Appendix 8

Extract from the Highways Agency document TD42/95, 'Geometric Design of Major/Minor Priority Junctions', Visibility requirements

THE HIGHWAYS AGENCY

TD 42/95

THE SCOTTISH OFFICE DEVELOPMENT DEPARTMENT

THE WELSH OFFICE
Y SWYDDFA GYMREIG

THE DEPARTMENT OF THE ENVIRONMENT FOR
NORTHERN IRELAND

Geometric Design of Major/Minor Priority Junctions

Summary: This Document gives advice and standards for the geometric design of major / minor priority junctions with regard to traffic operation and safety.

c. The distance back along the minor road from which the full visibility is measured is known as the `x' distance. It is measured back along the centreline of the minor road from the continuation of the line of the nearside edge of the running carriageway of the major road. The `x' distance shall be desirably 9m (but see para 7.8). From this point an approaching driver shall be able to see clearly points to the left and right on the nearer edge of the major road running carriageway at a distance given in Table 7/1, measured from its intersection with the centreline of the minor road. This is called the `y' distance and is defined in Fig 7/1. Relaxations are not available for this distance.

7.7 If the line of vision lies partially within the major road carriageway, it shall be made tangential to the nearer edge of the major road running carriageway, as shown in Fig 7/2.

Design Speed of Major Road (kph)	`y' Distance (m)
50	70
60	90
70	120
85	160
100	215
120	295

Table 7/1: `y' Visibility Distances from the Minor Road (Relaxations not available - para 7.6c)

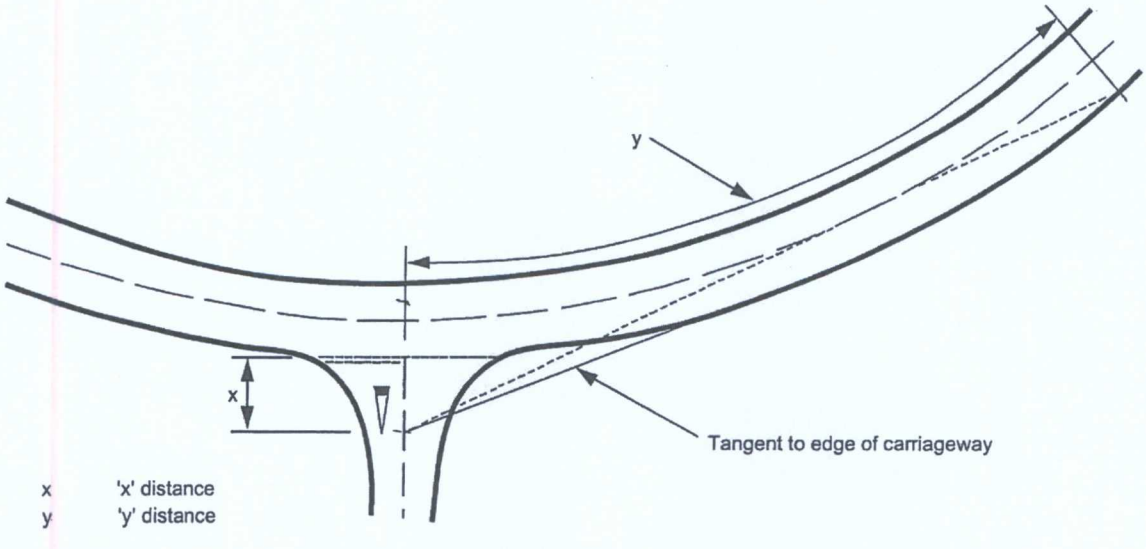

Figure 7/2 : Visibility Standards with a Curved Major Road (para 7.7)

Appendix 9

Extract from the Highways Agency document TD41/95 'Vehicular Access to All-Purpose Trunk Roads', Forward visibility requirements

THE HIGHWAYS AGENCY

TD 41/95

THE SCOTTISH OFFICE DEVELOPMENT DEPARTMENT

THE WELSH OFFICE
Y SWYDDFA GYMREIG

THE DEPARTMENT OF THE ENVIRONMENT
FOR NORTHERN IRELAND

Vehicular Access to All-Purpose Trunk Roads

Summary: This Standard sets out mandatory standards for the geometric layout of connections for direct vehicular access to all-purpose trunk roads where the numbers using the connection are below 500 AADT. The Standard describes the effects of vehicular access to Trunk Roads and outlines the results of recent research on the safety implications.

Visibility

2.15 For safety, drivers both on the major road and on the minor road or direct access shall be able to see any potential hazard in time to slow down or stop comfortably before reaching it. It is necessary therefore to consider the driver's line of vision in both the vertical and horizontal planes and the stopping sight distance for the vehicle at the relevant design speed. It is also essential that other road users can equally see oncoming vehicles, particularly where vehicles cross the footway in front of pedestrians at the same level and the crossing may not be so obvious. The Design Organisation shall comply with these requirements.

2.16 It is also important that any driver wishing to turn right across the opposing traffic stream into the access shall be able to see oncoming vehicles for the Desirable Minimum Stopping Distance as set out in **TD9 (DMRB 6.1.1)** for the design speed of the road. **TD9** also sets down the visibility requirements on approaching a junction and the same values shall be taken for drivers approaching where vehicles are turning right into a direct access **(see also 2.24)**.

2.17 Visibility splays shall be provided to enable emerging drivers using the direct access to have adequate visibility in each direction to see oncoming traffic in sufficient time to make their manoeuvre safely without influencing the major road traffic speed. Drivers of vehicles on the major road shall also have forward visibility equivalent to the desirable minimum stopping sight distance to be aware of the presence of the access.

2.18 Dangerous conditions arise if vehicles obstruct visibility by parking within visibility splays. Where necessary, parking and access shall be controlled to prevent this. The Design Organisation shall ensure that the positioning of lay-bys, bus stops, traffic signs and other street furniture does not interfere with the drivers' visibility requirements and that the obstructive effect for all road users is minimised.

2.19 The visibility standards given below are expressed in terms of "X" and "Y" distances. **Figure 2.1** below illustrates these distances in a typical access.

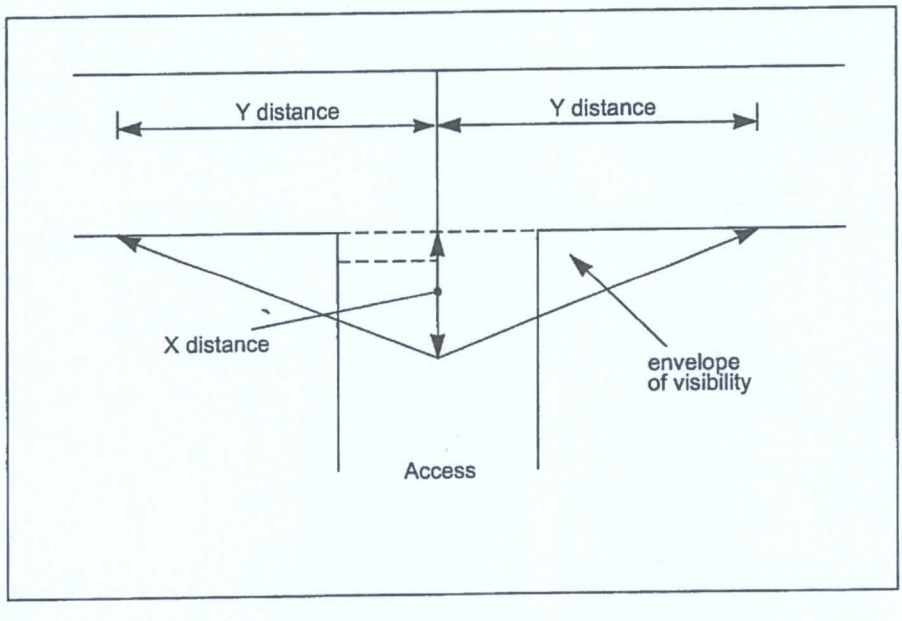

Figure 2/1 : Definition of "X" and "Y" Distances

Appendix 10

Extract from the Highways Agency document TD 9/93 'Highway Link Design',
Forward visibility requirements

THE DEPARTMENT OF TRANSPORT

TD 9/93

THE SCOTTISH OFFICE INDUSTRY DEPARTMENT

THE WELSH OFFICE
Y SWYDDFA GYMREIG

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Highway Link Design

Summary: This Standard replaces Departmental Standard TD 9/81 which sets out the elements of design and principles for their coordination, for use in the geometric design of new roads and improvements. The main change is to incorporate a new section on the application of geometric standards and the procedure for the assessment of parameter values less than the desirable minimum. Amendments Nos. 1 and 2 to TD 9/81 are also incorporated together with the deletion of material superseded by TD 20/85

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2. SIGHT DISTANCE

Stopping Sight Distance

2.1 Table 3 shows the stopping sight distance (SSD) appropriate for each Design Speed.

2.2 Stopping sight distance shall be measured from a minimum driver's eye height of between 1.05m and 2.00m, to an object height of between 0.26m and 2.00m both above the road surface, as shown in Figure 3. It shall be checked in both the horizontal and vertical plane, between any two points in the centre of the lane on the inside of the curve (for each carriageway in the case of dual carriageways).

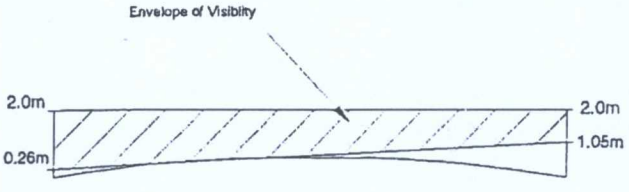

Figure 3 Measurement of Stopping Sight Distance

Full Overtaking Sight Distance

2.3 Table 3, shows for each Design Speed the Full Overtaking Sight Distance (FOSD) required for overtaking vehicles using the opposing traffic lane on single carriageway roads. Sufficient visibility for overtaking shall be provided on as much of the road as possible, especially where daily traffic flows are expected to approach the maximum design flows.

2.4 FOSD shall be available between points 1.05m and 2.00m above the centre of the carriageway as shown in Figure 4, and shall be checked in both the horizontal and vertical planes.

2.5 FOSD is considerably greater than stopping sight distance, and can normally only be economically provided in relatively flat terrain where the combination of vertical and horizontal alignment permits the design of a flat and relatively straight road alignment.

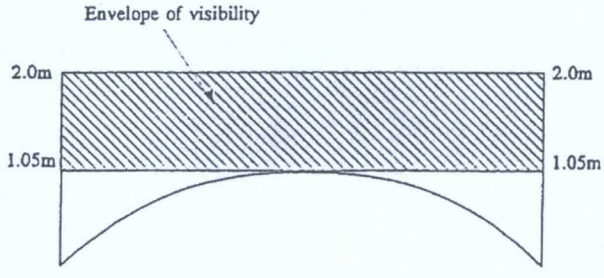

Figure 4 Measurement of FOSD

Coordinated Design of Single Carriageways:

2.6 It will frequently be more economic to design a single carriageway road so as to provide clearly identifiable Overtaking Sections with FOSD in relatively level areas, with climbing lanes at hills, interspersed with Non-overtaking Sections where constraints on the alignment would result in high cost or environmental implications. The detailed Standards and design considerations regarding the coordinated design of such links are given in Chapter 6 to Chapter 8 inclusive. Designs which provide the driver with obvious lengths for overtaking have been found to reduce the frequency of serious accidents occurring on roads with continuous large radius curves. On the other hand, in some conditions in flat topography speeds may be somewhat reduced. There is therefore always an inherent economic trade-off between the construction and environmental costs of alternative alignments and their user benefits, which shall be tested by COBA (Scotland - NESA).

Obstructions to Sight Distance

2.7 Care shall be taken to ensure that no substantial fixed obstructions obstruct the sightlines including road furniture such as traffic signs. However, isolated slim objects such as lamp columns, sign supports, or slim footbridge supports of width 550mm or under can be ignored. Similarly, the effect of short intermittent obstructions, such as bridge parapets of minor roads under, can be ignored. Lay-bys should, wherever possible, be sited on straights or on the outside of curves, where stopped vehicles will not obstruct sightlines.

1.8 Urban Roads: Low speed limits (30-40 mph) may be required due to the amount of frontage activity, but also where physical restrictions on the alignment make it impractical to achieve geometry relative to a higher Design Speed. Design Speeds shall be selected with reference to the speed limits envisaged for the road, so as to permit a small margin for speeds in excess of the speed limit, as shown in Table 2. The minimum Design Speed for a primary distributor shall be 70A kph.

SPEED LIMIT		DESIGN SPEED
MPH	KPH	KPH
30	48	60B
40	64	70A
50	80	85A
60	96	100A

Table 2

Design Speed Related Parameters

1.9 The Design Speed bands 120, 100, 85 kph, etc dictate the minimum geometric parameters for the design, according to Table 3, which shows Desirable Minimum (Absolute Minimum For Sag Curves only) values and values for certain Design Speed steps below Desirable Minimum. Desirable Minimum values represent the comfortable values dictated by the Design Speed.

DESIGN SPEED kph	120	100	85	70	60	50	V²/R
STOPPING SIGHT DISTANCE m.							
Desirable Minimum	295	215	160	120	90	70	
One Step below Desirable Minimum	215	160	120	90	70	50	
HORIZONTAL CURVATURE m.							
Minimum R* without elimination of Adverse Camber and Transitions	2880	2040	1440	1020	720	510	5
Minimum R* with Superelevation of 2.5%	2040	1440	1020	720	510	360	7.07
Minimum R* with Superelevation of 3.5%	1440	1020	720	510	360	255	10
Desirable Minimum R with Superelevation of 5%	1020	720	510	360	255	180	14.14
One Step below Desirable Minimum R with Superelevation of 7%	720	510	360	255	180	127	20
Two Steps below Desirable Minimum Radius with Superelevation of 7%	510	360	255	180	127	90	28.28
VERTICAL CURVATURE							
Desirable Minimum* Crest K Value	182	100	55	30	17	10	
One Step below Desirable Min Crest K Value	100	55	30	17	10	6.5	
Absolute Minimum Sag K Value	37	26	20	20	13	9	
OVERTAKING SIGHT DISTANCES							
Full Overtaking Sight Distance FOSD m.	*	580	490	410	345	290	
FOSD Overtaking Crest K Value	*	400	285	200	142	100	

Table 3

* Not recommended for use in the design of single carriageways (see Paragraphs 7.25 to 7.31 inclusive)

The V^2/R values shown in Table 3 above simply represent a convenient means of identifying the relative levels of design parameters, irrespective of Design Speed.

Appendix 11

Inspectors decisions, Appeal Refs: APP/K2420/C/04/1144490 and APP/K2420/A/04/1144556 Land at Heath Road, Bagworth

2006 0721 04 - Wilson

ZZ667

Appeal Decision

Inquiry held on 27 & 28 October 2004

by Paul V Morris DipTP MRTPI

an Inspector appointed by the First Secretary of State

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Date
0 6 JAN 2005

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Appeal A: APP/K2420/C/04/1144490
Land at Heath Road, Bagworth

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr P Finney against an enforcement notice issued by Hinckley & Bosworth Borough Council.
- The Council's reference is 00/00035/UNUSE.
- The notice was issued on 10 February 2004.
- The breach of planning control as alleged in the notice is, without planning permission, the change of use of the land to use as a site for caravans and/or mobile homes and the stationing of portable buildings in connection with such use.
- The requirements of the notice are to:
  1. cease using the land as a site for caravans and/or mobile homes and portable buildings;
  2. remove all caravans and/or mobile homes and portable buildings from the land;
  3. remove all motor vehicles and equipment from the land which are not ancillary to the agricultural use of the land;
  4. remove all hardstanding and hardcore materials from the land
  5. reduce the fencing erected on that part of the land fronting Heath Road, Bagworth to 1m. above ground level and remove all resulting material s from the land;
  6. reinstate the land by topsoiling and then seeding with appropriate meadow mix of grass seed.
- The periods for compliance with the requirements are: steps 1 & 2 – 6 months; steps 3, 4 & 5 – 9 months.
- The appeal is proceeding on grounds (a) and (g) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended. The appellant is deemed to have made an application for planning permission for the development to which the notice relates by virtue of s177(5) of the 1990 Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with variation.

Appeal B: APP/K2420/A/04/1144556
Land at Heath Road, Bagworth

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr P Finney against the decision of Hinckley & Bosworth Borough Council.
- The application, Ref 03/01363/COU, dated 18 November 2003, was refused by notice dated 28 January 2004.
- The development proposed is the change of use of land to a gypsy caravan site for one family comprising 3 caravans, the stationing of a portable building, the formation of hard standing areas and the erection of fencing.

Summary of Decision: The appeal is dismissed.

Appeal A ground (a), the deemed application and the planning appeal

1. The enforcement notice relates to the land in the appellant's ownership which extends about 100m to the west of Heath Road, varying in width between 60-70m, with a frontage to the road of about 60m. The planning application relates to the defined compound of about 1250m^2 in the north-east corner of the appellant's land, with a frontage to the road of about 30m.

2. Although the deemed application for planning permission and the planning application do not relate to exactly the same development, the issues are the same and so I have dealt with them together.

Planning policy

3. The Leicestershire Structure Plan was approved in 1994. Strategic Policy 4 deals with development in the countryside. Environment Policies 11 and 12 require that regard should be had to the local landscape improvement areas and the National Forest. Housing Policy 8 relates to the provision of gypsy sites. Environment Policy 9 seeks to protect watercourses and ground water resources.

4. The Replacement Structure Plan has reached the final stages of preparation but is not yet approved. Changes relevant to this case are the reference, in Strategic Policy 8, to the provision of affordable housing adjoining villages in rural areas, and the reference, in Housing Policy 6 to the provision of gypsy sites in areas where there is an identifiable need. Resource Management Policy 4 deals with the water environment.

5. The Hinckley & Bosworth Local Plan was adopted in 2001. Policy NE5 deals with development in the countryside and Policies NE10 and NE21 echo the Structure Plan Environment Policies 11 and 12. Policy BE1 sets out criteria for the design and siting of development, and Policy T5 relates to highway standards. Policy RES13 deals with gypsy caravan sites. Policy NE14 mirrors Structure Plan Environment Policy 9.

Main issues

6. In the context of these policies, the main issues are the effect of the development on the character and appearance of the countryside; on highway safety; on the water environment; the suitability for use as a gypsy site; the need for accommodation; and the personal circumstances of the appellant.

Reasons

The character and appearance of the countryside

7. The site is in open countryside about 1km south of Bagworth village on the west side of Heath Road. The former field entrance from the road into the compound has been widened and gated and the compound and access have been surfaced with a mixture of gravel, flags and tarmac. At the front of the compound, a little way back from the road, there is a line of 1.8m fencing behind which there is a portable building and an area used for the storage of construction materials, with parking for a small lorry. Further behind, within the compound, there are caravans and a small amenity building.

8. The site is at a low point in the local, rolling landscape and there is deciduous hedging along the road frontage and along the northern and southern boundaries of the land holding.

However, the site entrance, and the intensive development on the site, are obvious and clearly visible from Heath Road, despite the hedging and fencing along the roadside. There are also views of the site from the surrounding higher ground and this is particularly important because much of this land has public access. Adjoining the appeal site is the Royal Tigers and Centenary Woods and, on the opposite side of Heath Road, is the Bagworth Heath Woods Country Park. I understand that both these areas are well used by the public.

9. The appeal site is isolated within the countryside, unrelated to any settlement or other built development. I consider that the compound, the caravans, and the associated development are a significant intrusion into the rural landscape, contrary to the planning policies to protect the countryside.

Highway safety

10. The County Council as Highway Authority maintain that the full road visibility from the access to the appeal site orto Heath Road, which is a Class III road with a 60mph national speed limit, is substandard. The major road visibility distance should be a minimum of 215m for a 60mph speed limit. If the actual speed of most vehicles is between 45-53mph, then the major road visibility distance should be a minimum of 160m.

11. At the 2.4m and 2m setback points from the edge of the carriageway, the full road visibility to the right (south-east) was measured at approximately 100m and 125m respectively. The County Council had carried out a speed survey which suggested that 85% of the vehicles approaching from the south-east were travelling at 53mph or less.

12. The visibility towards the right is the most critical and, whilst the access may in the past have been used by agricultural vehicles, the use for the present development is, in my opinion, wholly different. The County Council estimated, from the TRICS database, that the number of trips from this residential use could be a minimum of 11 a day, but I consider that this is very likely to be exceeded because the site is remote from any settlement and this would tend to increase vehicle use for all the household needs. In addition, the appellant appears to me to use this site as the base for his business and this would give rise to further trips. I have also borne in mind that, occasionally, the caravans would be pulling off and returning to the site, and this form of manoeuvre could be of higher risk because of the combined length and slowness of a vehicle and caravan.

13. The appellant submitted a written statement on highway matters and I acknowledge the point that the bend in the road to the south-east, and the associated 'slow' road markings, will tend to reduce traffic speeds; also that the road does not have a heavy load of traffic. However, visibility standards are applied to reduce accidents in the public interest and this development falls well short of the acknowledged visibility standards, even taking account of the actual, rather than notional, traffic speeds. It is therefore contrary to the government's guidance on highway safety and the development plan policies which support the required standards.

14. The appellant drew attention to the fact that the Highway Authority did not object to a proposal for 14-plot caravan site on the appeal land in 1990. Planning permission was refused, in any event, but I fail to see that a lack of objection so many years ago should be binding on the Highway Authority now. It is clear that the Highway Authority considered this application on its merits.

Water environment

15. The Council raised concerns about the relationship between the surface water regime adjacent to the appeal site and the foul drainage on the site. Two streams, with a large catchment area, join very near the site and it is likely that the adjacent marshy land will flood, thereby interfering with the foul drainage on the site and possibly allowing foul water to get into the watercourse culvert which crosses the land. This could result in pollution of the downstream ponds and wetlands. I also noted that the Council are considering designating a pond adjacent to the appeal site as a Site of Importance for Nature Conservation.

16. The Environment Agency did not object to the proposed development but pointed out that the planning application should have been accompanied by an assessment for non-mains sewerage in line with the provisions of Circular 3/99. The appellant maintained that it should be possible to provide either a septic tank or a treatment plant to meet the requirements of the Agency but no assessment was provided. A type of treatment plant was discussed at the inquiry but, to my mind, in the absence of a proper assessment, it is not possible to conclude that no significant environmental problems will be created.

17. I appreciate the appellant's submission that this matter might be dealt with by condition, but I am not convinced that a condition would be sufficiently robust to deal with development which is already in place.

18. Whilst I do not see this matter as a determining issue in itself, I have taken these concerns into account in the overall balance of the decision.

The suitability for use as a gypsy site: gypsy status

19. The appellant claimed that the development is as a gypsy site and should therefore be dealt with under the provisions of policy relating to gypsy site provision.

20. The definition of a gypsy is set out in section 24(8) of the Caravan Sites and Control of Development Act 1960 and means a person of nomadic habit of life, whatever their race or origin. That definition has been carried forward into national policy in Circular 1/94 'Gypsy sites and planning' and Circular 18/94 'Gypsy sites policy and unauthorised camping'.

21. In determining whether the appellant has gypsy status for the purposes of planning policy, I have taken account of the case of Wrexham CBC v NAW & Berry [2003] EWCA 835 which points out that, in deciding whether applicants for planning permission are gypsies, the first and foremost question is whether they are actually living a travelling life, whether seasonal or periodic in some other way, at the time of the determination. If they are not, then it is a matter of fact and degree whether the current absence of travelling means that they have not acquired or no longer follow a nomadic habit of life.

22. The appellant's evidence was that he comes from a family of local gypsies and, although he had lived in a bungalow from 1997 to 2000 and worked abroad, he had resumed living on a gypsy site from 2000 until moving on to the appeal site in 2003. He acknowledged that he was occupying the appeal site as a settled base. For a greater part of the year, he carries out tarmacadam work locally on a day-to-day basis but that, in the summer months, he travels away for work, accompanied by his family.

23. The question is the extent to which the appellant is still living a travelling life and it seems to me that, for part of the year, he follows a nomadic existence which is related to earning a living. The Council did not dispute that the appellant has gypsy status and, from my own questioning in the context of this appeal, I concur with that view.

The suitability for use as a gypsy site: Local Plan policy RES13

24. It follows, therefore, that the terms of Local Plan Policy RES15 should be taken into account. This policy contains criteria for assessing the suitability of land as a gypsy site.

25. Criterion (a) requires that the site is located within a reasonable distance of local services and facilities. The nearest settlement is Bagworth, about 1km to the north, but I understand that there are no community facilities, for instance for health and education, in the village. There are very few shops and the post office has recently closed. The nearest primary school is at Nailstone, about 5km away on minor roads. The appellant pointed out that a wider range of facilities is available in Thornton (3km), Barlestone (5km) and Newbold Verdon (5km).

26. I was not given any evidence about any public transport serving the appeal site and these local settlements, and it is clear to me that the distances involved cannot be considered to be reasonable, particularly in the light of national and local policies to encourage sustainable development through reducing travel.

27. Criterion (b) does not come into play as there are no local neighbours.

28. Criterion (c) relates to the effect on the character and appearance of the countryside and I have already found that there is significant harm from this development.

29. Criterion (d) relates to acceptable vehicular access and I have already found that the access would be a threat to road safety as there is substandard visibility.

30. Criterion (e) requires that the site incorporates substantial peripheral landscaping. The appellant submitted a scheme which dealt with this matter but I do not consider that this would eliminate the significant concerns about the effect on the character and appearance of the countryside. Any screening would take a substantial period of time to become established and the site would still be visible from the road and the areas of public access surrounding the site.

31. Criterion (f) requires conformity with other policies of the Local Plan and I have found that there are concerns about water pollution.

32. Policy RES13 requires that planning permission will only be granted for a gypsy site if all the criteria are satisfied. I have found that most of the criteria are not satisfied and I consider that this conclusion reflects the guidance in Circular 1/94, paragraph 14. The Circular says that, in deciding where to provide for gypsy sites, local planning authorities might consider locations outside existing settlements but within a reasonable distance of local services and facilities. Also, that sites on the outskirts of built-up areas may be appropriate, provided that care is taken to avoid encroachment on the open countryside. Sites may be found in rural areas but care needs to be taken to ensure consistency with countryside policies. To my mind, the distance to local services and facilities, the conflict with the policies to protect the countryside, and the threat to highway safety, all indicate the unsuitability of this site.

33. I turn now to consider whether the need for accommodation and the personal circumstances of the appellant are of such weight that the conflict with Policy RES13 can be set aside.

The need for accommodation

34. The appellant emphasised that the need for accommodation should be considered in the context of the guidance in Circular 1/94 and Planning Policy Guidance Note 3, in summary, that the planning system must recognise the need for accommodation and for this to be consistent with a gypsy's nomadic lifestyle.

35. The appellant had lived on the Garland Lane site from 2000 to 2003, and from 1997 to 2000, in a bungalow in Coalville. Prior to that, on the Garland Lane and Sinope sites. He shared the Sinope site with his brother but left because of family problems. It is apparent, therefore, that he was not without settled accommodation before occupying the appeal site.

36. I appreciate the appellant's contention that the Council has not carried out a quantitative assessment of gypsy accommodation needs, as called for by Circular 1/94 and PPG3. However, the appellant was not able to describe in detail how this type of assessment might be carried out, as there were no examples or guidance to draw on. For its part, the Council maintained that it had done all that was possible and necessary to keep the accommodation needs of gypsies under review in the District and that the proof of this was the high level of private gypsy site provision in the District, and particularly in the Bagworth area. In circumstances like the present case, it was very difficult to know whether there was a pressing need for this gypsy site, as opposed to a desire for the appellant to live on this site in the countryside.

37. I concur with the appellant's argument that the amount of gypsy encampments in an area should not be a reason for refusing further encampments on the basis that the gypsy population is already sufficiently well represented in the community. However, where there are a high number of encampments already present, in my view, this puts more onus on a gypsy who intends to settle in the area to be very clear about the justification for an additional site, as it stands to reason that, where there are already a significant number of sites, the possibilities of being able to settle on already existing sites is greater.

38. The bi-annual count of gypsy families was available to the inquiry, and this indicates that there have been a number of unauthorised encampments in the County of Leicestershire. The 5 counts between July 2001 and July 2003 show that there were 16, 31, 34, 23, and 20 gypsy families on unauthorised encampments. The corresponding counts for Hinckley & Bosworth were 6, 13, 16, 5 and 6. However, the counts also show that, whilst there are no council-owned authorised sites, the numbers of families on privately-owned sites is significantly high in the context of the County as a whole. The 5 counts between July 2001 and July 2003 show that there were 72, 82, 68, 21, and 52 gypsy families on privately-owned encampments in Hinckley & Bosworth which are approximately 50% of the total County figures.

39. The shortcomings of the bi-annual counts are well known; they only represent snapshots of the numbers of encampments and the counts may be incomplete. Even taking account of these reservations, it seems to me, however, that whilst there is a relatively modest amount of unauthorised encampments, the number of privately-owned sites is high and I return to the point made earlier that, in my opinion, this puts more onus on a gypsy who intends to settle in the area to be very clear about the justification for an additional site. The Council

has not carried out a formal quantitative assessment, but, even with or without the criteria-based Local Plan policy, the Council has, in the past, authorised a substantial number of privately-owned gypsy sites based on its understanding, gained over many years, of the need and demand for gypsy sites in the Borough. Since 1996, the Council has received 4 applications for private gypsy sites and 3 of these have been granted planning permission.

40. I have also borne in mind that, even if the Council had carried out a detailed assessment of the amount of accommodation needed by gypsies, and, as seems possible, found that sites were needed, I doubt that this would have supported the appellant's case to any significant degree as the appeal site is highly unsuitable.

41. The appellant produced 5 signed notes from the proprietors of privately-owned sites in the locality to indicate that there were no vacancies on these sites. Whilst these might reflect the situation on these 5 sites at the time of the inquiry, the facts behind these declarations could not be questioned and they give only a partial indication of site availability. The Council pointed out that there are several other sites in the Borough where opportunities for a settled site could occur, including the Costalot site with 29 residential pitches, some of which are being prepared for sale, and incorporating a transit site for 16 caravans.

42. I fully appreciate the attraction of this site for the appellant and that it would solve his accommodation needs once and for all, but, given the history of the appellant's occupation of sites in the area and the available facts about privately-owned sites in the Borough, I consider that the need for accommodation has limited weight in the overall balance of the issues.

Personal circumstances

43. The appellant put forward concerns about the education and health needs of the family.

44. There a 6 children in the family: Lianne aged 18 and in work; Clara (17) seeking work; Alan (15) being home educated and working part-time; Paul (14) being home educated; Vanessa (12) being home educated; Joseph (7) attending Dove Bank Primary School, Nailstone.

45. A Social Survey report on the family was produced by Leicestershire County Council in December 2003. At that time, the appellant's wife had confirmed that alternative educational arrangements had been made for the children of secondary school age and that the youngest child was attending primary school. I understand that this is presently the case.

46. I realise the importance of breaking the cycle of poor education for the children of traveller families, and which is a barrier to progress in their later lives. That said, the appellant has elected to home educate 3 (and possibly all) of the older children despite having been in settled accommodation in the locality for many years. However, I can see that it may be difficult to secure another site which would allow the youngest child to stay at the same school. Consequently, this is a matter of some significance.

47. Turning to health matters, the appellant had a blood clot removed from his brain 3 years ago but he acknowledged that he was now in good health. I understand that the family are registered with a general practice in Coalville and, whilst it would be preferable for that to continue, any attendance already involves significant travelling and I do not think that this

would be any more onerous from many other sites in the locality. This is not, in my view, a compelling reason to be located on this particular site.

The balance of the issues

48. I find, overall, that this development causes substantial harm to the countryside contrary to local and national policies for its protection, particularly because the site is surrounded by a country park and amenity areas with unlimited public access. There are also serious concerns about the standard of the access and there is no guarantee that the possible water pollution problems are capable of being solved permanently. Whilst the appellant is a gypsy for the purposes of planning policy, and therefore entitled to more relaxed planning control, I have found that these developments are in conflict with several of the criteria, set out in Local Plan Policy RES13, which embodies this more relaxed planning control. It is more than likely, in my view, that there is some pressure for settled gypsy sites in the area, but I do not see that this can justify such a remote development in the countryside. There is no support for such development in national and local policy for the location of gypsy sites.

49. I have given careful thought to whether the education considerations outweigh the objections. The continuing education of the children is a significant matter but, to my mind, it is not so out of the ordinary to justify granting permission for the developments on this particular site to which there are such strong objections.

Conditions

50. Conditions were discussed at the inquiry including a restriction on the amount of caravans to be used by persons defined as gypsies; a restriction of the use to the appellant and his immediate family; the submission, approval and implementation of a landscaping scheme; the retention of hedges along the site boundaries; the submission, approval and implementation of foul water drainage arrangements; and the painting of the caravans and the portable building.

51. I have given particular thought to the restriction to the appellant and his family but, having found that the personal circumstances in this case are not overriding, I do not consider that this condition would alter the balance of my decision. The other conditions would only have been appropriate if this had been the case.

Conclusions

52. For the reasons given above and having regard to all other matters raised, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application, and dismiss the planning appeal.

Appeal A - ground (g)

53. The appellant submitted that the time for compliance should be 2 years to enable the appellant to find, acquire and get planning permission for a new site, if this were necessary.

54. I appreciate the Council's submission that the site could be vacated and the land reinstated in a relatively short time. However, finding an alternative site and making any necessary arrangements for the child at school may be onerous, and I consider that a period of one year is more appropriate.

55. In addition, I have noted in my decision the lack of any formal quantitative assessment by the Council of gypsy site needs. Whilst I do not consider this to be an overriding matter in determining the appeals, particularly in view of the Council's record in permitting private sites in the area, a period of one year will allow the Council time to give guidance to the appellant on finding a more acceptable site.

56. I propose to vary the enforcement notice accordingly, which will also take care of an omission in the notice of a reference to requirement 6 in the time for compliance.

Human rights

57. It was submitted on behalf of the appellant that the enforcement action and the refusal of planning permission violates the appellant's human rights under the ECHR Article 8.

58. To be forced to move from the site would plainly be an interference with the appellant's home and family life protected by Article 8. However, the extent of the interference is tempered, in my view, because the appellant bought and occupied the site voluntarily. In addition, he did not follow the guidance in Circular 1/94 of consulting the Council about the planning status of the land before buying or occupying the appeal land. To that extent, consequences arising from the Council's enforcement action and the refusal of planning permission are of the appellant's own making. In addition, there was no conclusive evidence to suggest that leaving the site would disrupt the family unit or that it would be impossible to find an alternative site. Although it was argued that the family would have to take to the road to live, there was no evidence to suggest that the appellant and his family had ever lived on the road. He had, in the past, been in settled accommodation in various places.

59. I propose to extend the time for compliance to one year in acknowledgement of the difficulties which will arise in vacating this site. With this in mind, and following my conclusions on ground (a), the deemed application and the planning appeal, I consider that the enforcement action and the refusal of planning permission are not disproportionate, and that there would be no violation of the appellant's rights under Article 8.

FORMAL DECISIONS

Appeal A: APP/K2420/C/04/1144490

60. I direct that the enforcement notice be varied by deleting, in paragraph 7, the sub-paragraphs (1) and (2) and inserting the words: 'One year'.

61. Subject to this variation, I dismiss the appeal, uphold the enforcement notice, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B: APP/K2420/A/04/1144556

62. I dismiss the appeal.

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr David Watkinson	Of Counsel, instructed by Community Law Partnership, 4th Floor, Ruskin Chambers, 191 Corporation St, Birmingham B4 6RP
He called:	
Mr Paul Finney	Appellant
Mr Rawdon Gascoigne BA(Hons) MRTPI	Principal Consultant, Emery Planning Partnership

FOR HINCKLEY AND BOSWORTH BOROUGH COUNCIL:

Mr Steven Gasztowicz	Of Counsel, instructed by Principal Legal Officer, HBBC
He called:	
Mr Matt Lennon	Assistant Engineer, Dept. Planning & Transportation, Leicestershire CC
Mr Christopher Merriman BSc(Hons)	Senior Planning Officer

INTERESTED PERSONS:

Mr John Brearley	43 Thornton Lane, Bagworth, Leicestershire LE67 1DR
Mrs Eileen Johnson	Rosedene, Park Lane, Bagworth, Leicestershire LE67 1BB

DOCUMENTS

Document	1	List of persons present at the inquiry
Document	2	Letter of notification of the inquiry
Document	3	Statement of Common Ground
Document	4	Proof of evidence with appendices 1-2 – the appellant
Document	5	Social Survey Report on travellers on the appeal site – Leicestershire County Council
Document	6	Bundle of background papers – the appellant
Document	7	Testaments (5) re local site availability
Document	8	Proof of evidence – Mr Gascoigne
Document	9	Appendices EPP1-EPP24 to Document 8
Document	10	Appeal decision APP/H2265/A/02/1085799 – 3.1.03
Document	11	Letter Environment Agency to HBBC – 22.12.03
Document	12	Statement of traffic and access issues – the appellant
Document	13	Proof of evidence with appendices 1-13 – Mr Lennon
Document	14	Speed survey 7.9.04 - Heath Road, Bagworth – Leics CC
Document	15	Proof of evidence – Mr Merriman
Document	16	Appendices I-XV with Document 15
Document	17	Gypsy count brief – ODPM 12.5.04
Document	18	Gypsy count returns – 2001-1996 HBBC
Document	19	Circular 3/99 - extract

Document 20 Enforcement Officer's notes – 7.4.00 & 13.11.03 - HBBC
Document 21 The Provision and Condition of LA Gypsy/Traveller Sites in England – P. Niner October 2002 – extract
Document 22 Additional condition – HBBC

PLANS
Plan A Plan with the planning application
Plan B Defined area of planning application site – HBBC 5.11.04

Appendix 12

Inspectors decision, Appeal Ref: APP/F2415/A/05/1179057 existing barn, Lower Coplow, Coplow Lane, Billesdon, Leicestershire

2004/1509/03

Appeal Decision

Site visit made on 21 July 2005

24 NOV 2005 PLANNING DEPT.

by Terence N Povey BA BArch MA FRTPI RIBA

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
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Date:

Appeal Ref: APP/F2415/A/05/1179057
Site address: existing barn, Lower Coplow, Coplow Lane, Billesdon, Leicestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Messrs Woodcock against the decision of Harborough District Council.
- The application ref: 04/01509/FUL, dated 29 November 2004, was refused by notice dated 26 January 2005.
- The development proposed is demolition of adjacent Dutch barn, conversion of existing barn complex to a single dwelling.

Summary of Decision: the appeal is dismissed.

The Main Issues

1. There are two main issues. The first issue is the effect which the proposed development would have on the character and appearance of the rural area in which the site is situated. The second issue is the effect which the proposed development would have on highway safety.

Development Plan Policies

2. I have treated policies EV/5, EV/7, HS/14, IN/1 and TR/3 of the Harborough District Local Plan as relevant to this appeal. Policy EV/5 generally seeks to resist new development in the countryside, while policy HS/14 provides that planning permission will not be granted for residential development outside existing settlements. However, the latter policy allows the possibility of residential development which could ensure the retention of non-residential buildings which are in keeping with the countryside's character and appearance. Policy EV/7 is more positive in this regard; it allows for the conversion of rural buildings to new uses provided, among other things, the building is of permanent and substantial construction and can be converted without major reconstruction and where the scale and nature of the development would not harm the rural area's character and appearance.

3. Policy TR/3 seeks to prevent traffic associated with new development adversely affecting the existing road network. Similarly, policy IN/1 provides, among other things, that development which would lead to an unsafe highway situation will not be permitted.

Reasons for the Decision

4. The appeal site occupies an isolated position within an area of attractive, undulating countryside and is reached by way of a long track leading off Coplow Lane. The site accommodates a group of old and dilapidated farm buildings, with a modern Dutch barn

situated on the north side of the group. The scheme proposes relocating this modern building elsewhere. The old buildings are set around a courtyard, with the buildings enclosing the north and east sides of the courtyard being constructed in red brickwork with slate roofs. The structure enclosing the west side of the courtyard contains a short length of cob walling, but otherwise comprises a covered area having a sheet metal roof above roof trusses supported by posts.

5. From my site inspection I have concluded that it would be feasible to repair the brick buildings, as the Appellants claim. On the other hand it seems to me that the steel-roofed structure is so insubstantial in nature and in such a ruinous condition that its re-use is not feasible. Indeed, the proposal involves replacing it with a new structure built partly of cob walling on the line of a previous cob wall, and partly of timber frame with brick infilling. The taller replacement roof would be of thatch.

6. In my opinion the proposal would result in the creation of a spacious three bedroom dwelling. The new structure would comprise about 40% of the site coverage of the dwelling and to my mind this clearly amounts to major reconstruction rather than conversion works. Furthermore, the proposals also involve the formation of a number of new openings in the brick buildings together with new timber framing with brick infilling. It seems to me that these alterations, together with the rebuilt section, would fail to retain the simple and austere character of these modest, traditional farm buildings; instead they would assume the character and appearance of a substantial dwelling. This would be clearly visible from the nearby footpath.

7. I therefore conclude that the proposals would amount to an intrusion of new residential development into this stretch of open countryside, to the detriment of its pleasing rural character and appearance. In this regard I find that the scheme conflicts with the relevant provisions of policies HS/14 and EV/7.

8. Turning to the matter of highway safety, I saw on my site visit that Coplow Lane carried reasonably fast-moving traffic and that visibility for drivers entering the highway from the access track was impeded by trees, hedges and bushes. I have also noted that in recent years a fatal accident occurred in the vicinity of the appeal site's access to the highway. While I acknowledge that farm vehicles already use the access track I take the view that vehicular traffic associated with the proposed dwelling would be much more intensive.

9. In this context I consider that in the interests of highway safety visibility splays in the order of 2.4 metres x 160 metres, as suggested by the Highway Authority, should be achievable at the junction of the access with Coplow Lane. However, the drawings submitted do not indicate how visibility splays of this nature could be achieved. In the absence of such evidence I have concluded that the increased use of the access could give rise to serious hazards for other users of Coplow Lane; this would be harmful to highway safety and contrary to the provisions of policies TR/3 and IN/1.

Conclusion

10. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

11. I dismiss this appeal.

Terence Pavey

INSPECTOR