



Appeal Decision

Hearing held on 10 June 2025

Site visit made on 10 June 2025

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2025

Appeal Ref: APP/H1840/W/25/3360640

Land on the West Side of Murcot Road, Childswickham, Broadway WR12 7HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Charmaine Davies against the decision of Wychavon District Council.
 - The application Ref is W/24/01079/FUL.
 - The development is 6no pitch Gypsy/Traveller site with associated hardstanding, fencing and installation of Package Treatment Plant.
-

Decision

1. The appeal is allowed, and planning permission is granted for 6no pitch Gypsy/Traveller site with associated hardstanding, fencing and installation of Package Treatment Plant at Land on the West Side of Murcot Road, Childswickham, Broadway WR12 7HR in accordance with the terms of the application, Ref W/24/01079/FUL, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Wychavon District Council against Ms Charmaine Davies. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of development in the heading above has been taken from the Council's decision notice, the appeal form, and the agreed Statement of Common Ground, which differs from the description given on the planning application form. Whilst the proposal was originally described as 'partly retrospective', it was agreed at the Hearing that no part of the proposal is retrospective. Therefore, the banner heading description more accurately describes the appeal proposal, and the main parties agreed to this description at the Hearing.
4. The gypsy status of both the appellant and the wider group is not in dispute. From the information before me, I am satisfied that all future occupants would fall within the definition of 'gypsies and travellers' set out in the Annex to the Government's Planning Policy for Traveller Sites ('PPTS'). The PPTS is therefore a material consideration.
5. The Council's reasons for refusal refer to the 2023 version of the National Planning Policy Framework (the Framework) and the 2015 version of the PPTS. Since the refusal of the proposal, the 2024 iteration of both of these documents have been published. Therefore, my decision has been made in this context.

6. It became apparent at the Hearing that the incorrect certificate had been served as part of the application submitted. The appellant served the correct notice on the landowner subsequent to the Hearing and prior to my determination of the appeal.
7. From April 2024, Biodiversity Net Gain (BNG) is now a national requirement set by government and is mandatory for all applicable developments. Whilst this was not a reason for refusal, it was a matter which was discussed at the Hearing and would be relevant to the determination of the appeal proposal. Therefore, it will be a main issue in my decision.

Main Issues

8. The main issues are:

- whether the proposed development would be in a suitable location, having regard to the development strategy for the area and the access to local services and facilities, having regard to the PPTS;
- the effect of the development on the landscape character and appearance of the area, having regard to the PPTS;
- whether the proposal would comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding;
- whether the proposal would make adequate provision for BNG; and
- whether any harm arising from the proposal would be outweighed by other considerations.

Reasons

Suitable Location

9. The appeal site lies in the open countryside. Policy SWDP 2 of the South Worcestershire Development Plan (2016) (SWDP) states that in the open countryside, development will be strictly controlled and will be limited to development specifically permitted by other SWDP policies, including Policy SWDP 17.
10. Policy SWDP 17 of the SWDP is a criteria-based policy against which the suitability of planning applications for traveller sites are assessed. Part C(i) of policy SWDP 17 refers to whether the site is within, or on the edge of, a town or a category 1, 2 or 3 settlement. I note that this criterion is more prescriptive than the PPTS which states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan¹. Therefore, this particular criterion is not entirely consistent with the PPTS. It is also relevant that paragraph 29 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
11. Nevertheless, I recognise that Policy SWDP 17 should be read alongside Policy SWDP 4 of the SWDP which sets out that proposals must minimise demand for travel and offer genuinely sustainable travel choices.

¹ Paragraph 26 of the PPTS

12. It was agreed at the Hearing that the appeal site is not located within, on the edge of, or in close proximity to a town or a category 1, 2 or 3 settlement. The closest settlements would be Murcot and Childswickham, which are approximately 700m and 990m away respectively. Whilst these distances might not in themselves be prohibitive, these settlements offer no or little services, with Childswickham, a category 4A village, only offering a public house, church, village hall and playground. Murcot, consisting of only a handful of dwellings, offers no services. There are also no demarcated or lit footpaths leading from the site and Murcot road is subject to a speed limit of 60mph. The nature of the road would mean that it would not be particularly appealing to walk or cycle alongside. These factors would also limit the use of the nearby farm shop.
13. There is a bus stop in Childswickham, and I was provided with the bus timetables for the relevant bus service at the Hearing. However, I am not convinced that the frequency of the buses would represent a reasonable alternative to the private car for future occupants of the development. The fact that the bus stop can only be accessed on foot via the roads described above would also not make it a very attractive option.
14. On that basis, occupants of the proposal would need to travel to Broadway (a Category 1 settlement- 3.5km away) and Evesham (a Main Town - 5km away) to meet many of their everyday requirements, such as access to health services, schools, shops, or employment. However, the proposal would not offer any genuinely sustainable travel choices to these settlements, and the intended occupants of the site would be reliant on the private vehicle to access nearby facilities and services.
15. It was put to me by the appellant that sustainability can be achieved via different ways, as was the finding of an Inspector in an earlier appeal decision². By definition, gypsies and travellers are nomadic and travel is part of their way of life. I acknowledge that paragraph 13 of PPTS seeks to ensure that traveller sites are sustainable economically, socially and environmentally. The provision of a settled base for 6 gypsy households would facilitate access to local facilities, services and schooling, and reduce the likely extent of long-distance travelling, in line with paragraph 13 of PPTS.
16. Furthermore, some of the future intended occupants would work and travel together in one vehicle, combining the need to travel for work with other purposes, such as accessing day to day services. I also note that any car journeys to Broadway and Evesham would be relatively short, approximately a 7 minute drive and a 9 minute drive respectively, both via relatively main roads. The Council agreed that these distances would be 'modest'. On this basis, whilst the access to health services, schools and employment would likely be via the car, the distances and roads required to access them could be considered 'reasonable', in accordance with criterion C (x) of Policy SWDP 17.
17. The appellant has questioned whether there is a need to comply with each and every criterion of Policy SWDP 17. In my mind, I recognise that it might not be a simple 'tick box exercise' of meeting each of the criteria. However, the spatial strategy, and the overall objective of Policy SWDP 17, in regard to traveller sites directs them to the most sustainable locations. The appeal site would not be within

² Appeal Decisions: APP/J0405/C/13/2193582 and 2193601

or ‘on the edge of’ a category of settlement listed in criteria C(i) of Policy SWDP 17. I have recognised that it may be more prescriptive than the PPTS. However, whilst I have no reason to find that the proposal would not dominate the settled community or place undue pressure on local infrastructure, I am concerned that due to the sites position in the open countryside, the appeal site would fall under that which both Policy SWDP 17 and SWDP 4 seeks to prevent, failing to offer any genuine sustainable travel choices.

18. I have been referred to a number of other appeal decisions, some of which are in different authorities, in the written evidence of both main parties in regard to the suitability of the location of sites, in regard to their access to key services and facilities. At the Hearing, the appellant also drew my attention to 2 earlier appeal decisions elsewhere in the district³ which have considered a similar issue, assessing the suitability of the appeal sites, their proximity to local services and the reliance on the private car. I don’t have the full details of these proposals before me apart from the appeal decisions themselves. However, from the decisions, I notice that there would be differences with the proposal along Murcot Road, notably that the appeal site before me now would be in a more isolated location than these earlier schemes, with a greater distance to higher category settlements in order to access day-to-day services and with no genuinely sustainable travel choices available such as walking, cycling or public transport.
19. Nevertheless, what is clear from these other appeal decisions from both main parties is that this relevant issue is one that is open to interpretation and depends on the specific circumstances of each case. Whilst consistency is important, the examples given merely indicate to me that each case must be considered on its own merits, determined in the light of the specific circumstances and context of each case. I have considered this appeal on its own merits and have found it to be in conflict with the relevant policies for the reasons set out above.
20. Therefore, taking all the above matters into account, the proposed development would not be in a suitable location, having regard to the development strategy for the area and the access to local services and facilities, as well as having regard to the PPTS. The proposal would be contrary to the overall objective of Policy SWDP 17, as well as Policies SWDP 2 and SWDP 4, of the SWDP. These policies, in combination, direct development to the most sustainable locations, strictly controlling development in the open countryside. They seek to ensure that new traveller sites are, amongst other criteria, within or on the edge of, a town or Category 1, 2 or 3 settlement, as well as minimising demand for travel and offering genuinely sustainable travel choices.

Landscape Character and Appearance

21. The appeal site and the surrounding area is a largely flat landscape with open fields, interspersed with field boundary hedgerows and fences. To the south of the appeal site lies a large agricultural building, as well as some smaller stable buildings. Equestrian uses and associated stable blocks also lie in the immediate fields to the north. There are also some sporadic housing along Murcot Road to the north, at the road junction with Evans Hill Cottages, as well as some sporadic housing further to the south, as you approach Childswickham. Therefore, whilst the

³ Appeal Decisions APP/H1840/W/19/3244056 and APP/H1840/C/20/3256744

appeal site lies in the open countryside, its immediate surroundings is not devoid of built form.

22. The site is rectangular in shape. There is a Public Right of Way (PROW) which runs parallel to the western boundary. An established hedgerow runs along the eastern boundary with Murcot Road, which continues along the road to the north. A lower hedgerow runs along Murcot Road to the south, opening up views to the site from this direction. Established hedgerows also run along the eastern and southern boundary. Due to the flat nature of the surroundings, close range views are possible from Murcot Road, the PROW and from Evans Hill Cottages to the north.
23. Caravan sites will have some visual impact on the character and appearance of a countryside location. However, one must use their planning judgement as to the degree of the impact. Criteria C (v) of Policy SWDP 17 states that a consideration of assessing the suitability of traveller sites is whether any significant visual impact on the landscape can be mitigated.
24. Whilst the stationing of the caravans and associated hardstanding would have some impact on the landscape character, they would be single storey in form with a modest mass. The slightly raised height of the caravans would make the structures more visible in the landscape, but this would not be to such a level as to make them unacceptable. The proposal would protrude away from the highway, but it would still be contained over a relatively small area and seen in the context of the existing sporadic built development in the immediate open countryside.
25. A landscaping scheme has been provided, which outlines the mix of species to be included within native hedgerows enclosing the site. The landscaping scheme sets out that in order for a thick hedge to be created quickly, there would be '7 plants per metre in a triple row, planting them 45cm apart in each row with 30cm between the 2 rows'. It also sets out that the individual plots would be marked out using a 2m high wooden post and rail fencing with a double row of native hedging.
26. Whilst it may take time for the landscaping to become established, and that the hedge would not screen the development during winter months, I do not consider the proposal would require a 'substantial enclosure' to mitigate effects on the surrounding open countryside, as stated by the Council. This is particularly as the advice in the PPTS states that sites should not be enclosed to such an extent that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community
27. The Council allege that due to the shape of the appeal site, this would make 'a well-designed site much more difficult to achieve', with the layout proposing '6no. plots with mobile homes positioned side by side'. However, rather than being overly cramped, the size of the plots would be relatively spacious and could accommodate both a mobile home and touring caravan whilst retaining some space around the caravans. The overall size of the site, as well as the number of pitches would be of an appropriate and proportionate scale. The moveable nature of the caravans and the fact the touring caravans would not permanently be on site would also help to mitigate any impact of the layout. Furthermore, a central area would be retained as a turning circle and provision of access to services. This would help to break up the apparent 'cramped' nature of the proposal, including when viewed from the close range viewpoints identified above.

28. I acknowledge that no landscape or visual impact assessments has been undertaken to demonstrate the likely impacts of the proposals on the surrounding landscape. However, whilst I appreciate that this would assist in making an assessment, it does not make a judgement impossible. Evidently, from my findings above, I was able to make a planning judgement and found that in these circumstances, there would be no harm to the landscape character and appearance.
29. It was put to me by interested parties that the appeal site was in a 'basin', with sloping topography enclosing it, which would allow for views into the site. However, whilst this 'sloping topography' was observed on site, it was at such a distance that rather than the proposal being seen as 'jutting into an open field', it would in reality be seen in the context of the other sporadic built form along Murcot Road.
30. Therefore, for the reasons set out above, the proposal would not harm the landscape character and appearance of the area, having regard to the PPTS. It would be in accordance with criteria C (v) and (vii) of Policy SWDP 17 of the SWDP. These criteria require proposals for Travellers and Travelling Showpeople that significant visual impact on the landscape to be mitigated and for the size of the site and the number of pitches to be of an appropriate scale for the location.
31. It would also be in accordance with Policies SWDP 21 and SWDP 25 of the SWDP. These policies, in combination, require development and their associated landscaping schemes to be appropriate to and integrate with the character of the landscape setting and that they conserve the primary characteristics of the landscape. All development will be expected to be of a high design quality and to integrate effectively with its surroundings, in terms of form and function. Whilst these policies are not specifically mentioned in the reasons for refusal, the Council considered that they are still material considerations.

Flood Risk

32. The appeal site lies predominantly within Flood Zone 1. However, part of the western side of the site, part of Plot 1, lies within Flood Zone 2 due to the close proximity to the Badsey Brook, which runs parallel to the western boundary. I also note the Council's own historical flood mapping data shows that a large proportion of the western end of the site is vulnerable to surface water flooding in a 1 in 1000 and 1 in 100 flooding event, albeit they verbally confirmed that this was not any larger than the Flood Zone 2 area identified.
33. Policy SWDP 28 of the SWDP states that in order to minimise the impacts of, and from all forms of flood risk, development proposals must demonstrate that the sequential test has been applied, in addition to the exception test if the sequential test is satisfied. Paragraph 170 of the Framework advises that inappropriate development in areas at risk of flooding should be avoided, by directing development away from areas at highest risk.
34. Having regard to tables 2 and 3 in the Planning Practice Guidance (PPG), the proposal constitutes a "highly vulnerable" development in Flood Zone 2. In accordance with the Framework, it should therefore meet the Sequential Test and the Exception Test, which are set out in the Framework at paragraphs 101 and 102 respectively.

35. At present, the touring caravan would be positioned within Flood Zone 2, whilst part of the static caravan would also be within Flood Zone 2. However, the appellant submits that as Plot 1 is of an ample size, and that as the Flood Zone 2 designation only covers less than half of the plot, both the static mobile home and the touring caravan could be positioned on part of the plot with the lowest risk of flooding. The appellant submit that a revised layout could be secured by way of a suitably worded condition and thus consequently, the sequential test would be passed. The Council argue that they are not persuaded that this could be conditioned as it would impact the proposal in terms of its visual impact and that it would prejudice third parties.
36. I am satisfied that the precise siting of the caravans within Plot 1 of the appeal site is a matter that could be controlled by a planning condition, and that the caravans could be positioned on the part of the site with the lowest risk of flooding, without harming the character and appearance of the area given my findings above. Whilst it is accepted that outdoor areas and parking associated with the use would remain within Flood Zone 2, on balance, I consider that these uses in themselves would not result in the future occupants being at risk to flooding. Along with the FFL of the static caravans being 600mm above ground level, I am satisfied that future occupants would be safe from flooding within the caravans themselves, and the proposal would not increase flood risk elsewhere through the displacement of flood water. Therefore, as the development can be located in areas of low flood risk, the sequential test is passed.
37. Furthermore, the future occupants of Plot 1 would have a safe access and evacuation route, with the access road to the appeal site, including the access to Plot 1, being entirely within Flood Zone 1. I am therefore satisfied that in a flood event, the occupiers would be able to evacuate to the Flood 1 Zone within the site and then gain access to Murcot Road to the east.
38. The Flood Risk Assessment (FRA) submitted with the application had originally suggested that ground levels would be lifted by 100mm in order to reduce the potential flooding across the whole site. However, the appellant confirmed at the Hearing that no land raising would be required should the caravans on Plot 1 be moved to outside Flood Zone 2. In these circumstances, I see no reason why the ground levels should still be raised, especially given the negative consequences this could have on the flood risk elsewhere.
39. Given that I have concluded that a revised layout would move the mobile home and touring caravan out of Flood Zone 2, there would no longer be a highly vulnerable use in Flood Zone 2. An exception test is no longer required.
40. Therefore, for the reasons set out above, with a suitably worded condition for a revised layout to be submitted which moves the caravans associated with Plot 1 outside of Flood Zone 2, I am satisfied that the proposal would comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding. Notably, it would be in accordance with the provisions of Policies SWDP 28 and SWDP 29 of the SWDP. Together these policies require development to minimise flood risk, to ensure there would be no increase in flood risk or harm to third parties, ensure that development is safe from flooding for its lifetime and to ensure safe access and exits are available.

Biodiversity Net Gain

41. Schedule 7A of the Town and Country Planning Act 1990 (as amended) (the Act) introduced a statutory framework for BNG, and it applies to all planning applications for non-major development submitted on or after 2 April 2024. Under the statutory framework, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the Biodiversity Gain Condition (BGC), which requires that at least a 10% increase in biodiversity value is met.
42. The application form states that the proposal would be exempt from BNG as it is a retrospective application, and the site has already been developed. However, as already stated above, it was confirmed at the Hearing that no part of the proposal is retrospective. Therefore, it would not be exempt from the mandatory BNG.
43. A Preliminary Ecological Appraisal (PEA) was submitted with the application, alongside a Statutory Biodiversity Metric, which confirms that the total net gain achieved in regard to habitat units would be 0.46%. Therefore, the proposal would not achieve at least a 10% increase in biodiversity value relative to the pre-development onsite habitat.
44. The statutory framework for biodiversity net gain involves the discharge of the Biodiversity Gain Condition (BGC) following the grant of planning permission. The determination of the Biodiversity Gain Plan (BGP) under the BGC is the mechanism to confirm whether the development meets the biodiversity gain objective. Therefore, development cannot commence until the BGP is approved.
45. On this basis, the PPG indicates it would generally be inappropriate to refuse an application on grounds the biodiversity gain objective will not be met. Rather, decision makers may need to consider more broadly whether the BGC is capable of being successfully discharged.
46. The PEA is silent in regard to both the consideration of the Biodiversity Gain Hierarchy and the potential alternatives that exist to statutory biodiversity credits. At the Hearing, the appellant confirmed that they had yet to speak to or secure any allocation of registered offsite biodiversity gains or purchase any statutory biodiversity credits. Nevertheless, these outstanding matters can be resolved via the imposition of the BGC. Therefore, I consider the BGC would be capable of being discharged.
47. Consequently, whilst the proposal currently provides insufficient information on how the statutory BNG would be achieved, this information would be submitted as part of the BGC. It is not a reason to refuse planning permission in these circumstances.

Other Considerations

Supply and Need

48. It is agreed in the Statement of Common Ground that the Council is unable to demonstrate a 5 year supply of Gypsy and Traveller pitches, with a shortfall of 12 pitches. At the Hearing, the appellant disagreed with the calculation of the shortfall, suggesting that it could in fact be greater than 12.
49. Nevertheless, for the purposes of this appeal, I have adopted the agreed position that there is a shortfall of 12 pitches. Therefore, there is currently an immediate unmet need in the district. Any provision would need to be met through suitable

windfall sites. Accordingly, in this context, I give the unmet need significant weight in my decision.

Alternative Sites

50. The Council have set out that 'the SWDP Review includes policies and allocations for new Gypsy and Traveller sites and Travelling Showpeople yards on the strategic allocations at Rushwick, Throckmorton and Worcestershire Parkway'. However, I heard that this was still going through the examination process, with adoption currently expected in December 2025. However, even if allocations were made within the plan, it is unlikely that these would be available in the short term. The Council themselves confirm that delivery of these allocations is expected from 2029 onwards. Therefore, I can only attach limited weight to the emerging policies and allocations at this time.
51. The evidence before me indicates that there are no pitches available within the district at the current time with little likelihood of any availability in the immediate future. The appellant has also been advised that there are approximately 40 families ahead of her for a pitch. Furthermore, the Council has not suggested any suitable and available alternative sites for the appellant within the district. Therefore, I give the lack of suitable and available alternative sites considerable weight.

Personal Circumstances

52. The appellant's updated personal circumstances and those of the other intended occupants were discussed at the Hearing. The appellant, who would live on Plot 1, has 4 children, who are aged 3, 5, 10 and 12 years. One currently attends a preschool 4 days a week. Two currently attend a primary school in another town. The other is currently homeschooled and has a private tutor 2 hours a week, which would continue. Two have Special Educational Needs and one also has learning disabilities. Whilst their existing preschool and school are some distance from the appeal site, the appellant indicated at the Hearing that, if the appeal was allowed, the children would likely move to a school closer by. In any event, a settled base would allow them to attend school regularly, regardless of the school's location.
53. The appellant currently lives in a bricks and mortar house, which they have now been evicted from. This accommodation is culturally unsuitable and is not a settled base. The appellant is clearly committed in providing their children with an education. The children are settled in school and have attended the same primary school since reception age and have a 90% attendance at school. The education would clearly be disrupted if the appellant and their family had to revert to a roadside existence, given the lack of alternative accommodation, which would be to the detriment of the children's education. I give this matter substantial weight.
54. The appellant's sister in law, Crystal Smith, would also be one of the intended occupants (Plot 6) alongside her husband and 3 children, who are aged 11, 17 and 18 years. One is homeschooled with a tutor, whilst another is due to start at Pershore College in September 2025. The other is no longer in education and suffers from severe ADHD. Ms Smith provides full time care to them. I also heard that she was a carer for her sister that lives in Evesham.
55. The appellant's sister would also reside on the proposed site, on Plot 2. She also currently lives in a bricks and mortar house with her parents which is both too small

for her and also unsuitable culturally. She wishes to be able to provide support for her sister and the wider family group. She suffers from health issues, for which she is on regular medication. Therefore, a settled base would allow for her to access consistent health care, and I give the identified health needs moderate weight.

56. The other intended occupants of plot nos. 3, 4 and 5 were unable to attend the Hearing due to attending a funeral. Whilst there is little evidence in regard to the personal circumstances of these intended occupants, a settled base would bring stability and avoid the stress of a roadside existence. None of the evidence suggested that all of the households had previously travelled together as a single group. However, I am satisfied that they form part of the appellant's wider support group, offering mutual support, as well as working together and providing various caring duties for each other.
57. 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 all actions by public authorities concerning children. The best interests of the children would be served by establishing a secure permanent home at the appeal site given the lack of suitable alternatives, particularly as the appellant has now been evicted. Should the appeal be dismissed, they would be forced to either lead a roadside existence or double-up on pitches elsewhere. This would inevitably impact negatively on the children's education and wellbeing. In addition, the loss of the mutual support provided by the extended family would also have a negative impact on the children's wellbeing. Accordingly, the best interests of the children is a factor that attracts significant weight.

Other Matters

58. A number of the interested parties, as well as the Council, have submitted information in regard to the public sale of some of the plots proposed. The Council have recently alleged that 4 of the plots have now been sold with the last 2 plots still being advertised. However, the appellant was unaware of the origin of the adverts and denied any involvement. Whilst I note that the potential public sale of the plots may question the personal circumstances presented as part of the appeal, should I be minded to allow the appeal, a personal condition could be attached to any decision. This would ensure that regardless of the ownership of the plots, they would have to be inhabited by the named occupants set out in a personal condition.
59. The Council have also questioned whether the site is capable of providing onsite services for a mains water supply, mains electricity or waste disposal, which is a requirement of Policy SWDP17 (criteria 'ix'). Foul sewerage would be by means of a package sewage treatment plant and, surface water run-off would be collected and used for washing cars etc. Whilst a borehole was originally planned to provide water, the appellant verbally advised at the Hearing that the site is served by mains water supply. They also verbally advised that they have had a quote for the site to be served by mains electricity. Whilst the Council is concerned about the feasibility of these suggestions, no substantive evidence from the Council has been submitted to demonstrate that these solutions cannot be achieved. Therefore, I am satisfied that these matters could be achieved or resolved via suitably worded conditions.

Planning Balance

60. Paragraph 24 of the PPTS requires proposals for pitches be assessed and determined in accordance with the presumption in favour of sustainable development. Since the Council is unable to demonstrate a five-year supply of deliverable pitches, paragraph 11 of the Framework is engaged.
61. The proposal would not be in a suitable location as it would not be within, or on the edge of, a town or Category 1, 2 or 3 settlement, nor would it offer genuinely sustainable travel choices. These matters would result in significant harm.
62. I have afforded significant weight to the unmet need and lack of alternative pitches and afforded the best interests of the child substantial weight. Moreover, the mutually supportive nature of the family relationships with the other intended occupants of the site, both in terms of the health care and the needs of the children, adds considerable weight.
63. I have also found that there would be no harm to the character and appearance of the area, and that, with a suitably worded condition, the proposal would comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding. I am also satisfied that the BGC would be capable of being discharged. These all would be neutral in the planning balance.
64. I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. The appellants and the other intended occupants of the site have protected characteristics for the purposes of the PSED. Dismissal of the appeal would be a serious interference with these individuals' rights to respect for private and family life and the home (Article 8 of the HRA) as there is no other lawful homes currently available to them and they would be likely to be living by the roadside. This existence would not be in the best interests of the children or the wider support group.
65. Providing a settled base for the children to access education is important, as is the benefit of the appellant's wider support group living together on a suitable site for the reasons explained. Therefore, in these circumstances, the conflict with the development strategy in regard to the location of the proposal would be outweighed by the matters I have identified above. Collectively these matters would carry significant positive weight and would indicate that I should take a decision other than in accordance with the development plan.
66. I have given some consideration as to whether permission should be restricted to four years, as suggested by the Council. However, it is not certain that the shortfall in pitches would be resolved at that time. Furthermore, given the relatively young ages of some of the children on the site, there would still be disruption to their education after this time if they had to move from the appeal site. Therefore, a permanent planning permission is appropriate in these circumstances.

Conditions

67. I have had regard to the conditions suggested by the Council and that were discussed at the Hearing and considered them against the tests in the Framework and the advice in the PPG, making such amendments as necessary to comply with those documents. I heard from the appellant who disputed the need for a number of

these conditions. However, I am satisfied that, in these circumstances, the following conditions meet the relevant tests in the Framework and the PPG.

68. A condition setting a time limit for commencement of the development is required by statute. It is appropriate that there is a condition requiring the development to be carried out in accordance with the approved plans for certainty. However, for the reasons already set out, a revised plan is required in regard to the siting of the caravans on Plot 1 in order to ensure that the caravans are positioned on the part of the site with the lowest risk of flooding.
69. It is necessary to restrict the number of pitches and caravans to protect the character and appearance of the area. There is also justification for the site to be occupied by Gypsies and Travellers to safeguard the supply of the site for this purpose and as such a condition is necessary to restrict occupation. There is also justification to impose a personal condition, given the specific circumstances of the case justify a decision other than in accordance with the development plan. Given that a personal condition is attached, I have imposed a condition so that the land is restored to its previous condition when the use ceases for those named.
70. To ensure the provision of adequate on-site facilities in the interests of vehicle safety, it is considered reasonable to attach a condition requiring a Construction Environment Management Plan to be submitted and approved, given the nature of the rural roads and the scale of the mobile homes.
71. Full details of the hard and soft landscaping would be reasonable to protect the character and appearance of the area. Also in the interests of the character and appearance of the area, as well as in the interests of the conservation and enhancement of biodiversity, a Landscape and Ecological Management Plan (LEMP) is considered reasonable.
72. The Council has suggested a condition in regard to controlling any off-site biodiversity net gains by way of a conservation covenant or a Section 106 agreement. However, any completed agreements would be secured through the discharge of the biodiversity gain condition. Therefore, such a condition is not considered reasonable or necessary. The Council has also suggested a condition which requires the BGP to be implemented in line with the details submitted with the plan. However, again, this would be required under the biodiversity gain condition and does not necessitate a separate condition.
73. As briefly mentioned above, full details of surface water drainage and foul sewage systems are both considered reasonable and necessary to safeguard against pollution, and to ensure that the proposal does not exacerbate flood risk elsewhere.
74. In the interests of highway safety, a condition which requires the shared access roadway to be consolidated, surfaced and drained appropriately is necessary. A condition which controls any external lighting is also considered necessary, in the interests of the character and appearance of the area, as well as the conservation of biodiversity within the site.
75. A condition which prevents commercial activities and heavy vehicles using the site is considered necessary in the interests of the character and appearance of the area. Finally, in order to ensure that protected species are not harmed, a condition which requires the site to be cleared in accordance with the Preliminary Ecological Appraisal is considered necessary.

Conclusion

76. For the reasons given above, relevant considerations indicate that permanent planning permission should be granted for development not in accordance with the development plan as a whole. Therefore, I conclude that the appeal is allowed.

Laura Cuthbert

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Phillip Brown	Agent - Phillip Brown Associates
Ms Charmaine Davies	Appellant
Ms Crystal Smith	Intended Occupant
Ms Anna Marie Davies	Intended Occupant

FOR THE LOCAL PLANNING AUTHORITY:

Victoria Kempton BSc (Hons) PGDip MRTPI	Principal Planning Officer (Development Management)
Mrs Denise Duggan BSc (Hons) Dip TP MRTPI	Principal Planning Officer (Policy)
Robert Smith BSc MSc Urban RTPI Licentiate	Planning Officer (Development Management)

INTERESTED PARTIES

Stephanie Ross, on behalf of Mr Sam Launchbury	Planning Agent, Fishergerman
Stephen Holloway, on behalf of Mr Sam Launchbury	Planning Agent, Fishergerman
Councillor Emma Kearsey	

DOCUMENTS SUBMITTED AT THE HEARING

1. HM Land Registry Plan
2. Appeal Decision – APP/H1840/W/19/3244056 Land south of Ox Orchard, Dough Bank, Ombersley, Droitwich, Worcestershire WR9 0HN
3. Appeal Decision - APP/H1840/C/20/3256744 Land on the north side of Charlton Lane, Torton, Kidderminster DY11 7SD
4. Bus Timetables

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with drawing nos Site Location Plan TI085-001 and Proposed Block Plan TI085-002; except in respect of the siting of the mobile home and touring caravan on Plot 1, as shown on Proposed Block Plan TI085-002.
3. Notwithstanding condition 2, no development above ground level shall take place until details of the revised siting of the mobile home and touring caravan on Plot 1 have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. No more than 12 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 6 shall be a static caravan) shall be stationed on the site at any time.
5. The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such 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 or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
6. The occupation of the site hereby permitted shall be carried on only by Charmaine Davies, Joe Smith, Anna Marie Davies, Cienna Maria Loveridge, Fred Stevens, Darcy Birch, Sam Smith, Crystal Smith, and their resident dependants.
7. No development shall take place until a Construction Environment Management Plan has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
 - a. The parking of vehicles of site operatives and visitors within the application site.
 - b. Loading and unloading of plant and materials within the application site.
 - c. Storage of plant and materials within the application site.
 - d. Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway.
 - e. Measures to control the emission of dust and dirt during construction.
 - f. Responsible persons and lines of communication.
8. Notwithstanding the submitted details, no development shall commence until a scheme of both hard and soft landscaping shall has been submitted to and approved in writing by the local planning authority. The landscaping scheme shall include:-
 - i. a plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, canopy spread and species, together with an indication of any proposals for

fellings/pruning and any proposed changes in ground level, or other works to be carried out, within the canopy spread.

- ii. a plan(s) showing the layout of proposed tree, hedge and shrub planting and grass areas.
- iii. a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities of plants.
- iv. specifications of the materials for any hard surfacing (including roads, paths, parking areas and other hard surfaces).
- v. a plan(s) showing the layout and position of any hard surfacing.
- vi. an implementation programme.
- vii. a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied, in accordance with the agreed implementation programme. The completed scheme shall be managed in accordance with the approved landscape management plan.

Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

9. Prior to the commencement of development hereby approved a landscape and ecological management plan (LEMP) shall be submitted to and agreed in writing by the local planning authority. The content of the LEMP shall be based on the approved Landscape Scheme and informed by a BNG Assessment and associated metric calculations, and shall maintain this after implementation. It shall include the following:

- a) Description and evaluation of the features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule, including an annual work plan capable of being rolled forward over a five-year period and for a minimum of 30 years thereafter;
- g) Details of the body or organisation responsible for implementation of the plan;
- h) On-going monitoring and remedial measures.

The plan shall also set out where the results of the monitoring show that conservation aims and objectives of the LEMP are not being met, how contingencies and/or remedial action identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The LEMP will be implemented in accordance with the approved details.

10. The development hereby permitted shall not be occupied/first used until full details of all surface water drainage systems to serve the development have been submitted to and approved in writing by the local planning authority. The approved drainage works shall be implemented in accordance with the approved details before the first occupation/use of the development hereby permitted and shall be retained thereafter.
11. Prior to the occupation of any caravans hereby approved on the site, the first 8m of the shared access roadway from the highway, shall be properly consolidated, surfaced and drained in accordance with a specification to be submitted to and approved in writing by the local planning authority. The access shall be subsequently maintained in accordance with the approved details thereafter.
12. Before the development hereby permitted is first occupied/used, details of any external lighting to be provided in association with the development shall be submitted to and approved in writing by the local planning authority. The details shall include times when the external lighting will not be switched on. Only external lighting in accordance with approved details shall be provided on the application site. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) there shall be no other external lighting provided on the application site.
13. The development hereby permitted shall not be occupied/first used until full details of all foul sewage systems to serve the development have been submitted to and approved in writing by the local planning authority. The approved works shall be implemented in accordance with the approved details before the first occupation/use of the development hereby permitted and shall be retained thereafter.
14. When the land ceases to be occupied by those named in condition 6, the use hereby permitted shall cease and all caravans/mobile homes, structures, areas of hardstanding, materials and equipment brought on to, or erected on, the land, or works undertaken to it in connection with the use, shall be removed.

Within 6 months of cessation of that use and/or removal of all caravans/mobile homes, structures, areas of hardstanding, materials and equipment from the land, that land shall be restored to its condition before the development took place, or in accordance with a site restoration scheme that shall first have been previously submitted to and approved in writing by the local planning authority.
15. The site shall not be used for any trade or business purpose other than as a home base for light vehicles (i.e. not exceeding 3.5 tonnes) used by the occupants of the site for the purposes of making their livelihood off site. In particular, no materials associated with such activities shall be stored on the site.
16. Site clearance shall be carried out in accordance with the precautionary measures described in paragraph 4.2. of the Preliminary Ecological Appraisal by Cotswold Wildlife Surveys dated July 2024.