

Delegated Report

Planning Ref: 23/00655/FUL
Applicant: Mr David Winter
Ward: Hinckley DeMontfort



Hinckley & Bosworth
Borough Council

Site: Land Adjacent To 12 Newquay Close Hinckley

Proposal: Change of use of land to provide 4no gypsy and traveller pitches including day rooms with associated landscaping.

1. Recommendations

- 1.1. **Refuse planning permission** subject to:
- Planning reasons outlined at the end of this report.

2. Planning application description

- 2.1. This planning application seeks full planning permission for the change of use of agricultural land to provide four gypsy and traveller residential pitches and day rooms with associated landscaping at the Land adjacent to 12 Newquay Close, Hinckley. Each residential pitch includes one static caravan, one touring caravan, one day room, and provision for private outdoor residential amenity and off-street parking provision. These residential pitches are distinguished by new 1.8m high close boarded timber fencing.
- 2.2. Each day room externally measures 6m in width x 4m in depth, which includes provision for a kitchen and living area, a bathroom, and a utility. The day rooms have a pitched roof, which has a ridge height of 4.5m, and an eaves height of 2.3m. These structures are constructed with fair face blockwork that is painted grey, and vertical timber boarding is utilised on their principal elevation. The roofs of the day rooms are constructed with concrete tiles.
- 2.3. Within this development, the scheme provides 277.8sqm of children's play area, a communal hardstanding bin store, a package treatment plant, and additional deciduous planting. The Proposed Site Layout Plan suggests that additional planting will take place on 554.sqm of land to the northeast of the site, and 1,4234.3sqm of land to the north and west of the site, but the detail regarding this proposed planting is currently unknown.
- ### **3. Description of the site and surrounding area**
- 3.1. The 0.87ha application site is a vacant agricultural field that is screened by mature vegetation along its boundaries. The site is located adjacent to, but outside of, the northeast settlement boundary of Hinckley within the Hinckley/Barwell/Earl Shilton/Burbage Green Wedge.
- 3.2. The site is accessed, and bounded by, Normandy Way to the north of the site. Normandy Way (A47) is an adopted and classified 'A' road that is subject to the National Speed Limit at the entrance to the site.
- 3.3. There are residential properties to the south, and west of the site, but there are open agricultural fields to the east and north beyond Normandy Way. Beyond the agricultural fields to the north are residential dwellings within the settlement boundary of Barwell.

4. Relevant planning history

4.1 N/A.

5. Publicity

5.1 The application has been publicised by sending out letters to 125 local residents. A site notice was also posted within the vicinity of the site.

5.2 In total 154 responses have been received from members of the public. All the responses to the application were objections, which were from one councillor and 129 unique addresses for the following reasons:

- Anti-social behaviour concerns.
- Devaluation of local property prices.
- Ecological harm.
- Harm to the character of the local area.
- Harm and loss of the character of the countryside.
- Harm to neighbouring residential amenity.
- Harm to protected wildlife within the site such as bats, birds, and owls.
- Highway safety concerns for vehicles, pedestrians, and cyclists.
- Inappropriate location for development.
- Infrastructure capacity concerns.
- Light pollution.
- Loss of green wedge land.
- Loss of privacy to neighbouring residents.
- No demonstration of genuine “Need” for the development from the Applicant.
- Noise pollution.
- Overbearing impact on neighbouring residential amenity.
- Overdevelopment of the site.
- Safety concerns.
- There are already existing gypsy and traveller residential sites that are established in the local area.
- Waste and refuse disposal concerns.

5.3 One further objection was received from residents of Ashby Road; however, the response did not include who was being represented within this response. In addition, it is noted that the author of the letter also responded to the application separately via an address that was not on Ashby Road. Given the above, this response has not formally included within the number of responses to this application.

5.4 Three additional members of the public did not provide their name or address within their formal response, and therefore their response could not be counted as formal responses.

5.5 Within the formal responses, one member of the public suggested that sports clubs, church clubs, and kids’ clubs are at risk as a consequence of this application, but this response did not provide any reasoning as to why this might be the case.

5.6 It is also noted by the Planning Officer that private interests such as the value of nearby properties are not considered to be material planning considerations.

5.7 Several responses have referred to animals within the application site and their mismanagement.

The Planning Officer notes that there is no indication within this proposal that animals will be present within this application site. Nevertheless, the presence of pets does not suggest that they will cause harm to nearby residents or their amenity. Ultimately, animals that pose a danger to residents should be reported to, and dealt with by, the Police.

- 5.8 In addition, many members of the public have raised noise pollution concerns about, “Substantial work,” taking place at all times of the day within the application site.

The Planning Officer notes that this planning application is for a residential use, and therefore commercial uses are not considered to be acceptable within the application site, should planning permission be granted.

- 5.9 It has been suggested within many public responses that the site is utilised recreationally for family walks and public enjoyment. However, one member of the public has stated that this has been fenced off and is no longer accessible.

It is noted by the Planning Officer that the application site cannot be currently accessed from Newquay Close, Kent Drive or Harwood Drive, and there is no formal Public Right of Way in or around the application site. The only access into the application site is via Newquay Close, which features locked gates.

- 5.10 The responses from members of the public have also discussed concerns regarding the future implications of the site, including expansion of the site.

The Planning Officer notes that the planning application can only be determined on what is proposed, and not any future implications. Nevertheless, it is acknowledged that the capacity and use of the application can be restricted by planning conditions.

- 5.11 No further responses have been received.

6. Consultation

- 6.1 The Local Highway Authority consider the residual cumulative impacts of the development to be serve and recommend that that the development is refused for the following reasons:

1. This proposal, if permitted, would lead to an intensification of vehicular movements turning onto and off the A47 Normandy Way, which is a busy high-speed road, where the turning manoeuvres could be an additional source of danger to road users, which is not in the interests of highway safety, and is contrary to Policy IN5 of the Leicestershire Highway Design Guide and Paragraphs 110 and 111 of the National Planning Policy Framework (2021).
2. The applicant has failed to demonstrate that an appropriate and safe vehicular access would be provided to the proposed development contrary to Paragraphs 110 and 111 of the National Planning Policy Framework (NPPF) (2021)

- 6.2 There have been no objections from the following consultants:

- Hinckley & Bosworth Borough Council (HBBC)’s Drainage Officer
- HBBC’s Environmental Services’ Pollution Officer
- HBBC’s Waste Management Officer
- Leicestershire County Council (LCC)’s Ecology Unit
- LCC Gypsy Liaison Officer
- National Highways

- 6.3 Whilst National Highways have no objection to the application, they have confirmed that this section of the A47 is managed by Leicestershire County Council as the Local Highway Authority. National Highways have clarified that the nearest Strategic Road Network is the A5, which is 3.2 miles southwest of the application site. Given the above, National Highways have no objection to the development because it is not considered to impact the Strategic Road Network.

Ecology

- 6.4 The Leicestershire and Rutland Environmental Records Centre (LRERC) did not identify any designated sites or protected species records from within the red line boundary, but it did identify the presence of bats immediately adjacent to the site.

- 6.5 Whilst LCC Ecology have no holding objection to the scheme, LCC Ecology have request that the proposed deciduous planting should be of native species of local province. In addition, should minor pruning be required to the existing vegetation, such works should be completed outside of the breeding bird season. Furthermore, LCC Ecology have advised that any external lighting requirements should be sympathetic to nocturnal species (e.g., bats) and the surrounding habitats. If required, a lighting plan should be submitted as a planning condition to ensure that any potential impacts of light pollution are mitigated.

Flooding

- 6.6 The application site is located within Flood Zone 1, which is considered to be at low risk of fluvial flooding and a low risk of surface water flooding. Therefore, Leicestershire County Council as Lead Local Flood Authority (LLFA) have made no comment on the application.

LCC's Gypsy Liaison Officer

- 6.7 LCC's Gypsy Liaison Officer has not objected to the application proposal. The Officer has stated that the site has the potential to provide a small family site that supports the health and welfare for children and the elderly that proposed to live in the site.

- 6.8 The families that the development is intended for are well known to officers from the County Council's Multi-Agency Travellers Unit (MATU) who have evidence of lifestyle and work patterns that confirm their ethnicity.

Pollution Officer

- 6.9 The Council's Pollution Officer has confirmed that the application site will require a license under the Caravan Sites and Control of Development Act 1960.

Waste Management Officer

- 6.10 The Council's Waste Management Officer has confirmed that the proposed bin collection is in such a location that meets the needs of the Council's waste service.

- 6.11 No further responses have been received.

7. Policy

- 7.1 Core Strategy (2009):

- Policy 1: Development in Hinckley
- Policy 6: Hinckley/Barwell/Earl Shilton/Burbage Green Wedge
- Policy 18: Provision of Sites for Gypsies, Travellers and Travelling Showpeople
- Policy 20: Green Infrastructure

- 7.2 Site Allocations and Development Management Policies (SADMP) DPD (2016):
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3 National Planning Policies and Guidance:
- National Planning Policy Framework (NPPF) (2021)
 - Planning Policy for Traveller Sites (PPTS) (2015)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)
- 7.4 Other Relevant Guidance:
- Good Design Guide (2020)
 - Hinckley/Barwell/Earl Shilton/Burbage Green Wedge Review (2020)
 - Hinckley and Bosworth Borough Landscape Character Assessment (2017)
 - Leicestershire Highway Design Guide (LHDG) (2022)

8. Appraisal

- 8.1. The key issues in respect of this application are therefore:
- Principle of development
 - Design and impact upon the character of the area
 - Impact upon residential amenity
 - Impact upon parking provision and highway safety
 - Planning balance

Principle of Development

National Policy and the Development Plan

- 8.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 8.3 Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise, and that the NPPF is a material planning consideration in planning decisions.
- 8.4 Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the adopted SADMP set out a presumption in favour of sustainable development, and state that development proposals that accord with the Development Plan should be approved unless other material considerations indicate otherwise. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.

- 8.5 The current Development Plan consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016). The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.
- 8.6 Both the adopted Core Strategy and the SADMP are over 5 years old, and Paragraph 33 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.

Presumption in Favour of Sustainable Development (Paragraph 11(d) of the NPPF)

- 8.7 Paragraph 11(d) of the NPPF states that planning decisions should apply a presumption in favour of sustainable development where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date. Footnote 8 of Paragraph 11 of the NPPF highlights that housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites.
- 8.8 Using the standard method as outlined by the Ministry of Housing, Communities & Local Government (MHCLG), Hinckley and Bosworth Borough Council are able to demonstrate 4.89 years of deliverable housing on 01 April 2022. In addition, both the adopted Core Strategy and the SADMP are over 5 years old, and Paragraph 33 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary.
- 8.9 Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.
- 8.9 Given the above and the change in the housing figures required for the Borough, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered.
- 8.10 Paragraph 11 (d) of the NPPF requires planning permission to be granted unless:
- i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Delivering a Sufficient Supply of Homes

- 8.11 Section 5 of the NPPF states that, to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, and that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 8.12 Within this context, Paragraph 62 of the NPPF states that the size, type, and tenure of housing needed for different groups in the community should be assessed and

reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes, and people wishing to commission or build their own homes.)

- 8.13 Policy 18 of the adopted Core Strategy sets out the criteria for the provision of sites for gypsies, travellers, and travelling show people. However, this policy is largely superseded by the Planning Policy for Traveller Sites (PPTS) (2015). Therefore, the targets for residential pitches that are identified within Policy 18 of the adopted Core Strategy are considered to be out-of-date.
- 8.14 Planning Policy for Travellers Sites (PPTS) (2015) sets out how traveller's housing needs should be assessed for those covered by the definition in Annex 1 of that document.
- 8.15 Paragraph 24 within Policy H of the PPTS states that Local Planning Authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:
- (a) The existing level of local provision and need for sites.
 - (b) The availability (or lack) of alternative accommodation for the Applicants.
 - (c) Other personal circumstances of the Applicant.
- 8.16 All the potential occupants of the site identify as Gypsy and Travellers for the purpose of The Equality Act 2010.
- 8.17 It is accepted that since 2016 there has been limited additional gypsy and traveller accommodation granted in the Borough.
- 8.18 The Council's most up-to-date Gypsy and Traveller Needs Assessment (GTNA) (2016) identified a need for seven pitches, including the two existing pitches within this site, and a supply of seven pitches. However, the GTNA is over five years old and is considered out-of-date, and evidence on the need for gypsy and traveller accommodation remains to be updated.
- 8.19 Whilst the provision of four residential pitches within this application site is unlikely to be a significant benefit to the housing land supply within the Borough, given the Council's failure to deliver a five-year supply of land for housing, it is considered that moderate weight should be given to the provision of the proposed dwelling. Furthermore, the provision of additional gypsy and traveller accommodation within the Borough should be given significant weight in the planning balance.

Outside of Defined Settlement Boundaries

- 8.20 Nevertheless, outside the defined settlement boundaries, the countryside is not regarded as a sustainable location for new development. Section 15 of the NPPF requires planning policies and decisions to conserve and enhance the natural and local environment. Paragraph 174(b) specifically highlights that this should be achieved by, *"Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services."*
- 8.21 Paragraph 25 of PPTS states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not,

dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

- 8.22 This is supported by Policy DM4 of the SADMP, which states that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development. Policy DM4 of the SADMP only considers residential development in the countryside sustainable where:
- (a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - (b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - (c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - (d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
 - (e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation.
- 8.23 Given the above, the proposed development is not considered to relate to, or comply with, any of the criteria above in either Policy DM4, which suggests that the development is unacceptable in principle. However, this does not mean that the application is not sustainable. Importantly, Policy DM4 also requires that scheme meets five further requirements to be considered as sustainable development.
- 8.24 It is also noted that the application site is located within the Hinckley/Barwell/Earl Shilton/Burbage Green Wedge.

The Hinckley/Barwell/Earl Shilton/Burbage Green Wedge

- 8.25 The NPPF does not contain a specific reference to green wedges, however Section 2 of the Council's Hinckley/Barwell/Earl Shilton/Burbage Green Wedge Review in 2020 details their accordence with National Policy.
- 8.26 The Green Wedge between Hinckley, Barwell and Earl Shilton protects the separation of the three settlements, helping to protect their individual identities and provides easy access from the urban areas into green spaces, contributing towards the quality of life for residents in these urban areas. Maintaining the Green Wedge is an important part of protecting the green infrastructure of the Borough.
- 8.27 Policy 20 of the adopted Core Strategy states that the Green Wedge must be maintained between Hinckley and Barwell as it plays an important environmental and landscape protection role.
- 8.28 To support this, Policy 6 of the adopted Core Strategy states that the following land uses will be acceptable in the Green Wedge, provided the operational development associated with such uses does not damage the function of the Green Wedge:
- (a) Agriculture, including allotments and horticulture not accompanied by retail development.
 - (b) Recreation.
 - (c) Forestry.
 - (d) Footpaths, bridleways, and cycleways.
 - (e) Burial grounds.
 - (f) Use for nature conservation.

- 8.29 Furthermore, any land use or associated development in the Green Wedge should:
- (a) Retain the function of the Green Wedge.
 - (b) Retain and create green networks between the countryside and open spaces within the urban areas.
 - (c) Retain and enhance public access to the Green Wedge, especially for recreation.
 - (d) Retain the visual appearance of the area.
- 8.30 The development is not utilised for any of the operational developments detailed within Policy 6 of the adopted Core Strategy. Given the above, and the proposed residential use of the site, the development is not considered to retain the function of the Green Wedge in principle, nor does it retain or enhance public access to the Green Wedge for recreation or retain green networks between the countryside and open spaces within urban areas.
- 8.31 Therefore, the development is considered to be in conflict with Policies 6 and 20 of the Core Strategy.

Summary

- 8.32 By virtue of these factors, the Council considers that the proposal is offered no support by Policy DM4 of the SADMP, and the development is contrary to, and in conflict with, Policies 6 and 20 of the adopted Core Strategy. As such, the application does not accord with Development Plan Policy and is unacceptable in principle, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.

Design and Impact upon the Character of the Area

- 8.33 In accordance with Paragraph 26 of the PPTS, local planning authorities should attach weight to the following matters:
- (a) effective use of previously developed (brownfield), untidy or derelict land.
 - (b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness.
 - (c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children.
 - (d) not enclosing a site with so much hard landscaping, high walls, or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.
- 8.34 The application site has not been previously developed and is not considered to be derelict land, therefore Paragraph 26(a) of the PPTS does not relate to this application.
- 8.35 In addition, whilst additional deciduous planting is proposed around the site, the details of this planting are not confirmed, and no soft landscaping has been proposed within the application site. Whilst this is in conflict with Paragraph 26(b) of the PPTS, details regarding landscaping can be secured via planning condition.
- 8.36 Furthermore, the proposal does provide more a children's play area, as identified within Paragraph 26(c) of the PPTS.
- 8.37 However, there is only access into the application site and the site is entirely enclosed by, 1.8m high close boarded fencing, which is considered to feel deliberately isolated from the rest of the community. In spite of this, the application

site is adjacent to other residential uses, and therefore this development is not considered to unacceptable as a consequence of Paragraph 26(d) of the PPTS.

- 8.38 Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 8.39 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.40 The application site is located in the designated open countryside, and within the narrowest part of the Green Wedge within Area F of the Green Wedge Review.
- 8.41 Policy DM4 of the SADMP states that development in the countryside will be considered sustainable where:
- i.) It does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside; and
 - ii.) It does not undermine the physical and perceived separation and open character between settlements; and
 - iii.) It does not create or exacerbate ribbon development.
 - iv.) If within a Green Wedge, it protects its role and function in line with Core Strategy Policies 6 and 9; and
 - v.) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21.
- 8.42 Given the above, criteria (i), (ii), and (iv) of Policy DM4 of the SADMP are relevant to this application.
- 8.43 Urban Character 4 (Hinckley) of the Council's Landscape Character Assessment (2017) states that, *"The narrow gap between Hinckley and Barwell is a key sensitivity as it maintains the sense of separation and individual identity of the two towns."* In addition, Landscape Strategy 4 of Landscape Character Area F (Burbage) of the Landscape Character Assessment is to, *"Maintain the gap between Hinckley and Barwell as a multifunctional green corridor incorporating recreation."*
- 8.44 Furthermore, the application site is within Area F of the Green Wedge Review and Paragraph 7.23 of the Green Wedge Review acknowledges that the application site is, *"One of the narrowest parts of the Green Wedge and sensitive to change and coalescence."*
- 8.45 As a consequence of its residential use, the development fundamentally alters the character of the site. The domestication of the open countryside is considered to result in significant harm to its intrinsic value, beauty, open character, and landscape character, and this harm is exacerbated by residential paraphernalia that is likely to be associated with the new development such as children's play equipment, storage, and footpaths, amongst others, which is alien to the character of the area.
- 8.46 In addition, the residential use of the application site does not protect the designated Green Wedge's role and function in line with Policies 6 and 20 of the adopted Core Strategy, which contrary to, and in conflict with Policy DM4(iv) of the

SADMP. This harm is particularly heightened by virtue of the application site's sensitivity to change as confirmed within the Green Wedge Review.

- 8.47 Despite the fact that existing vegetation largely diminishes the visual impact of the site from the public highway, this vegetation is deciduous and therefore the development's visual prominence is likely to increase in winter months. Furthermore, whilst additional planting is proposed around the site, there are currently no details regarding this soft landscaping, and the benefit of this deciduous planting is also likely to be reduced in the winter months.
- 8.48 However, as the A47 borders the northern boundary of the site, it is not considered that the scheme undermines the physical and perceived separation and open character between Hinckley and Barwell to the extent that it causes significant harm to the character of the surrounding area.
- 8.49 By virtue of all these factors, it is considered that the development results in significant adverse harm to the intrinsic value, beauty, open character, and landscape character of the countryside, and it fails to protect the role and function of the designated Green Wedge, which ultimately also detrimentally affects its character. Therefore, the development is contrary to, and in conflict with, the Good Design Guide, Policies DM4, and DM10 of the SADMP, Sections 6 and 20 of the adopted Core Strategy, and Section 15 of the NPPF.

Impact upon Residential Amenity

- 8.50 Paragraph 130(f) of the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive, and accessible, and which promote health and well-being, with a high standard of amenity for existing and future users.
- 8.51 Policy DM10(a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.52 The Good Design Guide SPD outlines that development will need to demonstrate that it will not result in loss of amenity to neighbouring properties by way of overlooking, overshadowing or noise.
- 8.53 The Good Design Guide recommends that a principal window to a habitable room should ideally be no less than 8m from the blank side of a single storey neighbouring property, rising to 14m for a two-storey property. In addition, the separation distance between two principal windows to habitable windows should be a minimum of 21m.
- 8.54 There are only neighbouring residential dwellings to south of the site, along Kent Drive, and to the west, along Newquay Close. The application site is separated from the properties to the south by another agricultural field, and this field is separated from the application by mature vegetation. The closest dwellings to the south of the application site are 62 and 64 Kent Drive, which are approximately 28m and 23.7m from the application's site boundary. According to the Proposed Site Layout Plan, the static caravans within the four residential pitches are a minimum of an additional 7m south of this site boundary. Given the scale of the development, this is not considered to result in any loss of light, loss of privacy, overshadowing or

overbearing impacts to either the future occupants of the site or the existing residents along Kent Drive and Harwood Drive.

- 8.55 To the west of the site, 12, 13, 14, and 15 Newquay Close share a boundary with the application site. As per the Proposed Site Layout Plan, these properties are separated from the residential pitches by existing planting and additional deciduous planting, which is proposed by the Applicant. The western boundary of the closest residential pitch is 24m from the eastern side elevation of 12 Newquay Close, and this increases to 33.8m for the rear elevation of 13 Newquay Close, and 37.6m for the rear elevation for 14 Newquay Close. As a result, the development is not considered to result in any loss of light, loss of privacy, overshadowing or overbearing impacts to either the future occupants of the site or the existing residents along Newquay Close.
- 8.56 Furthermore, given the distances from the neighbouring properties, it is not considered that four residential pitches are likely to result any significant adverse noise impacts that detrimentally affect the neighbouring residential amenity.
- 8.57 Each residential pitch exceeds 680sqm, and the development includes a 280.7sqm play area. Therefore, it is considered that the development safeguards the residential amenity of the future occupants by providing sufficient private outdoor amenity space.
- 8.58 By virtue of these factors, the proposal does not result in any significant harm to the residential amenity of the future occupants of the scheme or residential amenity of any the neighbouring properties. Therefore, the proposal is considered to be in accordance with Policy DM10 of the SADMP and the Good Design Guide.

Impact upon Parking Provision and Highway Safety

- 8.59 Paragraph 110 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 111 of the NPPF outlines that 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.
- 8.60 Section 9 of the NPPF promotes sustainable transport. Paragraph 124(c) of the NPPF states that planning decisions should support development that makes efficient use of land, when taking into account, "The availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use."
- 8.61 Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.62 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.

- 8.63 The Proposed Site Layout Plan provides details of the internal layout of the site. The LHA are satisfied that there is sufficient space for vehicles to park within the site and that the development is unlikely to generate vehicle parking within the highway. It is also considered that there is sufficient space for vehicles to turn within the site to allow access and egress in a forward gear.
- 8.64 However, the application site is accessed via an existing agricultural access from the A47 Normandy Way. The A47 is a key strategy link between Leicester and the A5 Hinckley, which is a single carriageway road subject to the National Speed Limit. In the vicinity of the scheme, the A47 has an off-carriageway footway/cycleway that is unlit. Given the nature of the highway in this location, the LHA have concerns regarding the impact of the development on other road users due to the intensification of the use of the access in this location.
- 8.65 The Applicant has stated that there are no proposed alterations to the existing access arrangements. In accordance with the Applicant's Proposed Site Layout Plan, the site access is 4.3m in width, which is considered to be insufficient to allow two vehicles to pass. Consequently, this is likely to result in a vehicle having to reverse back on to the A47 or waiting on the A47 to allow another vehicle to egress the site, to the detriment of pedestrian and highway safety.
- 8.66 It is noted by the LHA that the Applicant has not provided any details in respect of the available visibility splays or a swept path analysis for the site access. In addition, the Applicant has not provided any speed survey results along the A47 Normandy Way in support of their development.
- 8.67 In accordance with Paragraph 1.26 of Section IN5 of the LHDG, the LHA will normally apply restrictions on new accesses for vehicles and the increased use of existing access on roads with a speed limit above 40mph, or where measured vehicle speeds are in excess of 40mph.
- 8.68 The LHA have undertaken a speed survey from 25 October 2021 to 10 November 2021, which was in the vicinity of the site access. This survey demonstrated that the 85th percentile vehicle speeds (for 12 hours between 07:00 and 19:00) of 49.4mph westbound, and 53mph eastbound.
- 8.69 In accordance with the LHDG and based upon the recorded 85th percentile speeds along the A47 Normandy Way, the LHA consider that the site access requires visibility splays of 2.4m x 160m. Nevertheless, whilst the Applicant has not demonstrated that these are possible, the LHA considers that appropriate visibility should be achievable within the extents of the public highway.
- 8.70 Notwithstanding the above, the LHA has conducted an Automatic Traffic Counter (ATC) survey approximately 35m to the west of the site access. The 12-hour counts were undertaken for one week in March 2023, and they demonstrated that there was a total of between 12,615 and 13,653 two-way movements over a 12-hour period (07:00 to 19:00) along the A47 Normandy Way.
- 8.71 The Applicant has not provided any trip generation information for the development. Therefore, the LHA has reviewed the trip generation calculations that were considered as part of the Council's planning application 21/00560/FUL. This application was for the change of use of land to four gypsy and traveller residential pitches at the Land southeast of Leicester Road, Hinckley.

- 8.72 During this application, the LHA undertook its own traffic count on Tuesday 14 and Wednesday 15 June 2022, to ascertain the level of trips that development generated. The results indicated between 29 – 35 daily trips used the access to that site. Given this, and the fact the LHA's own speed survey demonstrates that the measured speeds in the vicinity of the site access are in excess of 40mph, the LHA considers the current proposals to be contrary to Section IN5 of the LHDG. This is because the proposal is likely to lead to an increase in turning movements in this location to the detriment of highway safety.
- 8.73 Furthermore, based on available records, the LHA have identified two recorded Personal Injury Collisions (PICs) within 500m of the site access on Normandy within the last five years. One PIC occurred in December 2018, which was classified as serious, involved two vehicles travelling eastbound towards Earl Shilton, with one vehicle colliding into the rear of the other, which was parked at the time.
- 8.74 The other PICs occurred in January 2020 and was classified as slight. This incident involved a right running vehicle at the junction of Normandy Way with Cornwall Way. Moreover, a total of eight PICs have occurred at the signalised junction of Normandy Way with Ashby Road (A447/B4667) which included one serious and seven slight incidents.
- 8.75 Given the above, the LHA believes that the proposed development is likely to result in a detrimental impact to highway safety.
- 8.76 To summarise, the proposal is considered to result in an intensification of vehicular movements turning onto and off the A47 Normandy Way, which is a busy high-speed road, where turning manoeuvres are likely to be an additional source of danger to road users. Furthermore, the Applicant has failed to demonstrate that an appropriate and safe vehicular access can be provided for the proposed development. As a result, it is considered that the residual cumulative impacts of the development are severe, and therefore the development is contrary to, and in conflict with Policy DM17 of the SADMP, the LHDG, and Paragraphs 110 and 111 of the NPPF.

Planning Balance

- 8.77 The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required. It is necessary therefore to consider that the 'tilted' balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.78 In addition, the Council's Gypsy and Travellers Need Assessment is considered out-of-date, and evidence on the need for gypsy and traveller accommodation remains to be updated. Therefore, the provision of additional gypsy and traveller accommodation within the Borough should be given significant weight in the planning balance.
- 8.79 It is also acknowledged that there are potential social benefits from the scheme, such as providing housing for a range of occupants, including families, and economic benefits including the future occupants' opportunity to act as new customers and employees for local businesses and services. Nevertheless, the

benefits, when associated with four residential pitches, are modest, and are not considered to maintain or enhance the local community. Therefore, these benefits are only given limited weight within the planning balance.

- 8.80 Although the development safeguards the residential amenity of the future occupants of the scheme and the neighbouring properties, given the fact that this does not change the existing circumstances within the application site, this is considered to have neutral weight in the planning balance.
- 8.81 On the other hand, the development results in severe residual cumulative impacts to the road network and highway safety. Therefore, the development is contrary to, and in conflict with Policy DM17 of the SADMP, the LHDG, and Paragraphs 110 and 111 of the NPPF. This should be given significant weight in the planning balance.
- 8.82 Furthermore, the development does not comply, or relate to, any of the criteria of Policy DM4 of the SADMP, or Policies 6 and 9 of the adopted Core Strategy. Ultimately, the development results in the domestication of the site, which causes significant adverse harm to the intrinsic value, beauty, open character, and landscape character of the countryside. Moreover, this scheme fails to protect the role and function of the designated Green Wedge, which ultimately also detrimentally affects its character. Therefore, the development is contrary to, and in conflict with, the Good Design Guide, Policies DM4, and DM10 of the SADMP, Sections 6 and 20 of the adopted Core Strategy, and Section 15 of the NPPF.
- 8.83 Policies DM4, DM10, and DM17 of the SADMP is considered to be broadly consistent with the overall aims of the NPPF, and therefore significant weight should be attached to the fact that the proposal is contrary to the Development Plan and undermines the plan led approach endorsed by the Framework.
- 8.84 By virtue of all these factors, it is considered that the development the cumulative weight of the significant harm caused to: the intrinsic value, beauty, open character, and landscape character of the protected countryside; the failure safeguard the role, function, and character of the Green Wedge; and the severe residual impacts to highway safety and the road network significantly and demonstrably outweigh the benefits of the scheme, which include the need for additional gypsy and traveller sites within the Borough and the accommodation needs of the Applicant in these site-specific circumstances. Given the above, the application is considered to be contrary to, and in conflict with Policies DM1, DM4, DM10, and DM17 of the SADMP, Policies 6, 18, and 20 of the adopted Core Strategy, Policy IN5 of the LHDG, and Paragraphs 110 and 111, and Section 15 of the NPPF.

9. Equality implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3 The equality implications arising from this application relate to persons with protected characteristics as identified within the Equality Act 2010. This has been addressed in the assessment of this application by having regard to the National Planning Policy Framework, Planning Policy for Traveller Sites (2015), and National Guidance (Designing Gypsy & Traveller Sites, Good Practise Guidance), and other National Guidance.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

10.1 The proposed development is not considered to be compliant with the relevant national and local policy as it:

- Has an adverse impact upon the character and appearance of the area.
- Has a significant adverse impact upon highway safety.

10.2 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission is refused.

11. Recommendation

11.1 **Refuse planning permission** subject to:

- Planning reasons outlined at the end of this report.

11.2 Reasons

1. The proposal results in significant harm to the intrinsic value, beauty, open character, and landscape character of the countryside, in principal and by virtue of the domestication and urbanisation of the site. Consequently, this scheme also fails to protect the role and function of the designated Hinckley/Barwell/Earl Shilton/Burbage Green Wedge, which also detrimentally affects its character. Ultimately, it is considered that these adverse impacts significantly and demonstrably outweigh the benefits of the scheme in these site-specific circumstances. Therefore, the development is contrary to, and in conflict with, the Good Design Guide, Policies DM4, and DM10 of the adopted Site Allocations and Development Management Policy Development Plan Documents (2016), Sections 6, 18, and 20 of the adopted Core Strategy, as well as Section 15 and the overarching principles of the National Planning Policy Framework (2021).

2. This proposal results in an intensification of vehicular movements turning onto and off the A47 Normandy Way, which is a busy high-speed road, where the turning manoeuvres are likely to be an additional source of danger to road users. As a result, the residual cumulative impacts of the development are considered to be serve contrary to, and in conflict with Policy DM17 of the adopted Site Allocations and Development Management Policy Development Plan Documents (2016), Policy IN5 of the Leicestershire Highway Design

Guide and Paragraphs 110 and 111 of the National Planning Policy Framework (2021).

3. The Applicant has failed to demonstrate that an appropriate and safe vehicular access can be provided for the proposed development contrary to, and in conflict with Paragraphs 110 and 111 of the National Planning Policy Framework (NPPF) (2021).

a. **Notes to Applicant:**

1. The application has been determined in accordance with the following submitted details:
 - Application Form (submitted: 03.07.2023)
 - Proposed Block Plan 031-PL-010 A (submitted: 23.08.2023)
 - Proposed Site Location Plan, Floor Plan, Elevations, Drg No. 2023031-PL-011 (submitted: 03.07.2023)
 - Supporting Statement (submitted: 03.07.2023)