

Delegated Report

Planning Reference 25/00322/FUL
Applicant(s) Mr Alwyn Smith
Ward Hinckley Trinity



Hinckley & Bosworth
Borough Council

Application Site Five Acres, Rogues Lane, Hinckley

Proposal Provision of four additional residential pitches to existing gypsy and traveller site

Case Officer Sullivan Archer (Senior Planning Officer)

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions detailed at the end of this report.

2. Planning Application Description

- 2.1. This planning application seeks full planning permission for the provision of four additional residential pitches at Five Acres, Rogues, Lane Hinckley. This proposal increases the capacity of the site to 12 residential pitches.

3. Description of the Site and the Surrounding Area

- 3.1. The application site, Five Acres, is an established residential gypsy and traveller site, which was granted temporary planning permission at appeal, which quashed the enforcement notice, 15/00145/UNUSEH. The site was granted permanent planning permission as a residential gypsy and traveller site via Section 73 application 20/01245/CONDIT. These two planning permissions secured the closure of an existing vehicular access to the south of the site via planning condition. The capacity of the site was increased to eight residential pitches via Section 73 application 23/00499/CONDIT. A new vehicular access has been created adjacent to the approved vehicular access on the eastern side of the site without planning permission.
- 3.2. Five Acres is located to the north of, but outside of, the identified settlement boundary of Hinckley within the designated open countryside. The site is bordered by Rogues Lane to the north and Middlefield Lane to the east, but beyond these roads is open agricultural fields. Public Footpath T60, borders the western boundary to the site. There are farmsteads located in close proximity to the site such as Westmoreland Farm to the north, Cold Comfort Farm to the southeast, and Hinckley Fields Farm to the southwest.

- 3.3. Rogues Lane is an adopted but unclassified road subject to the National Speed Limit. In 2016, despite the contentious background of Middlefield Lane, the Local Highway Authority confirmed that they consider the route to be a highway, however there is insufficient evidence to support the view that the highway is adopted.

4. Relevant Planning History

4.1 23/00499/CONDIT

- Variation of condition 2 and 6 of planning permissions APP/K2420/C/15/3132569 (15/00145/UNUSEH). Amendment for additional 6 pitches and the provision of a day room at a residential gypsy and traveller caravan site
- Permitted
- 01.09.2023

4.2 20/01245/CONDIT

- Removal of condition 4 of planning permission APP/K2420/C/15/3132569
- Permitted
- 23.02.2021

4.3 17/00248/CONDIT

- Variation of Condition 2 of appeal reference APP/K2420/C/15/3132569 for the addition of one static mobile home.
- Refused
- 15.09.2017

4.4 APP/K2420/C/15/3132569

- Unauthorised change of use of land from agriculture to use as a residential gypsy and traveller caravan site.
- Allowed
- 10.08.2016

5. Publicity

- 5.1 The application has been publicised by sending out letters to local residents, and a site notice was posted within the vicinity of the site. No responses have been received.

6. Consultation

- 6.1 There have been no objections from the Council's Drainage or Environmental Health Departments.

- 6.2 Leicestershire County Council's Gypsy Liaison Officer confirmed that that the families associated with the development met the definition of Gypsy and Traveller for the purposes of Annex 1 of the Planning Policy for Traveller Sites (2024).
- 6.3 Leicestershire County Council as the Local Highway Authority raised concerns in relation to the new vehicular access that has been created within the site adjacent to the existing approved vehicular access and the lack of sufficient detail to demonstrate sufficient parking and turning facilities.
- 6.4 Following several discussions with the Applicant, the Applicant agreed that the current application was only for the provision of four additional pitches within the site and that the existing unlawful access would be closed as part of this application.
- 6.5 No further responses have been received.

7. Policy

7.1 Core Strategy (2009):

- Policy 19: Provision of Sites for Gypsies, Travellers and Travelling Show People

7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (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 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) (2024)
- National Design Guide (2019)
- Planning Policy for Traveller Sites (PPTS) (2024)
- Planning Practice Guidance (PPG)

7.4 Other Relevant Guidance:

- HBBC's Good Design Guide (2020)
- HBBC's Gypsy and Traveller Accommodation Assessment (GTAA) (2016)
- Leicestershire Highway Design Guide (LHDG) (2024)

8. Appraisal

8.1. The key issues in respect of this application are therefore:

- Principle of development
- Land supply of deliverable sites
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety

Principle of Development

8.2 Paragraph 4 of the National Planning Policy Framework (NPPF) confirms that the Framework should be read in conjunction with the Government's Planning Policies for Traveller Sites (PPTS) and when making decisions on applications of these types of development, regard should also be had to the policies in this Framework, where relevant.

8.3 Paragraph 2 of both the NPPF and the PPTS confirm that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in planning decisions and Paragraph 3 of the NPPF confirms that it should be read as a whole.

8.4 Paragraphs 23 to 28 within Policy H of the PPTS detail how planning applications should be determined for Gypsy and Traveller sites.

8.5 Paragraph 24 of the PPTS confirms that planning applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies within the NPPF and the PPTS.

8.6 However, Paragraph 12 of the NPPF confirms 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.

8.7 The current Development Plan consists of the adopted Core Strategy and the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP).

8.8 In accordance with Paragraph 232 of the NPPF, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF.

8.9 Paragraph 26 of the PPTS confirms that local planning authorities should very strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas in the Development Plan.

- 8.10 Chapter 15 of the NPPF requires planning policies and decisions to conserve and enhance the natural and local environment. Paragraph 187(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.
- 8.11 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. To ensure this, Policy DM4 of the SADMP only considers 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.
- 8.12 Therefore, the proposed development does not relate to, or comply with, any of the criteria above in Policy DM4 of the SADMP, but this does not mean that the development is not sustainable. For example, it is acknowledged that the proposed development is within an established gypsy and traveller site.
- 8.13 Importantly, Policy DM4 of the SADMP also requires that development meets five further requirements to be considered as sustainable development. These are discussed in detail further in the report.
- 8.14 In summary, the Development Plan is the starting point for decision making, and the NPPF and the PPTS are material considerations within the determination of planning applications for gypsy and travellers, which should be read in conjunction with each other and as a whole.
- 8.15 The development is outside of any identified settlement boundaries in the designated open countryside and is offered no support by Policy DM4 of the SADMP or Paragraph 26 of the PPTS. 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.

Land Supply of Deliverable Sites

- 8.16 Chapter 5 of the NPPF requires planning policies and decisions to deliver a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes without unnecessary delay. The overall aim should be to meet an area's identified housing need, including an appropriate mix of housing types for the local community.
- 8.17 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 Paragraph 27 of the NPPF confirm that the PPTS sets out how gypsy and travellers' housing needs should be assessed for those covered by the definition in Appendix 1 of that document.
- 8.18 Policy 18 of the adopted Core Strategy sets out the criteria for the provision of sites for gypsies, travellers, and travelling show people within the Borough. However, this policy is largely superseded by the Planning Policy for Traveller Sites (PPTS) (2024). Therefore, the targets for residential pitches that are identified within Policy 18 of the adopted Core Strategy are considered to be out-of-date.
- 8.19 The Council's most up-to-date Gypsy and Traveller Needs Assessment (2016) identified a need for seven pitches, including the two existing pitches within this site, and a supply of seven pitches. However, evidence on the need for gypsy and traveller accommodation remains to be updated.
- 8.20 The County Council's Gypsy Liaison Officer also stated that due to age of the Council's Gypsy and Traveller Accommodation Assessment (GTAA) (2016), this document is not considered to be relevant within the determination of this current application.
- 8.21 The Council has commissioned consultants to undertake a study to investigate the need for pitches to accommodate gypsies, travellers and travelling show people in the Borough. However, it is accepted that since 2016 there has been limited additional gypsy and traveller accommodation granted in the Borough.
- 8.22 In light of the absence of a new needs assessment for deliverable sites for gypsy and travellers, and due to the out-of-date targets within Policy 18 of the adopted Core Strategy and the out-of-date assessment within the GTAA, it is unlikely that the Council can demonstrate an up-to-date five-year supply of deliberate gypsy and traveller sites.
- 8.23 Paragraph 28 of the PPTS states that if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites, the provisions of Paragraph 11(d) of the NPPF apply.

- 8.24 For decision-taking, 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 strong 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 8.25 Footnote 9 of the NPPF states that these key policies include Paragraphs 66 and 84 of Chapter 5 (Delivering a Sufficiently Supply of Homes), 91 of Chapter 7 (Ensuring the Vitality of Town Centres), 110 and 115 of Chapter 9 (Promoting Sustainable Transport), 129 of Chapter 11 (Making Effective Use of Land), and 135, and 139 of Chapter 12 (Achieving Well-Designed Places).
- 8.26 Paragraph 25 of the PPTS highlights 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; and
 - (b) the availability (or lack) of alternative accommodation for the applicants; and
 - (c) other personal circumstances of the applicant; and
 - (d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites; and
 - (e) that they should determine applications for sites from any travellers and not just those with local connections.
- 8.27 Firstly, it is acknowledged that the proposed development is within an established gypsy and traveller site.
- 8.28 Furthermore, as detailed within this Report, it is accepted that since 2016 there has been limited additional gypsy and traveller accommodation granted in the Borough, and it is unlikely that the Council can demonstrate an up-to-date five-year supply of deliverable gypsy and traveller sites.

- 8.29 The County Council's Gypsy Liaison Officer confirmed that the gypsy and traveller site at Aston Firs within the Borough of Blaby, which is owned and managed by Leicestershire County Council, is at capacity, and there are a number of families living on this site that have grown up children who would like to start their own families with nowhere to move to.
- 8.33. The Applicant has not provided any details in relation to their personal circumstances to justify their proposed development, nor whether they have any alternative accommodation to provide this additional provision of residential pitches.
- 8.30 However, the County Council's Gypsy Liaison Officer confirmed that the development was to accommodate the Applicant's family and close friends, and the families associated with this development are well known to the County Council's Multi-Agency Travellers Unit (MATU) who have evidence of lifestyle and work patterns that confirm their ethnicity satisfies the definition of Gypsy and Traveller within the PPTS. The Liaison Officer also stated that the Applicant has lived in Leicestershire their entire life and their children were also born within Leicestershire.
- 8.31 In light of the above, the benefit associated with the provision of four additional gypsy and traveller residential pitches are considered to attract significant positive weight in the planning balance.

Design and Impact upon the Character of the Area

- 8.32 Paragraph 26 of the PPTS confirms that local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settlement community, and avoid placing an undue pressure on local infrastructure.
- 8.33 Policy 18 of the adopted Core Strategy states that planning permission for new gypsy and traveller sites will be granted providing the site is capable of sympathetic assimilation into the surroundings and is appropriate to the scale of the nearest settlement and its local services and infrastructure.
- 8.34 Policy DM4(i) of the SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside.
- 8.35 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.
- 8.36 The application site is a well-established gypsy and traveller site and currently contains eight residential pitches, and the nearest settled community is Hinckley to the south. Whilst the provision of four additional residential pitches is considered to intensify the use of the site, this is not considered to dominate the nearest settled community, nor is it considered to place an undue pressure on local infrastructure.

- 8.37 Given the established use of the site and the mature boundary hedgerows that shield any long-distance views of the site, the development is not considered to result in any significant adverse impacts in these site-specific circumstances. By virtue of these factors, the development respects the existing character and use of the site in accordance with Policies DM4 and DM10 of the SADMP, Policy 18 of the adopted Core Strategy, and Paragraph 26 of the PPTS.

Impact upon Residential Amenity

- 8.38 Policy 18 of the adopted Core Strategy states that planning permission for new gypsy and traveller sites will be granted providing the site will not cause unacceptable nuisance to existing neighbours by virtue of noise and other disturbance caused by movement of vehicles to and from the site, and that the site is appropriate to provide a safe and healthy environment for residents.
- 8.39 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.
- 8.40 The application site has been utilised as an established Gypsy and Traveller site since 2016 and there are no neighbouring residential properties within 150m of the proposed development. Whilst the development increases the capacity of the Gypsy and Traveller site, this minor increase is not considered to result in any significant adverse impacts to the residential amenity of the occupiers of the site. By virtue of these factors, the scheme is not considered to result in any harm to the residential amenity of neighbouring residents, nor the future occupants of the development. Therefore, the scheme is considered to comply with Policy DM10 of the SADMP.

Impact upon Parking Provision and Highway Safety

- 8.41 Policy 18 of the adopted Core Strategy states that planning permission for new gypsy and traveller sites will be granted providing the site has safe highway access, provision for parking, and servicing.
- 8.42 Policy DM17 of the SADMP states that development proposals need to demonstrate that there is not a significant adverse impact upon highway safety, and that the residual cumulative impacts of development on the transport network are not severe.
- 8.43 The proposal utilises, and makes no amendments to, the existing vehicular access onto Middlefield Lane.
- 8.44 Based on available records to the Local Highway Authority (LHA) there have been no recorded Personal Injury Collisions along Middlefield Lane or its junction with Rogues Lane within the last five years.

- 8.45 Within their response to the current application, the Local Highway Authority confirmed that the existing site access was acceptable to serve the site and the proposed development. In addition, the approved visibility splays for this access are secured via Condition 4 of permission 23/00499/CONDIT and can be secured via planning condition again within this application in the interests of highway safety.
- 8.46 Whilst it is appreciated that there is an existing unlawful vehicular access to the site, a planning condition can be utilised to close this access in the interests of highway safety.
- 8.47 In light of the above, it is not considered that the capacity of the development, nor the proposed access to the site result in significant adverse impacts to highway safety or the road network, subject to conditions.
- 8.48 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision. Any reduction below minimum standards will require robust justification.
- 8.49 The Local Highway Authority have highlighted that the submitted documents lack sufficient details to demonstrate that the scheme is provided with adequate off-street parking and turning facilities. Notwithstanding this, it is considered that sufficient parking and turning provision can be provided within the site to facilitate this development in accordance with Policy DM18 of the SADMP.
- 8.50 In summary, the provision of four additional residential pitches within this site is not considered to create an unacceptable impact on highway safety or the road network in these site-specific circumstances. Therefore, the scheme is regarded as in accordance with Policies DM17 and DM18 of the SADMP.

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 There are no known equality implications arising directly from this development.

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 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission to be granted, subject to the imposition of appropriate conditions.

11. Recommendation

11.1 **Grant planning permission** subject to:

- Planning conditions detailed at the end of this report.

11.2 Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites (2024).

Reason: To ensure compliance with Policy 18 of the adopted Core Strategy (2009) and the Planning Policy for Traveller Sites (2024).

3. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:

- Layout Plan (submitted: 26.03.2025)
- Site Location Plan (submitted 26.03.2025)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4, and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. There shall be no more than 12 pitches on the site. No pitch shall, at any time, contain more than 2 caravans or more than one static caravan (with a caravan being as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968).

Reason: In the interests of visual amenity and to safeguard the intrinsic value, beauty, open character, and landscape character of the open countryside in accordance with Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016), and Chapter 15 of the National Planning Policy Framework (2024).

5. There shall be no commercial activities undertaken at the site, including the external storage of goods or materials not ancillary to the residential use or the keeping of horses, and no vehicles over 3.5 tonnes shall be stationed, parked or stored on the site.

Reason: In the interests of visual amenity and to safeguard the intrinsic value, beauty, open character, and landscape character of the open countryside in accordance with Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016), and Chapter 15 of the National Planning Policy Framework (2024).

6. Prior to the first use of the development hereby permitted, the existing vehicular access adjacent to the approved vehicular access (approved under application 23/00499/CONDIT) shall be closed and shall not be utilised as a vehicular access to the site.

Reason: In the interests of general highway safety and in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2024).

7. Visibility splays shall be maintained to either side of the access to the track of 2.4 metres by 17 metres and these shall be kept clear of any obstruction greater than 0.6m in height above the carriageway of the track.

Reason: In the interests of general highway safety and in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2024).

8. There shall at all times be provision on site for vehicles to enter and leave the site in forward gear.

Reason: To ensure that vehicles entering and leaving the site may do so in a forward gear in a slow and controlled manner, in the interests of general highway safety and in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2024).

9. Vehicular access to the residential gypsy and traveller caravan site shall be from the track approved via planning permission 23/00499/CONDIT only.

Reason: In the interests of highway safety in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2024).

a. **Notes to Applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at building.control@blaby.gov.uk or call 0116 272 7533.
2. The Applicant's attention is drawn to the licensing requirements for the proposed development under the Caravan Site and Control of Development Act 1960. Please contact Hinckley and Bosworth Borough Council's Environmental Services Team for further information on 01445 238 141.