



Appeal Decision

Site visit made on 17 May 2011

by John Wilde C.Eng M.I.C.E.

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 June 2011

Appeal Ref: APP/R3325/A/11/2144826

**Land at Higher Beetham Farm, Higher Beetham, Chard, Somerset,
TA20 3PY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Kevin Parris against the decision of South Somerset District Council.
 - The application Ref 09/04232/FUL, dated 29 October 2009, was refused by notice dated 23 July 2010.
 - The development proposed is the erection of an agricultural building.
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Application for costs

1. An application for costs was made by Mr Kevin Parris against South Somerset District Council. This application is the subject of a separate Decision.

Decision

2. I dismiss the appeal.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupiers of the nearby dwelling and on the users of the nearby caravan park.

Reasons

4. The proposed development would be south of and accessed from a minor road known as Giants Grave that runs more or less east to west. To the north of this road is a caravan and camping park and also a dwelling known as Little Acre.
5. I have been provided with a report entitled *An Assessment of the Odour Impact of the Proposed Winter Cattle Housing at Beetham Farm, near Coombe St Nicholas, Somerset*, produced by Matt Byrom of the Met Office Rural Environment Team (MORET). This report concludes that *under the current proposals, odour exposure in the surrounding area would be at levels unlikely to cause nuisance or elicit complaint.*
6. The dispersion modelling results included in the report indicate that in close proximity of the cattle house the 98th percentile hourly mean odour concentration would be over 15 European Odour Units per cubic metre of air (OUe/Cum). The report chooses an acceptable benchmark to be 4 OUe/cum

and indicates that taking data over a full year this level of concentration would reach to the north boundary of Giants Grave. Taking data only over the period from October to March this concentration would reach into the entrance to the caravan park.

7. The modelling within the report is based on two volume sources which are marked as V1 and V2 on figure three of the report. The higher of these is to the south end of the proposed cattle shed and is shown as V2. It is higher, according to the report, *in order to represent the greater likelihood of odour being emitted at the southern end of the building, which is partially open.*
8. However, drawings 0434/5 and 1434/6, submitted as part of the application clearly show that it would be the north elevation that would be partially open. It follows that the concentrations given in the report for the caravan park and Little Acre, which are to the north of the appeal site, would be greater than those shown in the report. One of the conclusions of the report is that the target of 4.0 OUE/cum would only be marginally exceeded over the first few metres of the driveway of the caravan park. Given the identified error in the volume sources, I am not persuaded that the target would not be exceeded further into the park, thereby affecting the users of the park. Furthermore, the letter from MORET dated 14 January 2011 makes clear that *odour from the proposed development would certainly be detectable at the caravan park and residence on occasion.*
9. I also note that the chosen value of 4 OUE/cum is above the value of 3 OUE/cum given for moderately offensive odours in IPPC H4: Horizontal Odour Guidance Parts 1 & 2, published by the Environment Agency (EA). The reasons given within the report for choosing a different guideline value are that *it is often considered reasonable and in line with original guidance from the EA to relax this target if the area is rural and local residents may reasonably be expected to be relatively tolerant of agricultural odours.* In this case however, the 'local residents' are likely to be holiday makers who may not be tolerant or indeed familiar with agricultural odours, and would in my view be more likely to complain.
10. In this respect I note that on page six of the report it is made clear that the probability of complaints about odour sources depends on, amongst other things, the nature of the area in which complainants live and the nature of the odour. The example given is that *people who live or work in suburban areas may be relatively intolerant of countryside odours.*
11. I also note that the MORET report accepts that there is little data available on odour emissions from cattle houses such as the one proposed. The report makes clear that if the surfaces at the proposed unit are to be washed regularly and there is to be no storage of manures, emissions can be expected to be somewhat lower than the average figure of 73 European odour units per second (OUE/s) per animal. The report then adopts a precautionary figure of 75 OUE/s per animal.
12. However, the implication from this statement is that if the surfaces are not washed regularly and storage of manure occurs, then emissions could be higher. Whilst I note the appellant's intention to apply good practice, this would be difficult to enforce in planning terms, and non compliance may well result in higher emissions that could impact detrimentally on users of the caravan park.

13. Furthermore, the Agricultural Planning Report produced by Acorus Rural Services that I have been supplied with indicates that the farmyard manure from the building would be spread on the adjoining agricultural land in accordance with the requirements of specified in the Code of Good Agricultural Practice for the protection of water, (October 1998 edition). Whilst this may be in line with good practice for the protection of water, I have been supplied with little evidence to indicate the ramifications of such practice in terms of the resulting odour. Whilst I accept that manure could be spread on the fields in question at anytime, I consider it likely to be a more regular occurrence if the source of the manure is in close proximity.
14. The Acorus report also states in section 7.4.3 that *there will also be a need for a storage area on site for big bale silage, some 500 tonnes of silage in bags. This could equate to an area about 40m x 12m x 3 bales high. This is normally provided on a hardcore surface close to the building.* Whilst this form of storage may not result in odour emissions, the absence of any mention of this potential source of odour in the MORET report is a further area of concern and reinforces my view regarding the potential inaccuracies within the report.
15. I note that the figures given by the MORET report are a worst case scenario for a relatively short period of time, and that some margins for error have been included. However, the letter from MORET dated 14 January, whilst on the one hand explaining that the predictions from prediction model used (AERMOD) tend to err on the high side, also states that the margins of errors in modelling due to meteorology, dispersion characteristics and any peculiarities of a particular model are generally accepted to be a factor of two either way. Whilst the generators of the model may have confidence in the results, given the above factor, I do not share this confidence.
16. Whilst I accept that the caravan park would be closed for the majority of the winter period, there would be some overlap with the use of the proposed cattle shed. Furthermore, should the caravan park seek to extend its working period, then the potential presence of odours could be a significant hindrance.
17. In arriving at my findings above I have taken heed of the need for the additional building, the suitability of the site in topographical and access terms, the letter of support from the National Framers Union and also the quoted comments of Hilary Benn MP. These do not however, lead me to an alternative conclusion.

Conclusion

18. In light of my above findings, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Wilde

Inspector



Costs Decision

Site visit made on 17 May 2011

by **John Wilde C.Eng M.I.C.E.**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 June 2011

Costs application in relation to Appeal Ref: APP/R3325/A/11/2144826 Land at Higher Bettham Farm, Higher Beetham, Chard, Somerset, TA20 3PY

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Kevin Parris for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of planning permission for the erection of an agricultural building.
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Decision

1. I refuse the application for an award of costs.

Reasons

2. I have considered this application for costs in the light of Circular 03/09. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
3. Paragraph B15 of the Annex to Circular 03/09 advises that a planning authority are at risk of an award of costs against them if they prevent, inhibit or delay development which should reasonably be permitted, having regard to the development plan, national policy statements and any other material considerations.
4. Paragraph B16 of the same Annex advises that in appeal proceedings, planning authorities will be expected to produce evidence to substantiate each reason for refusal, and to show clearly why the development cannot be permitted.
5. The Council produced only one reason for refusal. This concerned the effect of the proposed development on the visitors to the adjacent caravan and camping park and the occupiers of the neighbouring dwelling.
6. The Council, in their officer's report concerning the proposed development, quote from the report from the Met Office Rural Environment Team (MORET) entitled *An Assessment of the Odour Impact of the Proposed Winter Cattle Housing at Beetham Farm, near Coombe St Nicholas, Somerset*. This quote is taken from the conclusion to the report and states that *under the current proposal, odour exposure in the surrounding area would be at levels unlikely to cause nuisance or elicit complaints*. The appellant's own report therefore acknowledges that odours would be likely to be present in the surrounding

area. In the letter from MORET of 14 January 2011 this point is reinforced where the writer states *however, it is not true to say that there would be no impact and odour from the proposed development would certainly be detectable at the caravan park and residence on occasions.*

7. The Council then make the point in the officer's report that measurement of odour differs from that of noise in that with noise there is commonly a measure of background noise, whereas with odour this is not the case. The officers report then goes on to state that *with odour, and in the majority of cases, persons are not aware of any background as such; a new smell is readily identifiable and will often be considered objectionable.* This point is amplified in the report where it states that we could, by allowing this application, introduce/subject individuals to an odour where none currently exists.
8. The officer's report also makes the point that the usual target odour concentrations have been relaxed as they may be some reasonable expectation that local residents will be relatively tolerant of agricultural odours. It then goes on to question this assumption and points to the fact that the nearest farm buildings are over 500m to the south-east, such that a large concentration of livestock in close proximity would not be expected.
9. The Council also point to the difference between the concepts of loss of amenity and nuisance. Whilst the author of the MORET report subsequently confirmed that in their view amenity would not be affected, the report regularly uses the word nuisance. The Council make the point that where odour is concerned the Environmental Protection Act 1990 gives the Council powers to deal with odours that are a statutory nuisance, but that this does not necessarily equate to the concept of loss of amenity, which is a more subjective concept.
10. Overall therefore, while I accept that the officer's report contains certain wrong assumptions regarding the MORET report, on balance I consider that substantive evidence has been produced to show why the development should not be permitted.

Conclusion

11. I therefore conclude that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/09, has not been demonstrated. An award of costs is not therefore justified.

John Wilde

Inspector



Appeal Decision

Hearing held on 22 March 2011

Site visit made on 22 March 2011

by Mark Dakeyne BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 June 2011

Appeal Ref: APP/R3325/A/10/2140256

Land at Merriott Road, Hinton St George, Somerset TA17 8TG

- 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 Ms Rebecca Cathcart against the decision of South Somerset District Council.
 - The application Ref 10/03055/FUL, dated 26 July 2010, was refused by notice dated 13 October 2010.
 - The development proposed is the change of use of land to private gypsy caravan site with 2 pitches.
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Decision

1. I allow the appeal, and grant planning permission for the change of use of land to private gypsy caravan site with 2 pitches at land at Merriott Road, Hinton St George, Somerset TA17 8TG in accordance with the terms of the application, Ref 10/03055/FUL, dated 26 July 2010, subject to the conditions set out in the attached schedule.

Background

2. The appellant does not belong to a traditionally nomadic culture but took to a life on the road when she was 17 and has continued travelling since. The term New Traveller would most closely fit her characteristics and lifestyle. She wishes to cease travelling and live on the appeal site on the grounds of her childrens' educational and health needs. The Council agree that the appellant falls within the definition of "gypsies and travellers" at Paragraph 15 of *Circular 01/2006*¹. I have no reason to disagree, having regard to the information before me, and have proceeded on the basis that planning policies for gypsies and travellers apply.
3. *Circular 01/2006* remains the main statement of national policy on gypsies and travellers. However, following an earlier announcement that he intends to revoke the Circular, the Secretary of State has recently published a consultation document² in which he explains that the current planning policy for traveller sites does not work and that a new approach is needed. Whilst the Circular has yet to be revoked, the substance of the consultation document gives a clear indication as to the Government's intended direction and is thus a material consideration. That said, because the consultation may prompt

¹ OPDM Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites – 2 February 2006

² Planning for traveller sites – Draft Planning Policy Statement – Consultation – April 2011 (DPPS)

amendments to the draft guidance and because the Circular remains in place, I am also bound to have regard to the latter in determining this appeal.

Main Issues

4. Taking the appellant's gypsy status as a starting point, I consider that the main issues in this appeal are:
 - (1) the effect on the character and appearance of the area;
 - (2) the need for, and provision of, gypsy and traveller sites in the area;
 - (3) the appellant's accommodation needs and alternative options; and,
 - (4) the other personal circumstances of the appellant and her dependants.

Reasons

Character and Appearance

5. The appeal site lies in the open countryside just to the east of the village of Hinton St George. Paragraph 54 of *Circular 01/2006* advises that rural settings not subject to special planning constraints are acceptable in principle for gypsy and traveller sites. The site is in such a rural setting. The DPPS, whilst advising that new development in the open countryside should be strictly limited, recognises that some rural areas may be acceptable for some forms of traveller sites. A similar permissive policy approach for gypsies and travellers compared to the settled population is also contained in Policy 36 of the Structure Plan (SP)³ and Policy HG11 of the Local Plan (LP)⁴ both of which form part of the development plan.
6. The rural landscape in the area is characterised by a series of ridges and valleys covered by a patchwork of fields bounded by hedgerows and broken by the occasional wooded copse. Hinton St George sits on the top of one such ridge, close to the northern escarpment. Land to the south of the ridge falls away more gently before rising again to Windwhistle Ridge.
7. The appeal site and some of the neighbouring land on either side of Merriott Road used to form part of a nursery for fruit and ornamental trees. The nursery land has now been subdivided into a number of different plots, including the rectangular parcel owned by the appellant.
8. As the appeal site lies on the south facing slopes of the ridge it is visible from the country lanes towards Windwhistle Ridge and some of the linking footpaths. Furland Lane, from where clearest views of the site are available, forms part of the Sustrans Cycle Network. Without screening, the white reflective caravans, together with vehicles and other accoutrements of domestic life, would introduce a harsh element into the attractive rural scene. They would represent visual detractors for users of the lanes, particularly walkers, cyclists and horse riders.
9. In terms of reducing the detrimental impact of the development, the significant number of remaining nursery trees on the site could be managed to partially wrap around the part of the site where the caravans would be sited. A substantial belt of woodland planting is proposed towards the foot of the appeal site which would provide further screening for the caravans and other elements. A copse of this nature would not be out of character with the local landscape. Whilst the planting would take some time to establish, evidence

³ Somerset and Exmoor National Park Joint Structure Plan Review – Adopted April 2000

⁴ South Somerset Local Plan 1991-2011 – Adopted 2006

indicates that an effective buffer could be achieved within about 2 years of planting. In addition the appellant indicated that the largest caravans that she would require would be single-unit mobile homes. The proposal would meet criteria c) and d) of Paragraph 23 of the DPPS.

10. The caravans would not be readily visible from the north due to the slope of the land, the bank to Merriott Road and the lines of nursery trees. Although the playing fields and playground by the village hall are above the road, the nursery trees would also be an effective screen from these viewpoints. The nursery trees would need to be thinned out to form a working orchard. However, careful management of the orchard would enable the retained and newly planted trees to have a similar screening effect.
11. The access track and parking area to serve the site would be seen from the entrance to the site from Merriott Road. However, the appellant has indicated that a sensitive form of grass-based surfacing would be utilised. Such a rural form of track and the parking of a small number of vehicles would reflect the character of the previous arboricultural use.
12. Hinton St George is a compact very attractive village. It is recognised as an Outstanding Heritage Settlement (OHS) by Policy 8 of the SP. Because of the secluded nature of the most of the approaching rural lanes its charms, apart from the church tower, are not readily apparent until you are within the settlement boundaries. The approach from the east, past the appeal site, is different as some of the village houses can be seen across open land. However, the majority of the buildings visible from this direction are the modern houses on the east side of South Street and on the south side of Merriott Road. Similarly, distant views of the village from the south-east, which include the appeal site, are dominated by the same modern housing. In this respect and having regard to the existing and proposed planting there is no evidence the development would affect views into and out of the extensive historic part of the village which is designated as a Conservation Area.
13. *Planning Policy Statement 5: Planning for the Historic Environment* recognises the importance of the setting of a designated heritage asset. The way that an asset is experienced in its setting is not just related to visual considerations. However, I consider that the development would be sufficiently detached and screened so as not to be spatially associated with the asset. Other environmental factors likely to arise from the development would not impact on the setting. Therefore, the proposal would not detract from the significance of the village as a heritage asset.
14. The relatively small plots of land to the east of the village could be seen as vulnerable to change due to the different ownerships. The cumulative impact of change could be damaging to the village's setting. Indeed the *Hinton St George Village Design Statement (VDS)*, which has been endorsed by the District Council as Supplementary Planning Guidance, recognises the sensitivity of the eastern approach to the village and its vulnerability. The *Hinton St George Village Plan*, prepared by villagers, emphasises the importance of the setting and surroundings of the village. The VDS indicates that the area could be enhanced by restoration of the historic landscape. However, I consider it unlikely that open fields bounded by hedgerows would be restored over the whole of the former nursery land taking into account the way that some of the other plot owners are managing their plots. The appeal proposal would not create an open field. However, the proposed landscaping would introduce

hedgerows to the site boundaries which could include some trees. In this respect the objective of the VDS to introduce hedges and large trees on the eastern approach would be assisted by the development. Planting could reflect the advice within Appendix I of the VDS.

15. In accepting that gypsy sites can be located in the countryside a degree of harm to the character and appearance of an area is likely in many cases. In this instance the harm would be reduced by the siting and scale of the development, the management of existing planting and the introduction of new planting which would help to assimilate the development into the landscape. Taking into account all the above factors I conclude that the proposal would cause some harm to the character and appearance of the area, particularly to the rural landscape, but that the development would not pass the threshold of "unacceptable harm" set by Policy EC3 of the LP. I regard this test to be more consistent with the objectives of *Circular 01/2006*, Policy 36 of the SP and Policy HG11 of the LP than those set by Policies ST3 and ST5 of the LP which come into play because the development would be outside a defined development area and could not be said to respect the character of the landscape. Furthermore, Policy HG6 of the Council's *Draft Core Strategy (CS)* would not be breached as the harm to landscape character would not be significant. Although limited weight should be attached to the emerging policy it does reflect the intended future approach of the Council to gypsy and traveller sites.
16. In terms of the special character of the village, the OHS designation would be respected in accordance with Policy 8 of the SP. Policy EH1 of the LP would not be breached as the development would not affect the setting or views in or out of the Conservation Area. Reference has been made to appeal decisions made in 2004 but the circumstances are different as they related to a site within the Conservation Area⁵.

The Need for, and Provision of, Gypsy Sites

17. Top-down targets are to be removed. In any event there are no figures within *Regional Planning Guidance for the South-West (RSS)* for the provision of gypsy and traveller pitches. However, a Gypsy and Traveller Accommodation Assessment (GTAA) was recently carried out for Somerset⁶. The GTAA indicates a need for 18 residential pitches within South Somerset for the period 2010 to 2020, of which 10 are required in the period 2010-2015. It was agreed at the hearing that these figures are the best basis for assessing need. They are the sort of robust evidence base advocated by the DPPS. They are more up-to-date than the pitch requirements recommended by the Panel Report into the RSS Revision (Gypsies and Travellers)⁷ which, in any event, only covered the period up to the end of March 2011. Understandably the GTAA figures have not yet been translated into the emerging CS. However, it is likely that they will form the basis of the Council's approach to the local need for sites.
18. The Council has granted planning permission for a number of residential pitches in the last few years. The Council takes the view that further appropriate small private sites are likely to come forward for planning

⁵ Appeal Decision Refs: APP/R3325/A/04/1147235 and 1147236 – November 2004

⁶ Somerset Gypsy and Traveller Accommodation Assessment – Final Draft: 27th October 2010

⁷ Single Issue Review of the Regional Spatial Strategy for the South West in respect of Additional Pitch Requirements for Gypsies and Travellers – August 2007

permission. As a result, if past trends continue, the Council will not need to allocate sites through a Development Plan Document (DPD). No relevant DPD is currently programmed. That said the Council is prepared to review the need for a Site Allocations DPD at a later stage if it becomes evident that the need is not being met by permissions for private sites. It was indicated that a general call for development sites had been initiated. Some potential gypsy and traveller sites could arise from this trawl which might represent a starting point for a DPD, if required.

19. However, based on the evidence before me, I conclude that there is a need for more gypsy and traveller sites in the area. The need is unlikely to be met by pitch allocations in a DPD. As a result planning permissions for private sites will need to be granted to meet the need. Planning permission in this case, putting aside concerns about visual impact, would fit with the Council's general approach.

The Appellant's Accommodation Needs and Alternative Options

20. The appellant and her family returned to England in 2008 after travelling abroad for work. For a period they parked up at Slough Green Caravan Park near Taunton but they had to leave as their presence resulted in a breach of the planning permission. They then had to spend some time in bricks and mortar housing but found the experience oppressive and distressing. During 2010 the family were living on a number of unauthorised sites and encampments and at the time of the hearing were stopping in a disused lay-by off the A358 at Peasmarsh, to the south of Ilminster. The County Council was seeking eviction.
21. The appellant has been searching for a settled base for some time. Due to the size of her family she requires space for 2 mobile homes and 2 touring caravans which equates to 2 pitches. A planning application was made for a site near Taunton but was refused. The appeal site was bought at auction during 2009 following advice from a Community Liaison Officer working for the Council at that time. Since then the appellant has been seeking to obtain planning permission. An earlier planning application on the appeal site was refused in April 2010. Revisions were made to the scheme which resulted in the submission of the proposal subject to this appeal.
22. The appellant receives details of sites from local estate agents and elsewhere. She states that she has not become aware of a site which she considers is more suitable than the appeal site. There are waiting lists for the Council owned sites in the area which are occupied by distinct groups of Romani Gypsies and Irish Travellers. The site at Ilton is to be extended to provide a further 4 pitches. However, it appears unlikely, based on the evidence, that the site would be available or suitable for the appellant. No other sites were put forward by the Council as alternatives. Reference was made by local residents to land near Merriott which is likely to become available soon. However, there is insufficient information before me to give much weight to that possibility.
23. The appellant has stopped in the South Somerset and Taunton areas for some time and has established a network of friends. One of her sons attends Taunton College. The children of a school age currently go to school in Taunton and Chard. A settled base in the general area would be appropriate although there are no particular ties to Hinton St George.

24. I conclude that there is a need for a settled base for the appellant and her family and there are no proven alternative options. Local connections indicate that the area of search for sites would extend over a reasonably wide area. As such it is likely that other sites could be found within a fairly extensive rural area most of which is without special planning constraints. However, there is no burden of proof on the appellant to prove that there are no alternative sites. The District and Parish Councils do not consider that the site is appropriate because of its impact on the character and appearance but no firm evidence has been put forward of alternative sites in the area which would be any more acceptable than the appeal site.

Other Personal Circumstances

25. Poor health and education amongst gypsies and travellers has been linked to the lack of good quality sites. In this context the appellant has put forward education and health needs in support of the appeal.

26. There are currently 6 children living with Ms Cathcart. The lack of a settled base has resulted in little continuity in education. The primary age children have had to move schools several times. Although the older boys still at home has been able to continue studying in Taunton, travel has been difficult and results in long days. The unsettled existence makes it difficult to make and sustain friendships. Despite these difficulties the appellant appears to be striving to provide a decent education for her children. However, stability would significantly improve their life chances.

27. If the appellant moved to Hinton St George then the younger children would be likely to move schools again, probably to the village primary school and the middle and senior schools in Crewkerne, depending on capacity. However, from that point on there would be continuity and stability in their education.

28. The lack of a settled address brought about by living on encampments such as the lay-by does not allow the family to register with doctors. Therefore, it is difficult to access preventative and regular health care. One of the boys has lost an eye which requires check-ups that are more difficult to organise without a base. The general well-being of the family is currently affected by the lack of basic amenities and vulnerability caused by lay-by living.

29. I conclude that some weight should be afforded to the personal circumstances of the family as the proposal would enhance their health and education outcomes and general well-being.

Other Matters

30. *Circular 01/2006* sets out issues of sustainability which should be considered in such cases. The DPPS also refers to similar sustainability considerations. So far as accessing local services is concerned Hinton St George is close by and has a primary school, a village store and a public house. There is a stretch of road between the appeal site and the village hall without a pavement. However, forward visibility is reasonable. The village, including the school, would be accessible by foot or cycle. Merriott is a larger village about 1 mile to the east. Crewkerne, which has a reasonable range of services, including a health centre, is some 3 miles to the south-east of the appeal site. Access to Merriott and Crewkerne would be along country lanes which are without lighting or footways. Although there is a bus service linking the site with nearby settlements most journeys beyond the village would be likely to be

undertaken by car. However, the site is not remote and it is necessary to be realistic about the availability of alternatives to the car in accessing services. There would be compliance with Policy 36 of the SP and Policy HG11 of the LP in this regard as the site would be within reasonable distance of a settlement providing local services and facilities.

31. There are no permanent dwellings adjacent to the site. The development would not adversely affect nearby residents' living conditions. The site would respect the scale of the nearest settled community of Hinton St George. I see no reason why the site cannot be peacefully integrated with the local community.
32. Planning permission on the site would be subject to control through conditions which would result in environmental benefits in comparison to an unauthorised site or encampment.
33. Visibility at the point of access is reasonable due to the width of the carriageway at this point. Use of the lanes by caravans would be infrequent. The Highway Authority has not objected to the proposal subject to conditions. I consider that the development is acceptable in highway terms.
34. It is indicated that foul drainage would be provided by a package treatment plant. There is a mains sewer on Merriott Road serving the village hall but, from the information available to me, it is not clear whether it would be practical to connect the site due to the distance and gradient involved. A condition could be imposed on any planning permission to require drainage details to be agreed by the Council. At that stage the feasibility of connecting to the mains sewer could be further investigated.
35. The arboricultural use of the site has largely ceased. Whilst the site could revert to agricultural land, the proposal presents an opportunity to provide a productive orchard which would also be beneficial and would retain some biodiversity value. Production on the market garden which is being developed on the plot to the east would not be materially affected as new tree planting would be predominantly at the bottom end of the site away from the garden. I have no reason to believe that the single woodland burial site adjacent would be affected by the development.

Conclusions

36. The development would cause some harm to the character and appearance of the area but that harm would not be substantial. The need for more gypsy sites in the area weighs in favour of the proposal. I also attach weight to the accommodation needs of the appellant's family and the other personal circumstances of the family. I conclude that the harm to the rural landscape would be outweighed by the factors in favour.
37. There has been a high level of public concern about the development. I have taken full and careful account of the views of the Parish Council and local residents in reaching my decision. Some of those concerns may have been prompted by the unauthorised site established at Eggwood Hill. From what I saw of that site from the road it has the character of an uncontrolled unauthorised encampment. In this case the residents should take comfort from the fact that the appellant has followed the advice within Annex E to *Circular 01/2006* and played by the rules as urged by the Secretary of State in his foreword to the DPPS. In particular she has not entered the site without

planning permission despite her family's predicament. The criteria in the Annex, including landscaping and screening, have been considered with the help of expert advice. It would seem to me that it is likely that she will continue to act responsibly in implementing the planning permission and interacting with the local community and that tensions will reduce.

38. With regard to the fear of precedent, the appeal proposal needs to be considered on its own merits. Further development of a similar or different nature may have an unacceptable cumulative impact but future proposals would need to be considered against the circumstances relevant at that time.
39. For the reasons given above I conclude that the appeal should be allowed.

Conditions

40. In allowing the appeal and granting planning permission I have considered the conditions recommended by the Council together with those discussed at the hearing.
41. I have attached weight to the appellant's accommodation needs and the other personal circumstances of the family. Therefore, a personal permission is necessary together with requirements for restoration once such occupation has ceased. In naming the appellant only I have given particular weight to the circumstances put before me. In the future those children who are no longer dependant on Mrs Cathcart would not meet the terms of the condition. I regard this control as appropriate as the personal circumstances will then have changed and the weighing of the factors that led to the grant of planning permission would need to be reviewed. Although the development is justified in the context of policies for gypsies and travellers, a condition limiting occupation to gypsies and travellers is not needed as the personal permission is for a traveller.
42. I consider that conditions referring to the approved layout plan and limiting the number and size of caravans on the plot are necessary in the interests of the character and appearance of the area. (Paragraph 9 refers).
43. A requirement for a detailed landscaping scheme would ensure suitable planting and sensitive surfacing of the access drive and parking and turning areas (Paragraphs 9, 10 and 11 refer). A scheme should include details of the management of the orchard. External lighting could be intrusive so a condition is necessary to control details of any lighting that is to be installed. A condition preventing the carrying out of commercial activities is needed in the interests of the character and appearance of the area and highway safety. Drainage details need to be agreed (Paragraph 34 refers).
44. I do not consider that it is necessary to impose conditions requiring visibility splays and a consolidated surface for the first 5m of the access drive due to the width of the highway, the extent of existing visibility and the distance of the access gate from the highway. A condition controlling the construction of buildings or other structures is not needed as such development would be likely to require a separate planning permission.

Mark Dakeyne

INSPECTOR
Attached – Schedule of Conditions

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The layout of the driveway and parking and turning areas and the siting of the mobile homes, shall be carried out in accordance with the Proposed 1:500 Scale Site Plan. Thereafter the siting of the caravans shall remain as shown on the Site Plan.
- 3) The occupation of the site hereby permitted shall be carried on only by Ms Rebecca Cathcart and her resident dependants.
- 4) When the land ceases to be occupied by those named in Condition No 3 above the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to the land in connection with the use, shall be removed.
- 5) No development shall take place until details of a scheme to restore the land to its condition before the development took place and a timetable for the implementation of the scheme have been submitted to and approved in writing by the local planning authority, the restoration to take place when the site ceases to be occupied by those permitted to do so by Condition No 3. The restoration works shall be carried out in accordance with the approved details and within the timescale specified.
- 6) No more than 4 caravan(s), as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be static caravans or single-unit mobile homes), shall be stationed on the site at any time.
- 7) No development shall take place until full details of both hard and soft landscape works, a programme for implementation and a management plan for existing and proposed trees and hedgerows have been submitted to and approved in writing by the local planning authority based on the Landscape Strategy shown on Drawing No TDA/1820/02 dated January 2011. These details shall include boundary treatments; surfacing materials for the access drive and parking and turning areas; screening to the waste and recycling collection point; and planting plans (including cultivation and other operations associated with plant and grass establishment; schedules of plants, noting species, plant sizes and proposed numbers/densities).
- 8) All hard and soft landscape works shall be carried out in accordance with the approved details and programme. The management of the existing and proposed trees and hedgerows shall be carried out in accordance with the approved plan. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 9) Details of any external lighting on the site shall be submitted to and approved in writing by the local planning authority prior to its installation. Development shall be carried out in accordance with the approved details.

- 10) No commercial activities shall take place on the land, including the storage of materials.
- 11) Prior to any caravans being brought onto the site, details of the means of foul and surface water disposal shall be submitted to and approved in writing by the local planning authority. The approved details shall be fully implemented prior to the occupation of the caravans hereby permitted.

APPEARANCES

FOR THE APPELLANT:

Angus Murdoch BA (Hons) MSc PhD MA MRTPI
Murdoch Planning

Rhodri Crandon BA (Hons) Dip LA
Tirlan Design Associates Ltd

Rebecca Cathcart
Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Gunn
Principal Planner

Robert Archer
Landscape Architect

INTERESTED PERSONS:

Garrett Byrne
Counsel acting for Hinton St George Parish Council

Christopher Mc Dermott BSc (Hons) BLD MLI Chartered Landscape Architect
The Landmark Practice acting for Hinton St George Parish Council

John Shaw BSc (Econ) MCD MRTPI
Shaw Planning Limited acting for Hinton St George Parish Council

Debbie Harvey
The Children's Society

Elizabeth Watkins
Appellant's Friend

Simon Bending
Ward District Councillor

Anna Wallis
Adjoining Landowner

Dawn Quince
Adjoining Landowner

Bob Kefford
Local Resident

Tina Cogan
Local Resident

David Clements
Local Resident

Pat Read
Local Resident

Rosemary Tout
Local Resident

J Pope
Local Resident

