity interests of the area, a condition is necessary to secure the implementation of net gain measures.
73. In the interests of the character and appearance of the area, it is necessary to prevent commercial uses being undertaken and prevent large vehicles from being parked on site.

Conclusion

74. The proposal for permanent use would be contrary to the development plan, and this finding is not outweighed by other material considerations, including relevant provisions of the Framework and the PPTS. Consequently, a permanent permission is refused.
75. Whilst a permanent occupation is not appropriate, there are considerations weighing in favour of the development such that, when taken together, justify a temporary five-year personal permission.
76. For the above reasons, the appeal is allowed on the terms described.

Hollie Nicholls

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dr Angus Murdoch	Murdoch Planning Ltd
Mr Rhodri Crandon	Tirlun Design Associates
Mr Roger Baxter	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Mark Croucher	Principal Planning Officer, Wokingham Borough Council
Mr James McCabe	Planning Policy Officer, Wokingham Borough Council
Mr Chris Hannington	Landscape Team Leader, Wokingham Borough Council

INTERESTED PARTIES:

Mr Lindsay Ferris	Local Councillor
Ms Margaret Denham	Wargrave Road resident

DOCUMENTS:

Document 1	Appeal decision notice APP/X0360/W/22/3296519
Document 2	Arboricultural Impact Assessment and Method Statement
Document 3	List of suggested planning conditions
Document 4	Extracts from Wokingham Borough Landscape Character Assessment 2019
Document 5	Delegated officer report for application Ref 221405

SCHEDULE OF CONDITIONS

- 1) The use hereby permitted shall be carried on only by Mr Roger Baxter and Mrs Bella Baxter and their resident dependants, and shall be for a limited period being the period of five years from the date of this decision.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning policy for traveller sites (August 2015).
- 3) When the site ceases to be occupied by those named in Condition 1 above, or at the end of five years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought onto the land, and works undertaken to it in connection with the use, shall be removed and the land restored in accordance with a scheme to be approved by the Local Planning Authority.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan, Ref 01654/10 Rev 2, dated 24.06.20
 - Proposed Site Layout & Landscape Scheme, Ref TDA.2647.02, dated December 2021
 - Proposed Day Room, Ref TDA.2647.03, dated December 2021
- 5) There shall be no more than 1 pitch on the site and no more than 2 caravans shall be stationed at any one time, of which only 1 shall be a static caravan as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.
- 6) Prior to the commencement of the development hereby permitted, details of a hard and soft landscaping scheme including a timetable for implementation and management plan shall be submitted to and approved in writing by the Local Planning Authority.

The planting scheme shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted, and any existing trees or shrubs to be retained. Planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation of any of the Gypsy and Traveller pitches.

Any trees or plants which, within a period of 5 years from the date of the planting (or within a period of 5 years of the occupation of the pitches in the case of retained trees and shrubs) die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

The development shall be carried out in accordance with the approved details.

- 7) Prior to the commencement of the development hereby permitted, a scheme of arboricultural protection measures as outlined in the Arboricultural Implications Assessment and Method Statement (Indigo

Surveys, Sept 2022), and supervision thereof, shall be submitted to and approved in writing by the Local Planning Authority.

The development shall take place in accordance with the scheme of protection measures with the relevant supervision as approved.

- 8) Prior to the commencement of the development hereby permitted, details of surface and foul water drainage to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The drainage systems shall be provided in accordance with the approved details prior to the first occupation of the site and shall thereafter be retained as such.
- 9) Prior to the commencement of development, details of biodiversity net gains and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented in accordance with the approved timetable.
- 10) Prior to the first occupation of the site, details of the acoustic fence as recommended in the Noise Assessment (LF Acoustics Dated February 2021) shall be submitted for written approval to the Local Planning Authority. The acoustic fence will be installed in accordance with the approved details before the site is occupied and will be retained and maintained thereafter.
- 11) The site shall not be occupied until the vehicle parking spaces have been provided in accordance with the approved plans. The vehicle parking spaces shall be permanently maintained and shall remain available for the parking of vehicles at all times.
- 12) The site shall not be occupied until the vehicular access has been surfaced with a permeable and bonded material across the entire width of the access for a distance of 10 metres measured from the carriageway edge. The access shall thereafter be retained as such.
- 13) No commercial activities shall take place on the land, including the storage of materials.
- 14) No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site.