

NOISE ASSESSMENT

CHANGE OF USE OF LAND TO USE AS A RESIDENTIAL CARAVAN SITE FOR 5 GYPSY / TRAVELLER FAMILIES SPRING LANE NURSERIES, SPRING LANE, CROFT

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MAY 2025

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Status	Prepared By	Date
1.0	L Jephson BEng (Hons) MIOA	30/5/25

This report has been prepared using all reasonable skill and care within the resources and brief agreed with the client. LF Acoustics Ltd accept no responsibility for matters outside the terms of the brief or for use of this report, wholly or in part, by third parties.

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1. Introduction

- 1.1. LF Acoustics Ltd have been appointed by Mr T Smith to prepare a noise assessment for a proposed residential caravan site for 5 gypsy / traveller families at the former Spring Lane Nurseries, Spring Lane, Croft.
- 1.2. It is proposed to provide five pitches on the site, each comprising space for a mobile home and space for a touring caravan for Mr Smith, his children and other relatives.
- 1.3. The site is adjacent to the M62 motorway, with noise levels across the site influenced by traffic travelling along the road.
- 1.4. This report presents an assessment of the noise levels within the proposed development.
- 1.5. This report has been prepared by L Jephson BEng(Hons), MIOA, Director of LF Acoustics Ltd. Details of his experience are provided in Appendix A.

2. Applicable Planning Policies Standards and Guidance

2.1. A description of the noise units referred to in this report is provided in Appendix A.

2.2. National Planning Policy Framework

2.2.1. The National Planning Policy Framework (NPPF), revised in December 2024 [1], sets out the Government's planning policies for England and how these should be applied. It provides a framework upon which locally prepared plans for housing and other development can be produced.

2.2.2. The purpose of the planning system is to contribute to the achievement of sustainable development and at the heart of the Framework is a presumption in favour of sustainable development.

2.2.3. Planning policies and decisions should ensure that developments:

- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience (Para 135).

2.2.4. Planning policies and decisions should contribute to and enhance the natural and local environment by:

- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans (Para 187).

2.2.5. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment. In doing so they should: mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life (Para 198).

2.2.6. The planning policy for travellers' sites was updated in December 2024 [2]. With regards to noise, this guidance advises local planning authorities that *local policies should provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development.*

2.2.7. This guidance is aimed at sites being developed specifically by local authorities to meet their requirements for residential pitches. In this case, the land is owned by the proposed occupier, who has taken account of specific local requirements when purchasing the site and seeking to locate there.

2.3. British Standard BS 8233

2.3.1. BS 8233 [3] recommends design aims for noise levels to be achieved in new buildings and is the most appropriate guidance in defining applicable noise levels within the proposed development. The Standard was updated in 2014 to better reflect the requirements of the NPPF in terms of impact classifications and achieving the recommended guidance values, seeks to ensure that the occupants would not be subject to any significant adverse impacts, to ensure compliance with the requirements of the NPPF.

2.3.2. For residential properties, the guidance recommends the following design aims for the daytime (07:00 – 23:00) and night-time (23:00 – 07:00) periods (Table 4 in BS 8233):

- 35 dB $L_{Aeq,T}$ within living rooms and bedrooms during the daytime period;
- 40 dB $L_{Aeq,T}$ within dining areas / rooms during the daytime period;
- 30 dB $L_{Aeq,T}$ within bedrooms at night.

2.3.3. With regards internal noise levels, the Standard advises:

“Where development is considered necessary or desirable, external noise levels above WHO guidelines, the internal target levels may be relaxed by up to 5 dB and reasonable internal conditions still achieved.”

2.3.4. Where the above limits require windows to be closed to maintain the standard of noise, there needs to be appropriate alternative ventilation provided that does not compromise the façade insulation or resulting noise level (Note 5 to Table 4 of BS 8233). BS 8233 does not require the above design aims to be achieved with windows open.

2.4. ProPG: Planning and Noise

2.4.1. Professional planning guidance on planning and noise was published in May 2017 [4]. The guidance seeks to provide a recommended approach to the management of noise within the planning system in England. The guidance has been prepared jointly between the Association of Noise Consultants, The Institute of Acoustics and the Chartered Institute of Environmental Health with the aim of providing a coherent approach to achieving the requirements of the NPPF.

2.4.2. The guidance advocates a systematic, proportionate, risk based, 2-stage approach, encouraging early consideration of noise within the design process for new residential developments:

- Stage 1 provides an initial noise risk assessment of the development site;
- Stage 2 provides systematic consideration of four key elements: demonstrating a good acoustic design process; observing internal noise level guidelines; undertaking an external amenity area noise assessment; and consideration of other relevant issues.

2.4.3. The initial risk assessment should identify the risk of adverse effects from noise and identifying whether the site poses a negligible, low, medium or high risk. The level of risk does not determine whether a site may be unsuitable for development, but highlights an increasing requirement for noise to be considered within the design of the development and the likelihood of a need for specific noise mitigation measures, as follows:

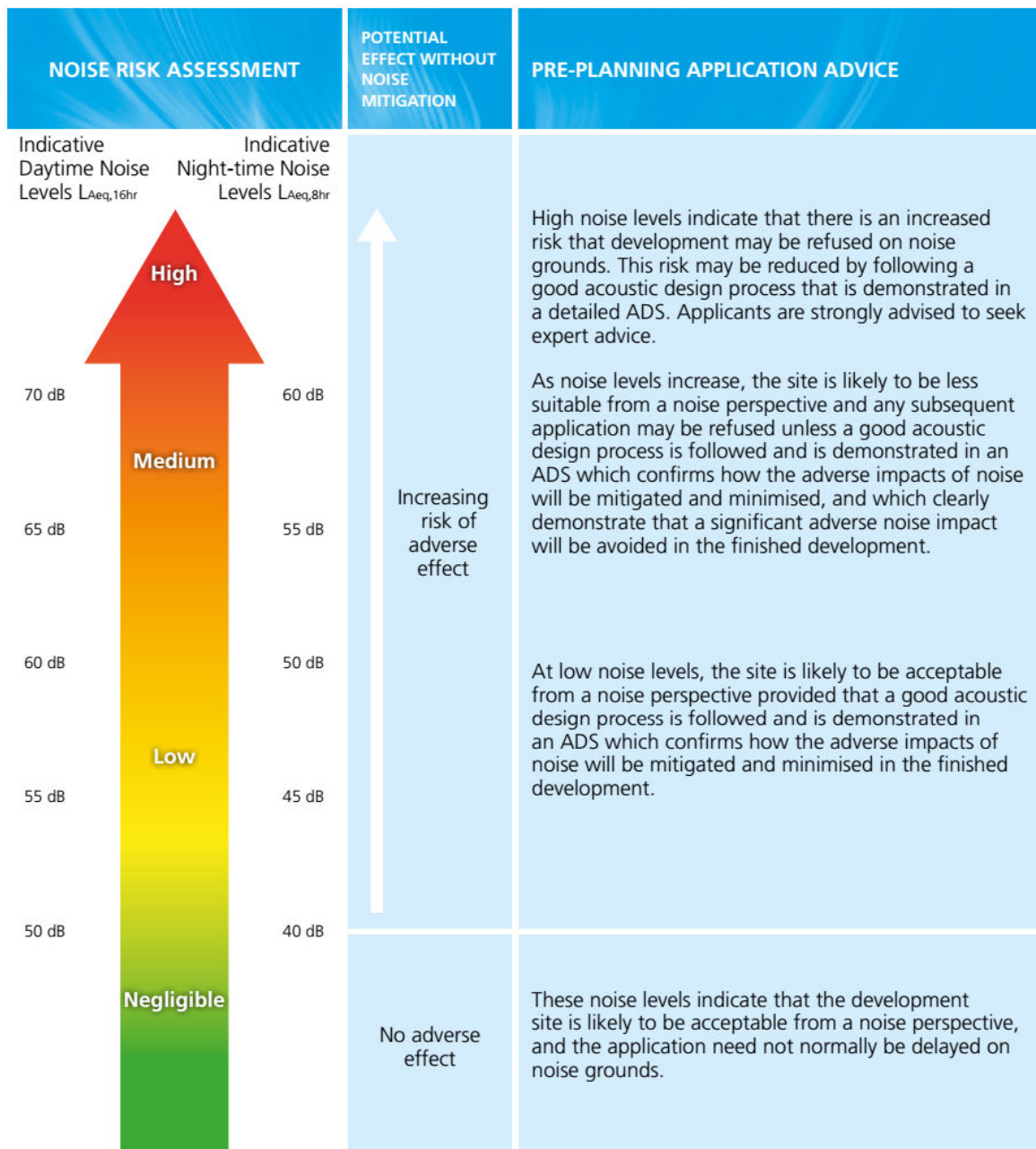


Figure 1 Notes:

- Indicative noise levels should be assessed without inclusion of the acoustic effect of any scheme specific noise mitigation measures.
- Indicative noise levels are the combined free-field noise level from all sources of transport noise and may also include industrial/commercial noise where this is present but is "not dominant".
- $L_{Aeq,16hr}$ is for daytime 0700 – 2300, $L_{Aeq,8hr}$ is for night-time 2300 – 0700.
- An indication that there may be more than 10 noise events at night (2300 – 0700) with $L_{Amax,F} > 60$ dB means the site should not be regarded as negligible risk.

- 2.4.4. The categories / noise levels indicated in the figure above do not provide specific limits above which adverse effects would occur and are intended as a guide to the requirement for additional noise mitigation and design measures.
- 2.4.5. For a Stage 2 assessment, upon which basis this report has been prepared, the guidance refers to BS 8233 with respect of achieving an acceptable and noise environment within residential properties.

2.4.6. Internally, the guidance recommends that the targets within BS 8233 are adopted as an aim, which are reproduced in Figure 2 of ProPG.

2.4.7. Expanding upon the guidance within BS 8233, for internal noise environments It is stated (note 7 to Figure 2):

“Where development is considered necessary or desirable, despite external noise levels above WHO guidelines, the internal L_{Aeq} target levels may be relaxed by up to 5 dB and reasonable internal conditions still achieved. The more often internal L_{Aeq} levels start to exceed the internal L_{Aeq} target levels by more than 5 dB, the more that most people are likely to regard them as “unreasonable”. Where such exceedances are predicted, applicants should be required to show how the relevant number of rooms affected has been kept to a minimum. Once internal L_{Aeq} levels exceed the target levels by more than 10 dB, they are highly likely to be regarded as “unacceptable” by most people, particularly if such levels occur more than occasionally. Every effort should be made to avoid relevant rooms experiencing “unacceptable” noise levels at all and where such levels are likely to occur frequently, the development should be prevented in its proposed form.”

2.4.8. It is implied from the above guidance that a significant effect would be likely within the home, should noise levels internally exceed the guideline values specified within BS 8233 by more than 10 dB(A).

2.4.9. In relation to open windows, Note 5 to Figure 2 within ProPG advises:

Designing the site layout and the dwellings so that the internal target levels can be achieved with open windows in as many properties as possible demonstrates good acoustic design. Where it is not possible to meet internal target levels with windows open, internal noise levels can be assessed with windows closed, however any façade openings used to provide whole dwelling ventilation (e.g. trickle ventilators) should be assessed in the “open” position and, in this scenario, the internal L_{Aeq} target levels should not normally be exceeded, subject to the further advice in Note 7.

2.4.10. It is clear from the above, that ProPG does not expect the internal noise levels to be achieved within dwellings with windows open, but seeks to ensure a good acoustic design is adopted to ensure noise levels within the development are minimised.

2.5. British Standard BS 3632

2.5.1. BS 3632 [5,6] provides a specification for residential mobile homes, which are suitable for occupation throughout the year. The Standard was updated in 2023 with the aim of ensuring that the homes are constructed with a reduced carbon footprint, although at the present time, the majority of the homes available still principally comply with the previous revisions of the Standard.

2.5.2. This standard ensures that the mobile homes are designed to achieve a minimum sound insulation for the external walls and the roof. The previous versions of the Standard specified a sound reduction of 35 dB RW over a frequency range of 125Hz to 4000 Hz, with the current revision specifying a performance of 33 dB RW over a frequency range of 100Hz to 3150 Hz. Whilst the performances differ slightly between the revisions, the difference is likely to relate to the frequency range under which the panels are tested, with the new standard addressing lower frequencies.

- 2.5.3. Whilst the Standard does not provide a specific acoustic specification for the glazing, there is a requirement within the Standard to ensure an adequate thermal performance is achieved. This requires the provision of thermal double glazing, equivalent to that used within a typical residential dwelling.
- 2.5.4. With regards to the requirement for ventilation, the Standard requires ventilation to be provided to provide a supply of fresh air for the occupants and a means of purge ventilating products of combustion, moisture and noxious odours. These measures, which are usually provided by means of ventilators within the floor and roof space, would ensure appropriate ventilation is provided within the mobile homes.

3. Site Description and Development Proposals

- 3.1. The application site was formerly the Spring Lane Nurseries.
- 3.2. The site is located to the north of the M62 motorway. The motorway is elevated at this location and is on an embankment as it passes the site. The motorway has been converted to a smart motorway, with the former hard shoulder now a permanent running lane. Due to the difference in levels between the site and the motorway carriageways, only traffic using the closest lanes is visible within the site, with the edge of the embankment screening the lanes further from the site.
- 3.3. Part of the site is presently being used by Mr Smith and some of his family members. At present they are living within touring caravans, as a temporary measure until planning permission is granted, as they have no alternative provision available. The touring caravans provide a lower sound insulation to that which would be provided by a residential specification mobile home and thus are presently experiencing higher noise levels, which are acceptable to the family members.
- 3.4. It is proposed to develop the site to provide five pitches for Mr Smith and his family. The proposed site layout is indicated on Figure 1.
- 3.5. As indicated on the layout, the pitches would be located as far back from the motorway as possible to reduce noise.
- 3.6. Screening bunds would be constructed along the western and eastern boundaries of the site. These would be provided to reduce the visual appearance of the site, but would also provide a small degree of noise mitigation by restricting the line of sight onto the motorway.
- 3.7. To provide some further screening, an amenity block would be constructed along part of the southern boundary adjacent to the motorway.
- 3.8. Provision would also be made for parking the families' touring caravans alongside the mobile homes. These would not be used as living accommodation on site.

4. Noise Monitoring

4.1. Unattended Noise Survey

- 4.1.1. In order to establish the current noise climate within the site at the location of the proposed mobile homes, a noise survey was carried out between Tuesday 20th and Friday 23rd May 2025.
- 4.1.2. The measurements comprised unattended noise surveys, carried out at two positions within the site, one located at a position centrally within the site, representative of the positions of the mobile homes and a second located along the southern site boundary, close to the motorway. The noise monitoring positions are indicated on Figure 2.
- 4.1.3. Two Rion NL-52 Class 1 Sound Level Meters were used for the exercise, which were calibrated with a Rion NC-74 Class 1 Acoustic Calibrator before and after the exercise, with the instruments reading 94.0 dB on each occasion.
- 4.1.4. At each position, the microphone was set at a height of 2 metres above the ground and in freefield conditions.
- 4.1.5. The instruments were configured to record over contiguous 5-minute periods throughout the survey period. The measured data has been summarised into hourly periods for reporting purposes using the Rion AS-60 Data Management Software and to enable the period day and night-time levels to be determined.
- 4.1.6. Weather conditions for the survey were generally good, predominantly dry, with either calm conditions or a light south westerly wind.
- 4.1.7. The results of the unattended surveys are presented in Appendices B and C. The period noise levels evaluated from the unattended survey results are presented in Tables 4.1 and 4.2 below.

Period	Period $L_{Aeq,T}$ Noise Levels [dB]	
	Daytime (07:00 – 23:00)	Night-time (23:00 – 07:00)
Tuesday 20/5/25	65.5*	65.2
Wednesday 21/5/25	64.6	65.1
Thursday 22/5/25	66.4	65.2
Average	65.5	65.2

Note: * Period comprised 09:00 – 23:00 hours Tuesday and 07:00 – 09:00 Friday

Table 4.1 Period Noise Levels Evaluated from Unattended Noise Survey at Position 1 – Central

Period	Period $L_{Aeq,T}$ Noise Levels [dB]	
	Daytime (07:00 – 23:00)	Night-time (23:00 – 07:00)
Tuesday 20/5/25	66.2*	64.1
Wednesday 21/5/25	65.4	64.5
Thursday 22/5/25	67.0	64.7
Average	65.8	64.5

Note: * Period comprised 09:20 – 23:00 hours Tuesday and 07:00 – 09:00 Friday

Table 4.1 Period Noise Levels Evaluated from Unattended Noise Survey at Position 2 – Southern Boundary

- 4.1.8. Maximum noise levels during the daytime period were observed to be typically of the order of 75 dB $L_{Amax,F}$ during the daytime periods and noted to be generally marginally lower overnight.

5. Calculation and Assessment of Noise Levels

5.1. Calculation of Noise Levels

- 5.1.1. Road traffic noise levels at the locations of the proposed mobile homes have been calculated using the SoundPlan computer modelling package, utilising the results of the period noise levels evaluated from the noise monitoring exercise.
- 5.1.2. The software utilises the calculation methodology contained within A Calculation of Road Traffic Noise [7], with the conversion from the calculated $L_{A10,18 \text{ hour}}$ noise levels to period day and night-time $L_{Aeq,T}$ noise levels derived using the Defra / TRL methodology [8].
- 5.1.3. Ground levels for the modelling have been obtained from LiDAR mapping of the surrounding area to include the application site and the M62 motorway as it passes the site and for a distance of 1km to the west and east.
- 5.1.4. An initial noise model was prepared upon the basis of an open site, which was used to calibrate the model against the results of the unattended noise survey data.
- 5.1.5. A second model was then prepared upon the basis of the application layout, with the results provided on Figure 3 for the daytime period and Figure 4 for the night-time period.

5.2. Assessment of Noise Levels within Mobile Homes

- 5.2.1. The mobile homes to be used would be of residential specification and compliant with the requirements of BS 3632. The residential specification homes are designed to be occupied throughout the year and have considerably more insulation than used within touring or holiday homes.
- 5.2.2. In addition to the thermal requirements, BS 3632 ensures that the mobile homes are designed to achieve a minimum sound insulation for the external walls and roof of 35 dB R_w . Whilst the same is not specified for the glazing, there is a requirement to ensure an adequate thermal performance, which requires the provision of thermal double glazing, typical of most residential dwellings (standard thermal double glazing achieving appropriate thermal requirements typically provides a sound reduction of 34 dB R_w).
- 5.2.3. Calculations of the noise levels within the proposed mobile homes have been made upon the basis of the highest calculated façade noise levels and utilising road traffic octave band spectra obtained during the measurement exercise.
- 5.2.4. The calculations for the mobile homes have been based upon the acoustic performance for the construction of the home based upon a standard Omar construction (these are a major supplier of residential mobile homes). Their standard specification is provided in Appendix D for information.

Room	Period Internal $L_{Aeq,T}$ Noise Levels [dB]	
	Daytime (07:00 – 23:00)	Night-time (23:00 – 07:00)
Mobile Homes	35	34

Table 5.1 Calculated Noise Levels Within Mobile Homes Most Exposed to Road Traffic Noise

- 5.2.5. The calculations indicate that the proposed constructions would provide an overall reduction of 30 dB(A) between outside and inside.

- 5.2.6. This level of noise reduction is consistent with reductions measured by LF Acoustics on other sites where residential specification mobile homes have been used and where it was possible to monitor noise levels within the mobile homes. This provides confidence within the noise levels predicted in Table 5.1 above.
- 5.2.7. The results above indicate that the requirements of BS 8233 would be achieved and would maintain a good standard of noise within the mobile homes during the daytime periods, assuming windows closed.
- 5.2.8. Overnight, the noise monitoring indicated that there was little variation in the traffic flows along the M62, with only a small reduction in the overnight noise levels. The calculations for the night-time period indicate noise levels of up to 34 dB $L_{Aeq, 8 \text{ hr}}$. This level of noise would remain acceptable within the mobile homes when assessed against the BS 8233 guideline values, maintaining a reasonable standard of noise. Taking account of the ProPG guidance, noise levels within the mobile homes would remain at least 6 dB(A) below a value which would be considered unacceptable.
- 5.2.9. Consideration has also been given to the maximum noise levels internally overnight. Maximum noise levels measured overnight were noted to be typically of the order of 70 – 75 dB $L_{Amax, F}$. Taking account of the 30 dB(A) reduction in noise levels between outside and in, noise levels within the bedrooms overnight would generally remain below a level of 45 dB $L_{Amax, F}$. On this basis, it is not considered that vehicles travelling along the motorway overnight would result in any potential sleep disturbance effects or adverse noise effect upon the occupant of the mobile homes.
- 5.2.10. The mobile homes are designed with adequate ventilation to ensure sufficient ventilation to minimise the potential for condensation build up. The ventilation is generally provided through floor and roof vents. The level of ventilation would be sufficient to allow the families to maintain windows closed should they choose, whilst ensuring appropriate ventilation through the homes.
- 5.2.11. It would be necessary to maintain windows closed within the mobile homes, to achieve the BS 8233 guidelines. However, this requirement is not specified within the Standard and advises that should the mitigation strategy require windows to be maintained closed, adequate ventilation should be provided to allow this. The standard ventilation within a mobile home would achieve this, as they are designed to ensure condensation is minimised.
- 5.2.12. In summary, taking account of the guidance provided within both BS 8233 and the ProPG guidance, noise levels internally would remain substantially below a level which would be considered unacceptable and would therefore not result in the potential for significant adverse effects when considered against the requirements of the NPPF.

6. Relevant Planning Applications and Appeals

6.1. Travellers Site at Little Hallingbury

- 6.1.1. It is not uncommon for traveller sites to be located in areas of high noise levels.
- 6.1.2. LF Acoustics Ltd have previously undertaken a noise assessment for a site at Little Hallingbury, subject to similar noise levels.
- 6.1.3. The Little Hallingbury site was located directly adjacent to the M11 and subject to high levels of road traffic noise throughout the day and night-time period.
- 6.1.4. At the Little Hallingbury site, boundary fencing had previously been constructed, which partially screened the motorway. However, high levels of external noise were still experienced at the plots of between 69 – 72 dB LAeq, 16 hr. Additional mitigation was considered, however, the conclusions drawn indicated that it would not be possible to provide a substantial reduction in noise levels.
- 6.1.5. Consideration was therefore given to replacing the touring caravans with mobile homes, to provide an adequate noise environment internally. Within the appeal decision for the application (APP/C1570/C/09/2114934), a copy of which is provided in Appendix G, the Secretary of State advised:

The Secretary of State has given very careful consideration to the Inspector's analysis (IR60 – 66) of living conditions on the site. He sees no reason to disagree with the Inspector's view that the site is very noisy and that it is inevitably going to suffer some air pollution (IR60). He agrees with the Inspector that, in relation to permanent planning permission, more evidence would be required to come to a view as to the suitability of the site in terms of its air quality (IR64). However, for the reasons given by the Inspector, he agrees that, on the basis of the limited evidence available, there is insufficient evidence to justify an outright refusal of temporary permission on the basis of concerns about air pollution (IR64). The Secretary of State further concludes that, in the context of a temporary permission, the appeal scheme does not give rise to unacceptable conflict with LP policy ENV13. With regard to concerns about noise, the Secretary of State sees no reason to disagree with the Inspector that, whilst noise levels are high in the open they reduce considerably within the caravans, even with a window open and, on balance, the available evidence does not suggest that the noise levels on the site are such that they should preclude the grant of a temporary permission (IR66).

- 6.1.6. Following the SoS granting temporary permission for this site, the council subsequently granted a permanent planning permission (see Appendix G). Comparing this site to the location of the proposed mobile homes at Littleton Drew, the proposals would seek to reduce the noise levels at the mobile homes to ensure an acceptable internal standard was achieved. Clearly, on the basis of the above SoS decision, noise levels within the proposed mobile homes would be acceptable.

6.2. Kirtlington Road, Chesterton

- 6.2.1. LF Acoustics Ltd were also involved with a gypsy and traveller site located to the north of Kirtlington Road, Chesterton, where planning permission was granted upon Appeal (Ref. APP/C3105/W/18/3219199). A copy of the Appeal decision is provided in Appendix H for reference.
- 6.2.2. This site was located directly adjacent to the M40 motorway, with a number of mobile homes to be provided on the site.

- 6.2.3. Due to the nature of the site, it was possible to provide bunding alongside the motorway, which sought to reduce noise levels within the site to between 60 – 63 dB LAeq, T externally, equivalent to those predicted for the application site and noted to remain above the guideline values specified in BS 8233.
- 6.2.4. For this development, the Inspector accepted that, by specifying the mobile homes to meet the requirements of BS 3632, internal noise levels would be acceptable, with no requirement for any additional mitigation / air conditioning internally.
- 6.2.5. Externally, it was accepted that the noise levels would be above the guideline value within BS 8233 and the Inspector concluded:

In this instance, there is a clear need for the development and the desirability of the proposal (for reasons set out elsewhere in this decision) is a consideration when looking at the guideline values. I fully appreciate that the presence of children on the site makes the availability and suitability of outdoor space all the more important. Based on the evidence submitted, reinforced by my site visit, I do not consider that the external amenity areas would experience significant adverse effects or materially detrimental levels of noise, and consider that they would be able to perform their intended function.

- 6.2.6. As noted, the noise levels within the application site are equivalent to those considered within the Chesterton Appeal. Given that the circumstances are very similar, it is considered that this decision demonstrates that with the proposed design, the noise levels within the site would not be unacceptable.

7. Summary

- 7.1. LFAcoustics Ltd were appointed by Mr T Smith to prepare a noise assessment for a proposed residential caravan site for 5 gypsy / traveller families at the former Spring Lane Nurseries, Spring Lane, Croft.
- 7.2. It is proposed to provide five pitches on the site, each comprising space for a mobile home and a touring caravan for Mr Smith, his children and other relatives.
- 7.3. The site is adjacent to the M62 motorway, with noise levels across the site influenced by traffic travelling along the road.
- 7.4. Noise surveys were undertaken to establish the current noise levels on the site, which are principally attributable to road traffic travelling along the M62, upon which the noise assessment has been based.
- 7.5. The mobile homes to be sited would be of a residential specification, to allow occupation throughout the year, and compliant with the requirements of BS 3632. This Standard ensures that the homes would be fully insulated and double glazed, with the Standard specifying a minimum sound insulation requirement.
- 7.6. An assessment of the noise levels calculated within the proposed mobile homes based upon the proposed layout, would ensure that acceptable levels of noise were achieved within the mobile homes during the day and night-time periods assuming windows closed, meeting the requirements of both BS 8233 and ProPG guidance.
- 7.7. Within the mobile homes, with windows open, the guideline values specified within ProPG and BS 8233 would not be achievable. However, the Standard and guidance is clear that, providing good acoustic design principles have been followed, which has been achieved through layout in this situation, then it is acceptable to base the assessment upon the windows remaining closed, providing adequate ventilation is provided. For residential specification mobile homes, adequate ventilation would be provided, as this is higher than for a standard dwelling, to ensure condensation is minimised. However, there may be a potential for the homes to become warm in summer months, and if considered appropriate, air conditioning / comfort cooling could be provided in the two homes.
- 7.8. With the proposed layout and utilisation of residential specification mobile homes, no significant adverse noise impacts have been identified and the proposals would therefore fully comply with the requirements of the NPPF.

References

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4. ANC / Institute of Acoustics / Chartered Institute of Environmental Health. ProPG: Planning and Noise. Professional Practice Guidance on Planning & Noise. New Residential Development. May 2017.
5. British Standards Institute. Residential Park Homes – Specification. BS 3632:2015.
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7. Department of Transport. Calculation of Road Traffic Noise. The Stationary Office. 1988.
8. Defra. Method for Converting the UK Traffic Noise Index $L_{A10,18h}$ to the EU Noise Indices for Road Noise Mapping. TRL/ Casella. Doc Ref. st/05/91/AGG04442. 2006.

Figures

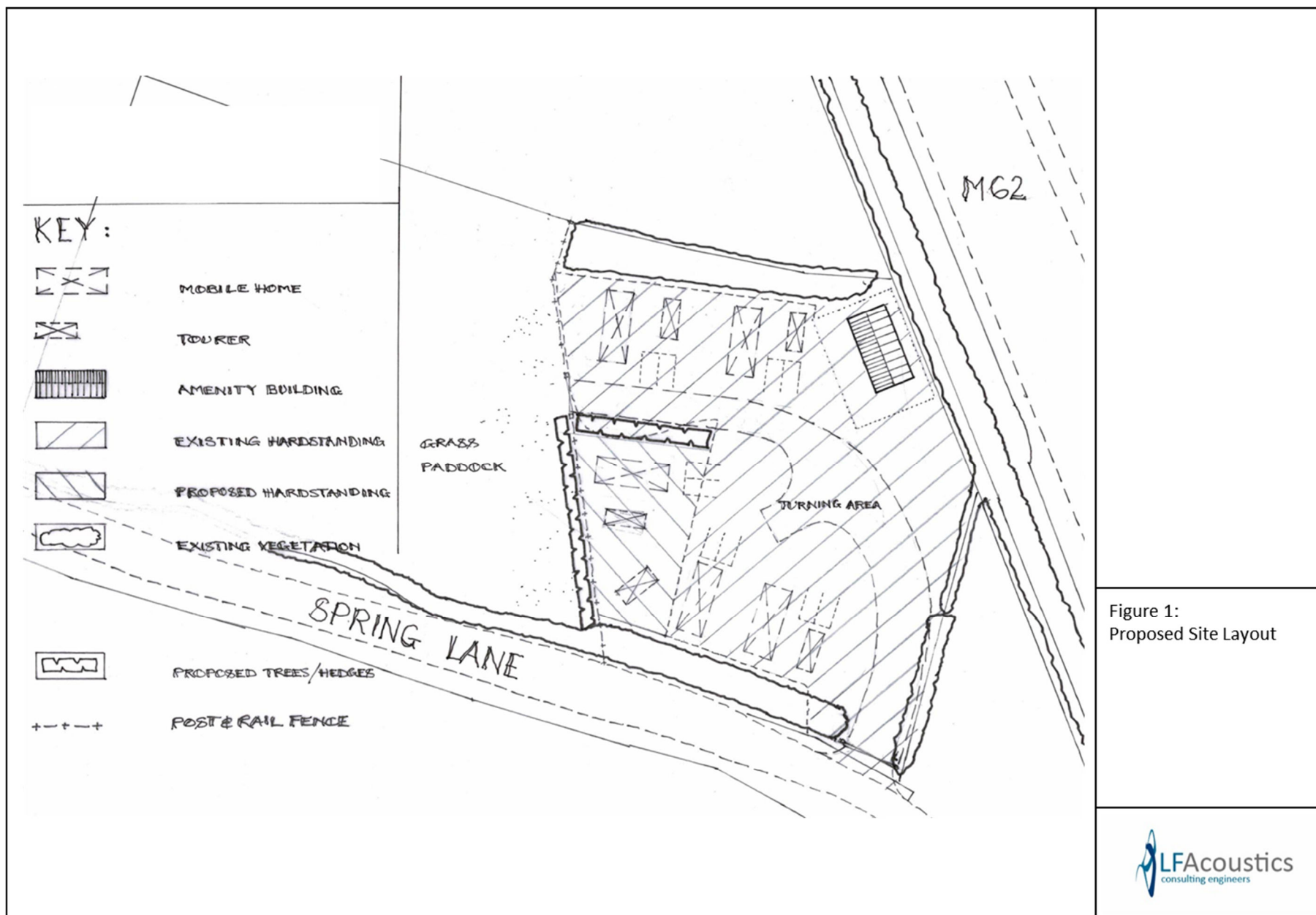


Figure 1:
Proposed Site Layout

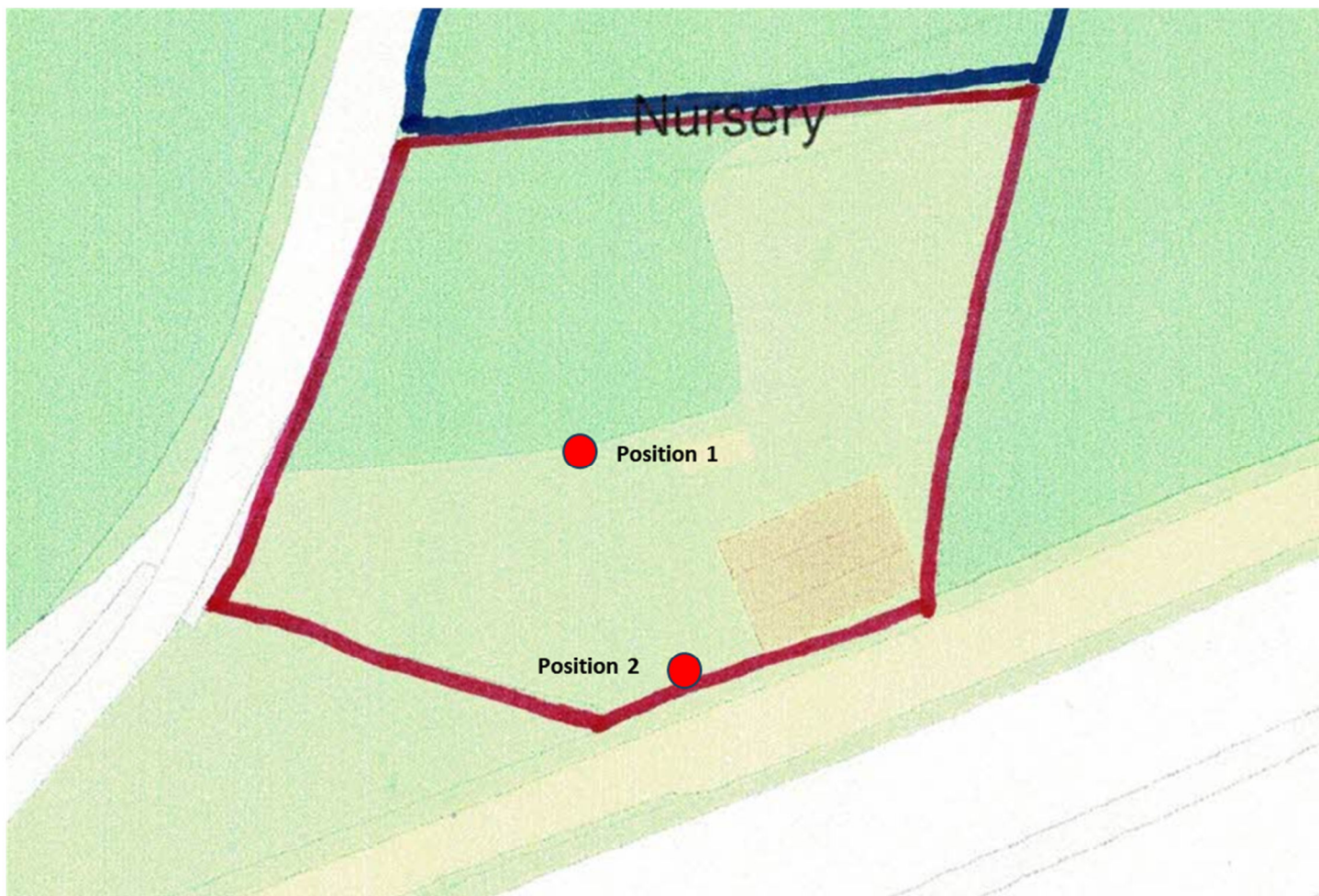


Figure 2:
Noise Monitoring
Positions



Noise Level LAeq,T
in dB(A)

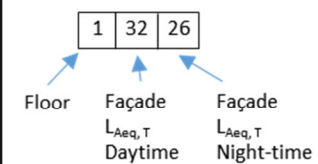
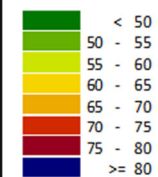


Figure 3:
Calculated Noise Levels -
Daytime



Noise Level LAeq,T
in dB(A)

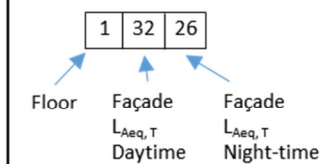
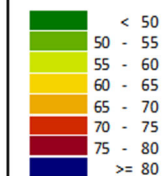


Figure 4:
Calculated Noise Levels –
Night-time

Appendix A

Les Jephson Experience

Les Jephson BEng (Hons) MIOA is a Director of LF Acoustics Ltd.

He has over 30 years' experience in acoustic consultancy, graduating from Salford University in 1993.

He is a full Member of the Institute of Acoustics.

Over this period, his experience has included assessments for residential developments, transportation schemes and commercial developments, having undertaken many projects during this time.

Mr Jephson is an experienced expert witness, providing evidence in relation to noise on several relevant projects.

In relation to Gypsy and Traveller sites, Mr Jephson has worked on numerous projects, both with regards planning applications and providing expert testimony at Appeal hearings and Inquiries.

Appendix B

Noise Units

Decibels (dB)

Noise can be defined as unwanted sound. Sound in air can be considered as the propagation of energy through the air in the form of oscillatory changes in pressure. The size of the pressure changes in acoustic waves is quantified on a logarithmic decibel (dB) scale firstly because the range of audible sound pressures is very great, and secondly because the loudness function of the human auditory system is approximately logarithmic.

The dynamic range of the auditory system is generally taken to be 0 dB to 140 dB. Generally, the addition of noise from two sources producing the same sound pressure level, will lead to an increase in sound pressure level of 3 dB. A 3 dB noise change is generally considered to be just noticeable, a 5 dB change is generally considered to be clearly discernible and a 10 dB change is generally accepted as leading to the subjective impression of a doubling or halving of loudness.

A-Weighting

The bandwidth of the frequency response of the ear is usually taken to be from about 18 Hz to 18,000 Hz. The auditory system is not equally sensitive throughout this frequency range. This is taken into account when making acoustic measurements by the use of A-weighting, a filter circuit which has a frequency response similar to the human auditory system. All the measurement results referred to in this report are A-weighted.

Units Used to Describe Time-Varying Noise Sources (L_{Aeq} , L_{A90} and L_{Amax})

Instantaneous A-weighted sound pressure level is not generally considered as an adequate indicator of subjective response to noise because levels of noise usually vary with time.

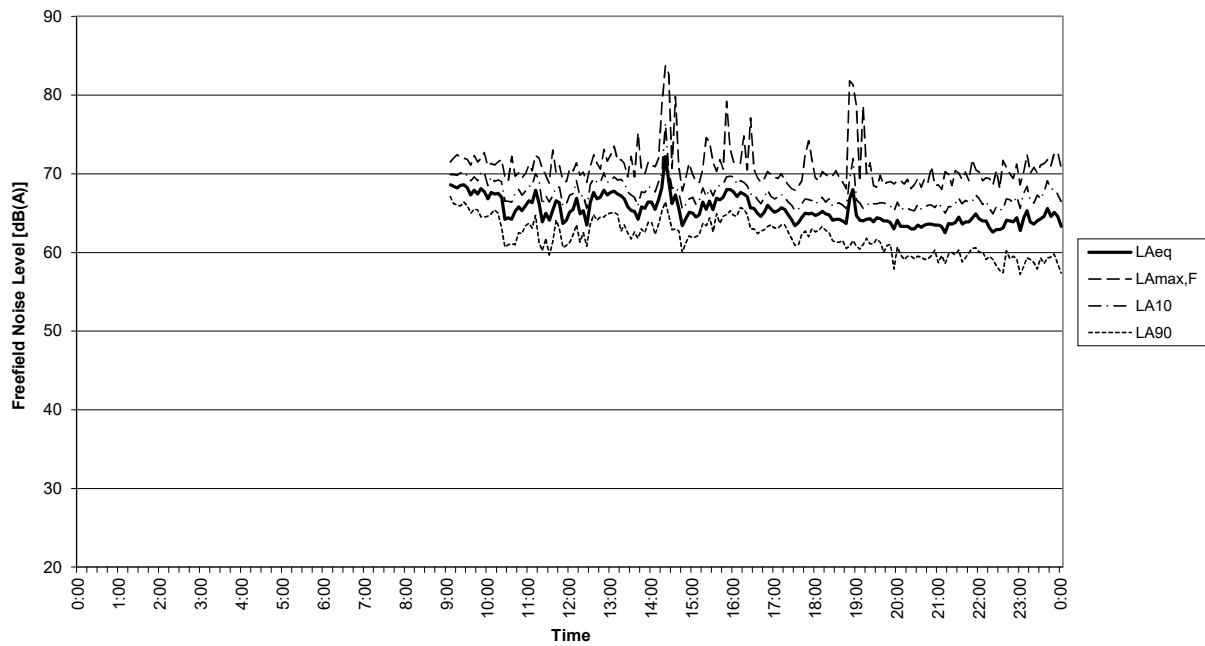
For many types of noise the Equivalent Continuous A-Weighted Sound Pressure Level ($L_{Aeq,T}$) is used as the basis of determining community response. The $L_{Aeq,T}$ is defined as the A-weighted sound pressure level of the steady sound which contains the same acoustic energy as the noise being assessed over a specific time period, T.

The L_{A90} is the noise level exceeded for 90% of the measurement period. It is generally used to quantify the background noise level, the underlying level of noise which is present even during the quietest part of the measurement period.

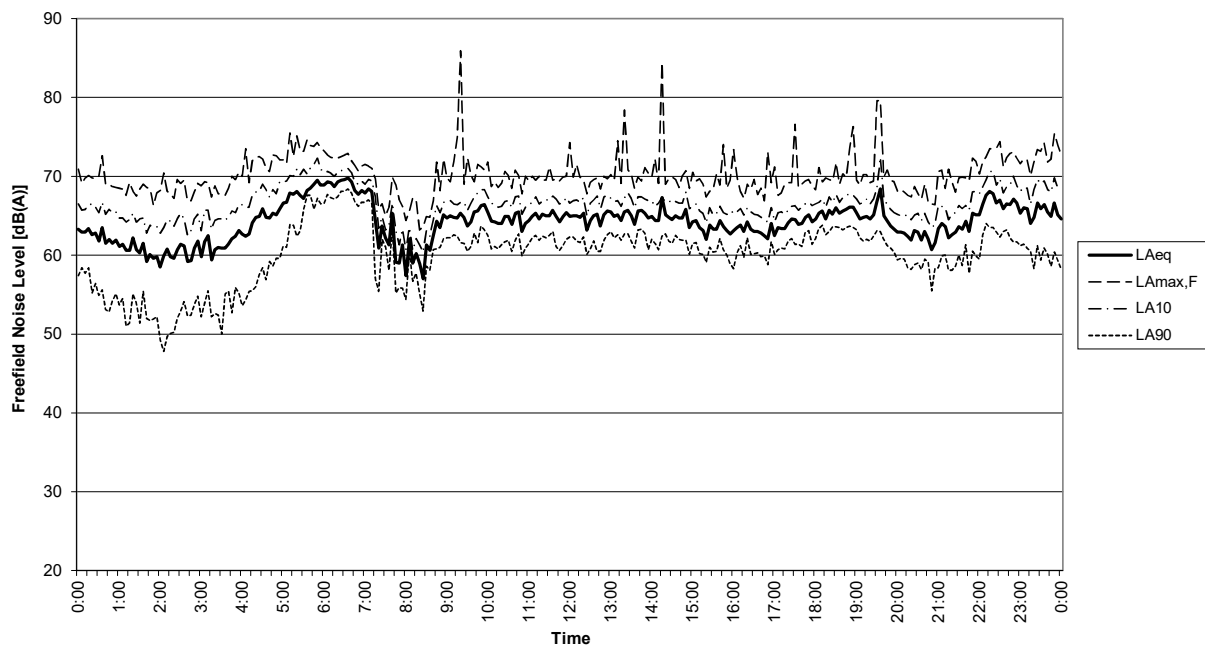
The L_{Amax} is the maximum value that the A-weighted sound pressure level reaches during a measurement period. $L_{Amax,F}$, or Fast, is averaged over 0.125 of a second.

Appendix C
Results of Unattended Noise Survey
Position 1 – Central Location

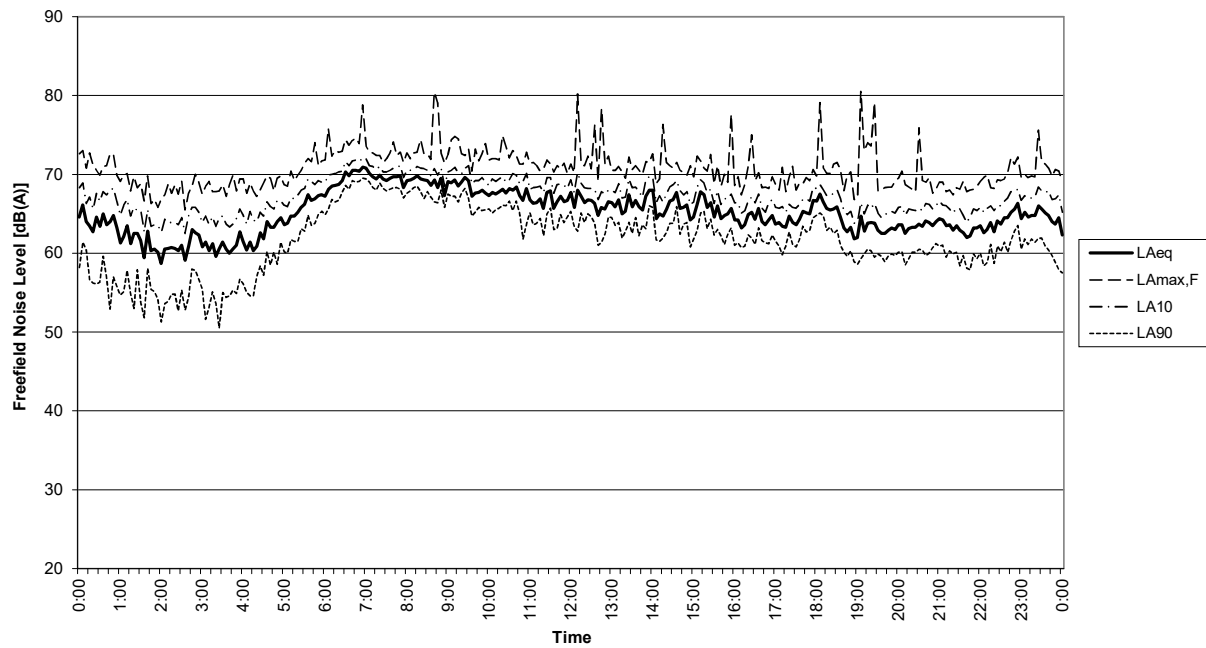
Tuesday 20/5/25



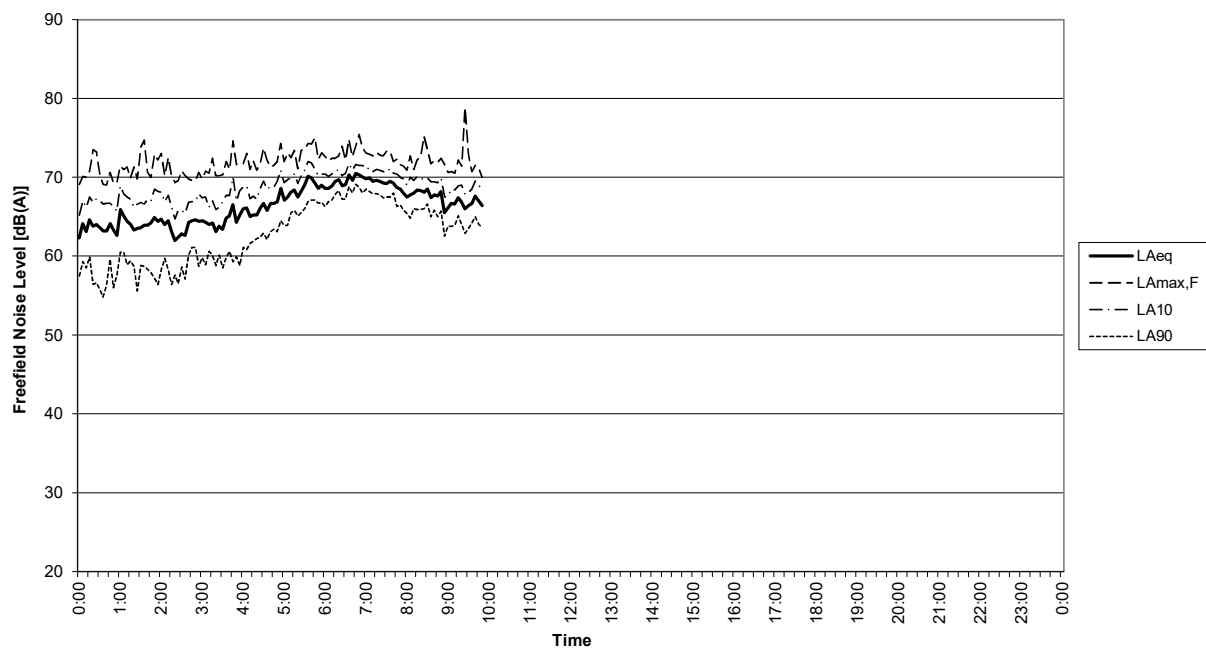
Wednesday 21/5/25



Thursday 22/5/25

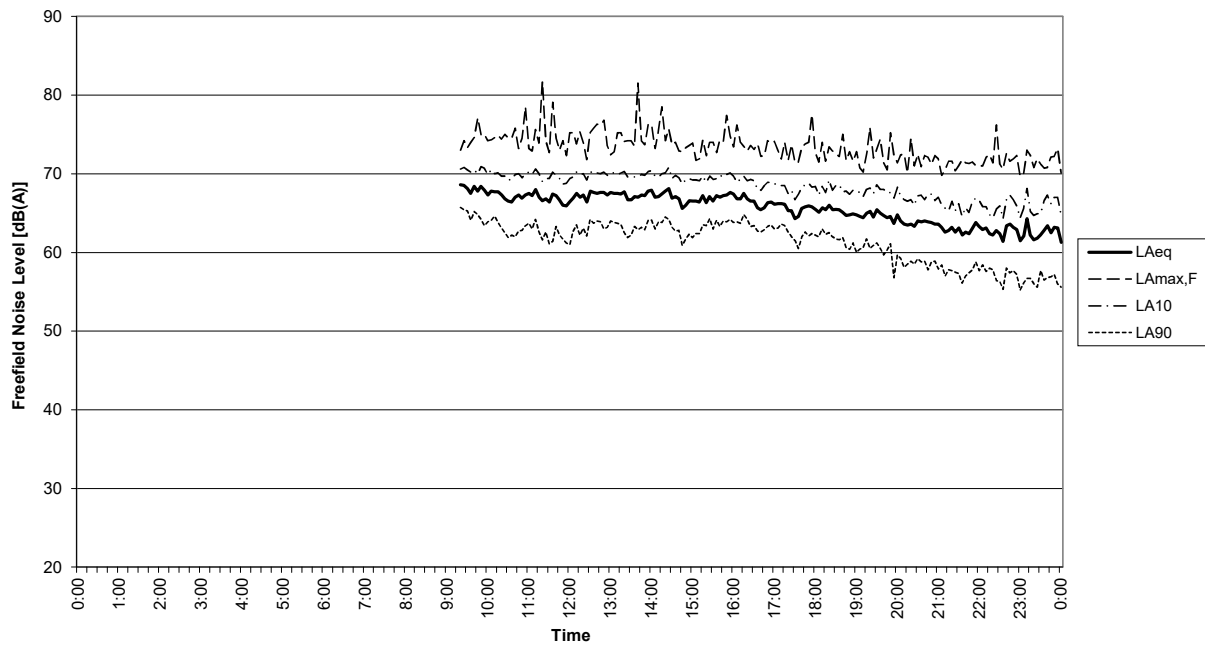


Friday 23/5/25

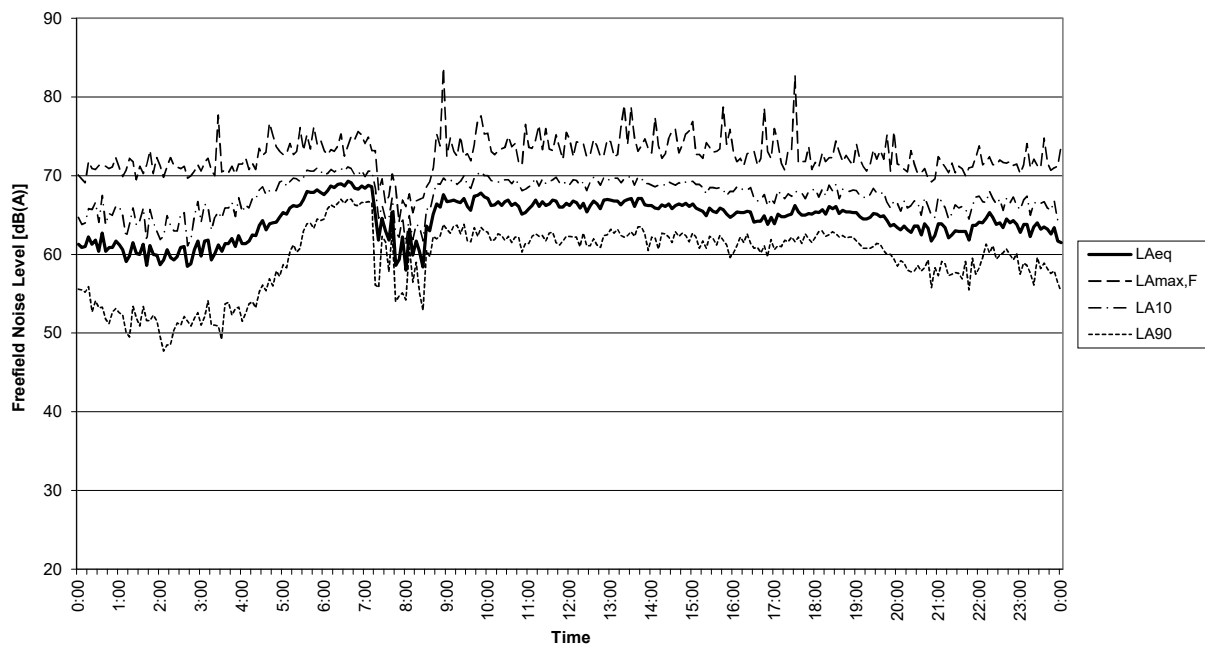


Appendix D
Results of Unattended Noise Survey
Position 2 – Southern Boundary

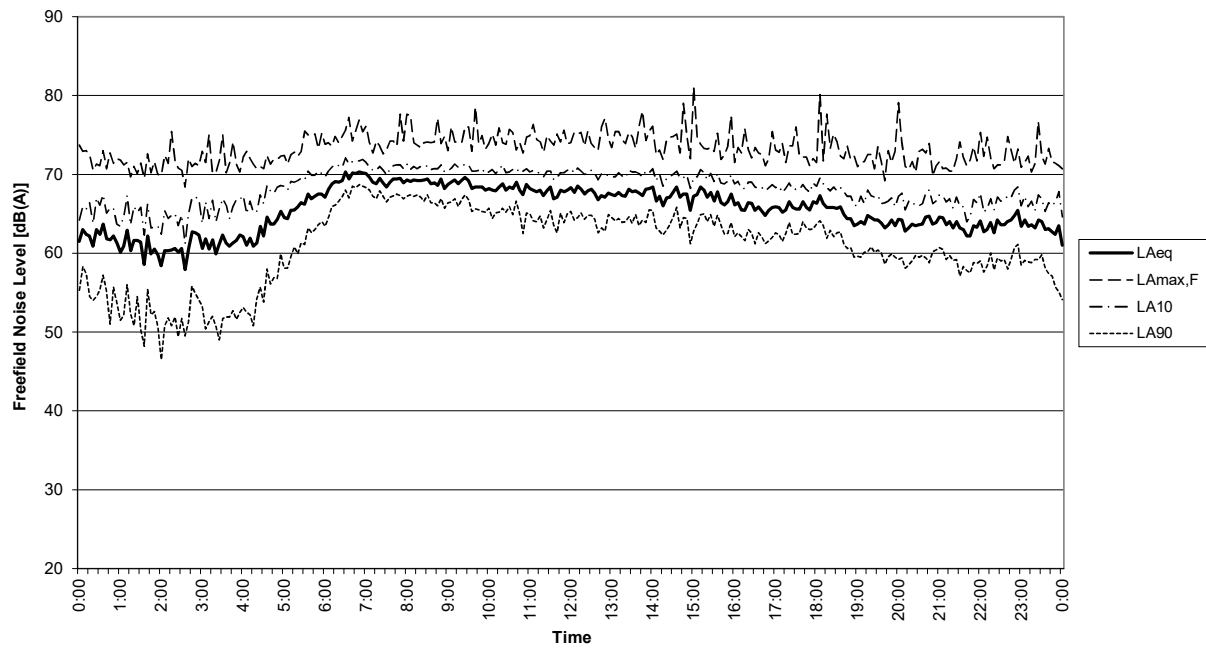
Tuesday 20/5/25



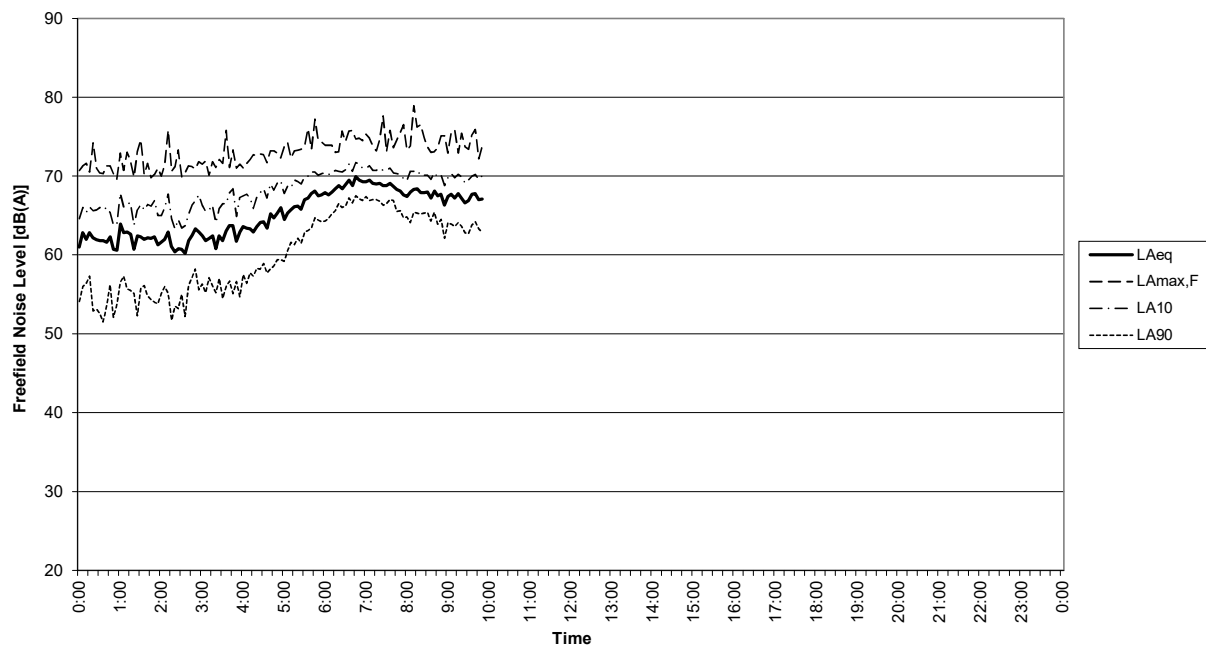
Wednesday 21/5/25



Thursday 22/5/25



Friday 23/5/25



Appendix E
Typical Specification for Residential Mobile Home

OMAR PARK HOMES LIMITED

PARK HOME STRUCTURE

All OMAR PARK HOMES are manufactured to meet BS.3632:2015.

SUBFRAME

Our subframes are an enhancement of designs developed and computer modelled in conjunction with Anglia Ruskin University. The principal longitudinal members are constructed as a two tier hot rolled steel channel beam frame 300mm deep. Hot rolled steel angle ladder frames are welded above and braced to the channel beam. The longitudinal steel angle components of the ladder frame provide additional support to the floor joists. Steel members of the ladder frame are located adjacent to and bolted to several of the floor joists. The structure includes siting wheels, levelling supports and detachable telescopic tow bar. All subframes are manufactured in our own workshop by our BS4872 certified engineers and protected in accordance with ISO12944. They also comply with the additional requirements of COP501.

FLOOR (standard construction)

We use high density 18mm thick flooring grade tongue & groove board that is screwed and nailed to 145x36mm & 145x45mm timber floor joists. Joists are located at maximum 407mm centres. Joists are securely bolted to the subframes at regular intervals. Floor finishes depend on the home décor scheme and room. They can be carpet, vinyl, laminate, engineered wood, tile or cut stone. The floor deck is insulated with 96mm platinum grade rigid polystyrene which is held in position between joists with a continuous 125 micron, 20% fire retardant micro-perforated barrier to BS.2782. Thermally our floor 'U' value is 0.30 W/m²/K or better which is 14% more than BS3632:2015 requirements.

EXTERNAL WALLS (standard construction)

Standard exterior finish is a textured synthetic copolymer resin containing selected mineral aggregates to give a class I spread of flame to BS.476. Available in selected colours, it is applied over double primed 9mm magnesium oxide (MgO) cladding board which is glued and nailed to the studwork. The MgO board is rated A1 Euroclass Non-Combustible. The 120x36mm timber studwork is spaced at a maximum of 600mm centres and incorporates semi-rigid foil faced slab insulation between. Wall linings are 12.5mm foil backed plasterboard glued, screwed and nailed to the studworks. Although the opposing two foil faces of the service void produces an enhanced emissivity and improves the wall insulation, we only acknowledge one in our energy calculations. Internal walls are decorated with self-finish wallpaper. All internal substrates comply with BS.476 giving a minimum class I spread of flame. The wall 'U' value is 0.30 W/m²/K or better which is also 14% more than BS3632:2015 requirements. The laboratory tested acoustic value of our walls has proved a 10db improvement over the requirements of BS3632:2015.

ROOF (standard construction)

The roof utilizes the preformed aggregate coated Metrotile[®] steel tile system, available in several colours, fixed to 50x25mm treated timber battens over Corovin[®] breather membrane. Battens are secured to dual pitch (single wide) or monopitch (twin) nail plated timber roof trusses (produced in our own truss-press) formed from 72mm and 56mm timbers 30mm and 45mm thick. They are positioned at 400mm or 600mm centres with a pitch of 19°. Twin homes provide central support to the roof trusses via proprietary 'I' beams. Ceiling decks of 12.5mm foil backed plasterboard glued and screwed to roof trusses, insulated with 250mm 'Earthwool' fibreglass insulation. The roof void is cross-ventilated via the eaves that have various widths depending on the style of the home. All rainwater down-pipes and gutters are in PVCu. Fascias and bargeboards are also in PVCu. The roof 'U' value is 0.18 W/m²/K or better representing a 10% improvement on BS3632:2015.

WINDOWS & DOORS (standard construction)

Omar Park Homes produce PVCu windows and doors in a separate factory on our own 14 acre site. The profile is from WHS Halo. A typical window 'U' value is 1.6 W/m²/K.

EXTERNAL FEATURES

Our external features such as corner quoins, window hoods, pilasters & lintels are all manufactured in fibreglass by a specialist boat building company using our own moulds. This provides consistency of colour and superior quality.

ECO VARIANTS

Renewable energy ECO variants of some of our homes are also available at extra cost. They have a different construction which also significantly reduces heat loss. The thermal values can be as low as - floor 0.23 W/m²/K, wall 0.15 W/m²/K & roof 0.13 W/m²/K. For commercial reasons we do not release these home specific construction details.

FITTINGS & EQUIPMENT

All OMAR homes are supplied as standard with:

Gas 'A' rated condensing combination boiler fed radiator central heating.

Lounge suite.

Dining table and chairs.

Fully fitted kitchens.

Fitted or freestanding wardrobes or walk-in wardrobes and other cabinets to the bedrooms.

Divan beds and mattresses.

Floor coverings and soft furnishings throughout.

Most homes incorporate integrated appliances that are floor plan dependant.

Appendix F
Calculations of Internal Noise Levels

Proposed Mobile Homes on Land at Spring Lane Nurseries
Calculation of Internal Noise Levels

Position : Mobile Homes

Prepared By: LPJ - 30/5/25

STANDARD GLAZING & VENTS

Sf	Facade Area (inc Window)	10
Swi	Window Area	3
Sew	Sf-Swi	7
Srr	Area of Ceiling	12
S	Sf+Srr	22
A0	Ref Absorption Area	12

			Overall A-Wtd	1/3 Octave Band Leq							
				125	250	500	1000	2000	4000		
Source Level	Leq FF	A	64	57	57	61	62	54	43	Equivalent Freefield Level	(67 dB LAeq Façade)
Window Vent	Dn,e			36	36	36	34	35	35	Trickle Vent With Indirect Air Path (Red Book)	
	B		0.00014	0.00014	0.00014	0.00022	0.00017	0.00017			
Glazing	Rwi			20	17	33	44	49	50	Standard Glazing 4-16-4	
	C		0.00136	0.00272	0.00007	0.00001	0.00000	0.00000			
Wall	Rew			20	37	44	49	51	53	Omar Specification	
	D		0.0031818	6.349E-05	1.267E-05	4.006E-06	2.527E-06	1.595E-06			
Ceiling	Rrr			26	38	45	51	55	57	Omar Specification	
	E		0.0013701	8.645E-05	1.725E-05	4.333E-06	1.725E-06	1.088E-06			
10Log (B+C+D+E)				-22.18059	-25.21757	-36.284306	-36.365451	-37.484667	-37.531704		
A (Furnished)				11	14	16	16	15	15		
10*log (S/A)				3.0103	1.9629465	1.383027	1.383027	1.6633142	1.6633142		
Leq,2				41.1	36.3	29.3	30.4	21.3	10.3		
A-Weighting				-16.1	-8.6	-3.2	0.0	1.2	1.0		
LAeq,2				25.0	27.7	26.1	30.4	22.5	11.3		
			Day	Night							
LAeq, Internal			34	34							
Reduction			-30								

Appendix G
Little Hallingbury Appeal Decision

9th December 2010Dr Angus Murdoch
PO Box 71
Ilminster
Taunton
Somerset
TA19 0WFOur Ref: APP/C1570/C/09/2114934
APP/C1570/C/09/2114935
APP/C1570/C/09/2114936
APP/C1570/C/09/2114938
APP/C1570/C/09/2114939
Your Ref: AM/JONES/2009/1

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 174
APPEALS BY MR P JONES, MRS ROSE JONES, MR T JONES, MR M JONES
AND MR S JONES
AT LAND AT LITTLE HALLINGBURY IN THE DISTRICT OF UTTLESFORD
ENFORCEMENT NOTICE REFERENCE: EN/238/09/A**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mr Felix Bourne BA(Hons) LARTPI Solicitor, who held a public local inquiry on 27 April 2010 (and made a site visit on 28 April 2010) into your clients' appeals against an enforcement notice issued by Uttlesford District Council ('the Council') alleging the unauthorised change of use of the Land from agriculture in the Green Belt to use for (a) storage of vehicles on the Land; (b) the storage of caravans/mobile homes on the Land; (c) the creation of hard standing on the Land; (d) the erection of fences on the Land; (e) residential occupation at land at Little Hallingbury, in the District of Uttlesford, edged red on the plan attached to the enforcement notice (the Land) (Enforcement notice reference EN/238/09/A).
2. On 2 July 2010, the appeals were recovered for the Secretary of State's own determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the enforcement notice be corrected, and then that the ground (a) appeal be allowed, the notice quashed, and a temporary planning permission granted. For the reasons given below, the Secretary of State partially agrees with the Inspector's conclusions and recommendation, subject to conditions. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Department for Communities and Local Government
Planning Casework Division,
1/H1, Eland House
Bressenden Place
London
SW1E 5DUTel: 0303 444 1634
Email: PCC@communities.gsi.gov.uk

Procedural Matters

4. The appeal by Mr T Jones (reference APP/C1570/C/09/2114936) has been taken forward under the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. As the prescribed fees for the other appeals have not been paid within the specified period, the applications for planning permission deemed to have been made under section 177(5) of the Act as amended have not been considered and appeals APP/C/1570/C/09/2114934, 2114935, 2114938 and 2114939 have been considered on ground (g) alone.
5. Having had regard to the Inspector's remarks at IR6 and IR92, the Secretary of State agrees with him that the enforcement notice includes an error, that no party has been prejudiced by this, and that the notice should be corrected as set out at IR92.

Matters arising after the close of the inquiry

6. The Secretary of State has had regard to the Inspector's comments at IR2-3, including the fact that the Inspector's Report does not consider the revocation, announced on 6 July 2010, of Regional Strategies (RSs). The Secretary of State observes that, following the decision of the Courts on 10 November on *The Queen on the application of Cala Homes (South) Limited v Secretary of State for Communities and Local Government* (CO/8474/2010), the East of England Plan (EEP - which is the RS for the area) has been re-instated, and is therefore part of the development plan. Notwithstanding this, the Secretary of State has clearly stated his intention to revoke RSs by way of the Localism Bill. The Secretary of State has taken these matters into account in determining this case, but does not consider it necessary to refer back to parties before reaching his decision. This is because relevant EEP policies were considered at the inquiry, and whilst the EEP policy on gypsy and traveller pitch provision (revised policy H3) is relevant, the Secretary of State's conclusion (at paragraph 18 below) on the need for more gypsy and traveller sites would stand with or without policy H3.
7. The Secretary of State has taken account of circular 1/2006: *Planning for Gypsy and Traveller Caravan Sites* as a material consideration in his determination of this case. However, in reaching his decision he has also taken account of his announcement on 29 August 2010 of his intention to revoke it as he considers it to be flawed, and he gives less weight to the circular. He is satisfied that the announcement does not raise any matters which would require him to refer back to parties for further representations prior to reaching his decision.
8. Following the close of the inquiry the Secretary of State was passed a representation from Dr Murdoch dated 20 August 2010. A reply was sent to Dr Murdoch on 24 August 2010. The Secretary of State has considered the representation from Dr Murdoch, and does not consider that it raises any new issues which require him to refer back to parties before reaching his decision. Copies of the correspondence can be made available upon written request to the address at the foot of the first page of this letter or from PCC@communities.gsi.gov.uk.

Policy considerations

9. In deciding the appeals, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
10. In this case, the development plan comprises the saved policies of the Uttlesford Local Plan (adopted 2005) (LP), the saved policies of the Essex and Southend on Sea Structure Plan (adopted 2001) and the EEP (published in 2008). The Secretary of State agrees with the Inspector (IR10) that no relevant Structure Plan policies remain in force. Like the Inspector (IR11-12), he considers that the development plan policies most relevant to the appeals are EEP revised policy H3 (published July 2009), policies S6 and S7 of the LP, and those further LP policies identified by the Inspector at IR12.
11. The Secretary of State has given no weight to Uttlesford's emerging Core Strategy which is at a very early stage.
12. Other material considerations which the Secretary of State has taken into account include: Planning Policy Statement 1 (PPS) 1: *Delivering Sustainable Development* and its supplement *Planning and Climate Change*; Planning Policy Guidance (PPG) 2: *Green Belts*; PPS3: *Housing*; PPS7: *Sustainable Development in Rural Areas*; PPG18: *Enforcing Planning Control*; PPS23: *Planning and Pollution Control*; and Circular 11/95: *Use of Conditions in Planning Permission*.

Main issues

13. The Secretary of State considers that the main issues in this case are those set out by the Inspector at IR48 - 50.

Harm to the Green Belt

14. The Secretary of State has had regard to the fact that there is no dispute that the development constitutes inappropriate development in the Green Belt (IR47). The Secretary of State agrees with the Inspector's analysis at IR52 – 56, and shares his view that, in addition to the harm caused by the scheme's inappropriateness, there is considerable harm caused to the openness of the Green Belt and to the character and appearance of the countryside, and that there is clear conflict with the Green Belt purpose of assisting in safeguarding the countryside from encroachment (IR55). He concludes that the scheme gives rise to conflict with the intention of LP policy S6, namely protection of the Green Belt.

The extent to which the development otherwise accords with development plan policy

15. For the reason given at IR58, the Secretary of State shares the Inspector's view that LP policy S7 has limited applicability to this case. He agrees with the Inspector, for the reasons the Inspector gives, that no conflict need arise with LP

policy GEN5 in relation to external lighting, or with LP policies GEN1 and GEN8 (as amended) (IR59). He has gone on to consider compliance with LP policy ENV13 and the EEP revised policy H3 below.

Living conditions and sustainability

16. The Secretary of State has given very careful consideration to the Inspector's analysis (IR60 – 66) of living conditions on the site. He sees no reason to disagree with the Inspector's view that the site is very noisy and that it is inevitably going to suffer some air pollution (IR60). He agrees with the Inspector that, in relation to permanent planning permission, more evidence would be required to come to a view as to the suitability of the site in terms of its air quality (IR64). However, for the reasons given by the Inspector, he agrees that, on the basis of the limited evidence available, there is insufficient evidence to justify an outright refusal of temporary permission on the basis of concerns about air pollution (IR64). The Secretary of State further concludes that, in the context of a temporary permission, the appeal scheme does not give rise to unacceptable conflict with LP policy ENV13. With regard to concerns about noise, the Secretary of State sees no reason to disagree with the Inspector that, whilst noise levels are high in the open they reduce considerably within the caravans, even with a window open and, on balance, the available evidence does not suggest that the noise levels on the site are such that they should preclude the grant of a temporary permission (IR66).
17. The Secretary of State agrees with the Inspector's reasoning at IR68 – 71 and, in common with the Inspector, he concludes that, in other respects, in particular in terms of sustainability as interpreted by paragraphs 64-66 of Circular 1/2006, the site is not unacceptable (IR67).

Other considerations

The need for more Gypsy and Traveller sites

18. The Secretary of State has had regard to the Inspector's remarks at IR72-3, including the fact that the Statement of Common Ground states that there is a significant need for further sites in the area, and that any new gypsy and traveller caravan site will need to be located in the countryside. He sees no reason to disagree with the Inspector's view that the need for sites may well in part be due to the absence of any LP policy concerning the provision of such sites (IR74). In conclusion, like the Inspector (IR73) the Secretary of State is of the view that, within the context of the Transitional Arrangements contained in paragraphs 41-46 of Circular 1/2006, a clear and immediate need for further sites exists. The Secretary of State takes the view that the need for further sites in Uttlesford District, including the requirement set out at revised policy H3 of the EEP, is an important material consideration in this case.

The likely timescale within which any identified need could be expected to be met

19. The Secretary of State has taken account of the fact that the Council told the inquiry that its work on identifying suitable sites for additional pitches was at an early stage (IR75). He has also taken account of the Inspector's views that the identification, allocation, and provision of sites could take until at least 2014, and

that there appears no likelihood that the Council will meet the requirements set out in revised policy H3 of the EEP (IR75). The Secretary of State's views on these matters are set out at paragraph 23 below. Taking account of the fact that only around 6% of the Council's administrative area lies in the Green Belt (IR76), the Secretary of State is of the view that there are likely to be opportunities for the Council to allocate land outside the Green Belt for gypsy and traveller sites.

The occupants' need for accommodation and availability to them of alternative sites

20. Having taken account of the Inspector's comments at IR78 – 79, the Secretary of State sees no reason to disagree with his conclusion that, if forced to vacate the land at this time, the only realistic option open to the appellants would be to go back on the road, with all the disadvantages and dangers that such a course would entail (IR80). The Secretary of State considers this to be an important consideration in favour of the appeals.

The occupants' personal circumstances, including health and education needs

21. The Secretary of State has had regard to the Inspector's comments at IR81-83. He agrees with the Inspector that a settled base would provide the appellants with the opportunity to register with a GP (IR82) and observes that this may be of particular value to Mr Mark Jones and to Chardonnay Jones. He has also taken account of the fact that at least some of the site's occupants would consider sending their children to a suitable school (IR83). However, given the very limited evidence put forward on these matters, the Secretary of State attributes reduced weight to these considerations.

Conditions

22. The Secretary of State has considered the proposed conditions and the Inspector's comments at IR90-91. He considers that the conditions set out at Annex A to this letter, are reasonable and necessary and meet the tests of Circular 11/95.
23. The only change which the Secretary of State has made to the conditions advanced by the Inspector is to amend condition (1) to limit the period of consent to three years from the date of this decision. In making this alteration, the Secretary of State has taken account of the Inspector's remarks at IR75 and IR90 and the evidence submitted by the Council (Document 8). Whilst he agrees that, at the time of the inquiry, the Council's work on identifying suitable sites for additional pitches was at an early stage, on the basis of the evidence before him, and bearing in mind the work already undertaken (as set out at Section 6 of Document 8), he sees no reason why the Council will be unable to identify suitable sites well before 2014. Furthermore, given the date of this letter, a three year consent will allow the appellants to remain on the site until late 2013, and this period should provide sufficient time for a more suitable base for these families to be found. The Secretary of State does not therefore consider that a temporary period of four years is justified in the circumstances of this case.

Overall conclusions on the ground (a) appeal

24. The Secretary of State has given careful consideration to the Inspector's remarks at IR77 and IR84 – 87. As set out at paragraph 14 above, the Secretary of State has concluded that the development constitutes inappropriate development in the Green Belt. He has additionally found that considerable harm is caused to the openness of the Green Belt and to the character and appearance of the countryside, and that it conflicts with the Green Belt purpose of assisting in safeguarding the countryside from encroachment (paragraph 14). The Secretary of State attaches substantial weight to the harm that the scheme would cause to the Green Belt.
25. The Secretary of State has considered whether or not the site is acceptable in terms of living conditions and sustainability. He has concluded that, in the context of a temporary permission, noise and air quality concerns would not justify refusal of the appeal (paragraph 16 above), and that the site is not unacceptable in terms of sustainability (paragraph 17 above).
26. The Secretary of State has taken account of the other considerations put forward by the appellants and analysed by the Inspector. He has concluded, at paragraph 18 above, that there is a clear and immediate need for further gypsy and traveller sites in Uttlesford and that, if forced to vacate the appeal site, the appellants may have little option other than to go back on the road (paragraph 20 above). He has also taken account of the occupants' personal circumstances, including their health and education needs (paragraph 21 above). The Secretary of State gives weight to each of these considerations.
27. The Secretary of State has carefully weighed up the material considerations arising in this case. He agrees with the Inspector's remarks at IR86, including the expectation that it should be possible to find sufficient sites to meet the accommodation needs of gypsies outside the Green Belt. Setting aside the uncertainty as to whether air pollution renders the site unacceptable for permanent planning permission, the Secretary of State does not consider that the considerations in favour of the development, taken individually or collectively, outweigh the harm to the Green Belt which would be caused in this case. He concludes that *very special circumstances* to justify inappropriate development in the Green Belt on a permanent basis have not been demonstrated.
28. The Secretary of State has had regard to the Inspector's comments at IR77. Given his conclusions at paragraphs 18, 19 and 23 above, he has gone on to consider whether a temporary planning permission is justified in this case and, in doing so, he has accorded substantial weight to the unmet need for sites in Uttlesford. As set out at paragraph 23 above, the Secretary of State considers that 3 years is an appropriate time for him to consider in relation to a temporary permission. Having had regard to the Inspector's remarks at IR85, and taking account of the conclusions he has reached (at paragraphs 24-26 above), the Secretary of State shares the Inspector's view that *very special circumstances* to justify the grant of a temporary planning permission exist in this case (IR85).

Conclusions on ground (g) appeals

29. In view of his decision to grant temporary planning permission, the Secretary of State has not considered your clients' appeals under ground (g).

Overall Conclusions

30. The Secretary of State concludes that the appeal on ground (a) gains support from revised EEP policy H3. He has found that, in relation to permanent planning permission, *very special circumstances* have not been demonstrated, and that the scheme is not in accordance with the development plan objective of protecting the Green Belt, or with national policy in PPG2. These are important conflicts and, overall, the Secretary of State concludes that, in relation to permanent planning permission, the material considerations are not of sufficient weight to determine the appeals other than in accordance with the development plan. However, in relation to temporary planning permission, the Secretary of State concludes that the other considerations put forward, when taken together, clearly outweigh the harms arising in this case, and that these considerations constitute *very special circumstances* which justify the development.

Formal Decision

31. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows the ground (a) appeal, dismisses the corrected enforcement notice, and grants planning permission for your clients' deemed application for planning permission for the change of use of the land from agriculture in the Green Belt to use for (a) storage of vehicles on the land (b) the storage of caravans/mobile homes on the land (c) the creation of hard-standing on the land (d) the erection of fences on the land and (e) residential occupation, subject to the conditions set out in annex A to this letter.

Right to challenge the decision

32. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

33. A copy of this letter has been sent to Uttlesford District Council, and to other parties who asked to be informed of the decision.

Yours faithfully

Christine Symes

Authorised by Secretary of State to sign in that behalf

ANNEX A

- 1) The use hereby permitted shall be for a limited period being the period of three years from the date of this decision. At the end of this period the use hereby permitted shall cease, all materials and equipment brought on to the land in connection with the use shall be removed, and the land restored to its former condition.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
- 3) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-
 - i) within 3 months of the date of this decision a site development scheme (the scheme) encompassing site layout, including pitch position and orientation of caravans, boundary treatment and landscaping, and external lighting, shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) if within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iii) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 4) No more than eight caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than one shall be a static caravan or mobile home and of which the remaining seven shall be capable of being towed on the highway) shall be stationed on the site at any time.
- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 6) There shall be no external storage of materials or equipment used for commercial purposes.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification), no development within Class A of Part 2 of Schedule 2 of the Order shall take place without the prior written permission of the local planning authority.

**UTTLESFORD DISTRICT COUNCIL**

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Chief Executive: John Mitchell

Murdoch Planning
FAO Dr A Murdoch
Po Box 71
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Somerset
TA19 0WF

Dated: 16 November 2012

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

Application Number: UTT/1487/12/FUL

Applicant: MSSRS. T, P, M, S And Mrs R Jones

Uttlesford District Council **Grants Permission** for:

Removal of Condition 1 attached to appeal decision notice ENF/238/09/A at 1 - 5 Oak Tree Close Little Hallingbury CM22 7RP

The approved plans/documents are listed below:

Plan Reference/Version	Plan Type/Notes	Received
LOCATION PLAN	Location Plan	

Permission is granted with the following conditions:

- 1 The pitches on the site shall only be occupied by gypsies or travellers as defined by Annex 1, paragraph 1 of "Planning Policy for Travellers Sites" produced by the Department for Communities and Local Government (March 2012).

REASON: The development is acceptable in order to meet the District's shortfall in provision for gypsy and traveller sites in accordance with "Planning Policy for Travellers Sites".

- 2 The site shall only comprise five pitches.

REASON: In the interests of visual and residential amenity and to ensure that the use of the site remains compatible with the site and surroundings and to comply with policies S6 and GEN2 and to Uttlesford Local Plan 2005.

- 3 No business operation involving outside storage or storage of vehicles or machinery shall take place on any part of the application site.

REASON: In the interest of the appearance of the site and the amenity of surrounding residents in accordance with Policies S6 and GEN2 of the Uttlesford Local Plan (adopted 2005).

- 4 No vehicle over 3.5 tonnes shall be stationed, parked or stored at the site.

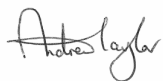
REASON: In the interest of the appearance of the site and the amenity of surrounding residents in accordance with Policies S6 and GEN2 of the Uttlesford Local Plan (adopted 2005).

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking or re-enacting that Order with or without modification) no development within Classes A to F of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 of the Order shall take place without the prior written permission of the local planning authority.

REASON: To avoid the proliferation of buildings, fencing and other means of enclosure at the site in the interests of protecting the visual amenities of this rural site in accordance with Policy S6 of the Uttlesford Local Plan (adopted 2005).

In determining this application, the Local Planning Authority had regard to the following Development Plan Policies:

NPPF - National Planning Policy Framework
EEPH3 - Provision for Gypsies and Travellers
S6 - Metropolitan Green Belt
GEN2 - Design
GEN8 - Vehicle Parking Standards
ENV13 - Exposure to poor air quality



Mr A Taylor
Assistant Director Planning and Building Control

Notes:

- 1
- * This permission does not incorporate Listed Building Consent unless specifically stated.
 - * The alterations permitted by this consent are restricted to those specified and detailed in the application. Any alteration, demolition or re-building not so specified, even if this should become necessary during the course of the work, must be subject of a further application. It is an offence to carry out unauthorised work to the interior or exterior of a Listed Building in any way, which would affect its character.
 - * The proposal has been considered against Development Plan policies shown in the schedule of policies. Material planning considerations do not justify a decision contrary to the Development Plan.
 - * The Development Plan comprises the East of England Plan (2006), the saved policies of the Essex Replacement Structure Plan (2001) and the saved policies of the Uttlesford Local Plan (2005).
 - * It is the responsibility of the owner to ensure that any conditions attached to an approval are complied with. Failure to do so can result in enforcement action being taken. Where conditions require the submission of matters to and approval by the local planning authority these must be submitted on form "Application for approval of details reserved by condition" available from the Council's web site www.uttlesford.gov.uk and accompanied by the correct fee.

- * Your attention is drawn to the need to check with the Council's Building Surveying Section regarding the requirements for fire-fighting access.
- * Your attention is drawn to the Equality Act 2010. The Act makes it unlawful for service providers (those providing goods, facilities or services to the public), landlords and other persons to discriminate against certain groups of people.
- * If you intend to pipe, bridge or fill in a watercourse, as part of this development or otherwise, you need to contact the Council's Engineer on 01799 510521 for the necessary permission from the Council and the Environment Agency. You may also have to seek consent from the County Highways Authority.
- * Under the terms of the Water Resources Act 1991 and Environment Agency Byelaws, the prior written consent of the agency is required for any proposed works or structures in, under, over or within 9 metres of the top of the bank of any main river.
- * If you are aggrieved by the decision of the Council to grant permission subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990, section 20 and 21 of The Planning (Listed Buildings and Conservation Areas) Act 1990 or Regulation 15 of The Town and Country Planning (Control of Advertisement) Regulations 1992.
- * If you want to appeal against the Council's decision then you must do so within 12 weeks if it is a Householder application, 6 months for Conservation Area Consent applications, Listed Building applications and all other planning applications or within 8 weeks in relation to Advertisement applications.
- * If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months (12 weeks in the case of a householder application) of the date of this notice, whichever period expires earlier.
- * The Inspectorate will publish details of your appeal on the internet. Please only provide information, including personal information belonging to you that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so.
- * Appeals must be made using a form available from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.gov.uk.
- * If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Appendix H
Chesterton Appeal Decision



Appeal Decision

Inquiry held on 15 – 17 October 2019

Site visit made on 22 October 2019

by Phillip J G Ware BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th March 2020

Appeal Ref: APP/C3105/W/18/3219199

Land west of M40 adjacent to A4095, Kirtlington Road, Chesterton

- 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 Messrs C Smith and R Butcher against the decision of Cherwell District Council.
 - The application Ref 18/01332/F, dated 20 July 2018, was refused by notice dated 23 November 2018.
 - The development proposed is the change of use of land to use as a residential caravan site for three gypsy families each with two caravans and an amenity building, the improvement of the existing access, the construction of a driveway, the laying of hardstanding, the installation of a package sewage treatment plant and an acoustic bund.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to use as a residential caravan site for three gypsy families each with two caravans and an amenity building, the improvement of the existing access, the construction of a driveway, the laying of hardstanding, the installation of a package sewage treatment plant and an acoustic bund on land west of M40 adjacent to A4095, Kirtlington Road, Chesterton in accordance with the terms of the application, Ref 18/01332/F, dated 20 July 2018, subject to the conditions set out in the schedule to this decision.

Procedural matters

2. Mr Jarman¹ was not called by the Council. His evidence and the rebuttal proof of Dr Murdoch stood as written submissions.
3. The parties advised me that another appeal decision, at Piddington (the 'Piddington Inquiry'), with some similarities to the appeal scheme, was due to be issued after the Inquiry into the appeal scheme. This other decision was issued on 28 October 2019². As agreed at the Inquiry, both parties made submissions on this decision³ and I will refer to it below.
4. The Inquiry closed on 22 October and, due to the pressure on Inquiry time, it was agreed that the parties' closings could be submitted in writing. The agreed

¹ Document 11

² APP/C3105/W/18/3209349

³ Documents 14 and 15

date was 25 November, in order to allow for the Council's advocate's personal circumstances. This was then further delayed for the same reason and closing submissions were received on 16 December.

Main issues

5. There is a single reason for refusal, which breaks down into separate concerns. On that basis there are four main issues in this case:
- Whether the proposal is an unsustainable form of development, in relation to accessibility to shopping, leisure facilities, employment and other services
 - Whether the proposal would provide satisfactory living conditions for the future residents of the site in relation to noise from the M40
 - The effect of the proposal on the character and appearance of the area
 - The effect of other considerations, including the need for gypsy and traveller accommodation and the personal circumstances of the occupiers, on the overall planning balance

Reasons

The site, surroundings and the proposal

6. The appeal site is a grassed field around 2.7 hectares in extent and is broadly triangular in shape. It contains a small animal shelter. Access is by way of a field gate in the southwest corner off the A4095. To the east lies the M40 which runs in a cutting at this point. There is open countryside to the north and west, with a footpath along the west side of the site.
7. The proposal is for three pitches on the southern part of the site, each accommodating a static mobile home, a hardstanding to accommodate a touring caravan and parking area, and an amenity room/dayroom. There would be landscaping around the pitches and the northern part of the site would be retained as a paddock.
8. The proposal includes a 2 metre high planted earth bund with a 3 metre high closed boarded fence on top. This would be located along part of the southern site boundary and the eastern section adjacent to the pitches.

Relevant planning history

9. A previous application for 8 gypsy pitches on the site was recommended for approval by officers for a three year period. However it was refused for two reasons – the noise impact on future residents and the effect on the character and appearance of the area.
10. A subsequent application for 8 pitches was to be recommended for refusal on accessibility, character and appearance and noise grounds. However this application was withdrawn before a decision was made.

Policy context

11. The development plan comprises the Cherwell Local Plan Part 1 (2015) (LP) and the saved policies of the Cherwell Local Plan (1996) (CLP). I will address the policies relevant to each issue in separate sections below.

12. In addition there are a range of material considerations, as set out in the Statement of Common Ground (SOCG)⁴. I have particularly considered national Planning Policy for Traveller Sites (PPTS) and the Gypsy and Traveller Needs Assessment (2012/2013)⁵ and the Accommodation Assessment (2017)⁶. Guidance and policy relating to noise were also discussed⁷.

Gypsy status

13. It is important to establish if the proposed occupiers of the site fall within the definition of gypsies and travellers as set out in Annex 1 to PPTS. Should they not do so, then the particular planning policies related to gypsies would not apply.
14. In essence this definition encompasses persons of a nomadic habit of life including persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily. Case law has established that the nomadic habit has to have an economic purpose.
15. The details of the proposed occupiers of the site are set out in the SOCG⁸.
16. The appellant explained in some detail the travelling patterns of the family members⁹. In addition Mr R Butcher explained clearly at the Inquiry how various members of the family travelled for economic purposes. He frankly and persuasively explained that each round of travelling was different depending on the weather and where work can be found. The general pattern was of travelling throughout the spring and summer, and then a slow down or a halt to travelling during the winter when work became more scarce. Overall the travelling took place around four to six months each year.
17. The Parish Council has expressed concern that the appellants have not recently led a nomadic habit of life.
18. Overall, largely uncontested written and verbal evidence of the nomadic habit of life and the economic purpose of the travelling was put before me. My conclusion is that the proposed occupiers of the appeal site are Romany Gypsies as well as gypsies in terms of Annex 1 to PPTS. The intention is for the appeal site to be the families' base so that the occupiers, especially the children, can have good access to education and medical facilities.

Accessibility

19. LP Policy BSC 6 sets out a sequential approach and a range of criteria for the assessment of potential gypsy and traveller sites.
20. The first part of the policy gives preference to sites which are within a 3km road distance of the built-up limits of Bicester or of a Category A village. With that background it is therefore clear that the LP does not exclude gypsy sites in the countryside. It was stated by the appellants at the Inquiry that all sites in

⁴ Document 12 Section 5

⁵ Cherwell, West Oxfordshire and South Northamptonshire Gypsy and Traveller Needs Assessment (2012/2013) (GTNA)

⁶ Cherwell, Oxford City, South Oxfordshire and Vale of White Horse Gypsy, Traveller and travelling showpeople Accommodation Assessment (GTAA)

⁷ Especially Noise Policy Statement for England (2010) and ProPG: Planning and Noise Guidance (2017).

⁸ Document 12 Paragraph 6.1

⁹ Particularly at Document 6

this District (and more generally) are in countryside locations. That was not contested by the Council and accords with my own experience.

21. Chesterton, a Category A village, is around 1.1km away by road. The SOCG details the facilities which exist, or are absent, in the village. Of particular note is the fact that there is a primary school (but no secondary school), that there are some other local facilities but no shopping or health provision. I appreciate the Council's point that not all the services which might be expected in a Category A village are present in Chesterton, but it is nonetheless designated as such and does include a reasonable range of facilities. Moving slightly further afield the site is around 2.2kms to the edge of Bicester, although it is appreciated that many facilities are located further into the town.
22. In considering this matter, I note that the Council has specifically confirmed that it has never argued a breach of national policy in PPTS (paragraph 25). This policy is that new traveller sites in open countryside away from existing settlements (or outside areas allocated in the development plan) should be very strictly limited.
23. It is clear that the appeal proposal does not conflict with the first part of LP policy BSC 6, but there follows a series of criteria which deal with other factors in assessing the suitability of sites. The appellants' view of BSC 6 is that sites which are within 3 kms of Bicester or a Category A village should be deemed to be both acceptable and sustainable. However the policy states that certain other criteria "will also be considered in assessing the suitability of sites". It is relevant to consider these other criteria, although I note that the Council's position is that the criteria do not need to be passed in every case.
24. The Council has contested a number of the criteria (below), some of which relate to elements of general sustainability (a and b) whilst others (e, f, g, and h) are dealt with under separate headings below:
 - a) access to GP and other health services
 - b) access to schools
 - e) the potential for noise and other disturbance
 - f) the potential for harm to the historic and natural environment
 - g) the ability to provide a satisfactory living environment
 - h) the need to make efficient and effective use of land
25. In relation to the criteria dealing with access to various services, some are provided in Chesterton, which is no great distance away. Turning to access to facilities in Bicester there is only one bus a day from Chesterton to Bicester in the early morning, but no return service, and none at all at weekends. There is another service which connects Oxford and Bicester, but the nearest stop is 3.1km distant. Given the lack of pavements, the fact that national speed limits apply on relevant roads, and the distances involved, I conclude that to all intents and purposes there is no bus service which realistically links the area around the site to Bicester.
26. The predominant method of accessing the full range of services which Bicester has to offer would therefore be by private car. However policy does not require accessibility by public transport and the distances involved are not great, and I consider that the site is reasonably well located.

27. I am also conscious that PPTS does not look solely at the issue of distance to services but also at the benefits of having a settled base from which services can be accessed. In this case, the appeal site is in accordance with that general approach.
28. For the above reasons I conclude that the appeal site is not in a location away from settlements where traveller sites should be very strictly limited in accordance with PPTS, and that the occupiers of the site would have reasonable access to facilities and services. I conclude that it does not conflict with the generality of LP policy BSC 6 or criteria a) and b) within the policy, or LP policy ESD1 (reducing the need to travel and reducing dependence on cars), or CLP policy C8 (development in the open countryside).

Noise

29. The site is located immediately west of the M40. Despite the fact that the motorway, which both parties accepted is particularly heavily trafficked, runs in a cutting at this point, there is a significant level of noise on the site. This is self-evident and there is no dispute that, given the residential nature of the proposal, the development would be sensitive to the prevailing acoustic environment.
30. Development plan policy is to be found at LP policy BCC 6e) and g), which deal with the potential for noise and the ability to provide a satisfactory living environment. CLP policy ENV1 refers to developments likely to cause materially detrimental levels of noise and, whilst this is the reverse of the current position, the approach towards noise is relevant. The reasoned justification to the policy refers to ensuring that development within an affected area should be distanced from the pollution source. At the national level the Framework refers to the need to avoid noise giving rise to significant adverse impacts on health and the quality of life.
31. Each pitch would include one static and one touring caravan, along with a dayroom and an amenity area. I will deal with each aspect of the proposal in turn.
32. In relation to internal noise levels within the static caravans it is agreed that provided they are manufactured to BS 3632:2015 (Residential Park Homes. Specification), the noise environment inside the static caravans would be acceptable. I have no reason to disagree with this conclusion, which assumes that the bund and fence are in place and that the mobile homes are constructed to this standard. These matters could be the subject of conditions.
33. Touring caravans are constructed to a lower standard, and the parties agreed that they were unaware of any which are built to the BS standard above. On that basis, it is clear that overnight occupation of touring caravans would render the occupiers susceptible to unacceptable noise levels. The appellant put forward a condition to prevent overnight occupation. The Council did not contest this condition on grounds of enforceability, but only on the basis that it would be unreasonable as touring caravans are intended for occasional accommodation. Whilst that is self-evidently true, this does not mean that in the specific circumstances of this proposal such a condition would be unreasonable. On that basis, there would not be an issue with the use of the touring caravans.

34. In relation to the dayrooms, the appellants' persuasive evidence is that the dayrooms with patio doors open have been designed to be within external acceptable noise levels. In any event, they would provide a further opportunity for partial outdoor living, in line with the proposed occupiers' traditions.
35. Turning to the external environment, it is clear that at some point exposure to noise can cause significant observed effects, above which the noise would cause a material change in behaviour. In this case such a change could be the inability to use the external amenity space, which is an integral part of the proposal. It is therefore important that the noise experienced in those spaces should be such that they can be used as intended.
36. There was some debate at the Inquiry as to the degree to which the motorway noise would impinge on the external amenity space. The Council did not provide any noise readings themselves but relied on the appellants' acoustic expert.
37. The relevant noise standards in BS 8223:2014 and Noise Policy for England (2010), along with ProPG: Planning and Noise; and Planning Practice Guidance allow for some leeway even if noise levels are over 55db LAeq. The reference in the Standard is to guideline values which may not be achievable in all circumstances where development might be desirable.
38. The appellants accept that there would be a breach of the guidelines in respect of external noise levels. With the proposed mitigation in place the external noise level would be between 60-63 dBLAeqT. It is therefore clear that there would be an effect, but that is not the test. The Council's position could be summarised that as soon as one exceeds the recommended figure, there would be a significant adverse impact. I agree that such exceedance serves as a warning, but there needs to be a fuller consideration of the potential impact in each case.
39. In this instance, there is a clear need for the development and the desirability of the proposal (for reasons set out elsewhere in this decision) is a consideration when looking at the guideline values. I fully appreciate that the presence of children on the site makes the availability and suitability of outdoor space all the more important. Based on the evidence submitted, reinforced by my site visit, I do not consider that the external amenity areas would experience significant adverse effects or materially detrimental levels of noise, and consider that they would be able to perform their intended function.
40. My attention has been drawn by the parties to decisions for ostensibly similar developments in other areas. However each appeal must be determined on its own merits, and the existing and proposed noise climates at these other locations will inevitably have been different, as were site circumstances. In addition it is far from clear to what extent noise implications were at issue between the parties or the extent of evidence in each case.
41. Reference has been made to the Piddington appeal decision, but my reading of this decision is that it is not comparable to the current proposal for two reasons. Firstly the nature of the noise events was entirely different, and secondly it appears in that case that thresholds would not be breached. This leaves aside any site specific circumstances and the fact that I do not know what evidence was put before my colleague.

42. There was a suggestion put forward by the appellant that the culture and way of life of gypsies and travellers, and in particular the fact that they are used to significant noise effects when staying by the roadside, should be factored into consideration. I do not agree, and it is clear to me that gypsies and travellers should not be subjected to noise which would be regarded as unacceptable for the settled population.
43. Overall, for the reasons set out above, the proposal would provide satisfactory living conditions for the future residents of the site in relation to noise from the M40. It would not conflict with LP policy BCC 6e) and g), which deal with the potential for noise and the ability to provide a satisfactory living environment, or with the Framework.

Character and appearance

44. The area around the appeal site is not suggested to be a valued landscape and is not the subject of any landscape designations. It is significantly impacted by the M40 in both aural and, in part, visual terms – so the baseline is significantly less tranquil and rural than might otherwise be the case.
45. Many proposals for gypsy and traveller sites in the countryside will involve an effect on the character and appearance of the area. In the case of this proposal there would not only be the effect of the caravans themselves, hardstandings, dayrooms and domestic paraphernalia, but also the visual effect of the acoustic bund and fence which, though aimed at reducing the noise impact of the proposal, would also have a visual effect. However the bund and fence would be comparatively tightly drawn around the individual pitches and, with the proposed native under-storey planting, would become assimilated into the surroundings within a short period of time.
46. The proposal would clearly have some effect on landscape character, although I judge this to be only a slight impact. The locations where receptors might appreciate the change to the area were discussed in evidence and at the Inquiry – these are mainly the entrance to the site, the footpath running adjacent to it, and the view from the nearby motorway bridge.
47. I visited all these locations during my visit, and it is clear that the development would be particularly visible from the footpath along the western site boundary, especially where there are gaps in the vegetation. I note that this footpath was omitted from the appellants' landscape evidence, but I have taken its existence fully into account. It would be less obvious from the entrance and the motorway bridge from which the limited views would be only fleeting.
48. For these reasons, I do not consider that the proposal, in particular the bund and fence, would be particularly out of place in its setting, and would cause only slight harm to the character and appearance of the area. It would nonetheless conflict with LP policies BSC 6 f), dealing with harm to the natural environment; ESD 13, dealing with landscape protection; and ESD 15 which deals with the relationship with the natural environment.

Need for and supply of sites for gypsies and travellers

49. LP policy BSC6 provides that the District will provide 19 (net) additional pitches to meet the needs of gypsies and travellers to 2031. This was intended to be

achieved by way of allocations in a future part of the development plan and by granting permission for suitable sites.

50. The supply of pitches has changed over time, including the loss of a substantial number of pitches at one site (Newlands/Bloxham) a couple of years ago, for reasons which were not entirely clearly explained at the Inquiry. The Council's evidence sets out a potential need for at least 37 pitches. Although the appellants and the authority have put forward different figures in relation to the shortfall, there is no need to examine this difference further in the current case. This is because the Council's position (like that of the appellants) is that there is a significant unmet need for additional gypsy sites in the area, and that there are no allocated or emerging alternative sites. The parties agree that significant weight should be attached to the unmet need, and this is a view which I share.
51. Like my colleague who dealt with the Piddington Inquiry, and who apparently heard broadly similar evidence, I attach significant weight to the unmet need for gypsy and traveller sites. The grant of permission in this case would provide some limited assistance in meeting that need in line with the relevant part of LP policy BSC 6.

Personal circumstances

52. The closure of the Newlands/Bloxham site made the families' situation highly precarious. Evidence was given of the various locations which they have used over the past years. This includes 'doubling up' on others' pitches, occupying pitches while others are away, staying on unsuitable sites and living by the roadside.
53. The Council were not able to point to alternative sites to which the proposed occupiers could resort, and there was no suggestion that they are not in very serious need of proper permanent accommodation. It is therefore unnecessary to examine their personal need in any detail as this is clearly set out in evidence and is persuasive. This adds significantly to the weight to which I give the personal circumstances in this case.

Other considerations

54. The Council has expressed concern that, in the light of LP policy BSC 6h), which deals with the need to make effective and efficient use of land, the proposal is an underuse of the site. However the authority also made it clear that they would not support a more intensive use. It is certainly true that a significant area of the site would be used as a paddock, but I do not consider this represents an underuse of land in terms of the LP or PPTS (which in any event only deals with effective use of brownfield, untidy or derelict land), especially given the need for gypsy and traveller accommodation.
55. Some local residents have expressed concern related to pollution, highway safety, flooding and the effect on wildlife, but there is no detailed evidence to substantiate these objections. These are not matters weighing significantly against the proposal.

Planning balance

56. I have carefully considered the fact that, if planning permission is not granted, the proposed occupiers of the site would have to continue living in a range of

unsatisfactory and, in some instances, unlawful locations. This would be an interference with their home, private and family life within the terms of Article 8 of the European Convention on Human Rights (ECHR). In addition Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration. In this case the proposed occupiers' families include children, and providing a settled base from which they can access educational and medical facilities is a primary consideration.

57. I have also had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Since the appeal is made for the use of the land as a gypsy site and the proposed occupiers are Romany Gypsies, they are persons who share a protected characteristic for the purposes of the PSED.
58. It does not follow from any of the above matters that the appeal should automatically succeed. However, the lack of sites and the absence of any development plan provision for travellers may indicate inequality of housing opportunity for Romany Gypsies and other human rights issues. These matters add significant weight to the appeal.
59. In relation to the development plan, the appellants' position is that LP policy BSC 6 is out of date and that the so called 'tilted balance' in Framework paragraph 11 applies. BSC 6 deals specifically with traveller sites in relation to broad locational criteria and detailed matters. It is common ground that the general locational approach in the policy is met, that the proposal would contribute to meeting the need for sites, and that some other detailed matters are not offended. In some other respects I have found compliance with the policy. It is only criterion BSC 6(f) where I have found limited harm relating to the character and appearance of the area. Overall, the proposal complies with most of the criteria in LP BSC 6, which is the most directly relevant and all-embracing development plan policy – although I appreciate that there is no supply of sites as envisaged in the policy. This is one of the most important policies for determining the application, along with those related to noise and character and appearance. Based on the evidence, I have no reason to conclude that this basket of policies, taken as a whole, is out of date.
60. Overall, the only area where the proposal would cause harm or policy conflict is in relation to the effect on the character and appearance of the area. However this is set against the fact that the proposal would contribute to meeting the general need for gypsy and traveller accommodation in Cherwell which, especially in the absence of any progress on allocations by the Council, is a matter to which I give significant weight. In addition I give significant weight to the personal circumstances set out above.
61. The planning balance is clearly in favour of the grant of planning permission, and the conflict with some parts of the development plan is outweighed by the material considerations set out above, including the need for gypsy sites and personal circumstances. Given that position I have not had any need to consider the possibility of a temporary permission.

Conditions

62. A range of conditions was discussed and agreed (aside from the condition relating to the overnight occupation of the touring caravans) at the Inquiry. I have made only minor modifications to these in the interests of precision.
63. In the interests of clarity, a condition is needed to specify the approved plans [2]. The number of pitches and caravans need to be controlled in the interests of the appearance of the development in line with the details of the proposal [11]. The paddock area should be retained for equestrian or agricultural use to prevent other uses in the interests of the appearance of the area [15].
64. A range of details need to be approved before the development begins – these include drainage (in the interests of health and the avoidance of flooding), a reptile survey and a Landscape and Ecology Management Plan and control over work in the light of the Ecological Survey Report (all for species/habitat protection reasons) [3, 4, 5, 8].
65. In the interests of the appearance of the development, a condition is necessary to ensure that the approved landscaping is implemented [7]. I have separated the provision of the fence and bund from this agreed condition in the interests of clarity and imposed a separate condition dealing with these matters [6].
66. As discussed above, it is important that the static caravans are properly sound insulated [9] and that touring caravans, because of their lower standard of insulation, are not used overnight [10].
67. The need for gypsy and traveller accommodation and the personal needs of the proposed occupiers, taken together, tip the planning balance in favour of the grant of permission. It is therefore necessary to impose conditions to restrict the occupation of the site, and to require the restoration of the site when the named occupiers leave in the interests of the amenity of the area [12, 16, 17].
68. In order to safeguard the amenities of those on the site and the area more generally, conditions are necessary to control vehicle sizes and prevent commercial activity. [13, 14].

Conclusion

69. For the reasons given above I conclude that the appeal should be allowed.

P. J. G. Ware

Inspector

Schedule of conditions
Land west of M40 adjacent to A4095, Kirtlington Road, Chesterton

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
2. The development shall be carried out in accordance with drawing numbers TDA.2316.01 (Location plan); TDA.2316.03 Rev F (Proposed site layout & detailed landscape scheme); TDA.2316.04 Rev A (Proposed day room); TDA.2316.05 (Acoustic fence and bund detail).

Prior to commencement

3. Prior to the commencement of development, full details of a foul and surface water drainage scheme for the site shall be submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development. The scheme shall be implemented in accordance with the approved details before any caravan is first occupied.
4. Prior to the commencement of the development, including any demolition and any works of site clearance or the translocation of any reptile, a reptile survey (which shall be in accordance with best practice guidelines) shall be carried out, and the findings, including a mitigation strategy and timetable if required, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works of mitigation shall be carried out in accordance with the approved details and timetable.
5. Prior to the commencement of the development, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details and timescale. This LEMP shall include details outlined Just Mammals Consultancy - Preliminary Ecological Appraisal (2017) - relating to bird nesting mitigation strategy and an exterior lighting strategy.

Prior to first occupation

6. The use of the land hereby permitted shall not commence until the bunding and acoustic fencing hereby approved shall have been constructed.
7. All planting, seeding or turfing comprised in approved plan TDA.2316.03 Rev F shall be carried out in accordance with the most up to date British Standard for general landscape operations, in the first planting and seeding season following the first occupation of any caravan. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

8. The development hereby approved shall be carried out in accordance with the recommendations set out in Section 9 of the Ecological Survey Report carried out by Just Mammals Consultancy (2018) unless otherwise agreed in writing by the local planning authority. No removal of hedgerows, trees or shrubs nor works to, or demolition of buildings or structures that may be used by breeding birds, shall take place between the 1st March and 31st August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one year) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.

Post occupation compliance

9. Any static caravan shall comply with BS 3632:2015 in relation to sound insulation and ventilation requirements.
10. Any touring caravan shall not be used for overnight accommodation.
11. The development hereby approved shall comprise no more than 3 pitches as shown on the approved site layout drawing number TDA.2316.03 Rev F. No more than 2 caravans, 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 1 shall be a static caravan or mobile home) shall be stationed on each pitch at any time.
12. 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' (2015) or any subsequent revision.
13. No more than one commercial vehicle per pitch shall be kept on the land. Each vehicle shall not exceed 3.5 tonnes in unloaded weight and shall not be stationed, parked or stored on the site except within the relevant pitch and shall not be used other than by occupiers of that pitch. No other commercial vehicles shall be kept on the land.
14. No commercial activities, including the storage of materials, shall take place on the land other than the storage of materials in vehicles authorised to be parked on the site.
15. The area identified as 'existing paddock retained' on drawing number TDA.2316.03 Rev F to the north of the proposed 1.2m post and rail fence shall not be used other than for equestrian or agricultural use.
16. The occupation of the site hereby permitted shall be carried on only by Cybil Butcher, Mitchell Butcher, Courtney Butcher and their resident dependents; Clifford Smith, Gina Smith and their resident dependents; David Stevens, Jane Stevens and their resident dependents.
17. When the land ceases to be occupied by those named in condition no. 16 above, all mobile homes, caravans, buildings, structures, materials and equipment brought onto the land or works undertaken in connection with the

use shall be removed and the land restored to its condition before the development took place.

<<<<<<<End of conditions>>>>>>>