



## Appeal Decision

Inquiry opened on 4 July 2023

Site visit made on 11 July 2023

**by Diane Lewis BA(Hons) MCD MA LLM MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26<sup>th</sup> September 2023**

**Appeal Ref: APP/R2520/W/22/3300464**

**Plot 1, Land off A17 adjacent to the River Witham, Sleaford Road,  
Beckingham, Lincolnshire, LN5 0RQ**

- 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 Michelle Price against the decision of North Kesteven District Council.
- The application Ref 22/0081/FUL, dated 30 December 2021, was refused by notice dated 13 May 2022.
- The development proposed is Change of use from equestrian to residential to accommodate 1 static caravan, 1 touring caravan (parking), brick and tile built day room, parking for 2 vehicles and associated service roads.

### **DECISION**

1. The appeal is dismissed.

### **REASONS**

#### **Preliminary Matters**

2. This appeal related to Plot 1 is one of seventeen appeals regarding development of land to the north of Beckingham village and the A17 Sleaford Road<sup>1</sup>. A hearing into all appeals, arranged to open on 29 November 2022, was postponed on 25 November 2022. Having reviewed the appeals and considered the request on behalf of the appellants, the Planning Inspectorate changed the procedure to an inquiry. I was appointed as the Inspector and a Case Management Conference took place on 2 May 2023. The discussion centred on the management of the appeals, arrangements and programme for the inquiry and the expectations on all participants. There was no discussion of the merits of respective cases.
3. The inquiry opened on 4 July 2023 and closed on 14 July, sitting for a total of 6 days on 4, 5 and 6 July and 12, 13 and 14 July. In addition to the appellants and the Council, the Secretary of State for Defence appeared as a rule 12 party<sup>2</sup>. Beckingham Parish Council also gave evidence. Certain topics were the subject of round table sessions with the remaining matters dealt with through the formal presentation and cross-examination of evidence. An accompanied site visit took place on 11 July to Beckingham Defence Training Estate (the DTE) and the appeal sites.

<sup>1</sup> The linked appeal references are listed in the table at Appendix 1 at the end of the Decision.

<sup>2</sup> The Town and Country Planning (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 SI 2000:1625

4. On 28 June 2023 the Secretary of State issued 17 screening directions, one for each appeal site and directed in each case that the proposed development is not Environmental Impact Assessment Development, having considered possible cumulative effects.
5. In this Decision I consider the appeal proposal on its merits, taking full account of the matters that are specific to the appeal site and the appellant and her family. However, much of the evidence is common to all 17 appeals and therefore a lot of the reasoning is the same as in the Decisions on the other 16 appeals.
6. An application for a partial award of Costs was made by the Council against the appellant group<sup>3</sup>. This application is the subject of a separate Decision.

### **Development site and proposals**

7. The Plot 1 appeal site is part of a larger triangular shaped area of land of approximately 2 hectares (ha) bounded by the A17 to the south, the River Witham to the west, a water recycling centre to the east and the DTE lands to the east, north and west. The evidence available indicates the triangle of land was used previously for grazing horses, an agricultural use, rather than the riding or keeping of horses suggested by the word 'equestrian' used in the description of the proposed development. At the inquiry the appellant agreed the description be amended to read "A material change of use of the land to residential to accommodate 1 static caravan, 1 touring caravan (parking), brick and tile built dayroom, parking for two vehicles and associated service road."
8. The appellant confirmed at the inquiry the application plans are those referred to in the Council's decision notice<sup>4</sup>. The amended site layout plan outlines in red the pitch being applied for (in the south western corner of the triangle) and also the length of service road, all consistent with the description of development and the stated address of the site. Alterations to the main access onto the A17 are included in the proposal, as stated on the planning application form, but no details were provided. The plan of the dayroom shows a simple brick and tile building with a footprint of 7 x 4 metres (m) and ridge height of 4.5m, to provide a dayroom/ laundry and bathroom facilities.
9. The sixteen other appeals follow a similar format. When looked at overall, the proposed layout is of three rows of regular sized plots served by an access road along the eastern boundary and a service road between each row of plots. The additional two plots, Plots 16 and 17 towards the apex of the triangle, appear slightly larger. A grassed area annotated to the north of the plots and grassed areas along the River Witham are not within the red line of any application/appeal site.
10. The site ownership certificates dated 6 June 2022 submitted with the appeal stated that Douglas Price and Richard Smith were the owners of any part of the land to which the appeal relates. This information is consistent with the Land Registry entries dated 5 June 2023<sup>5</sup>. The Land Registry information also shows their wider land ownership adjoins land owned by Lincolnshire County Council,

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<sup>3</sup> The appellant group is the term used to describe all appellants.

<sup>4</sup> MW DP-02 Plot 1 proposed elevations and floor plans received 14 January 2022; MW DP-01 Plot 1 proposed site plan received 3 March 2022.

<sup>5</sup> Core Document 53c Part 1 and Part 2.

which lies immediately to the south and includes the A17 highway<sup>6</sup>. The area of land between the A17 and the southern boundary to the triangle appears narrower at the eastern end (near Plot 7) than at the western end. In oral evidence the appellant stated she owned her pitch, which clearly is not consistent with the Land Registry information or the certificates but is consistent with the oral evidence of Mr Douglas Price.

11. Works to facilitate a material change of use of the Land began on 21 December 2021, through the laying of hardcore. At that time touring caravans were also brought onto the Land. As a result of an injunction granted by the High Court<sup>7</sup>, currently no more than 14 tourer caravans should be on the Land at any one time. The laying of additional hardcore/hardstanding was allowed to provide a base for the caravans, plus the provision of dayrooms and connections to basic utility services.
12. The Order also sets out the procedure and triggers in relation to planning applications for residential use and any subsequent appeals. Following dismissal of any such appeal (including any statutory appeal to the High Court) a Defendant so affected shall within 28 days cease their residential use of the Land and remove their caravan(s) from the Land and remove the dayroom, footings/foundations and all hardcore/hardstanding laid since December 2021 within 56 days.
13. The site visit confirmed that the Land is divided into a number of pitches accessed by hard surfaced tracks, similar to but not the same as the layout indicated on the submitted site plan. Not all the pitches were occupied. Plot 1, as currently configured, appeared to extend further towards the River and be of a more irregular area when compared to the appeal plot. Two touring caravans were present together with a dayroom and sheds.
14. In October 2022 the appellant submitted a preliminary ecological appraisal report and a noise impact assessment (the Nova report). The Nova report considered the development site to be the triangle of land and recommended the installation of 2m high close-boarded fencing on top of a 1m high earth bund 'between the site and the A17 road'<sup>8</sup>. The site considered in the ecology report is also the triangular area of land. The field survey was carried out on 22 August 2022 and the site was described as comprising hardcore hardstanding and areas of grassland with a hedgerow and a line of trees on the eastern and southern boundaries. The report acknowledged the limitations associated with the timing of the field survey post development and the baseline habitats at the site pre-development were not quantified. The identified ecological constraints and opportunities and recommendations for avoidance, mitigation or further survey applied to the site as defined in the report and not individual plots/appeal sites.
15. The appellant's evidence on landscape and visual effects (submitted on 9 June 2023) considered a site of approximately 1.9 ha and the proposed site layout and landscape strategy applies to this triangular shaped area. At the Inquiry the appellant confirmed that the landscape strategy is illustrative only. The Council illustrated that plot 1 on the landscape strategy plan is set back a greater distance from the A17 and the River Witham than shown on the

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<sup>6</sup> Core Documents 53a and 53b

<sup>7</sup> Inquiry Document 15

<sup>8</sup> The location of the bund and fence is shown on a plan within Appendix C to the report.

submitted layout plan with the application<sup>9</sup>. This assessment was not challenged. This discrepancy, when read in conjunction with the Land Registry plans, raises questions over the accuracy of the site layout plan.

16. A Highways Technical Note<sup>10</sup> included plans of a swept path analysis, and visibility splays at the access onto the A17. Proposed improvement works to the main access were not detailed.
17. To conclude, little information was submitted with the planning application or when the appeal was made. The later supporting technical evidence is directed towards the development of the Land as a single site by 'the appellant group' to provide 17 pitches and associated dayrooms and services. However, that is not the proposal for determination. Seventeen separate planning applications were made, resulting in seventeen appeals. No explanation was forthcoming as to why this approach was followed. I will determine each appeal on its individual merits, having regard to potential cumulative effects. This approach was not challenged by the main parties. The proposal and site area in this appeal are those shown on the submitted plans for Plot 1 considered by the Council when refusing permission, not the development on the ground now. The appellant is hoping for a permanent non-personal permission but the options of a personal permission or a temporary permission were also put forward.

## **Planning Policy**

18. The Central Lincolnshire Local Plan (CLLP) was adopted by the Council in April 2023. The CLLP contains planning policies and allocations for the growth and regeneration of Central Lincolnshire over the next 20 years<sup>11</sup>. The CLLP is the relevant development plan document for determining these appeals. No reference will be made to the policies from the Central Lincolnshire Local Plan adopted in 2017 and relied on in the reasons for refusal.
19. The National Planning Policy Framework issued in July 2021 was updated and replaced on 5 September 2023 by a revised Framework. The only substantive revisions relate to planning for onshore wind development in England. None of the revisions apply to the current appeals and no additional comments were sought from the parties.
20. The proposed caravan site is intended to be occupied by Romani Gypsies. Planning policy for traveller sites August 2015 (PPTS), which should be read in conjunction with the Framework, is a consideration. CLLP Policy S83, in Part Three, sets out the criteria for consideration of proposals for new sites for Gypsies, Travellers or Travelling Showpeople.
21. The Framework requires consideration of whether otherwise unacceptable development could be made acceptable through the use of planning conditions. Planning conditions should only be imposed where they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects (the six tests).

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<sup>9</sup> Inquiry Document 4

<sup>10</sup> Appendix 1 WSP Appendices

<sup>11</sup> Central Lincolnshire refers to the combined area covered by the City of Lincoln, North Kesteven and West Lindsey

## Main Issue

22. The main issue, which is common to all appeals, is informed by the reasons for refusal and the current policy context. The focus is on whether the proposed caravan site would be a well planned, sustainable form of development in an appropriate location, taking into account:
- the effects on highway safety, accessibility to services and facilities, the character and appearance of the land and surrounding area, designated heritage assets and biodiversity,
  - the proposed infrastructure and utility services to serve the pitch,
  - the acoustic environment and the effect of introducing the proposed residential use on the operations at the DTE,
  - potential cumulative effects,
  - whether any identified harm may be suitably mitigated through compliance with planning conditions.
23. Other considerations to weigh in the balance are:
- Intentional unauthorised development.
  - The existing level of local provision and need for sites.
  - The availability (or lack) of alternative accommodation for the appellant.
  - Other personal circumstances of the appellant.
24. With reference to reason for refusal No 5, the Council now accepts the proposal, when considered with the proposals for the wider site, would not unduly dominate the village. The Council continues to maintain they are of a scale that does not respect the scale of the settled community.
25. Integral to my decision-making will be exercising duties under the Human Rights Act 1998. Article 8, a Convention Right<sup>12</sup>, affords a person the right to respect for their private and family life, their home and their correspondence. This qualified right requires a balance between the rights of the individual and the needs of the wider community. Central to the principle of a fair balance is the doctrine of proportionality. There is a positive obligation to facilitate the Gypsy way of life to the extent that the vulnerable position of Gypsies and Travellers as a minority group means some special consideration should be given to their needs and different lifestyle in the regulatory planning framework and in reaching decisions on particular cases.
26. Under the Equality Act 2010 public sector equality duty (PSED) I will have due regard to the three aims identified in the Act – to eliminate discrimination, advance equality of opportunity and foster good relations. Romani Gypsies are an ethnic minority and have the protected characteristic of race under section 149(7). The decision must be proportionate to achieving the legitimate planning aims.

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<sup>12</sup> Article 8 of the European Convention on Human Rights, which was enshrined into UK law by the Human Rights Act 1998.

## Reasons

### Highway safety

27. Policy S83 criterion (b) requires the proposal to have adequate and safe vehicular access including for emergency vehicles, other large vehicles and towed loads likely to frequent the site.
28. The CLLP identifies the A17 as one of the key roads in Central Lincolnshire, which is essential for connecting communities and an important route for businesses, including local agricultural and food industries<sup>13</sup>. At the inquiry the route was said to carry a high volume of commercial, port related and tourist traffic. The Parish Council explained that the short stretch of dual carriageway immediately north of Beckingham (west bound) is the only section between Newark and Sleaford with this type of opportunity for overtaking and so the speed of traffic is high<sup>14</sup>. The east bound carriageway near the appeal site is single carriageway, widening to accommodate a right turn filter lane at the junction with Woodgate Lane and Chapel Street.
29. Before development took place there was an established gated access into the field, directly off the A17 on its northern side. The evidence available<sup>15</sup> indicates this access was distinct from the access serving the water recycling centre. The field access was basically a gap formed in the boundary vegetation with an area of hard surfacing in front of a five bar gate. It would not be of a standard or specification to ensure a safe means of access, even to one residential plot. The highway authority requested details of visibility splays and of proposed improvements to provide the required specification but did not object to use of this access point onto the A17 to serve a residential use.
30. The additional details submitted by the appellant confirmed the ability of cars and towing caravans to access and egress the Land and that adequate visibility splays are achievable. I am satisfied from observations on the site visit that visibility is good for users of the access and for the drivers on the A17, helped by the curvature of the carriageway.
31. The highway authority has stated that improvements to the site access should be in accordance with Lincolnshire County Council's section 184 specification<sup>16</sup> and indicated requirements for the geometry of the access and position of access gates. This advice, together with the swept path analysis plan, gives a good indication of the type of works necessary to secure a safe access. A point that has not been demonstrated is whether the access geometry can be achieved without encroaching onto Plot 7, as defined on the site layout plan. Also unclear is the amount of land involved outside of the application site. Details of improvement works and the timing of their implementation would have to be dealt with through a planning condition. Subject to this important proviso, safe site access arrangements could be secured at the site entrance.
32. No right turn movements are possible because of the dual carriageway and the safety barrier in the central reservation. This could be regarded as enhancing safety, provided suitable and convenient turning opportunities exist. For traffic

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<sup>13</sup> CLLP paragraph 8.2.3

<sup>14</sup> The dual carriageway is subject to a national speed limit of 70 mph for cars, vans, motorcycles and dual purpose vehicles and 60 mph for coaches, buses and goods vehicles.

<sup>15</sup> Core Document 9

<sup>16</sup> Core Document 1

approaching the site from the east the safest option would be to continue to the A17/Coddington/Stapleford roundabout some 3.1 km beyond the site. An alternative, nearer option at the Barnaby in the Willows junction around 1.6 km away would involve doing a U-turn in the bellmouth of the junction. The Council also identified two nearer secondary accesses on the northern side of the A17 where manoeuvring should be discouraged. For vehicles leaving the site and wishing to travel west, the likelihood is that use would be made of the Woodgate Lane/Chapel Street junction.

33. Therefore safe options exist, although the probability is closer, less satisfactory turning opportunities would be used when approaching from the east. The related risk to safety is less from the development of Plot 1 alone, whereas the risk would increase with the development of more plots. In the absence of a transport statement there is no estimate of the likely number of trips involved. This matter has a small amount of weight in assessing safety for a single pitch, bearing in mind that the Framework states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. A similar approach is taken in CLLP Policy S47.
34. The Parish Council described how vehicles had been driven from the Woodgate Lane junction to the site along the verge on the north side of the A17. Such action would not only put road users but also occupants of the vehicle at very serious risk. The report was first contained in the Parish Council's representation in March 2022. On my visits the vegetation covering the verge did not show any signs of vehicle damage and would preclude vehicle use. The Parish Council also stated that the Highway Authority agreed the Woodgate Lane junction was unsafe and would be blocked if funding was available, requiring all vehicles to use the junction serving the village at the eastern end of the dual carriageway. However, I rely on the comments on the planning applications and appeals to represent the position of the Highway Authority, where no such references were made.

### Conclusions

35. The outstanding matter is to demonstrate and ensure the proposal would have an adequate and safe vehicular access through submission of a Stage 1 Road Safety Audit with associated details of the layout, works and drainage at the main site access onto the A17. The probability is the required works would in part fall outside the red line of the application site, involve land outside the certified ownership and include highway land. To date there is no indication works would encroach onto the adjacent access serving the water recycling centre.
36. The appellant's planning witness referred to the use of a Grampian type planning condition but this is not possible as the development has commenced. The proposed condition relies on the submission of a scheme within 6 months of the date of the decision. The timing of implementation of an approved scheme is unknown. There are not the grounds to conclude there are no prospects at all of the action being performed within the time limits imposed. The test for reasonableness is met.
37. Subject to compliance with a planning condition, the proposed site would have adequate and safe vehicular access and be in accordance with Part Three criterion (b) of Policy S83.

## **Accessibility to services and facilities**

38. Criterion (f) of Policy S83 Part Three states: For non-allocated sites, the proposal should be located within reasonable travelling distance to both primary health care facilities and schools, preferably by walking, cycling or public transport.
39. GP primary health care facilities are found in Balderton Newark (8.5km away), in Caythorpe (17.8 km) and Ancaster (14.1km), all outside the CLLP area. The Parish Council noted the nearest hospital is in Lincoln.
40. A primary school and a pre-school are located in Brant Boughton, 5.4 km to the east of the Land and there is also a primary school in Claypole (8.4km). The nearest secondary school is the William Robertson Academy at Leadenham (9.5 km). The appellants also confirmed that a school bus visits the site every Tuesday. Whilst a valuable service it is not an adequate substitute for daily school attendance.
41. Beckingham is a Small Village in the CLLP settlement hierarchy (Policy S1) where the expectation is for limited growth as set out in Policy S4. Beckingham has a village hall and a church but no shop. Brant Boughton, Leadenham, Claypole and Balderton are the nearest places with convenience stores. Lincoln urban area is at the top of the hierarchy. However, Beckingham is a lot closer to Newark (in the district of Newark and Sherwood) than Lincoln.
42. A 'reasonable travelling distance' is not explained in the supporting text to the policy. However, the context for the CLLP is helpful<sup>17</sup>. Apart from Lincoln and the main and small towns, Central Lincolnshire is predominantly rural, and is characterised by a dispersed settlement pattern of villages. Functionally, the rural villages often operate as clusters that share key services, with the larger villages acting as local service centres that communities rely on for basic facilities and as social hubs.
43. Allowing for the rural location, the travelling distances to primary health care facilities and schools are on the margins of being reasonable. As to mode of travel, the only highway accessible from the site is the A17. The highway has no footway by the site access and even if the vegetation on the verge would allow, it would not be safe to walk along the A17 to the Woodgate Lane junction<sup>18</sup>. Furthermore, crossing the A17 on foot at the junction requires considerable care, awareness and agility because of the speed of traffic and turning movements. The public footpath under the A17 is on the western side of the River Witham and of no assistance to access the appeal site.
44. Therefore it is not possible to walk safely from the site to the nearest bus stop in Beckingham, from where there is a limited service to Newark and Lincoln. The Call Connect service requires pre-booking and no confirmation was provided that the service would pick-up from the site. There is no cycle route along the A17 and again because of safety I rule out cycling as an option. In summary, travel to services relies on the availability and use of a private motor vehicle. I heard from some residents that because of their health they are unable to walk beyond the site and rely on family and friends. I accept residents may well be able to have lifts but the dependency on a vehicle to go

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<sup>17</sup> CLLP paragraphs 1.2.4 to 1.2.6

<sup>18</sup> The appellants' landscape witness, when considering the public rights of way, described the prospect of walking along the grass verge of the A17 as 'extremely dangerous'. Appendix A LIVIA page 10

anywhere by all site residents could result in isolation and would deter the promotion of social interaction and encouragement of informal recreation.

45. PPTS promotes access and ability to use medical or educational facilities in a broader sense than just the means of making a journey to the service. The ability to have an address and a stable base by all accounts makes booking appointments and use of health and welfare services much easier and with greater certainty. Similarly, taking up educational opportunities for children of all ages and regular attendance at school are encouraged by having stability in home life. PPTS accepts Traveller sites may be located in rural areas, which in turn indicates acceptance of reduced opportunities for sustainable travel.
46. Various appeal decisions have been referred to by the appellants and the Council to support their respective cases. Conclusions are case sensitive depending on the characteristics of the site and area and the local policy requirements. The exercise of careful judgement by the decision maker is required on the issue of accessibility and in the overall planning balance<sup>19</sup>. Consequently, whilst informative to a degree, they do not justify or direct a conclusion in this appeal one way or the other.

### Conclusions

47. The site is just on the limits of a reasonable travelling distance to primary health care facilities and schools. There is no realistic prospect of residents accessing healthcare or schools by walking, cycling or public transport with the existing highway infrastructure. The site is not in full accord with Part Three criterion (f) of Policy S83.
48. The broader view on accessibility in PPTS provides some support for the proposed traveller caravan site. Nevertheless, the inability to walk safely anywhere from the site and the resultant dependency by occupiers on a private vehicle are serious disadvantages. When factoring in cumulative effects more families would be affected and the poor location is highlighted.
49. Safe and suitable access to the site cannot be achieved for all users, resulting in a conflict with paragraph 110(b) of the Framework. The location does not enable the use the sustainable travel modes and does not offer genuine choices for non-car travel and so the development is not supported by CLLP Policy S47 and Policy S53(4). This strong objection is inherent in the location of the site and is not a matter that could be overcome by a planning condition.

### **Landscape character, visual impact and design**

50. The detailed policy requirements are primarily set out in Policy S53, where the most relevant themes to this issue are context, identity and nature. Proposals should satisfactorily assimilate the development into the surrounding area and make a positive contribution to the sense of place and character. PPTS identifies several matters related to delivering well planned sites, with adequate landscaping and play areas and appropriate boundary treatment.

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<sup>19</sup> WSP Appendices Appendix 18 paragraph 10. In this case the site was not accessible by foot and the Inspector concluded the site was poorly located because of the severing effect of the A508. In the overall planning balance the appeal was allowed and a personal planning permission was granted.

### Context

51. The landscape character is gently undulating, where woodland blocks and tall hedgerows have a strong influence on the sense of openness, enclosure and extent of views. Settlement is scattered and road patterns are winding and irregular.
52. In the locality of the appeal site a mainly pastoral landscape prevails, a contrast to the more arable nature of the district. The Ministry of Defence firing range introduces a distinct land use and associated features and settlement, including the man-made bunds, tracks and security gates, and the low, functionally built accommodation blocks that date back some time. Its presence is neutral when considering the effect of the proposed development on landscape character because of the absence of any physical or visual relationship or interaction.
53. To the south Beckingham is a small compact village that retains much of its historic layout, built form and character. The church is a prominent landmark, its tower visible from the wider surrounding area. To the west the corridor of the River Witham, a peaceful, gently meandering watercourse, is enhanced by the mix of plant species along the banks. By contrast the A17, the primary route serving the area, now bypasses the village and the traffic noise is intrusive in the rural countryside setting. The road corridor and the strong tree belt along its southern boundary define the northern edge of the settlement.
54. In the locality of Beckingham the public rights of way and their use probably are heavily influenced by the A17 and the military training areas. From the village I found the footpath southwards along the River Witham the most pleasant route, whereas to the north the route under the A17 is quite hostile and then quite heavily overgrown, suggesting very little use. In views from Woodgate Lane the caravan sites are not readily visible due to the local topography and vegetation. Instead, the block of woodland to the west of the site and the military lands are visually dominant. On the site visit there were clear views of the land from the access road to the military ranges but this vantage point would be limited to military personnel. For most people awareness of the development would be when travelling along the A17.

### Plot 1 Proposals

55. The submitted site layout plan and notes indicate proposed boundary treatments and surface materials. Within the pitch the caravans and dayroom are shown positioned near the southern boundary. The appellant considers the layout details and landscaping can be resolved through planning conditions.
56. A key point to note is that the existing hedgerow annotation on the site layout plan does not accurately reflect the depth of woodland planting visible on an aerial photograph and as identified by the habitat plan in the ecology report<sup>20</sup>. Also, the red line along the southern boundary to the pitch is set back a short distance (approximately 6m) from the drawn line of the A17. The Land Registry Ordnance Survey base plan indicates a significantly greater width between the A17 and the land ownership boundary<sup>21</sup>. These observations suggest that the site layout plan may not accurately reflect the appellant's development

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<sup>20</sup> Core Document 55 and Preliminary Ecological Appraisal Report paragraph 4.9 and Figure 3

<sup>21</sup> Core Document 53b and Core Document 53c

intentions and the land available for the proposed pitch. These very significant discrepancies do not assist the appellant's case.

### Assessment

57. Landscape character. Before any development took place the appeal site was part of a field of grazing land, reflecting the pastoral landscape in the Terrace Sandlands character area and the agriculture landscape character zone identified by the appellant's landscape consultant. The strong landscape features were the hedgerow and woodland on the boundaries and the corridor of the River Witham to the west.
58. When compared against this lawful, base condition, the introduction of a small caravan site and the associated infrastructure would bring a harmful change in the character of the land use and the residential development would be incongruous with its open greenfield surroundings. The long straight 8m wide service road and widened, engineered access onto the A17 to serve an isolated site would be out of keeping with the rural character. An unwelcome element of urbanisation would be introduced very close to the unspoilt river corridor. The retention of the woodland belt north of the A17 as a characteristic landscape feature and provision of a suitable buffer to the River Witham would strengthen enclosure and help to assimilate the development into the local landscape and reflect wider landscape characteristics. Neither of these positive aspects of the local context have been demonstrated in the proposed siting of the pitch, the accommodation and hardstanding.
59. Visual impact. All people travelling along the A17 would pass by Plot 1. The heavy, in depth vegetation along the site frontage provides good natural screening. Its retention as part of the proposals has not been demonstrated but rather the plan indicates a loss of vegetation. An improved main access onto the A17 also would signal the presence of the development, through the necessary works, some loss of vegetation and the addition of signage and other residential paraphernalia. Road users are less sensitive receptors and views would be fleeting. However, village residents would frequently pass the site and be very aware of the development. The site could be seen from the footpath north of the A17 highway but this view is unlikely to be experienced by many people.
60. Design. At the time of the site visit there appeared to be a small garden and play equipment in the general position of Plot 1. The appellant said she would like to have a garden, with tree planting along the sides but recognised the current constraints of the injunction.
61. These positive elements have not been reflected in the submitted proposal. Little thought appears to have been given to the siting of the residential accommodation whether in relation to the A17 boundary or the separation distances between structures, the incorporation of amenity and play space, arrangements for drainage and for storage of domestic refuse bins, as well as acoustic mitigation in the form of a bund and fencing. The containment and boundary treatment of the service road serving the single pitch is unspecified. A priority to retain the existing trees and hedgerow vegetation is not evident or practicable given the definition of the pitch on plan.
62. Cumulative effect. The siting of the plot some distance from the former field access gate and the proposed access arrangements are explained by the

proposals for a total of 17 pitches on the wider site, as shown on the site layout plan. The appellant group accepted that development of the wider site would have an adverse localised effect upon the landscape character. Their evidence drew attention to the good level of screening so that views into the site would be fleeting by drivers moving at speed. The objective of the proposed landscaping is to soften the layout and contain adverse effects.

63. Based on a maximum of 17 pitches in the proposed very regular linear layout pattern, I consider the land use change to residential would unacceptably increase the urbanising effect and erode the openness of the agricultural landscape around Beckingham. The very close proximity of the site to the River Witham corridor would detract from its peaceful, natural character by reason of the residential activity and physical change to the land. The proposed caravan site would not reflect the character of the village or the typical settlement and road patterns of the character area.
64. The wider site currently benefits from good natural screening of the woodland belt along the A17 frontage and to a large extent the visibility of the development would be related to its retention and effectiveness through the seasons. The improvements to the main site access, the residential activity and development near the access and further within the site would attract attention to and emphasise the encroachment of a residential use into the countryside beyond the limits of the existing settlement. Village residents would be particularly aware of this adverse change.
65. The proposals over the land as a whole fall far short of demonstrating good design. The layout may be functional and effective but the high proportion of hard surfaced areas, both within the pitches and for the network of service roads, is not in keeping with the rural surroundings. The proposed number of caravans, plus the dayrooms and parked vehicles, would create a quite intense form of development, remembering the appellants wish the flexibility of having twin unit caravans. No attention has been given to the detailed siting and visual implications of an acoustic bund and fencing, which could be very intrusive whether for residents or the wider public. The illustrative landscape strategy indicates how more green space could be introduced working with a basic linear layout but the strategy needs to be treated with caution because of the inconsistencies with the site layout plan. Detailed planting proposals and measures for implementation and future management and maintenance are not provided.
66. Planning conditions. The number and type of caravans could be reasonably limited to a single static and touring caravan with a view to ensuring adequate amenity, parking and circulation space on the pitch and to avoid over-development in future. Details of a site layout, hard and soft landscaping, boundary treatments and external lighting could also be required. The achievement of a good scheme is constrained by the position and siting of the plot and the land available to the appellant. The matter is also closely related to requirements on biodiversity mitigation and enhancement. As it stands the proposals are not clear over what is possible to deliver, how constraints would be addressed and hence whether policy requirements can be met.

### Conclusions

67. The proposal fails to demonstrate good design or that the development would be satisfactorily assimilated into the surrounding area and make a positive

contribution to the sense of place and character. There is conflict with Policy S53, national policy in PPTS and the Framework and therefore with Policy S83 Part Three criterion (a). The harm to landscape character and visual amenity would be localised, although the lack of clarity over the boundary with the A17 is a serious concern, leading to a failure to comply with Policy S66. Any loss of the strong and very visible landscape feature would increase the level of harm significantly. The larger scale associated with development of a number of plots would result in a greater level of harm and emphasise the failings of the design approach.

### **Designated heritage assets<sup>22</sup>**

68. Beckingham Conservation Area extends over the historic core of the village. The significance is derived from the traditional architectural character and streetscape and the important open spaces, including the churchyard and the field known as the Poor Gardens, to the east of School Lane. Important views focus on the tower of the church and along the main streets in the historic core. Once accommodating a range of essential trades and community services the village is now almost entirely residential. The strong tree belt along the northern boundary is effective in screening the village centre from the A17 and there is very little, if any, intervisibility with the lands to the north. The proposed development of the appeal site, whether alone or in conjunction with the additional proposed plots, would not affect the setting of, or views into or out of the Conservation Area.
69. The Church of All Saints in Beckingham is a grade 1 listed building. The history of the church dates to the 12<sup>th</sup> century and probably it was the manorial church. Latterly the church was of some local importance in religious life. The church then was rebuilt and the tower was added in 1450. The building was restored in the late 19<sup>th</sup> century. The parish church sits in a green space on the western side of the historic core, beyond which is the park of the former Beckingham Hall and the well wooded grounds of the Rectory, giving way to open countryside along the river. Historically the church has been physically separated from the countryside to the north by the main route through the village and the settlement north of Hillside/Chapel Street. The construction of the A17 bypass strongly reinforced this separation. Whilst the church tower is visible from the Land and Woodgate Lane, this factor is insufficient to persuade me the appeal site and related lands are within the setting of the listed building.
70. In conclusion, no conflict arises with Policy S57 or the Framework to conserve the historic environment. The effect on designated heritage assets is neutral in the planning balance.

### **Biodiversity**

71. In summary, development plan Policy S53 sets out the standards expected from all development to make a positive contribution to the character and appearance of the environment within which it is located, including consideration of natural features and habitats. More specifically Policy S60 aims to (i) ensure developments minimise impacts on biodiversity, deliver measurable and proportionate net gains in biodiversity; (ii) protect habitats,

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<sup>22</sup> This section is informed by Beckingham Conservation Area Appraisal October 2019 and the Official list entry for the Church of All Saints, Inquiry documents 5 and 6

- species and sites of international, national and local importance, and (iii) protect and enhance the aquatic environment within or adjoining the site, including water quality and habitat. Policy S61 focuses on biodiversity opportunity and delivering measurable biodiversity net gains.
72. The appeal site together with the wider site are within an opportunity area for management of the green and blue infrastructure network identified under Policy 59<sup>23</sup>. The expectation is that green infrastructure principles should be considered and incorporated into a scheme from the earliest stages of the design process. As set out in Policy S61 development proposals should create new habitats and links between habitats in accordance with the biodiversity opportunity area principles set out in Appendix 4 to the CLLP. The first principle is that proposals should avoid development on opportunity areas for management where possible. Where this is not possible, the development layout should ensure that connectivity of the network is maintained. The Council considers the land provides a habitat linkage between the two Local Wildlife Sites.
73. The River Witham Auburn to Beckingham Local Wildlife Site (LWS) is designated for its freshwater habitats and for its unimproved neutral grassland habitat. The Beckingham Ranges LWS supports a neutral grassland habitat, with additional habitats of semi-natural woodland, scrub, inland grazing marsh, associated river/ditch and small pools. Nearly all the triangle of land is outside the LWS designations. The reason(s) for its exclusion are not evidenced.
74. The ecological survey identified a priority hedgerow along part of the eastern boundary to the Land, 3-4m in height, 4-5m in width and including species of hawthorn, blackthorn, elder, dog rose and ivy. The broadleaved woodland belt along the boundary to the A17 was identified as a habitat of principal importance, where tree growth was in excess of 5m in height with greater than 90% canopy cover. No evidence of protected/notable species on site was observed during the survey, except for a range of common passerine birds. The adjacent lands were identified as offering suitable habitats for a variety of species.
75. Comparing the application site plan (MW/DP-01) with the habitat plan from the ecological survey<sup>24</sup> indicates the development of the proposed pitch would conflict with existing important habitat and lead to the loss of broadleaved woodland, part of the southern woodland belt. There may also be some slight encroachment onto the 'other neutral grassland' forming the riverbank. The use of an existing field access at the eastern end of land would help minimise loss of vegetation on this part of the frontage. However, on this initial assessment the creation of the pitch in the position and of the size shown on plan would conflict with the incorporation of natural features and would not minimise the impact on biodiversity. Compared with the former greenfield position a loss of grassland would result from the formation of the internal access road. The effect on the aquatic environment is unclear given the absence of site specific information and proposals.
76. The appellant relies on planning condition(s) to avoid harmful impacts and to provide mitigation and/ or compensation measures in respect of habitats and species and to secure at least a 10% net gain in biodiversity. The ecological

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<sup>23</sup> Inquiry Document 8

<sup>24</sup> Ecological Appraisal Report Figure 3

report accepts that a scheme for biodiversity net gain would require reasonable assumptions regarding the pre-development baseline value of the site based on the classification and condition of remaining habitats present, cross referenced with pre-development imagery of the site.

77. This approach set out in the ecological report is consistent with that outlined in the Council's guidance on delivering biodiversity net gain in Central Lincolnshire<sup>25</sup>. However, the proposal would be better informed if green infrastructure principles and biodiversity net gain had been considered and incorporated into a scheme earlier in the process. Had that been done a different proposal may have been developed. To retain the broadleaved woodland probably would reduce the functional site area of the pitch and to accommodate the proposed caravans, dayroom and parking and other site requirements may result in a cramped layout.
78. The calculation and required measures probably would differ for the site alone as opposed to a landscape ecological management plan covering up to 17 proposed pitches over the wider site. Recommended biodiversity enhancement options may be unduly constrained by the size and siting of Plot 1 in relation to the river corridor and the woodland belt. The effect on biodiversity and related proposals should be linked to proposals for landscaping and drainage.

### Conclusion

79. The evidence provides little indication that natural features and habitats were considered in the proposal. The development of Plot 1, as shown on the site layout plan, is not compatible with minimising the effects on biodiversity. Insufficient attention has been given to biodiversity both in terms of the proposal for the single plot and in developing a layout over the wider site. The proposal fails to comply with Policies S59, S60 and S61 and criterion (a) of Policy S83 Part Three. This factor adds very significant weight against the development.

### **Drainage**

80. Policy S83 Part Three (e) requires the proposal should be adequately serviced, or capable of being adequately serviced, preferably by mains connections. Furthermore, the proposal should not conflict with other local or national policies relating to protection of the natural environment. These policy criteria need to be read alongside Policy S21 which states non mains foul sewage disposal solutions should only be considered where it can be shown that connection to a public sewer is not feasible. Development should contribute positively to the water environment and its ecology where possible and, in line with the requirements of the Water Framework Directive, should not adversely affect surface and ground water quality. The development plan requirements are consistent with the Framework and with the relevant Planning Practice Guidance on wastewater and water quality. The expectation of the CLLP is that drainage solutions should be factored into the development process as early as possible.
81. A water recycling centre/sewage treatment works (WRC) is adjacent to the Land. A mains sewer crosses Plots 6 and 7. Connection to the public network would enable the most preferable solution in policy terms to be achieved.

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<sup>25</sup> Delivering Biodiversity Net Gain in Central Lincolnshire April 2023, referred to in the Proof of Evidence of Aecom Limited

However, in March 2022 Anglian Water advised that Beckingham WRC is small and will struggle with any additional flow<sup>26</sup>. Significant investment would be required and currently funding is not available. Given this position, connection to the public network would risk overloading the system and cause pollution. It would not be an acceptable solution from a planning point of view. Anglian Water supported the use of septic tanks and understanding the undesirability of issuing 17 permits suggested the use of one septic tank to serve the 17 pitches.

82. The discharge of effluent from a septic tank would be into the ground via an appropriate distribution system of filter drains and therefore could be a source of water pollution. No evidence has been provided to show the ground has adequate soakage characteristics or that an appropriate area of land for the percolation system, a drainage field, could be provided within the appellant's control. Significantly the evidence of the Environment Agency is that the geology of the site is mudstone, which is not permeable.
83. The other option is the installation of a cesspit, which appears to have been acceptable in Beckingham village. No evidence has been presented to demonstrate that a cesspit could be suitably sited within the pitch in relation to the caravans and would have adequate capacity, be properly watertight through its lifetime and have appropriate arrangements for emptying. Whilst a cesspit may be acceptable for one or a small number of pitches, the provision of this form of drainage for most or all plots would increase the risk of pollution to the water environment, is not a satisfactory solution and a coordinated approach should be adopted.

#### Conclusion

84. The evidence indicates the provision of a cesspit on the pitch is an available option for disposal of foul drainage. Whilst not a preferred solution, especially given the siting of the pitch near the river, it is not contrary to Policy S83 Part Three (e) or Policy S21. The details of the proposed means of foul drainage would have to be approved as part of a site development scheme in order to relate the siting of the infrastructure to the siting of the static caravan and dayroom.

#### **Noise**

85. Policy S83 Part Three (d) requires the proposal to provide an acceptable standard of amenity for the site's occupants. The PPTS expects proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of Travellers.
86. Applicable to all forms of development CLLP Policy S53 (7)(b) seeks compatibility between neighbouring land uses unless it can be demonstrated that the ongoing use of the neighbouring site will not be compromised, and the amenity of occupiers of the new development will be satisfactory. Policy S54 seeks positive mental and physical health outcomes through development proposals.
87. The Framework expects development to promote health and well-being, with a high standard of amenity for existing and future users, recognising the importance of location and potential adverse effects of noise pollution. Noise

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<sup>26</sup> Core Document 32

giving rise to significant adverse impacts on health and the quality of life should be avoided. The Noise Policy Statement for England (NPSE) promotes good health and a good quality of life through the effective management of noise within the context of Government Policy on sustainable development. The NPSE makes a distinction between 'quality of life', a subjective measure that refers to people's emotional social and physical wellbeing and 'health' which refers to physical and mental well-being. Planning Practice Guidance advises that when considering the acoustic environment decision makers need to consider whether or not a good standard of amenity can be achieved.

88. Against this policy context and with equality considerations firmly in mind, the acoustic environment on gypsy and traveller sites should be subject to the same standards as apply to the settled community. A roadside comparator is not acceptable or relevant in assessing permanent sites. This conclusion is consistent with that reached by Inspectors in appeals referred to by the Council and the appellants<sup>27</sup>.
89. Traffic on the A17 and the activities carried out at Beckingham DTE are the sources of noise requiring consideration. The Nova report confirmed the adjacent water recycling centre was inaudible on site. On that basis the Council was satisfied this potential noise source in isolation does not raise any residential amenity concerns. I will not consider it further.

#### Road traffic noise

90. The Council's evidence cited the 2018 World Health Organisation (WHO) Guidelines on noise levels for traffic noise, which give a maximum average noise exposure of 53 dB Lden (daytime) and for night time below 45 dB Lnigh. Noise levels above the guidelines are associated with adverse effects on health and sleep. The point is made that the noise standards in BS8233:2014 are based on the 1999 WHO Guidelines.
91. The Nova report places Plot 1 within the red acoustic zone, where the highest levels of noise were surveyed and were predicted to occur within a mobile home. This is unsurprising given the proximity of the site to the A17, a key traffic route within Central Lincolnshire carrying high volumes of traffic including heavy goods vehicles.
92. In the red acoustic zone the day time measurement (LAeqt (dB)) was 66.0 and the night measurement 61.0. On night 1 maximum sound levels (LAFMax, 15min) exceeded 75.0 four times and on night 2 two times<sup>28</sup>. The internal noise level analysis for a mobile home<sup>29</sup> predicted noise levels would exceed the BS8233:2014 criteria by +3 dB during both the day and night time periods. As to the external noise level, the Nova report predicted a garden noise level of 62.0, above the BS8233 criteria by +7.0 dB.
93. The mitigation recommended by the Nova report is to control the noise between the source and the receiver by the installation of 2m close boarded fencing on top of a 1m high earth bund between 'the site' and the A17 road. For the red acoustic zone, provided the bunding and fencing is installed as

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<sup>27</sup> Appendices to the Council's hearing statement Appendix 17 Appeal Decision APP/R2520/W/15/3130962 dated 1 March 2016 paragraph 12, Appendix 23 Appeal Decisions APP/Q3115/W/16/3156409, APP/Q3115/W/18/3205628 dated 13 January 2020 paragraph 46, and WSP Appendix 5 Appeal Decision APP/C3105/W/18/3219199 dated 27 March 2020 paragraph 42.

<sup>28</sup> Nova report page 6

<sup>29</sup> The Nova report sets out the assumptions underlying the calculation on pages 13 and 14

specified<sup>30</sup> predicted internal noise levels would be within the BS8233:2014 criteria. External noise levels are predicted to be approximately 1.0 dB above the criteria.

94. The analysis in Nova report indicates that acceptable internal noise levels (BS8233) are likely to be achieved with a static caravan to BS standard, closed windows and the provision of a bund/fence to the stated specification. The use of a planning condition to require static caravans to have a specified standard of sound insulation and ventilation (BS3632:2015) is accepted practice. Various appeal decisions illustrate this approach, where the precise wording of a condition varies according to the site specific facts<sup>31</sup>. The proposed touring caravan would not be of a similar standard, suggesting that it should not be used for sleeping accommodation when parked on site. No assessment was carried out for the proposed dayroom or allowing for caravan windows to be open to assist ventilation and cooling. The Council considers the occupants of the static caravan could experience dB levels in excess of the BS8233 criteria even with the bund as mitigation. The appellant's solution is the use of air conditioning or mechanical ventilation and use of the dayroom for cooking.
95. The proposal for the fencing and bund was in relation to providing protection to the wider site and no proposals were put forward specific to Plot 1. Furthermore, the location of the bund as shown in the Nova report appears to be on highway land (land owned by the County Council) and not on land owned either by the appellant or the people certified as landowners on the appeal form. There was no information on the sensitivity of the siting of the bund/fence to achieve the predicted attenuation. The evidence presented fails to demonstrate that the amenity of occupiers of the proposed caravan site would be satisfactory in the event the recommended mitigation is not achieved.
96. In conclusion, the development would be adversely affected by road traffic noise. Considering development from a cumulative point of view, the evidence shows that Plots 1 to 7 are in an area most affected by road traffic noise and where off-site mitigation in the form of the bund/fencing would be essential.
- Beckingham DTE
97. Policy 84 is specific to Ministry of Defence (MOD) Establishments, including Beckingham DTE. Part Two of the policy states that development will not be supported where it would adversely affect military operations or capability unless those impacts can be appropriately mitigated in agreement with the MOD. This policy requirement recognises the importance of protecting the role and the ongoing use of these establishments, including their ability to adapt in accordance with MOD operational plans in the national interest.
98. The MOD explained that Beckingham is the Headquarters for the East Midlands and in their view is critical to military defence operations because of the three live firing ranges and the extensive dry training area there. The expectation is of a significant increase in the use of the ranges and training area in the near future because of the proposed new cadet training centre to be built at the DTE and the closure of RAF Halton in 2025. Currently live firing on the ranges can occur seven days a week, with night firing (1700-2300 hours) eight times a month. Dry training (including the use of blank ammunition and pyrotechnics)

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<sup>30</sup> The fencing must have a minimum surface mass of 10 kg/m<sup>2</sup> and should contain no holes or gaps

<sup>31</sup> WSP Appendices 2 to 5

- can occur at all times and takes place in the woodland area to the west of the River Witham.
99. All parties agreed that the CIEH Clay Target Shooting Guidance on the Control of Noise (the CIEH guidance)<sup>32</sup> is appropriate to apply in this case. The guidance measures noise from clay target shooting using the Shooting Noise Level (SNL) index. The measurement protocol requires duration of a continuous 30 minute period during shooting. A mean SNL, the arithmetic average of individual SNL values, is used to gauge annoyance. The number of individual SNL values depends on the purpose of the measurements. Both the Nova report and MOD use a single SNL, suggesting a degree of caution in interpreting the results.
100. The Nova report accepted that the calculated SNL of 61.0 would be a level where annoyance is likely to occur. However, the report reasoned the site would be suitable for residential development, drawing a comparison with other residential properties at similar distances to the firing ranges and assuming no history of complaints.
101. The MOD carried out monitoring on 25 January 2023 to test the validity of the Nova results. Data was captured when the 400m and 600m ranges were in use. The conditions were considered representative of firing activity and the associated noise that would be experienced by residents on the appeal sites. The calculated SNL was found to be 88.2 dB(A), a level where it is highly likely annoyance will occur.
102. There is a significant difference in the calculated SNL presented by the appellants and by the MOD. The monitoring positions were not the same, the Nova MP3 being closer to the wider site and more shielded by the block of woodland to the west. However, the CIEH guidance is that in general trees offer little sound attenuation unless the tree belts are sufficiently deep as to give some sound reduction due to the distance involved<sup>33</sup>. The expert evidence from the MOD was similar. The presence of the tree belt is unlikely to have affected results significantly. Of greater relevance the Nova SNL was derived from short term monitoring results over a single 30 minute measurement period, at a time when the period of firing activity was not continuous as the MOD explained. Even allowing for the purpose of the monitoring, the monitoring was insufficient to be representative of firing operations and environmental conditions.
103. According to the CIEH guidance research suggests that there is no fixed shooting noise level at which annoyance starts to occur. Annoyance is less likely to occur at a mean SNL below 55 dB(A), and highly likely to occur at a mean SNL above 65 dB(A). The likelihood of annoyance at levels within this range will depend upon local circumstances. At Beckingham, the background noise level due to traffic on the A17 (55 dB as opposed to 45 dB in the guidance) is one possible factor, although the CIEH guidance commented that "closer examination of sites with relatively higher background levels is

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<sup>32</sup> Core Document 59 Clay Target Shooting: Guidance on the Control of Noise, Chartered Institute of Environmental Health, published January 2003

<sup>33</sup> CIEH Clay Target Shooting: Guidance paragraph 4.7 "In general trees offer little sound attenuation unless the tree belts are sufficiently deep as to give some sound reduction due to the distance involved. Trees can also be responsible for undesirable echoes and sound scattering effects. If it is felt, in a particular location, that a deep dense belt of trees may offer attenuation, this will require a thorough evaluation over varying weather conditions before final decisions are made and any conditions set."

necessary before the role of background noise in relation to annoyance can be better understood.”<sup>34</sup>

104. As to regularity and frequency of occurrence, MOD data over a three year period from 2020 to the end of 2022 shows that the ranges are by no means used every day and the occurrences of ‘night time’ activity were very small. However, the trend is of increasing levels of use across all three ranges. The probability is this trend will continue, with increased night time activity. Use of the dry training area could add to the amount of noise experienced but no detailed evidence was presented on its use from which to draw any conclusions.

105. In thinking about the likelihood of annoyance, the Nova comparison between the appeal sites and other nearby but unspecified residential properties is not helpful, not least because the houses in Beckingham are south of the A17. The CIEH guidance suggests research was inconclusive as to sensitivities in different communities<sup>35</sup>. There is no doubt however that the separation distances between the appeal sites and the firing ranges are well below the recommended minimum of 1km<sup>36</sup>.

106. Taking all these considerations into account I conclude on the technical evidence that annoyance is likely to occur with the current activity at Beckingham DTE and annoyance is highly likely to occur in future. No mitigation was proposed in the Nova report in relation to shooting noise and activities on the MOD ranges and dry training area. Internal and external areas of the caravan sites would be affected to varying degrees.

107. The Nova work did not include noise emissions from the MOD facility in the modelling used to produce the noise contour maps and to inform the noise break-in assessment and external noise level assessment. The omission was based on a noise level of 55.0 dB L<sub>Aeq,t</sub> at MP2 and MP3, the closest measuring points to Beckingham DTE. The 55.0 dB figure at MP3 probably is an underestimate. The more appropriate reference figure in the Nova data was the SNL of 61.0, again probably an underestimate due to the length of monitoring period. Consequently, the sound level maps and the assessments are not fully representative of the acoustic environment. The effects of the proposed mitigation relate only to road traffic noise.

#### Effect on neighbouring military use

108. Planning Practice Guidance puts the onus on the agent of change (here the appellant) to clearly identify the effects of current and permitted activities and to define suitable mitigation measures to avoid existing activities having a significant adverse effect on residents of the proposed scheme. The guidance explains this approach may not prevent all complaints but can help to achieve a satisfactory living or working environment and help to mitigate the risk of a statutory nuisance being found if the new development is used as designed.

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<sup>34</sup> CIEH Clay Target Shooting: Guidance paragraph 6.1

<sup>35</sup> CIEH Clay Target Shooting: Guidance paragraph 6.1 “For a given exposure level, community annoyance was found to vary significantly between shoots, but no particular shoot characteristics or socio-demographic variables were seen to be associated with the degree of annoyance. There is some suggestion in the data that different sensitivities exist in different communities and that this affects annoyance, but the causes of differing sensitivities are not clear.”

<sup>36</sup> CIEH Clay Target Shooting: Guidance paragraph 4.2

109. The Nova report has not fully put into practice this approach in relation to Beckingham DTE, which could possibly increase the risk of complaints, if not from existing residents but from future residents. The MOD operational activity is exempt from the statutory nuisance regime under the Environmental Protection Act 1990. Claims under the law of private nuisance can be made, although as illustrated by the case law referred to such claims are fact sensitive and success resulted when an exceptional change occurred. However, a possibility is that complaints may put pressure on the establishment to modify training activities and to take reasonable steps to be a good neighbour, as has happened in the past. The likelihood of this occurring is less with a single plot than with a number of pitches and therefore is a more relevant factor when considering the proposed developments on a cumulative basis.

#### Other considerations

110. A person's tolerance of noise, and whether disturbance is likely, are affected by a range of factors, including the nature of the noise, the time, duration and frequency and the character of the area. The appellant in her evidence said she was not bothered at night by noise or when sitting outside. The noise was nothing after a life of travelling. However, I need to be mindful that permission usually runs with the land, occupation can change and may well be a home for children, young adults and others who have not had a lifetime of travelling and roadside living.

#### Conclusions

111. A residential caravan site is a noise sensitive use. The data demonstrates that the acoustic environment of Plot 1 and the wider site is adversely affected by two sources of noise, each source having quite different characteristics. With a view to ensuring a good quality of life and promotion of good health the proposed residential use on Plot 1 is not compatible with a location adjacent to the A17 and near the DTE. The development should be avoided in this location.

112. Mitigation could reduce the adverse effects of the road traffic noise to an acceptable level within a static caravan and outside in the external areas. However, there are no firm proposals in relation to the provision and future maintenance/ retention of a bund and fencing, an essential component of the proposed mitigation. No mitigation is proposed in relation to shooting noise and it is unclear how it would affect the noise level within the caravans. It may be that shooting noise would be less intrusive on Plot 1 given its location furthest away from the noise source but there is no evidence to support such a conclusion.

113. The proposal, on the submitted information, has not demonstrated an acceptable standard of amenity would be achieved for the site's occupants and so fails to comply with criterion (d) of Part Three of Policy S83, Policy S53 (7)(b) and Policy S54. The proposal would not achieve the standard of amenity and the effective management of noise sought through policies in the Framework and the NPSE. The probability of military operations or capability being adversely affected by a single caravan site is very low and would be more likely from cumulative development. Even so, Policy S84 is not supportive of the change of use to form Plot 1.

## **Intentional unauthorised development**

114. The Government policy on intentional unauthorised development was confirmed by a Written Ministerial Statement in December 2015 and has remained in place after the publication of the Framework. The policy was in response to concern about the harm caused, particularly in the Green Belt, where development is undertaken in advance of obtaining planning permission. Where this occurs there is no opportunity to appropriately limit or mitigate harm and a planning authority may have to undertake expensive and time-consuming enforcement action. Section 73A of the 1990 Act allows for planning permission to be sought and granted retrospectively but the policy introduces an aspect of intent.
115. In terms of the chronology, Council officers attended the site during the morning of 21 December 2021. Some hardcore had been laid and eight touring caravans had been brought onto the land. The Council say that in accordance with normal practice the officers advised those present to cease work. A temporary stop notice was served later in the day and on 23 December an *ex parte* injunction was obtained by the Council that prohibited further building/engineering works taking place and additional caravans being brought onto the land. A total of 17 planning applications were submitted on 30 December, the forms stating development commenced on 20 December 2021. The Council considered the applications were incomplete and after receipt of the requested information they were validated on 3 February 2022.
116. A second temporary stop notice was served on 17 January 2022 after the court refused to extend the injunction. Following further court proceedings an injunction was secured by consent, dated 7 February 2022<sup>37</sup>. An additional 6 touring caravans and associated hard bases were allowed, together with temporary washing facilities. Therefore a total of 14 touring caravans are permitted across the wider site. Time was allowed for the planning applications and any appeals to run their course.
117. The appellant is one of the named defendants. My understanding from her evidence is that she moved onto the land in December 2021 at the same time as the others, having bought the land some two months before. There was already hard core on her pitch and no more work was done until after the high court gave permission.
118. This is a case where intentional unauthorised development occurred and involved pre-planning by others. The appellant moved her caravan onto the land at the first opportunity, before a planning application was made. Subsequently she was joined by her son and members of his family. The laying of substantial amounts of hard core to create pitches and service roads resulted in a significant physical change and the loss of vegetation at the least. No engagement took place with the local planning authority to explore planning constraints, suitability of a residential use and requirements. Use of a sub-standard access has been ongoing. Environmental harm has occurred.
119. Nevertheless, the appellant probably did not take an active part in pre-planning and preparing the site for occupation but took the opportunity of an available pitch. The pitch provided a safe and stable place to stay close to

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<sup>37</sup> I note that the land identified on the plan attached to the injunction appears to exclude a small parcel of land in the south west corner by Plot 1 - Core Document 53c Parts 1 and 2 and Inquiry Document 15

members of the extended family, so avoiding reliance on a roadside existence and the associated hardship and uncertainty.

120. In conclusion this consideration has a small amount of weight given the appellant's circumstances and involvement.

### **Other matters**

#### Scale

121. The Council is concerned the cumulative proposals would be of a scale that would not respect the scale of the settled community in Beckingham, having regard to the CLLP spatial strategy and settlement hierarchy, PPTS policy on new traveller sites in open countryside and the preference expressed in the GTAA<sup>38</sup> for small family sites.
122. Clearly the 'scale' issue does not apply to Plot 1 alone and the Council's evidence is directed at a 17 pitch site. A new caravan site with 17 homes would be above the limited growth anticipated within or adjacent to Beckingham village to support its role and function as a small village within the settlement hierarchy (Policies S1 and S4). Having said that, some sites in Central Lincolnshire have a similar number of pitches and Policy S83 encourages the expansion of existing sites to accommodate multi-generational households. In view of these considerations, the acceptability of 17 pitches depends on an overall assessment of the various issues and whether a development of that number of pitches would fit harmoniously with its surroundings.

#### Energy efficiency

123. Policy S7 of the CLLP requires all new residential development proposals to include an Energy Statement to demonstrate how the set standards of performance and the Policy S6 design principles for energy efficient buildings would be met. The 'exceptional basis clauses' do not exempt traveller accommodation from meeting this requirement.
124. The policies are directed towards buildings erected on housing sites rather than caravan sites but I agree with the Council that the energy performance of the static caravan and dayroom should be considered. Compliance should be demonstrated prior to a decision rather than submission and approval of an energy statement being dealt with through a planning condition.

#### Other Policy S83 requirements

125. The proposal does not conflict with other local or national policies relating to flood risk, contamination, or agricultural land quality. The site plan shows sufficient space for vehicle manoeuvring and parking within the pitch, although this would be subject to confirmation through submission of additional details on layout. In view of the location of the pitch there would be no effect on the amenity of nearby existing residents through overlooking, overshadowing, loss of light or increase in artificial light or glare.

#### Location of Traveller sites

126. The appellant considers that weight should be given to the likely location of new sites in the countryside. The suggestion is that new sites to meet needs

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<sup>38</sup> Gypsy and Traveller Accommodation Assessment Final Report February 2020

would result in harm to the countryside, a conclusion that is unsupported and over-generalised. Policy allows for traveller sites in a countryside location. Given past experience and the strategy in Policy S83 for meeting needs, acceptable sites in the countryside will be delivered. The matter has no weight in the planning balance.

## **Need and supply of traveller sites**

### Policy and CLLP process

127. Meeting the accommodation needs of Gypsies and Travellers and Travelling Showpeople in Central Lincolnshire is addressed through Policy S83<sup>39</sup>. The policy was informed by a Gypsy and Traveller Accommodation Assessment Final Report February 2020 (the GTAA) and a subsequent report Central Lincolnshire: Meeting the Accommodation Needs of Gypsies and Travellers dated April 2021 (the 2021 Report).
128. The GTAA identified a need for a total of 41 additional pitches between 2019 and 2040. This need is in respect of an ethnic based definition of Gypsy and Traveller, as opposed to the definition in Annex A to the PPTS, which was found to be discriminatory in the *Lisa Smith* judgement<sup>40</sup>. This need is broken down into 5 year periods, identifying a need to 2024 of 5 pitches. Beyond this a further 10 pitches are required from 2024-2029, 11 from 2029-2034, and 15 from 2034-2040.
129. The CLLP, in Policy S83 sets out a strategy to meet this identified need and to supply additional pitches. In summary, the components of the strategy are to resist the loss of existing sites, to support in principle proposals to extend existing sites or to provide additional pitches within an existing site, the allocation of two sites for Gypsy and Traveller use and consideration of proposals for new sites on their merits against the stated criteria, including a positive approach towards windfall sites.
130. The CLLP was adopted in April 2023, having undergone the required consultation and examination. Through the examination process the appointed independent Inspectors had a duty to assess whether the plan had been prepared in accordance with legal and procedural requirements and if it was sound<sup>41</sup>. An Inspector's role is not confined to considering representations. The Inspectors identified eleven main issues upon which the soundness of the Plan depended. Gypsy and Traveller accommodation was considered as part of Issue 7 "Whether the policies relating to the type and mix of housing are justified, effective and consistent with national planning policy".<sup>42</sup> The Report concisely dealt with the two key matters and explained (i) why a modification was required to the policy in order to increase the need for additional pitches from 32 to 41 over the period 2019 to 2040, and (ii) why the needs of Gypsies and Travellers will be met over the plan period<sup>43</sup>.
131. To suggest, as the appellants do, that regard was only given to the *Lisa Smith* judgement and scrutiny was absent, misrepresents the examination

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<sup>39</sup> Policy S83 also covers the needs of Travelling Showpeople but my focus is on Gypsies and Travellers

<sup>40</sup> *Smith v Secretary of State for Levelling Up, Housing and Communities & Others* [2022] EWCA Civ 1391

<sup>41</sup> The four tests of soundness are set out in paragraph 35 of the Framework.

<sup>42</sup> Core Document 7 Central Lincolnshire Local Plan Review, Inspectors' Report, March 2023 page 49. Appendix 13 to the Hearing statement indicates some of the questions raised by the Inspectors to inform an examination hearing session and the final report.

<sup>43</sup> Core Document 7 paragraphs 238 and 239

process. The serious accusation that the Inspectors did not carry out examination of the evidence base on the topic with due diligence and the necessary scrutiny is without foundation and is not a matter to be pursued through the current appeals.

### The GTAA

132. The research undertaken drew on a number of data sources and included consultation with a range of stakeholders and surveys of Gypsy and Traveller families where there was a high 91% response rate. This approach is consistent with that outlined in the PPTS. The GTAA was an important part of the evidence base for the CLLP and was accepted to be robust. A detailed critique and re-examination of the GTAA is not merited. Nevertheless, I will address certain matters raised in the appellants' submissions on need and supply, starting with the approach taken by the GTAA towards in-migration and cross boundary issues.
133. The GTAA considered the results of GTAs undertaken by neighbouring and nearby local authorities specifically in relation to need and travelling patterns. The indication was of some accommodation need throughout the region but none of those GTAs suggested an accommodation need arising in their area should be met within Central Lincolnshire. The statutory duty to cooperate was a matter addressed through the local plan process. The Statement of Common Ground included the agreement that Central Lincolnshire will meet all of its housing and employment needs and is not tasked with meeting unmet needs from elsewhere<sup>44</sup>. The Inspectors concluded that the duty to cooperate had been met and from my point of view that is final. Nothing the appellants have said persuades me that specific traveller site provision should be made in Central Lincolnshire to accommodate need arising in Newark and Sherwood.
134. It is worth restating that the CLLP is a joint local plan covering three local authority areas. Likewise, the GTAA covered the three local authority areas. In assessing current residential need for the period 2019-2024, the GTAA looked at a number of potential demands, including new family units expected to arrive from elsewhere. A net inflow of 0 units in the study area is entered into the need table. The rationale was that in the absence of any data derivable from primary or secondary sources (beyond anecdotal evidence) on the moving intentions of those outside the study area moving into the area, as in the case of those moving out of the area, it was assumed that the inflow of Gypsies and Travellers into the area will be equivalent to the outflow. Together these amount to a net inflow of 0 units in the study area<sup>45</sup>. The consultation with stakeholders across Central Lincolnshire and neighbouring authorities and the survey work informed this conclusion. No past trend of in-migration was identified and the picture from the survey work and consultation with families residing in the study area is of a stable population.
135. The GTAA presents data on unauthorised encampments from two sources over the whole study area. The MHCLG data, considered of limited accuracy by the GTAA, showed a very slight upward trend in the number of caravans (to 16) over the period January 2016 to July 2019. The more detailed data from Lincolnshire County Council showed variation in the number of unauthorised encampments recorded per year, with a maximum of 17 in the period 2017/18

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<sup>44</sup> See Inquiry Document 10

<sup>45</sup> GTAA paragraph 5.51

and 12 in the 2016/2017 and 2019/20 periods. During the GTAA survey in December 2019 there were no households surveyed on unauthorised encampments within the study area, although there were two pitches on an unauthorised development.

136. Using this data, the estimate of the current residential need for permanent residential site pitches 2019-2024 included 2 pitches for family units on unauthorised developments. No pitches were entered for family units on unauthorised encampments. However, the stakeholder consultation indicated a lack of transit provision is one of the main reasons unauthorised encampments take place. It follows that the GTAA addresses the unauthorised encampments under the heading transit provision and not as part of the need for additional permanent pitches. The GTAA recommended the three Central Lincolnshire authorities adopt a negotiated stopping policy. There is no evidence in the appellants' reasoning that causes me to question the GTAA analysis.
137. The GTAA, particularly through the household surveys, identified that some multi-generational households were overcrowded and in need of additional pitches. This results in a need of 4 pitches in the first five year period. The break down into the three local authority areas shows this need occurs in West Lindsey. The appellants consider overcrowding also occurs in North Kesteven on the Paddocks and Poplar Meadows sites, based on a comparison of two aerial photographs dated April 2018 and 2023 and information on the planning history. The purported high level of touring caravans is regarded as representing doubled up or overcrowded pitches. It is concluded the GTAA failed to account for at least 10 concealed households in North Kesteven District. In my view this supposition related to a date in 2023 does not provide robust evidence to conclude the GTAA underestimated need, remembering the GTAA findings were derived from extensive face to face on-site household surveys carried out towards the end of 2019. Clearly the GTAA final report dated February 2020 could not take into account information, events or activities that post-dated its completion, such as the caravan count figures for July 2022, also referred to by the appellants.
138. Turning to the supply side of the equation, the current residential supply includes 18 available 'unused residential pitches', of which 4 are on a private site in North Kesteven. The appellant considers these 4 pitches cannot be relied on because 'unused' does not necessarily result in available sites. I note that although the word 'unused' is in the description for the Tables, the word 'vacant' is the descriptive word in the commentary text in the GTAA. These 4 pitches were identified through the survey work on the ground and the appellants produce no factual evidence to contradict the GTAA. There is no justifiable reason to exclude these 4 pitches from supply.
139. Another category of supply is 'number of residential pitches expected to become vacant'. A supply of 2 pitches was derived for the period 2019 to 2024 based on mortality rates. The appellants were troubled by the inclusion of this source of supply. I consider there is nothing objectionable to including 2 such pitches, although they may not fall within the 'deliverable' category.
140. There are 11 residential pitches planned to be built or be brought back into use, 2019-2024. I am satisfied from the explanation in the GTAA that these pitches are justifiably included. The test for their inclusion is not that they should be available to the appellants now.

141. The GTAA indicated a local target of 5 pitches for the first five years of the plan period and 10 pitches for the period 2024-29 (ethnic definition). After the 2020 GTAA was concluded the supply of pitches was updated to take account of subsequent planning permissions<sup>46</sup>. This information was available to the CLLP examination process<sup>47</sup>.

142. There is no evidence on the planning history to support the appellants' assertion the permission reduced the number of caravans on the Piggeries site. The description of development and the brief comments in the Council's evidence<sup>48</sup> indicate permission was granted for the number and type of caravans applied for. A second permission for 12 pitches, although granted retrospectively, illustrates acceptable windfall sites can contribute to the overall stock of traveller pitches. The GTAA data indicates the previously unauthorised development on this site in West Lindsey did not exist in December 2019. An additional 5 pitches on land off Laughton Road, Blyton (also listed in the supply update) demonstrates a successful expansion/intensification of an existing site.

### Conclusions

143. The GTAA was a robust evidence base to establish accommodation needs to inform the preparation of the CLLP and make planning decisions. In producing the CLLP a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against the locally set target was identified. Recent planning permissions demonstrate the success of the approach in Policy S83 to providing additional pitches. The CLLP was adopted in April 2023 and so an annual update of the 5 year supply is not due until next year. That would be the appropriate time to review the requirements for residential pitches over the period 2024 to 2029 and the assumptions in the GTAA underlying the 2024 base figures.

144. The current need of the appellant and the appellant group for a permanent site was not and could not have been identified in 2020 and hence their needs were not included in the locally set target for Central Lincolnshire. In accordance with the CLLP strategy meeting their need within the District would be through identification of a windfall site that satisfies the Policy S83 criteria.

145. The probability is that a significant need for additional traveller sites exists across the sub-region. The progress, or lack of progress, of the relevant local authorities in bringing forward a supply of sites to meet outstanding needs should be evidence based and not reliant on assumptions of the appellant's planning witness. There is also a generally recognised national need for traveller sites.

### **Personal need, alternative sites and family circumstances**

146. Previously the appellant was living on the roadside and further back she had links with the Lincolnshire and Norfolk areas. The appellant has a personal need for a permanent pitch to enable her children to continue their education or to find employment, to help her eldest son with his family commitments and to assist with caring responsibilities of close family members living on adjacent

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<sup>46</sup> Core Document 4 Central Lincolnshire: meeting the Accommodation Needs of gypsies and Travellers April 2021

<sup>47</sup> Appendix 13 to the Hearing statement; Core Document 6 Central Lincolnshire Examination Note on Gypsy and Traveller Provision 12 December 2022

<sup>48</sup> Proof of N Feltham at paragraph 4.15

- pitches. The best interests of the children are a primary consideration and would be best served by stability in home life in a safe location.
147. The appellant said she and her family would be homeless if they could not stay and the site was the only place they had. The County Council's Gypsy Liaison Officer could not help with an alternative site because she owned her current pitch. The Council has not identified an available pitch the family could move to immediately either. A pitch on a Council site would not be acceptable solution for her because she wanted a pitch for all her family and to avoid disturbance of the children.
148. In general terms, the Council expressed considerable doubt about the claim of the appellants that they inevitably would be made homeless if the appeals are dismissed. Reference was made to the availability of pitches in the District, to the 'churn' in ownership and occupation across the wider site and to inconsistencies in evidence.
149. The fact is no specific suitable, affordable, available and acceptable alternative site has been identified for the appellant and her family. The Council has attempted to gain information on the appellant's needs (and those of other families on the wider site) but there appears to have been no constructive dialogue between the parties or the appellant's agent or representative on options that may be available or come forward. It comes across from the evidence of both parties that all efforts have been focussed on the appeal, with the appellant hopeful of securing a permission. In general terms the appellant does not have to prove no other sites are available or that particular needs could not be met from another site. However, Article 8 does not give a right to be provided with a home.
150. If the appeal is unsuccessful the appellant would be left in a vulnerable position on account of the injunction, with the prospect of losing her home in a very short space of time. Family life (for the appellant and for her son and his family) and existing health and educational arrangements probably would be severely disrupted. The interference with home and family life, with no alternative to go to, would be very serious and would have consequences of such gravity as to engage the operation of Article 8. The loss of the home would not assist in minimising disadvantage and advancing equality of opportunity for members of a minority group. A grant of planning permission would fulfil the accommodation need for the family and add to the stock of traveller pitches in Central Lincolnshire.
151. All matters considered, the appellant's need for a site and the family circumstances has very significant weight.

### **Mitigation and planning conditions**

#### Statutory provisions and policy

152. The general power to impose planning conditions when granting planning permission is in section 70(1) of the 1990 Act. The 1990 Act section 72(1)(a) provides for conditions to be imposed on the grant of planning permission for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made), or requiring the carrying out of works on any such land, so far as

appears to the local planning authority to be expedient for the purposes of or in connection with the development authorised by the permission.

153. Planning Practice Guidance advises that when used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effect. Planning conditions should be kept to a minimum, and only be imposed where they meet the six tests. Conditions that place unjustifiable and disproportionate financial burdens on an appellant are not reasonable.

154. Planning Practice Guidance also states conditions cannot require that land is formally given up (or ceded) to other parties. Conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. It may be possible to achieve a similar result using a condition worded in a negative form (a Grampian condition).

#### Proposed conditions

155. The lists of conditions prepared by the Council and by the appellant group were discussed at the inquiry and as a result amended lists of conditions were submitted. The two lists cover similar matters, although there are significant differences in the detail of the wording of some conditions. Various matters were addressed by the Council and the appellants in their closing submissions.

156. Conditions are appropriate to control the number and type of caravan on the pitch, to limit occupation to Gypsies and Travellers, to exclude business activity and the parking of larger commercial vehicles on the appeal site and maintenance of the required highway visibility splay free of obstruction. Such conditions would be imposed to protect visual amenity and general amenity and in the interests of highway safety. Restricting occupation to Gypsies and Travellers would ensure the pitch contributes to the stock and supply of sites for this group.

157. As regards outstanding or to be amended proposals, the appellant relies on a planning condition as the mechanism for the provision and approval of a site development scheme. The scheme is intended to cover improvements to the main site access, the internal layout of the site, hard and soft landscaping, external lighting, acoustic mitigation (for the static caravan and the provision of an acoustic barrier), surface and foul water drainage, biodiversity net gain plus avoidance, mitigation and/ or compensation<sup>49</sup>. The Council's condition covered the same matters but also included an energy statement, which I understand is acceptable to the appellant.

158. In general, such matters are capable of being dealt with by condition, as illustrated in various appeal decisions submitted by the appellant. However, the CLLP expects design solutions to be factored into the development process as early as possible with a view to achieving good design. As decision-maker on the acceptability of the proposed material change of use, I have considerable concern about the number of important matters to be resolved through a site development scheme and lack of clarity over proposed solutions for this plot.

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<sup>49</sup> The wording of the proposed condition was the same was all appeals/Plots.

Uncertainty on whether a condition can be discharged, raised in the closing submissions on behalf of the appellant group, is a different matter.

159. The unsatisfactory position is reinforced by the approach to pursue individual development sites, the poor quality of the site layout plan and the inconsistency with the supporting technical reports. The recommendations on design and mitigation in the ecological report and the Nova report and the illustrative landscape strategy were directed at a single development covering all the Land, not individual pitches and the associated length of service road. A comprehensive approach is more likely than a piecemeal approach to produce a well planned development with enhancements to the environment and promoting opportunities for healthy lifestyles. Whilst verbal assurances were given at the inquiry that residents would work together and support one another if necessary, this is not an acceptable way forward and enforceable mechanisms are required. I place no reliance on the potential for coordinated proposals for the wider site.

160. As noted earlier the application site is tightly defined around the pitch, the internal access road and main site entrance. As far as the evidence shows the appellant does not control any land outside the defined pitch. Bearing in mind the proposal is for a single pitch, the scope of mitigation in terms of landscaping and biodiversity would have to be relevant, necessary and reasonable to that development to be enforceable. The provision of acoustic mitigation, including a bund with fencing, could only reasonably be required to relate to noise mitigation for the plot. The appellant has not satisfactorily explained how an acoustic barrier, as indicated in the Nova report, would be delivered and maintained in a way that could be enforced if necessary. The proposed condition on surface water drainage, which on the appellants' wording should be based on sustainable drainage principles and include management and maintenance arrangements, has not been supported by any evidence and as such I am not satisfied all the six tests are met.

161. There was acceptance by the main parties that development has begun and a permission would be granted retrospectively. In this situation it is not possible to use a Grampian negatively worded condition to secure the approval of and, if necessary, implementation of works before the development or occupation takes place. A condition would have to be worded with a strict timetable for compliance of submission of the required details (the appellant is seeking 6 months), allowance of 11 months for a decision by the local planning authority and the possibility of an appeal. The process could take up to two years or so. As it stands the timescale for implementation of any approved scheme is unknown. The number and type of outstanding issues increase the concern over timescales. This position goes back to the poor quality of the application and the subsequent failure to adequately address the reasons for refusal.

#### Sunset Park Homes example

162. The appellant considered the Sunset Park Homes case<sup>50</sup> as the most comparable example to the appeal proposals and was referred to by their planning witness on numerous occasions in oral evidence. The case also was used to illustrate the approach to the application of conditions in a situation

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<sup>50</sup> WSP Appendix 19

where there are multiple application/appeal pitches forming a wider cohort of development.

163. The Inspector explained the 21 appeals each related to a different Plot on the wider site comprising all 21 Plots. The planning history was extensive, so that in total the appeal sites had a permitted use for 21 static caravans/mobile homes, one on each of the plots and a maximum of 28 touring caravans. The proposal was to increase the number of static caravans to a total of 85 in accordance with the individual planning appeals. No provision was made for any touring caravans on any of the Plots. The development proposed in each appeal was worded Retention of x no. static caravans, reflecting the fact commencement had taken place.
164. The Inspector concluded the proposed developments would be environmentally, socially and economically sustainable and would comply with the development plan as a whole. It was not necessary to take account of the personal accommodation needs of the occupants of the Site. Regarding planning conditions, the site development scheme in all cases was to comprise the internal layout of the site, means of foul and surface water drainage and water supply, external lighting, provision of an electric vehicle charging point and a scheme to achieve biodiversity net gain. Details of landscaping were only required in the scheme for Plots 1, 1A and 2 to address the Whitfield Road frontage. A landscape strategy formed part of the proposals and modification of front boundaries agreed. The Inspector was satisfied it should be possible to accommodate the proposed landscaping in a manner similar to the strategy.
165. This summary highlights the case differed significantly from the current appeals. The proposals were not for material changes of use of agricultural land to caravan sites. Residential development already existed, served by an acceptable means of access. The number of issues in dispute were fewer and were not of a technical nature. The anticipated mitigation was not so extensive or interrelated between plots and reliance could be placed on the submitted landscape strategy. The planning balance was firmly based on compliance with the development plan. There were no inconsistencies in information on land ownership, control of land or occupation. All matters considered, the approach followed in the Sunset Park Homes case is not directly applicable to the greater complexity of the current appeals.

### **Planning balance and conclusion**

166. Drawing together my earlier conclusions, the CLLP has a strategy in place to increase the number of traveller sites in appropriate locations, to address under provision and maintain an appropriate level of supply. The proposal when considered on its merits is not supported by Policy S83 Part Three and Policy S47, and there is conflict with Policies S53 and S54, Policies S59, S60, S61, S66 and Policy S7. Policy S84 on military establishments does not support the development. There is no conflict with Policy S21 regarding foul drainage or Policy S57 on conserving the historic environment.
167. The proposal for Plot 1 has not demonstrated the traveller site would be a well planned, sustainable form of development in an appropriate location and that the identified harms and conflicts with development plan policies can be suitably mitigated through the use of planning conditions. The proposed material change of use is contrary to the development plan as whole.

Intentional unauthorised development adds a small amount of additional weight against the proposal.

168. Turning to considerations weighing in favour of the proposal, national need and sub-regional need for additional pitches has moderate weight. The appellant's need for a site and the family circumstances have very significant weight. The proposal would facilitate the Gypsy way of life and promote equality of opportunity. Within the context of national policy in the Framework and PPTS, the site meets social and economic objectives by meeting the accommodation needs of the appellant and her family and supporting their health, social and cultural well-being, more particularly in terms of access to health and education and proximity to family.
169. The proposal performs much less well in meeting environmental and design objectives and in providing a good standard of amenity for the occupiers. Policy conflict occurs when the proposal is assessed against the locally specific criteria. The use of planning conditions could offer mitigation but the evidence fails to demonstrate a good standard of development would be delivered and the identified harm to the local environment would be successfully addressed. When considered overall the proposal is not supported by the Framework or PPTS. To grant a planning permission for an unacceptable site in an inappropriate location would be unlikely to foster good relations between the occupiers and the settled community and would not promote good health and a good quality of life for the occupiers.
170. The direction of the development plan and national policy is against the development, indicating a permanent planning permission should not be granted. Consideration of the plot's contribution to harmful cumulative effects reinforces this conclusion on the unacceptability of the proposed development.
171. This conclusion is subject to the outcome of a structured proportionality assessment to ensure the human rights of the appellant and family are not violated.
- Human rights and proportionality
172. The purpose of a proportionality assessment is to determine whether the protected rights of the individual and his/her family would be disproportionately interfered with if the rights of the community are upheld.
173. The circumstances are such that the interference would be very serious for the appellant and her family, although necessary to protect the environment and public safety.
174. The appellant has sole responsibility for caring for her teenage children. The site is safe and provides a certain amount of peace of mind compared to the worries of living by the roadside and potential consequences of the exercise of police powers. A settled base brings the advantage of education for the youngest child and helps with employment opportunities for the older children. The site enables the appellant's eldest son to maintain close contact with his children, which in turn would be in their best interests. The appellant is able to help care for her relatives on neighbouring pitches, a further aspect of family life that would be disrupted if they lost their home.
175. The public and community interest centres on the regulation of land use in accordance with a statutory framework. The purpose of the planning system is

to contribute to the achievement of sustainable development by fulfilling environmental, social and economic goals. The CLLP is up to date and consistent with national policy in providing for sustainable growth whilst enhancing the area's environmental assets and natural resources. I have concluded that the proposal is not in accordance with the development plan and would not be a sustainable form of development in an appropriate location. Development and occupation commenced without the necessary permission, which the appellant acknowledged. When her son joined her later it would have been in knowledge of the injunction. However, according to the appellant's evidence, the site provided a much needed and safe place to stay. Also when considering the well-being of the children, it would be wrong in principle to reduce the weight to their best interests by actions for which they were not responsible.

176. Balancing the considerations and best interests of the family against the identified public interests, I conclude the interference with the rights of residents is necessary and proportionate to safeguard the wider public interest. A grant of permanent planning permission is not acceptable, nor is a personal permission.

### **Temporary permission**

177. The interference with the family's Article 8 rights must be the least possible to protect the public interest. A grant of temporary planning permission must be considered with a view to allowing time for an acceptable alternative site to be secured and to avoid the appellant and her family resorting to a roadside existence. The appellant has proposed a period of three years. The extent of mitigation required by condition would have to be reasonable and proportionate to that period.

178. Consequently, and as indicated by the proposed conditions, the probability is over that period the main access onto the A17 would not be improved, no landscaping or noise mitigation would be secured, no biodiversity gain would be achieved and harm to countryside character would remain. Concerns over the internal layout and the potential impact on the woodland belt would not be addressed and some reconfiguration of the existing plot may have to take place. An acceptable scheme for foul and surface water drainage would rely on submission of details, approval and implementation in compliance with a site development scheme condition. No scheme of restoration is proposed and no reliance can be placed on achieving environmental gains. In addition, residents (including children) would only be able to get to services and community facilities if they had access to a car. Considerable harm and the associated policy conflicts would continue, although for a time-limited period. In that sense the totality of the harm would be reduced. However, I have to keep in mind that temporary permissions for this and other pitches would increase the level of harm over the time limited period (the cumulative effect). Based on my assessment of family circumstances, the residential use of some 8 pitches may be involved.

179. On the positive side the appellant and her family would benefit from having stability and some certainty over their home base for the next few years and greater time to explore alternative options going forward. Site conditions would be likely to improve in small ways. The personal need for a pitch would be met.

With the family circumstances weighing strongly in the balance, a permission would have to be personal.

180. The oral evidence was strong and highlighted the vulnerable position of this family and the close ties with neighbouring residents on the site. Lack of success in the appeal would mean the residential use must cease within 28 days and the land cleared within 56 days under the terms of the Order of the High Court and the Penal Notice. I am very conscious this is not a case where the local planning authority would have to pursue enforcement action under section 172 of the 1990 Act and where an enforcement notice would have to allow a reasonable compliance period for the use to cease (usually at least 6 months where the loss of a home is at stake). Nevertheless, the Court Order was the outcome of due process and the requirements should an appeal to the Secretary of State fail were set out in February 2022. A temporary planning permission authorising a material change in the use of land is distinct from and not a substitute for a compliance period.

181. I also have carefully considered the close relationship existing between the appellant and her family on nearby plots (especially Plots 2, 3, 4 and 7). A lack of success in the Plot 1 appeal potentially would have serious consequences for the residents of those plots. Arguably the outcome on these sites is very much inter-linked. Moreover, permission for one or more sites but not for other sites would have implications for the immediate living environment during and after site clearance.

182. The deciding factors are the inappropriate location, the harm to public safety and the harm to the local environment, compounded by the form and absence of detail in the proposal. The personal and family needs are not of sufficient weight to enable permission to be granted. All matters considered my conclusion is that temporary planning permission for three years should not be granted, even if personal to the appellant. This is a necessary and proportionate outcome in the public interest.

### **Conclusion**

183. For the reasons given above the appeal will be dismissed. This outcome is necessary and proportionate and will not violate the human rights of the appellant and her family. Having had due regard to the PSED, the decisions are proportionate to achieving the legitimate planning aims.

*Diane Lewis*

INSPECTOR

**Appendix 1: List of Appeals**

<b>Reference</b>	<b>Case Reference</b>	<b>Appellant</b>
Appeal Plot 1	APP/R2520/W/22/3300464	Ms Michelle Price
Appeal Plot 2	APP/R2520/W/22/3300490	Ms Nicole Price
Appeal Plot 3	APP/R2520/W/22/3300497	Mr Alan Knight
Appeal Plot 4	APP/R2520/W/22/3300505	Mr Alan Knight
Appeal Plot 5	APP/R2520/W/22/3300513	Mr James Evans
Appeal Plot 6	APP/R2520/W/22/3300520	Ms Beryl Price
Appeal Plot 7	APP/R2520/W/22/3300522	Mr Danny Price
Appeal Plot 8	APP/R2520/W/22/3300527	Ms Naomi Varey
Appeal Plot 9	APP/R2520/W/22/3300540	Mr Michael Pemberton
Appeal Plot 10	APP/R2520/W/22/3300559	Mr Drewey Price
Appeal Plot 11	APP/R2520/W/22/3300567	Mr Billy Joe Loveridge
Appeal Plot 12	APP/R2520/W/22/3300580	Mr Steve Finney
Appeal Plot 13	APP/R2520/W/22/3300586	Mr Kevin Clee
Appeal Plot 14	APP/R2520/W/22/3300594	Mr Luke Clee
Appeal Plot 15	APP/R2520/W/22/3300606	Mr Linchum Price
Appeal Plot 16	APP/R2520/W/22/3300612	Mr Douglas Price
Appeal Plot 17	APP/R2520/W/22/3300619	Mr Douglas Price

## APPENDIX 2

### APPEARANCES

#### FOR THE APPELLANT:

Scott Stemp	Barrister, instructed through direct access
He called	
Brian Woods BA MRTPI	Managing Director WS Planning & Architecture
Robert Petrow	Managing Director of Petrow Harley Limited
Michelle Price	The Appellant
Beryl Price	Appellant Plot 6
Nicola Price	Appellant Plot 2
Danny Price	Appellant Plot 7
Sean Williams	Occupier Plot 11
Kevin Clee	Appellant Plot 13
Douglas Price	Appellant Plots 16 and 17

#### FOR THE LOCAL PLANNING AUTHORITY:

Jack Smythe	Barrister, instructed by a Solicitor to the Council
He called	
Peter Tufnell DipTP MRTPI	Principal of Tufnell Town & Country Planning
Nick Feltham BA(Hons)	Assistant Development Manager
M.Plan	
David Broughton MCIEEM	Associate Ecologist at Aecom Limited
CEnv	
Jennifer Moffatt MSc	Planning Adviser, The Environment Agency
AssocRTPI	
Peter Rogers BSc MSc	Team Leader of Environmental Protection Team
MCIEH	

#### FOR THE RULE 12 PARTY:

Esther Drabkin-Reiter, Mark Westmoreland-Smith, of Counsel	Instructed by the Government Legal Department
They called	
Dean Walters CEnv	Senior Environmental Manager, Defence Infrastructure Organisation
Mathew Darby	Training Safety Officer, Defence Infrastructure Organisation

#### INTERESTED PARTIES:

Philip Wells, Parish Councillor, Beckingham Parish Council

Mrs Wiltshire	Resident of 'Plot 17'
Mrs Boswell	Resident of Plot 8A

## **DOCUMENTS submitted at the inquiry**

- 1 Opening Note on behalf of the Appellants
- 2 Opening submissions of the Council
- 3 Opening statement on behalf of the Secretary of State for Defence
- 4 Overlay plan
- 5 Official List Entry Church of All Saints
- 6 Beckingham Conservation Area Appraisal
- 7 Application Plans for Plot 1 and Plot 13
- 8 Central Lincolnshire Local Plan Interactive Map
- 9 Email correspondence between the Council and RRR Consultancy
- 10 Information on Duty to Cooperate
- 11 Bundle on Poplar Meadows
- 12 Revised list of planning conditions (Council)
- 13 Conditions Addendum 1 and Addendum 2 (Council)
- 14 Revised proposed conditions and temporary permission conditions (Appellants)
- 15 High Court Injunction 7 February 2022
- 16 Closing statement (plus related court judgements) on behalf of the Secretary of State for Defence
- 17 Closing submissions of the Council
- 18 Closing Note on behalf of the Appellants