

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	242330
Site Address:	Land opposite 136-144, Wargrave Road, Twyford, RG10 9PN
Expiry Date:	8 November 2024
Site Visit Date:	02/10/2024
Proposal: Application to vary conditions 1 and 4 of planning consent 202499 (APP/X0360/W/21/3288874) 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. Condition 1 attaches the permission to a named occupier, and the variation is to change the occupier. Condition 4 refers to the approved plans, and the variation is to amend the layout (part retrospective).	

PLANNING CONSTRAINTS/STATUS

Contaminated Land Consultation Zone
Green Routes and Riverside Paths
Heathrow Aerodrome Consultation Zone
Scale and Location of Development Proposals
Great Crested Newt Consultation Zone
Green Belt
Ground Water Zones
Nuclear Consultation Zone
Radon Affected Area
Landscape Character Assessment Area
Land Terrier
SSSI Impact Risk Zones
Green Routes and Riverside Paths Consultation Zone
Ordinary Watercourses Consultation Zone
JCEB Areas of Search for Sand and Gravel
JCEB Mineral Safeguarding Areas

PLANNING POLICY

National Policy	National Planning Policy Framework (NPPF) Planning Policy For Traveller Sites (PPTS)
Core Strategy (CS)	CP1 – Sustainable Development CP2 – Inclusive Communities CP3 – General Principles for Development CP4 – Infrastructure Requirements CP5 – Housing Mix, Density and Affordability CP6 – Managing Travel Demand CP7 – Biodiversity CP9 – Scale and Location of Development Proposals CP11 – Proposals Outside Development Limits CP12 – Green Belt

	CP17 – Housing Delivery
MDD Local Plan (MDD)	CC01 – Presumption in Favour of Sustainable Development CC02 – Development Limits CC03 – Green Infrastructure, Trees and Landscaping CC04 – Sustainable Design and Construction CC06 – Noise CC07 – Parking CC09 – Development and Flood Risk CC10 – Sustainable Drainage TB01 – Development within the Green Belt TB02 – Development adjoining the Green Belt TB09 – Residential Accommodation for Vulnerable Groups TB10 – Traveller Sites TB21 – Landscape Character TB22 – Sites of Urban Landscape Value TB23 – Biodiversity and Development TB25 – Archaeology
Joint Minerals and Waste Plan (JMWP)	DM1 - Sustainable Development DM2 - Climate Change – Mitigation and Adaptation DM3 - Protection of Habitats and Species DM4 - Protection of Designated Landscape DM5 - Protection of the Countryside DM6 - Green Belt DM7 - Conserving the Historic Environment DM8 - Restoration of Minerals and Waste Developments DM9 - Protecting Health, Safety and Amenity DM10 - Flood Risk
Other	Borough Design Guide Supplementary Planning Document CIL Guidance + 123 List Affordable Housing Supplementary Planning Document Sustainable Design and Construction Supplementary Planning Document Twyford Neighbourhood Plan National Planning Practice Guidance

PLANNING HISTORY

Application No.	Description	Decision & Date
202499	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.	Temporarily allowed at appeal (5 years) under APP/X0360/W/2 1/3288874 17/10/2022
221405	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	Refused – 08/07/2022

	erection of a single storey utilities building along with access.	
230519	Application for submission of details to comply with the following condition of planning consent [202499] dated [11/ 6/2021]and appeal dated(17/10/2022) (ref: APP/X0360/W/21/3288874)Condition 6)landscaping scheme,7) Arboricultural Assessment and Method Statement, 8) details of surface and foul water drainage, and 9) details of biodiversity net gains and a timetable for implementation.	Split Decision (Conditions 6 and 7 approved) – 21/04/2023
232125	Application to vary condition 4 of planning consent 202499 granted under appeal reference APP/X0360/W/21/3288874 dated 17/10/2022 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. Condition 4 relates to the approved plans and the variation is for amendments to the layout of the site and access, and changes to the proposed landscaping. (Part retrospective)	Refused – 27/02/2024
240140	Full application for the erection of 2no. CCTV poles with cameras (retrospective).	Refused – 15/03/2024

CONSULTATION RESPONSES

Internal

WBC Environmental Health – No objection
WBC Drainage – No objection
WBC Highways – No objection
WBC Landscape and Trees – Objection, refusal recommended on landscape character harm.

External

N/A

REPRESENTATIONS

Parish/Town Council	Wargrave Parish Council raise no objection to the proposal. Twyford Parish Council objected to the application, leaving the following comment: The Planning & Amenities Committee disagree with the change of conditions as it invalidates the reasons for granting the appeal and are therefore of the opinion that a new application should be made.
Ward Member(s)	No comments received

Neighbours	5 letters of objection have been received from 3 local residents, namely: - Undermining the appeal decision - Commercial activity on site - Harm to tranquillity and local environment - Original temporary position mooted - Abuse of the planning system
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APPRAISAL

Site Description:

This 0.15 hectare site comprises an enclosed temporary Gypsy/traveller pitch located between Wargrave Road and the A321. The site is bounded to the east by Wargrave Road and the Chiltern Cycle way and the A321 to the west.

The pitch is one of two such adjacent pitches in temporary use subject to personal permissions established under APP/X0360/W/21/3288874 (the application site) and APP/X0360/W/23/3320780 (the site to the south).

The application site contains a twin unit static caravan, day room, touring caravan, extensive hard surfacing, an amenity area separated by a brick wall south of the site, non-native landscaping (palm trees), a grassland area separated by palisades fencing and a parking court. The day room was not built at time of officer site visit.

Proposal Description:

This application is to vary conditions 1 and 4 of appeal APP/X0360/W/21/3288874.

The variation relates to changes to the layout of the pitch and changes to the personal condition/occupier.

Site History and Background:

The site originally hosted an equestrian use, stable block and mobile home used for hay storage. Application 202499 was granted permission at appeal Ref. APP/X0360/W/21/3288874 on a 5 year, temporary basis (of which 3 years remain).

The conditions required to make the proposal acceptable on a temporary basis, were stated in the Inspector's decision (see paragraphs 65-73 of APP/X0360/W/21/3288874) particularly relating to landscape/site use. Of particular relevance are paragraphs 68 and 73, which stated:

“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” and;

“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”.

Discharge of conditions application 230519 (pursuant to conditions 6, 7, 8 and 9) was part approved on 21 April 2024 in relation to landscaping and arboricultural information. However, given the multiple breaches in planning control, compliance with conditions 6 and 7 is no longer possible. This application seeks/sought to regularise the breaches.

Application 232125 also sought to regularise the breaches in planning control (operational development) comprising notable hard surfacing, non-native landscaping, further encroachment of built form into the countryside/green belt, brick-built piers and electric vehicle gate (among other matters). However, this application was refused on 27/02/2024 on grounds of harm to the openness of the Green Belt, character of the area and landscape character harm.

The proposal submitted under this application, differs from the previous refusal. The application comprises an increased area of hardstanding, entrance piers and electric vehicle gate as well as a re-located dayroom further into the paddock on the site which were not part of the original layout.

The submitted site plan for each application for comparison, as well as the approved landscaping plan are shown below:

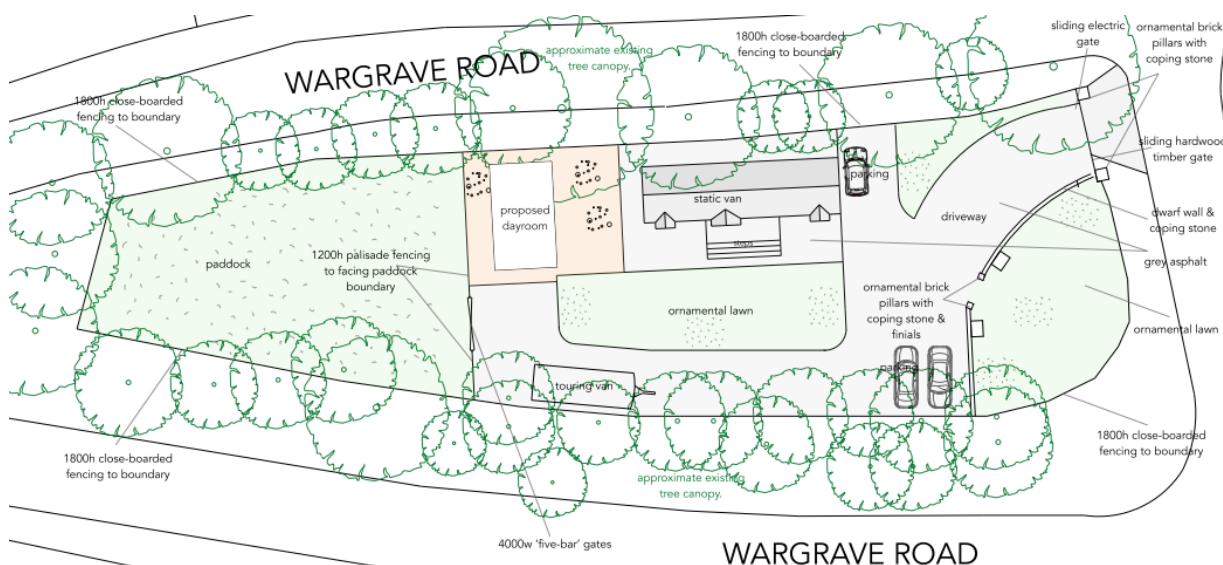


Figure 1 – Proposed site plan within this submission.



The plan submitted with this application (figure 1) shows a marginally reduced area of tarmac (when contrasted to 232125), with lawn, a double gate with detailed pillars, palisade fencing and reduction in the originally retained area of paddock to the north.

The proposal when contrasted to the originally approved plans contains significantly greater hard surfacing including significant tarmac rather than gravel as well as urban elements such as brick piers and electric vehicle gates. The re-sited dayroom to the north of the caravan encroaches further away from the road into the undeveloped paddock and removes originally proposed hedgerow (replacing this with a dwarf wall and cornerstone with raised ornamental lawn).

Procedure:

S73 of the Town and Country Planning Act 1990 provides the ability to vary a condition on a planning permission. The Town and Country Planning (Development Management Procedure) (England) Order 2010 streamlined the procedure to enable local planning authorities to use its discretion on which statutory consultees should be consulted when such an application is submitted in order to speed up the system by being more flexible.

This Statutory Instrument was accompanied by 'Greater flexibility for planning permissions' which contained relevant guidance. This states that a minor material amendment is 'one whose scale and nature results in a development which is not substantially different from the one which has been approved'. This is not a statutory definition and the decision on what constitutes a minor material amendment is at the discretion of the local planning authority but is considered to include, "any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved".

Section 73 of the Act instructs the Local Planning Authority to consider the variation to, or relief of conditions that are applied for which can be applied to retrospective development, stating that *"if they [the LPA] decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted....they shall grant permission accordingly"* (s.73(1)(a)). As such, the Local Planning Authority can grant permission unconditionally or subject to different conditions, or alternatively refuse the application if it is deemed that the original condition(s) should remain in place.

Principle of Development:

Section 70(2) TCPA 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) sets out that applications must be determined in accordance with the development plan, unless material considerations indicate otherwise.

The National Planning Policy Framework has an underlying presumption in favour of sustainable development which is carried through to the local Development Plan. The Managing Development Delivery Local Plan Policy CC01 states that planning applications that accord with the policies in the Development Plan for Wokingham Borough will be approved without delay, unless material considerations indicate otherwise.

Whilst the principle of development at the site was established with the granting of APP/X0360/W/21/3288874 on a temporary basis pursuant to the original occupier, the Inspector outlined that the sole reason for granting development which would otherwise be contrary to the development plan was due to the original applicant's personal circumstances. These warranted very special circumstances, that on the planning balance were sufficient on a temporary basis to outweigh the harm to the Green Belt the development. Accordingly, the principle of development must be re-assessed in line with the circumstances put forward by the applicant and the proposed new occupiers.

Of note is the fact that the GTAA has now been updated (August 2023) and the evidence base is therefore now up to date. This does not alter the conclusion of

Inspector. Additionally, there are no net/increase/loss of pitches proposed in this application.

National policy

Paragraph 143 of the NPPF (2023) lists five fundamental purposes of the Green Belt. These purposes are as follows:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 152 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraphs 154 and 155 of the NPPF outline exceptions that do not constitute inappropriate development. The proposal does not accord with the exceptions listed within paragraph 154 and 155.

Policy E of the Planning Policy for Traveller Sites states *“Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.”* (para 16)

The proposal as outlined by the NPPF and PPTS constitutes inappropriate development within the metropolitan greenbelt, which encompasses circa 16% of the borough. Given the development is inappropriate and by definition harmful, the proposal stands contrary to the NPPF and PPTS in this respect.

Paragraph 25 of the PPTS states *“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.”*

Whether the proposal would constitute inappropriate development in the Green Belt is considered by the Inspector at paragraph 12:

“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.”

He further considers the impact on openness at paragraph 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.

Development Plan

CP12 of the Core Strategy states that inappropriate development is by definition harmful to the Green Belt and this harm should be given substantial weight. The proposal constitutes inappropriate development within the Green Belt and conflicts with Core Strategy Policy CP12 from the LPA's adopted Development Plan.

Along with the site's location within the Green Belt, the site also lies within the designated countryside as per CP9. Accordingly, CP11 of the Core Strategy applies. This restrictive policy seeks to protect the quality of the environment and to prevent coalescence of settlements. CP11 outlines 7 criteria that must (in part) be met to justify development in the countryside. The proposal fails to meet the listed exceptions and therefore fails to comply with CP11 of the Core Strategy from the LPA's adopted Development Plan.

As per S38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004), the development plan is the starting point for determination. The proposal is contrary to the development plan as a whole as agreed by the Inspector in paragraph 55 of the appeal decision.

Gypsy Roma and Traveller (GRT) need and supply:

The national planning policy document 'Planning Policy for Traveller Sites' (PPTS) was updated in December 2023. The update was limited to amending the definition of Gypsies and Traveller contained within Annex 1 to include households that have ceased to travel permanently for reasons of educational or health needs or old age. The previous definition excluded such households.

Whilst the Council are currently unable to demonstrate a 5 year deliverable supply of permanent GRT pitches, it is noted that this application would not include any net gain or loss in GRT pitches within the Borough and would not result in either family being homeless, as nothing prevents the Baxter family returning to the site and re-occupying their personally permitted temporary pitch. It is also understood that the Sheridans have a site in Gerrards Cross. Furthermore, approval of this variation would not result in a net increase in contributing towards the council's supply of additional pitches, therefore the principle of an additional pitch cannot be afforded any greater weight in overall planning balance than at appeal.

Given both the Baxters and the Sheridans have pitches they could reside on immediately, there is no requirement to discuss the provision of alternative sites.

Personal Circumstances:

Condition 1 of APP/X0360/W/21/3288874 reads as follows:

"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."

Of note within APP/X0360/W/21/3288874 are the following extracts:

"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." (para 51)

"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." (para 52)

Referring to the extracts above, the Inspector identified that Mr Roger Baxter and Mrs Bella Baxter and their resident dependants (not the current applicants) personal circumstances were afforded substantial weight in favour of granting planning permission when combined with the best interests of their children. Particularly, for the best interests of the children as per paragraph 55 of the appeal decision which stated *"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."*

This variation to condition 1 as proposed would mean the permission granted would no longer specifically serve *Mr Roger Baxter and Mrs Bella Baxter and their resident dependants* but rather Mr Joe Sheridan, his wife and children (Mr Joe Sheridan's wife's name has not been provided).

These two adults are understood to have two children, the youngest being 13 years old. No information has been provided as to the age of the second child. The applicant has provided the following personal circumstances within the submitted covering letter in support of the application:

- *The Appellant Mr Roger Baxter and wife Mrs Bella Baxter, 'swapped' the Twyford pitch with Mr Joe Sheridan, his wife and children. Thus, as a result of the appeal being granted the needs of Mr and Mrs Baxter have still been met.*
- *The reason for the exchange is that Mr Sheridan is Mr Baxter's uncle, and had a lawful pitch next to Mr Baxter's parents at Wickford Farm, Gerrards Coss SL9 7BJ. Mr*

Baxter was on the road; the circumstances shared in the appeal were correct. However, being a younger family with younger children, by residing at Wickford Farm they could receive the support of Mr Baxter's parents to care for the children. Wickford Farm is not personally limited. Mr Sheridan agreed to move to Twyford so that his nephew had more family support. Mr Sheridan has a wife and 2 children. Consequently, the application site meets the family needs of both the Sheridans and the Baxters. Were the Sheridans to claim back their previous pitch, this would render Mr Baxter and his family homeless and on the roadside again.

- *Mr Sheridan and his family are registered with the local doctors and are in the process of securing a school place for their 13 year old son so he can continue his education. Please contact the agent for further personal details which cannot be publicly published.*

Officers requested additional clarity on the above with the applicant's planning agent who provided the following statement:

- *"Young Joe Sheridan is currently homeschooled but if a consent is granted then the family would look to register in him in a local school."* - This implies that Mr Sheridan's children remains in education and currently have their educational needs met on a flexible basis.

- *"Wickford Farm is a family site where Mr Baxter's parents live. As you know Gypsy families prefer to live together and share the care of younger child and so it was considered in the family that Mr Baxter and his family would be better served being close to his parents. This is explained in the cover letter."* - The additional information confirms that the pitch 'swap' was informed by the convenience and preference of additional childcare.

- *"The reason I suggest that Mr Baxter could end up on the roadside if Mr Sheridan returned to Wickford Farm is because application 202499 only has 3 years left of a temporary permission. This application if granted to vary condition 1, could reset the clock and/or grant a permanent, if personal to Mr Sheridan, permission instead. This would give security to both families going forward."* – This shows that the Sheridan and Baxter families would not be made imminently homeless (for over 3 years) should they swap back to their original pitches. It is further of note that in line with the agreed description of development, and powers under S73, this variation does not seek to extend the temporary period, nor attempt to make this permission permanent.

However, whilst the best interests of a child must be considered there is little information provided as to why this settled base in this location would be in their best interests.

Mr Sheridan is understood to have a lawful pitch at Wickford Farm, Gerrards Cross which is not personally limited. In addition, the Baxters need to live in this location in terms of their children's education, healthcare and work. These needs would not be met if Mr Sheridan swapped to their pitch and may have a significant impact on the Baxter family and the best interests of their children. The Council requested additional information, however, limited information was forthcoming. This would have provide clarity on exactly what the personal needs of the family are moving forward, and

whether they can reasonably be considered to justify the proposal and whether the Baxters circumstances have changed. They state that this is no longer a convenient site for Mr Baxter to live due to childcare, however previously it was argued that it was essential for him to live in this location.

Notwithstanding this, convenience is not considered to be a very special circumstance, particularly as the same circumstances arising from anticipated childcare would have been known at the time of the original appeal but were not put forward. The Agent has also stated that if permission were granted, they expect this would reset the clock or grant a permanent permission to Mr Sheridan. This is not the purpose of this S73 application and no application to amend the temporary condition is sought.

To conclude, the Inspector clearly mentions in paragraph 66 that *“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.”* These circumstances along with the above no longer apply to the applicant who has materially different personal circumstances to Mr Baxter.

Based on the information submitted, it has not been demonstrated whether there are any special circumstances (namely the personal circumstances of those involved) which outweigh the previously identified harm to both the Green Belt and the Countryside.

Character of the Area:

The assessment of the overarching impacts to the character of the area resulting from the change of use, siting of 2no. caravans and a day room remains the same as set out in appeal APP/X0360/W/21/3288874 in that they are harmful to the openness of the green belt, character of the area and the site's landscape character. However, these impacts have been exacerbated by the physical variations proposed. These are assessed below.

Policy CP1 of the Core Strategy states that planning permission will be granted for development proposals that maintain or enhance the high quality of the environment;

Policy CP3 of the Core Strategy states that development must be appropriate in terms of its scale, mass, layout, built form, height and character of the area and must be of high quality design. R1 and RD1 of the Borough Design Guide SPD requires that development contribute positively towards and be compatible with the historic or underlying character and quality of the local area and R11 requires a coherent street character, including in terms of scale, rhythm, proportion and height.

The site lies on a prominent plot which connects Wargrave and Twyford for motorists via the adjoining A321, cyclists via the Chiltern Cycle Way and pedestrians via the adjoining footpath. The site in the very vast majority is entirely visible along this busy and permeable stretch of infrastructure, and the character along this stretch is defined by its rural, verdant nature and strong buffering.

Policy TB10 of the Managing Development Delivery Local Plan states that the layout and design of Gypsy sites should provide a safe living environment that meets the needs of residents, while respecting the character of the local area. The degree of hard surfacing, austere brick piers and re-located day room does not respect the established character of the area. The proposal further encloses the front of the site with a c2.6 metre high brick built pier and c2 metre access gate which creates a degree of visual isolation. This is exacerbated because views of the site can be seen from the Chiltern Cycle Way to the east of the site and from Wargrave Road. The large austere entrance is immediately visible and is notable when travelling along the A321.

Paragraph 180 of the NPPF states: *“Planning policies and decisions should contribute to and enhance the natural and local environment by: (b) recognising the intrinsic character and beauty of the countryside.”*

The scheme proposes increased hard standing in the form of black tarmac when contrasted to the originally approved details which approved a small area of gravel for parking, turning and access, more appropriate to the scale, form and temporary nature of the development.

The proposal also includes the removal of landscaping and large austere entrance gates encroaching onto the public highway which does not contribute and enhance the local environment, on the contrary, the proposal detrimentally impacts it.

Brick walling and pillars are proposed within the site around a grassed area which serve limited or no purpose and urbanise the site. Furthermore, the relocated day room affords greater encroachment into a previously undeveloped grassland area of the site which retained a degree of openness. The proposal does not propose grassland in the former site of the day room but proposed this as entirely hardstanding adding to the built development on the site. The proposal stands contrary to the aims of paragraph 180 of the NPPF in this respect.

The appeal established clearly that the development would impact the character of the Green Belt and Countryside and the Inspector specifically sought detailed landscaping conditions to reduce this impact.

The development proposed within this variation would have a notably greater impact countryside character than that approved. This is due to the significant increase of urbanising features combined with a poorly designed layout of the site which provides a significant degree of permanence and harm to a formerly green and verdant plot.

Whilst this proposal has made minor improvements to the previously refused variation under application 232125, when compared to the layout originally approved, the amended layout, re-location of the day room and increase in hardstanding remains to appear alien in the context of the character of the area. This overtly manicured appearance does not respect the character of the area and therefore stands contrary to Core Strategy policies CP1 and CP3.

Retaining and preserving the site's green and open nature was expected as part of the originally approved plans and was to be secured by condition. Much of the green and

open nature of the site will be lost with his proposal causing harm to the character and appearance of the area.

Whilst as above a degree of improvement is noted on site, namely that some more ornamental greenspace features within this application, this has a contrived and manicured appearance which notwithstanding its nature appears urbanising in the context of the site's green belt location. It also appears from officer site visit that the ornamental lawn space may be layered on top of existing tarmac (part of previous enforcement investigations) given its raised appearance. The proposed layout remains overly urbanising and harmful to the character of the countryside, and no justification except personal preference has been expressed to warrant this significant change.

Furthermore, it is considered that the proposed development to be of an inappropriate scale, and design for a single temporary gypsy pitch contrary to CP3. The proposed hardstanding remains to be significantly more than is required to facilitate the stationing of caravans and associated parking and may facilitate commercial parking which the Inspector sought to prevent.

Paragraphs 33 of the Inspector's decision states *"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"* and 35 of the Inspector's decision states that *"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."*

There is a clear urbanisation of the site which contributes to the further gradual erosion of the character of the countryside and the green gap between Wargrave to the north and Twyford to the south. Relocating the day-room as proposed to the north of the site further expands built form into the countryside which is visually and spatially encroaching on the approved undeveloped northern edge of the site. This is supported by the Inspector at paragraph 34: *"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."*

The extent of hardstanding for vehicle parking and movements extends to circa 738sqm (including the gravel and base of the static caravan/ day room) which amasses circa 49% of the total site area. Whilst the previous S73 refused under 232125 featured hard surfacing covering 62% and this proposal features a lower figure, this is still a significant urbanising development within the green belt and countryside that has no justification. As a point of reference, the originally approved landscaping plan only shows an area of 50sqm of tarmacked hardstanding on site (3% of the site area). This

significant increase of tarmacking on site of 46% (or 670% larger than originally approved) is unacceptable in character terms.

The development fails to maintain or enhance the appearance of the area or the intrinsic character and beauty of the countryside, significantly harming, urbanising and creating a manicured appearance of the appeal site's otherwise semi-natural character, contrary to the development plan policies CP1, CP3, CP11, CP12 of the Core Strategy, TB10 of the MDD Local Plan and the NPPF (2023) as well as the conclusions reached by the Inspector.

Landscape Character:

The assessment of the landscape character impacts resulting from the change of use, siting of 2no. caravans and a day room remains the same as set out in application APP/X0360/W/21/3288874. However, the variation proposed to site layout is assessed below.

Policy TB21 of the MDD Local Plan seeks to retain or enhance the condition, character and features that contribute to the landscape. It falls within Landscape Character Assessment H1 'Wargrave – Twyford Chalk Lowlands' with the following notable characteristics which apply to the site:

- Dominated by intensive working arable farmland, including market gardening, defined by extensive field units of no apparent pattern and with no obvious boundary divisions
- Farmland with strong sense of openness and homogeneity due to the lack of field divisions or vertical elements across the landscape and maintains separation between and setting of settlements
- Transport corridors both road and rail including the A4 and A3032 running through the landscape create a sense of disturbance in an otherwise peaceful landscape
- Scrubby margins where fields align roads give an indication of poor management.
- Enclave of plant nurseries with their associated car parks

The landscape strategy is for enhancement on the farmed landscape whilst keeping its openness intact. In terms of development, the aim is to conserve the rural setting and gaps between settlements and maintain the integrity of settlement identity, particularly enhancing the character along the A4 Bath Road.

The proposal which reduces openness similarly to refused 232125, promotes erosion of the defined settlement gap through significant urbanising encroachment through the provision of hardstanding and the re-located day room. Whilst the area of hardstanding has been decreased when contrasted with 232125, it remains much larger than original consented by the Inspector. This does not support the overarching aims of Landscape Character Area H1 as concurred by WBC Trees and Landscape.

The site is a Green Route Enhancement Area. Policy CC03 of the MDD Local Plan requires high quality, ideally, native planting and landscaping and aims to avoid the loss and fragmentation of green infrastructure; and seeking the integration of the scheme with any adjoining public open space or countryside.

The Twyford Neighbourhood Plan echoes the provisions of CC03 in stating within Policy TW7(a) that *“The Parish contains a variety of green and blue infrastructure that provides an environmental support system for the community and wildlife”*, going on further to state in TW7(c) that *“Proposals that will lead to the loss of land lying within the Network and that will undermine its integrity will not be supported.”*

The layout continues to fail to take into account the observations and requirements of the condition required by the Inspector at the recent appeal, which were applied to better integrate the proposal into the Landscape Character Area of H1 Wargrave – Twyford Chalk Lowlands, as prescribed by the Wokingham Landscape Character Assessment 2019. The proposal further results in the loss of green infrastructure (particularly on the northern edge of the site) which undermines the objectives of the Twyford Neighbourhood Development Plan.

WBC Trees and Landscape have objected to the application on the above grounds. The varied proposals therefore fail to comply with the MDD Local Plan Policies CC03 and TB21, CP1, CP3 of the Core Strategy, the Twyford NDP and the NPPF (2023) which require a high quality environment and design that respects the surrounding countryside/ landscape.

Arboricultural Impact:

The proposed hardstanding and re-located day room is within the root protection areas of the trees identified for retention as well as incurs into the planting areas and enhancements which were submitted and approved under Condition 6.

In terms of encroachment into the root protection area of retained trees, condition 7 of APP/X0360/W/21/3288874 required an arboricultural method statement and assessment which was provided under application 230519 utilising the originally approved layout. This survey and protective measures no longer apply to the revised layout, and a revised AIA has not been submitted.

The harm to the retained and proposed trees on site cannot be adequately assessed utilising the arboricultural assessment submitted under 230519 as it relates to a different landscaping scheme previously provided to the LPA. No further arboricultural method statement has been submitted with this application to reflect the changes to the scheme. Accordingly, insufficient information exists for the LPA to discern the level of impact to existing and retained trees that could arise from the proposal.

Neighbouring Amenity:

The assessment of the impacts to neighbouring amenities resulting from the proposal remains the same as set out in application APP/X0360/W/21/3288874. No objection is therefore raised on this basis.

Highway Access and Parking Provision:

WBC Highways have raised no objection to the revised internal site layout and the parking and turning area remains acceptable. However, it is noted that part of the development continues to encroach on to the public highway.

Whilst WBC Highways requested a revised plan to demonstrate the gate being set back 5 metres from the highway boundary as well as the re-location of the brick piers, these requests relate to highways land ownership (a separate, civil matter) as opposed to any highway safety concerns. Accordingly, this was not requested as a part of this planning application, nor would form a reason for refusal.

Although there is no technical objection to these aspects, it should be noted that any planning permission would not authorise works on the public highway and the applicant would require separate permission and a licence from WBC Highway Assets. The applicant shall be advised that the council's Highway Assets team are unlikely to support any part of the development located on the public highway.

Amenity Space:

R16 of the SPD requires a minimum depth of 11m for outdoor amenity space. Though the introduction of significant hard surfacing has reduced an extent of the green amenity space, the remaining space complies with the Wokingham Borough Design Guide in terms of garden depth. There is no objection in this respect.

Flooding and Drainage:

Policy CC09 of the MDD Local Plan requires consideration of flood risk from historic flooding. The site and access thereto are located within Flood Zone 1 and the proposal represents no additional flood risk or vulnerability. The western boundary experiences low to medium surface water flooding.

Condition 8 of APP/X0360/W/21/3288874, is not affected by this Section 73 application. However, this said, the impermeable area on site is significantly increased which will increase surface run off.

Though it is noted that the development is retrospective and the development is occupied, details relating to condition 8 have yet to be submitted for the LPA's consideration. This condition therefore cannot be discharged. The proposal is in breach of condition 8 in this respect. To address this the applicant should seek to vary condition 8's trigger, the LPA have the power to do this, however, given the application is otherwise unacceptable this is not required. Notwithstanding, WBC Drainage do not object to this variation of conditions 1 and 4 on the basis, that it would not hinder the development's ability to later submit details pursuant to condition 8.

Ecology:

The assessment of the impacts to ecology and biodiversity resulting from the development remains the same as set out in application APP/X0360/W/21/3288874.

Previous survey efforts on the site established that there is low ecological value within the site and potential impacts to protected species are minimal (based on the appeal scheme). This said, it was noted that the site contributes to a dark foraging corridor for bats, meaning they are likely to be present to some degree. With this point in mind, the removal of landscaping features, addition of non-native landscaping and increases to hard surfacing on site provides lesser opportunities for bat foraging and fewer opportunities to protect the biodiversity interests of the area, by net gains required by Condition 9.

Notwithstanding this, as the site itself is not identified as an area where bats frequent, and survey efforts have shown the negligible impacts to protected species if the application was otherwise acceptable, details would be required to confirm adequate mitigation could be secured by condition.

Human Rights

The Human Rights Act 1998 means that, subject to certain circumstances, directly unlawful for a public authority to act in a way which is incompatible with a Convention right. In particular Article 8 (respect for private and family life) and Article 1 of Protocol 1 (peaceful enjoyment of property) which apply to planning decisions.

The rights of individuals protected under the Human Rights Act are in this circumstance not absolute but qualified rights and the rights of the individual in this circumstance are to be balance against amongst other things the public interest in upholding public law and the regulatory planning system.

When a planning decision is made there is further provision that the Authority must take into account the public interest. In the vast majority of cases existing planning law has for many years demanded a balancing exercise between private rights and public interest and therefore the Local Planning Authority's decision making will continue to take into account this balance.

Although the scheme would affect the human rights of the applicants this must be weighed against the public interest, these rights cannot only be safeguarded by developing the site. Even if the personal circumstances of the household are taken, this does not outweigh the significant weight attached to the harm resulting from the effect of the development on the character and appearance of the area and the impact on the ecology. Refusal of the application would not have a disproportionate effect on their human rights given the existing permissions for both the Baxters and Sheridans. Consequently, the applicant's rights under Article 8 and Article 1 of the First Protocol the European Convention of Human Rights⁶, as incorporated into domestic law by the Human Rights Act 1998 (HRA), are not infringed.

Public Sector Equality Duty:

In making its decision the Council must also have regard to its public sector equality duty (PSED) under s.149 of the Equalities Act. The duty is to have due regard to the need (in discharging its functions) to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
- Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Council should give greater consideration to decisions that have a disproportionately adverse impact on a protected characteristic and this impact may be unintentional. In appropriate cases, this may involve an understanding of the practical impact on individuals so affected by the decision. Regard should be had to the effect of mitigation taken to reduce any adverse impact.

It is understood that the Baxters and Sheridans and their children are members of the gypsy traveller community and are related. If planning permission is not granted, this would have limited effect on the protected characteristics of either family as is the submission makes the council aware that accommodation currently exists for the Baxters at this site and the Sheridans at their site in Gerrards Cross. The children of each family will be able to continue their education and any local community activities, work and nomadic lifestyle and there will be no significant impact on the health, housing, need and welfare of either family if this permission were refused.

Any interference must be balanced against the wider public interest and the harm caused by the development cannot be outweighed by harm to the personal needs and human rights of the occupiers.

Conclusion:

Overall, the proposed variations, namely the changes to the layout and personal condition are unacceptable and contrary to policy. No very special circumstances have been put forward that outweigh the moderate harm to the Green Belt which as significant weight.

The proposed development is harmful to its surroundings and results in the loss of landscaping which assists in mitigating the harm caused by the development. Notable additional development and urban features and the significant increase in hard landscaping detrimentally impacts the landscape character and the character of the countryside and the character of the Wargrave – Twyford Chalk Lowlands LCA. Accordingly, the application is recommended for refusal.

RECOMMENDATION	
Conditions agreed:	Not required
Recommendation:	Refuse and enforce
Date:	7 November 2024
Earliest date for decision:	8 October 2024

Recommendation agreed by: (Authorised Officer)	
Date:	7 November 2024