
Appeal Decision

Inquiry Held on 10, 11 & 12 May 2022, 30 August 2022, and 1 & 2 September 2022

Site visits made on 10 May 2022 and 2 September 2022

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2022

Appeal Ref: APP/Q3115/W/20/3263366

7/8 Kiln Lane, Garsington OX44 9AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the 1990 Act) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Michael & Ann McDonagh against the decision of South Oxfordshire District Council.
 - The application Ref P19/S4253/FUL, dated 18 November 2019, was refused by notice dated 21 October 2020.
 - The development proposed is the use of land as a travellers caravan site consisting of a mobile home, an amenity block, two touring caravans and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for a limited period of five years for the material change of use of land to use as a travellers site consisting of a mobile home, an amenity block, two touring caravans and associated works at 7/8 Kiln Lane, Garsington OX44 9AR in accordance with the terms of application P19/S4253/FUL, dated 18 November 2019, and subject to the conditions set out in the attached schedule.

Application for costs

2. At the Inquiry an application for costs was made by Mr & Mrs Michael & Ann McDonagh against South Oxfordshire District Council. This application is the subject of a separate Decision.

Procedural and preliminary matters

3. This is one of two appeals heard at the same Inquiry relating to different plots on Kiln Lane but occupied by members of the same wider family. The other appeal, Ref: APP/Q3115/C/19/3238398, is the subject of a separate Decision.
4. Evidence at the Inquiry was given under oath by way of affirmation.
5. There is no dispute that the applicants are gypsies and travellers within the definition in Annex 1 of the Planning Policy for Traveller Sites (PPTS). The applicants/appellants did not appear at the Inquiry but, on the limited information that is available to me, I see no reason to take a different view. The evidence does show, however, that of the two applicants named on the application form, only Mr Michael McDonagh presently occupies the site.

6. The description of development as set out in the application form was, in summary, for the *use* of land as a travellers caravan site (emphasis added). Two points flow from this description.
7. The meaning of development for the purposes of the 1990 Act is defined at Section 55(1) of that Act as including the making of any *material* change in the use of any building or other land (emphasis added). It follows that the description of development on the application form would not constitute development for purposes of Section 55(1) of the 1990 Act and therefore would not require planning permission. I will amend the description of development to propose a material change in the use of the land.
8. The PPTS refers to "traveller sites" rather than "travellers caravan site " as set out the description of development. I will amend the description of development to refer to a traveller site.
9. The application was refused by the Council for a total of four reasons. The Council now accepts that the reasons relating to flood risk and highway safety can be overcome through the imposition of conditions. Those two reasons for refusal were therefore not pursued at the Inquiry.
10. The description of development proposed on both the application form and the Council's formal Decision Notice is the use of land as a travellers caravan site consisting of a mobile home, an amenity block, two touring caravans and associated works. The Design & Access Statement describes the development in similar terms. Nowhere in any of these documents is the development described as being a retrospective application for the development of the site as it currently exists. The details of the proposed development are set out on the application form, the application drawings and the Design & Access Statement submitted with application.
11. The mobile home proposed is shown on application Drawing No 01608/3. The mobile home present on the site at the time of my site visits does not accord with the mobile home shown on that drawing. The mobile home that is currently on site comprises a twin-unit caravan but with an additional centre section inserted between the two halves of the unit. It does not meet with the statutory definition of a caravan, as defined in the Caravan Sites Act 1968. It follows that the land is not currently in use as a caravan site.
12. Furthermore, the layout of the site is different to that shown on the drawing accompanying the application, specifically Drawing No 01608/2. In particular, the amenity block is in a different location and the area of hard surfacing is more extensive than that shown on Drawing No 01608/2, comprising of both gravel and pavements. The application drawings show an area grass in the approximate position of the pavements.
13. The development currently on site is therefore not the development for which planning permission is sought by this application/appeal. It follows that it is not open to me to grant planning permission for the development that is currently on the appeal site. It is a matter for the local planning authority in the first instance to determine whether the development that is on site constitutes a breach of planning control and, if so, whether it is expedient to issue an enforcement notice in relation to it.

14. Nevertheless, the application/appeal before me is for a proposed development. I am still able to consider the application on that basis, notwithstanding that the development of the site has taken place differently to that proposed in the application. However, the corollary is that any permission that may be granted would not apply to the mobile home that is currently on site, or to the current layout of the site. In order to benefit from that permission, it would be first necessary to remove the mobile home that is currently on the site and then replace it with a mobile home that accorded with Drawing No 01608/3. It would also be necessary to revert to the site layout shown on Drawing No 01608/2.
15. The other consequence of treating the application as being for a proposed development is that the fourth reason for refusal, namely that the development constitutes intentional unauthorised development, does not apply.

Main Issues

16. The appeal site is within the Green Belt. I therefore consider that the main issue is:
- whether the proposed development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (Framework) and the PPTS.
- and
- if the proposed development is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whether the proposal is inappropriate development for the purposes of the Framework and the PPTS

17. Policy E of the PPTS makes it clear that traveller sites (temporary or permanent) are inappropriate development in the Green Belt. It is nonetheless necessary to consider the breach of planning control in terms of its effect on the openness of the Green Belt. It is also necessary to consider the point made by the appellant that the appeal site constitutes previously developed land.

Openness of the Green Belt

18. The Courts have held that matters relevant to the openness of the Green Belt are a matter of planning judgement, and that openness can have both a spatial aspect as well as a visual aspect. I have considered the effect on the openness of the Green Belt against the development proposed in the application, as shown on the application plans.
19. According to the stated dimensions on Drawing No 01608/3, the proposed mobile home proposed has a length of 12.2m and a width of 6.6m. It has a shallow roof and would stand on a raised plinth, such that the maximum height would be some 4m. The overall height would be some 3m at the eaves. In spatial terms, the presence of that mobile home would have a significant adverse effect on the openness of the Green Belt.
20. In addition to the mobile home itself, the application drawings show an amenity block adjacent to the mobile home and spaces for two touring caravans in front

of it. The plans show a 1.8m wall across the site frontage, and 1.8m fences on the northern and western boundaries. The site layout drawing also shows an area of gravel that covers practically the entire eastern half of the site. Individually and cumulatively, these structures and area of hard surface would further erode the openness of the Green Belt in this location.

21. In visual terms, the site is clearly visible from Kiln Lane. It follows that the harm to the openness in spatial terms would be clearly experienced in visual terms. I have taken into account the views expressed by the Inspector in the earlier appeal in relation to Plot 8 (APP/Q3115/C/12/2173778). In allowing that appeal, the Inspector found that the impact on the visual amenities of the Green Belt would be lessened due to the urbanising characteristics of the fencing and area of hardstanding.
22. It is apparent from the Inspector's description of the appeal site that the majority of the site was covered in hardstanding at that time. In the proposal before me, approximately half of the site would be laid to grass. That would represent an improvement in terms of the visual amenities of the Green Belt. However, the proposal before me also includes a 1.8m high masonry wall along the prominent Kiln Lane frontage which, to my mind, if anything increases the overall harm to the visual amenities of the Green Belt.

Previously developed land

23. Paragraph 149 of the Framework indicates that, with certain exceptions, the construction of new buildings is inappropriate in the Green Belt. One of the exceptions to this is the limited infilling or the partial or complete redevelopment of previously developed land. The definition of previously developed land at Annex 2 of the Framework includes land which is or was occupied by a *permanent* structure (emphasis added).
24. The appellants point to the earlier appeal decision in relation to Plot 8, where the Inspector allowed an appeal for a development that included, amongst other things, the erection of a building (APP/Q3115/C/12/2173778). The appellant considers that the appeal site, or at least part of it, therefore constitutes previously developed land for the purposes of paragraph 149 of the Framework, such that the developed now proposed would not be inappropriate in the Green Belt.
25. The permission granted by the Inspector in that Decision was a temporary permission for a period of four years. Condition 2 of that permission required, amongst other things, that at the end of that period all buildings and structures erected on the land shall be removed and the land restored to its condition before the development took place. It follows that the building granted planning permission in that appeal was never intended to be a permanent building or structure. For that reason, I conclude that no part of the appeal site constitutes previously developed land for the purposes of paragraph 149 of the Framework.
26. Moreover, the deemed planning application in this case is for a material change of use of the land and not for the erection of a building as contemplated in paragraph 149 of the Framework. Paragraph 150 of the Framework, which does refer to material changes in the use of land, makes no reference to previously developed land. The point raised by the appellant is therefore not directly relevant to the deemed planning application that is before me.

Conclusion on inappropriateness

27. I conclude that the proposed use of the land as a travellers site would constitute inappropriate development within the Green Belt for the purposes of the Framework and Policy E of the PPTS. Paragraph 147 of the Framework confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Other considerations

28. A number of other considerations were advanced during the Inquiry, both in support of and objection to the proposed development. The main considerations are as follows.

Character and appearance

29. The appeal site is within Landscape Character Area 1: Oxford Heights, as defined in the South Oxfordshire Landscape Character Assessment 2017 (SOLCA). The SOLCA describes the key characteristics of the Oxford Heights Landscape Character Area as comprising an undulating landscape, predominantly in agricultural use and sparsely settled, with blocks of mostly deciduous woodland scattered across the landscape.
30. The area surrounding the appeal site largely accords with those key characteristics, with large, mostly flat fields in agricultural use. The ground slowly rises to the north, and there are small pockets and lines of trees dispersed across the landscape. The landscape has a predominantly rural character, with the only permanent buildings in the immediate vicinity being a residential dwelling (No 11 Kiln Lane) and at Kiln Farm. Although now partially converted into residential units, the latter still exhibits the appearance of a working farm, and to that extent reinforces the rural character of the surrounding landscape.
31. The appeal site is separated from the settlement of Garsington by a field that wraps around the site to the north and west. There is an area of woodland within that field, and a line of trees along the boundary with Kiln Lane. Directly opposite the appeal site, on the east side of Kiln Lane, there is a large field within which is also a pocket of woodland. To the immediate south is a gypsy and traveller pitch, and beyond that is Kiln Farm, which retains a rural character and appearance. I therefore consider that the appeal site itself sits in a rural setting.
32. Many of the local residents who gave evidence to the Inquiry described how the character of Kiln Lane has changed over recent years, becoming more urbanised and losing much of its previous verdant appearance. They describe a narrow lane, with no edging or kerbing, bordered by trees, shrubs and wild flowers and which was frequented by wildlife. They drew a direct comparison with the continuation of the lane southwards beyond Kiln Farm as it is today. The experience of walking down the lane, the residents say, was very much of being in the countryside.
33. Given the consistency with which that view was expressed, I attach considerable credence to the evidence given by those local residents. That evidence is further supported by aerial photographs of Kiln Lane dating from 1999 onwards, and photographs taken from ground level in or around 2008. Comparison of the latter with the appeal site as it appeared at the time of my

site visits illustrates the extent of the change that has occurred in the character and appearance of the site since that time. The current use of the appeal site as a private traveller site has contributed to that transition, although I recognise that it is not the sole cause.

34. Nevertheless, the proposed use of the appeal site the use of land as a travellers site, including the stationing of a mobile home, the erection of fencing and the wall fronting Kiln Lane, would itself contribute to the urbanisation of Kiln Lane. The proposed use of the site for this purpose would be markedly different in character to the open countryside that surrounds it and would be harmful to the rural character of the surrounding landscape.
35. The appellant claims that mobile homes have historically formed part of the character of Kiln Lane. The salient point, however, is that those mobile homes are/were mostly present as part of temporary permissions. In relation to Plot 12, for example, there was gap of 44 years between 1972 and 2016 when no planning permission was in place: that is a period well in excess of the 16 years when planning permissions were in place. It is therefore not accurate to say that mobile homes have historically formed part of the character of Kiln Lane.
36. I conclude that the proposed use of the appeal site as a land as a travellers caravan site would be harmful to the character and appearance of the area. I therefore conclude that the proposed development would be contrary to Policies DES2 and ENV1 of the South Oxfordshire Local Plan 2011-2035 (Local Plan) which, amongst other things, seeks to protect the landscape, countryside and rural areas of South Oxfordshire. The proposed development would also be contrary to criteria (iii) of Part 2 of Policy H14 of the Local Plan which, in relation to provision for gypsies and travellers, states that proposals will be permitted where it has been demonstrated that they will not have an unacceptable impact on the character and appearance of the landscape.

The need for gypsy and traveller sites

37. Policy B of the PPTS states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. The Council concedes that it cannot demonstrate an up-to-date five year supply of deliverable sites and that there is a need for further sites for gypsies and travellers nationally, regionally and locally.
38. The Gypsy, Traveller and Travelling Showpeople Accommodation Assessment published June 2017. The appellant criticises the GTAA, including in relation to its methodology. In a later Addendum published in 2019, ORS revised the methodology and on that basis identified a need for 13 pitches. The appellant maintains that this revised figure in the Addendum is still insufficient but it was that figure which formed the basis for the allocations set out in Policy H14 of the Local Plan. The Local Plan was adopted relatively recently following the examination process and found to be sound.
39. The Council accepts that none of the sites allocated in the Local Plan currently meet the definition of a deliverable site for the purposes of the PPTS. Moreover, the Council indicates that development of the strategic sites at Culham and Chalgrove will not begin until 2025/26, and are unlikely to be delivered until after 2026.

40. It is evident that there is a local need for gypsy and traveller pitches. Even based on the need identified in the Addendum to the GTAA, the allocations set out in Policy H14 would not meet that need. Nevertheless, Policy H of the PPTS makes it clear that, 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. In that context, am mindful that there no children residing on the appeal site.

Alternative sites

41. The Council accepts that it cannot point to any immediately available sites that are suitable and affordable. The Council does, however, point out that only 20% of the district is within the Green Belt. Given the lack of a five-year supply of sites, the Council considers that there is an enhanced prospect of gaining planning permission on a site outside of the Green Belt.
42. There is more to finding a suitable site than being outside of the Green Belt. Much of the district is designated as an Area of Outstanding Natural Beauty (AONB). The Framework indicates that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONB. That is a policy constraint which is likely to present an obstacle to obtaining planning permission. It is also likely that any site which might be available would be in the countryside. In addition to needing to comply with planning policies aimed at protecting the countryside, it is likely that such sites would not be sustainable locations. It may therefore not be an easy task to secure planning permission for use a gypsy and traveller site, even if one was available.
43. Overarching the above is that, in the process of adopting the Local Plan, the Council could only identify a total of 10 sites on the whole district. To my mind, that illustrates the difficulty of finding suitable sites. The appellant is a member of the gypsy and traveller community and, it seems to be, would be aware if a suitable site did become available. None have. Consequently, in my view it is unlikely that any sites that are both suitable and available would be found.

Sustainability of the appeal site

44. The appeal site is on the edge of Garsington. The sustainability of the appeal site is accepted by the Council. In general terms, I concur with that assessment although the PPTS does not specifically refer to accessibility to services and facilities by foot and public transport as an aim. I therefore consider that the term 'accessibility' is more appropriate in this context.
45. Paragraphs 14 and 25 the PPTS implicitly accept that traveller sites may be located in rural areas when this will lessen opportunities for sustainable travel. The accessibility criteria set out for traveller sites in paragraph 13 of the PPTS do not include distance from or means of transport to shops and services, but do refer to considerations which are unique to traveller site applications: for example, the provision of a settled base can reduce the need for long distance travelling and that traditional lifestyles, whereby some travellers live and work from the same location, can omit travel to work journeys and contribute to sustainability.
46. I am mindful that the foregoing is not wholly applicable to the personal circumstances of Mr MacDonagh, who has temporarily ceased travelling. In

relation to his personal circumstances, access to appropriate health services is an important consideration. The location the appeal site accords with paragraph 13(b) of the PPTS in that respect. Consequently, the accessibility of the appeal site is factor that weighs in support of the development.

Personal circumstances of the appellant and his family

47. The applicants/appellants did not attend the Inquiry, such that the only evidence before me is that contained in the written evidence and therefore untested. That evidence is also very limited and not particularly up-to-date. Nevertheless, there are letters dated November 2019 and December 2019 from a specialist hospital which sets out in detail Mr Michael McDonagh's medical history and his medical condition diagnosed at that time. The nature of the condition suffered by Mr McDonagh, together with his age, is such it will continue to affect his daily life and will restrict his mobility. It seems to me unlikely that his condition will significantly improve over the long term, and could get worse. That is a consideration to which I attach significant weight.
48. There are presently no children residing on the appeal site. I understand that this could change over time should the family circumstances change. However, I must base my assessment on the circumstances at this time. It follows that the weight to the best interests of the child, as a consideration, is limited in this case.

Human Rights and the Public Sector Equality Duty

49. Paragraph 3 of the PPTS states that the Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life for travellers while respecting the interests of the settled community. In that regard, interference with rights held under the European Convention of Human Rights, as incorporated into domestic law by the Human Rights Act 1998 (HRA), is a key consideration.
50. In this case, the application to which this appeal is a proposed development for use of land as a travellers caravan site. It is not a retrospective application. The applicants, in particular Mr Michael McDonagh, are not at any imminent risk of losing their current home should the appeal be dismissed. Dismissing this appeal would deprive the applicants/appellants of a possible new home, and to that extent their rights under Article 8 (right for respect for private and family life, home and correspondence) are engaged. That is a qualified right, and interference with it may be justified where it is in accordance with the law and it is necessary in a democratic society.
51. The appellants share the protected characteristic of race for the purposes of the Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010. Refusing to grant a permanent permission would deny the appellants a future new home but, given that Mr Michael McDonagh has now effectively ceased travelling, it would not greatly affect his way of life in that latter context. Being permanently based at the appeal site increase the opportunities available to Mr McDonagh to foster good relations with the settled community. I am also mindful that a more positive outcome in respect of the aims of PSED exists in the form of a temporary planning permission.

Conditions

52. I have considered whether suitably worded conditions could make the development acceptable in planning terms. The first point to make is that it would be necessary for any permission granted to be subject to a condition requiring that it be accordance with the same drawings specified on the planning application form.
53. I am not persuaded that the imposition of conditions could overcome the harm caused to the openness of the Green Belt and the character/appearance of the surrounding area resulting from the very nature of the development. A condition removing permitted development rights would not, in itself, be sufficient to achieve that purpose. Neither would a condition restricting the site to the provision of a single pitch. These are considerations that militate against granting a permanent planning permission.
54. Conditions requiring the submission of a surface water drainage scheme and details of visibility splays would be necessary in order to overcome the second and third reasons for the refusal of planning permission. A condition requiring the submission of a foul water drainage scheme would also be necessary, as would a condition requiring that the existing access onto Kiln Lane is blocked up.
55. If I am to afford weight to the personal circumstances of the appellant, then a condition limiting occupation specifically to them is necessary. Given that Mrs Ann McDonagh may at some point need to return to the site, I recognise that it would be reasonable and necessary for her to occupy the two touring caravans when she is there. Furthermore, given that Mr McDonagh has effectively ceased travelling and that Mrs Ann McDonagh is not usually resident on the site, I see no justification for commercial activities to take place on the site or for commercial vehicles to be parked/stored on the site.
56. In the event that a temporary permission is appropriate, a condition requiring the full restoration of the land at the end of that temporary period would be necessary to restore the openness of the Green Belt.

Green Belt balancing exercise

57. In accordance with paragraph 148 of the Framework, I attach substantial weight to the harm to the Green Belt by reason of the inappropriate nature of the development. Furthermore, the mobile home approved allowed on appeal in July 2012 (APP/Q3115/C/12/2173778) had a significant adverse effect on the openness of the Green Belt. The fencing and hardstanding on the site at that time further eroded the openness of the Green Belt in this location.
58. The proposed use of the land as a traveller site would be harmful to the character and appearance of the area, contrary to policies in the development plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (the 2004 Act) indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise.
59. Against this, it is evident that there is a local need for gypsy and traveller pitches. However, having regard to Policy H of the PPTS, I attach only limited weight to that unmet need. It is also evident there are no suitable and

available alternative sites, a consideration to which I attach significant weight. I attach moderate weight to the sustainability of the site.

60. The personal circumstances of Mr Michael McDonagh are a matter to which I attach significant weight. Policy E of the PPTS advises that, 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. That is repeated in Policy H of the PPTS. However, both Policy E and Policy H state personal circumstances and unmet need are *unlikely* to clearly outweigh harm to the Green Belt (emphasis added). On my reading, that implies that there may be situations where they do outweigh the harm to the Green Belt, so as to amount to very special circumstances.

Conclusion

61. I conclude that the harm by reason of inappropriateness and any other harm, is not clearly outweighed by other considerations, such that the very special circumstances necessary to justify a permanent planning permission do not exist. These harms could not be overcome by the imposition of suitably worded conditions. Given that the protection of the Green Belt is a key strand of national planning policy and in the wider public interest, I am satisfied the interference with the appellant's Article 8 rights would be necessary and proportionate. In reaching this conclusion, I have also taken into account my responsibilities under the PSED.
62. My conclusion that a permanent planning permission is not appropriate in this case is reinforced by the findings of the Inspectors in two previous appeals relating to gypsy and traveller sites in Kiln Lane.
63. In relation to Plot 8 itself, the Inspector did not consider that the personal circumstances of the appellant and his family clearly outweighed the permanent harm to the Green Belt that she identified (APP/Q3115/C/12/2173778). Those considerations included the provision of a settled base from which the appellant's family could access medical facilities. The Inspector went on to grant a temporary permission, given that the harm arising would only be for a temporary period.
64. In relation to Plot 9, the Inspector found that the personal need of the appellant and his family attracted significant weight but concluded that they did not justify permanent harm to the Green Belt (APP/Q3115/W/18/3209624). The Inspector again went on to grant a temporary permission.
65. I recognise that there are some differences between the circumstances surrounding those two appeals and the appeal now before me, principally the absence of any children currently residing on the appeal site. Nevertheless, the conclusions of both Inspectors and their refusal to grant a permanent permission reflects the importance attached to the protection of the Green Belt in Government planning policy. Consistency is an important element of decision making, and on the evidence before me I see no reason to depart from the approach adopted in those two appeals.
66. The balance does, however, shift when a temporary planning permission is considered. In those circumstances, the harm by reason of inappropriateness and any other harm, although no less severe, would only be for a temporary period. The site would be restored at the end of that temporary period,

thereby also repairing the harm to the character and appearance of the surrounding area.

67. A temporary planning permission would retain a settled base from which the Mr Michael McDonagh could access medical facilities. Given the well-documented medical history of Mr McDonagh, this would in my view be a situation where his personal circumstances clearly outweigh the harm to the Green Belt for the purposes of Policy E and Policy H of the PPTS, but only in the context of a temporary planning permission.
68. The Council and the Parish Council both favour a temporary planning permission for two years at most. In that context, the Parish Council is concerned about the constant leap frogging of temporary permissions along Kiln Lane: for example, the temporary permission for plot 9 expires in July 2023. I see much merit in that argument.
69. The appellant requests a temporary period of five years. A temporary permission of that duration would provide the stability that Mr McDonagh needs at his time of life and with his medical condition.
70. The question is finely balanced. However, the determining factor, it seems to me, is the need to provide a stable environment for Mr Michael McDonagh. It seems to me that a temporary permission of five years represents the best option in terms of achieving that outcome.
71. I therefore conclude that, in the context of a temporary planning permission of five years, the harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations. Very special circumstances would exist, such that a temporary planning permission of five years would be appropriate. In reaching that conclusion, I recognise that the proposed development would conflict with the development plan in some respects. I am however satisfied that other considerations indicate that in this case determination must be made otherwise than in accordance with the development plan when read as a whole.

Conclusion

72. For the reasons set out above, I conclude that the appeal should be allowed and planning permission granted, subject to the conditions set out in the attached schedule.

Paul Freer
INSPECTOR

APPEARANCES

For the appellant

Mr Alan Masters

Of Counsel

He called:

Mr Arthur McDonagh

Appellant

Dr Angus Murdoch MRTPI

Planning Consultant

For the Local Planning Authority

Mr Robin Green

Of Counsel

He called:

Mr Jeremy Peter MRTPI

Planning Enforcement
Consultant, South Oxfordshire
District Council

For Garsington Parish Council

Mr Jack Parker

Of Counsel

He called:

Mr Christopher Wright

Chairman, Garsington Parish
Council

Mr Roy Mathias

Occupier, No 11 Kiln Lane

Interested Persons

Ms Anne Eastwood

Local resident

Ms E Dain, on behalf of Ms Barbara Engstrom	Local resident
Mrs Elizabeth Gillespie	District Councillor
Mr Gordon Roper	Local resident

DOCUMENTS SUBMITTED DURING THE INQUIRY

1. Opening Statement on behalf of South Oxfordshire District Council.
2. Opening Statement on behalf of Garsington Parish Council.
3. Copy of statement read out on behalf of Barbara Engstrom.
4. Local Planning Authority Position Statement on 5 year supply of Gypsy and Traveller pitches in South Oxfordshire.
5. Closing submissions on behalf of Garsington Parish Council.
6. Closing submissions on behalf of South Oxfordshire District Council.
7. Closing submissions and applications for costs on behalf of the appellant.

SCHEDULE OF CONDITIONS

1. The site shall not be occupied other than by Mr Michael McDonagh and Ms Ann Theresa McDonagh, and their dependants, and shall be limited for a period of five (5) years from the date of this permission. At the expiration of a period of five years, or when the premises cease to be occupied those named above, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use, shall be removed and the land restored to its condition agreed in writing by the local planning authority in accordance with condition 5 below.
2. The development hereby permitted shall be carried out in accordance with the approved plans – Drawing No 01608/1 Rev 1; Drawing No 01608/2 Rev 2; Drawing No 01608/3 Rev 1; Drawing No 01608/4 Rev 1; and Drawing No 01608/10 Rev 1.
3. Prior to the commencement of the development hereby permitted, a foul water drainage scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of the size, position and construction of the drainage scheme. The scheme thereby approved shall be implemented and thereafter maintained in accordance with approved details.
4. Prior to the commencement of the development hereby permitted, a surface water drainage scheme in accordance with the surface water hierarchy as set out in Part H of the Building Regulations, including details of the size, position and construction of drainage works shall be submitted to and approved in writing by the local planning authority. The drainage scheme shall be designed to accommodate a 1 in 30 year storm + 40% climate change. The scheme thereby approved shall be implemented and thereafter maintained in accordance with approved details.
5. Prior to the commencement of the development hereby permitted, a scheme to restore the land to its condition before the development took place (or such other restoration as agreed in writing by the local planning authority) at the end of the period for which planning permission is granted for the use, or the site is occupied by those permitted to do so, shall have be submitted to and approved in writing by the local planning authority. These details shall include an implementation programme. The restoration works shall be carried out in accordance with the approved details.
6. Prior to the commencement of the development hereby permitted, details of the visibility splays measuring 2.0 metres by 15m shall be submitted to and approved in writing by the local planning authority. The visibility splays thereby approved shall be implemented before the development is first occupied and thereafter maintained in accordance with approved details.
7. Before the proposed access is first used, the existing access onto Kiln Lane shall permanently stopped up by the means of reinstatement of the highway verge and planting installed in accordance with details to be approved in writing by the local planning authority. Thereafter the closed access shall not be used by any vehicle traffic whatsoever.

8. There shall be no more than one pitch on the site and on this pitch no more than three (3) caravans, each as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than one (1) shall be a static caravan) shall be stationed on the site at any time.
9. Other than by Ms Ann Theresa McDonagh, and her dependants, the touring caravans shown on the approved plans, including any motorhomes used in that capacity, shall not be used as separate residential accommodation.
10. No commercial vehicles, of any size, shall be parked, stored or kept on the land.
11. No commercial activities shall take place on the land, including the storage of materials.
12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds or amenity/utility buildings, or other buildings or structures, walls, fences or other means of enclosure other than those shown on the approved plans shall be erected on the site unless details of their size, materials and location shall have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.