



## Appeal Decision

Inquiry Held on 12 – 15 & 29 November 2019, 9 & 10 December 2019

Site visit made on 11 December 2019

**by C Sherratt DipURP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 4 February 2020**

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**Appeal Ref: APP/J1915/W/19/3234671**

**Land off Chapel Lane, Letty Green, Little Hadham, Hertfordshire SG11 2AB**

- 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 Timothy Mahoney and Traveller Group against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/0893/FUL, dated 29 April 2019, was refused by notice dated 23 July 2019.
  - The development proposed is change of use of land to 10 pitches accommodating the siting of 10 mobiles homes and stationing of 10 touring caravans and 10 utility buildings. Formation of access road and hardstandings.
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### Decision

1. The appeal is allowed and planning permission is granted for change of use of land to 10 pitches accommodating the siting of 10 mobiles homes and stationing of 10 touring caravans and 10 utility buildings; and Formation of access road and hardstandings on Land off Chapel Lane, Letty Green, Little Hadham, Hertfordshire in accordance with the terms of the application, Ref 3/19/0893/FUL, dated 29 April 2019, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

### Application for costs

2. At the Inquiry an application for costs was made by Mr Mahoney against the Residents of Little Hadham, a Rule 6 party. This application is the subject of a separate Decision.
3. An application for costs was also made by The Residents of Little Hadham against Mr Mahoney and Traveller Group. This application is the subject of a separate Decision.

### Procedural Matters

4. Various alternative access options were before me at the outset of the Inquiry. During the Inquiry, the appellant confirmed that the access as constructed was the one to be considered as per revised drawings TWG/1r1 to TWG/4r1. I have determined the appeal on this basis.

### Main Issues

5. The main issues are:

- (a) Whether the site provides a suitable location for a gypsy and traveller site in relation to accessibility to services and facilities;
- (b) The effect of the proposed development on the character and appearance of the area and surrounding landscape;
- (c) The effect of the development on highway safety;

and, should I find conflict with the development plan in respect of any of these issues, whether other considerations would indicate that planning permission should be granted. Other considerations include:

- (d) The need for gypsy and traveller sites and whether a 5-year supply of sites exists;
- (e) The need for accommodation for the current occupiers and whether suitable alternatives are available;
- (f) Whether the intended occupiers meet the definition of a gypsy and traveller for planning purposes; and
- (g) Any personal circumstances relevant to those occupiers.

### **Policy Framework**

6. The East Herts District Plan 2018 was adopted in October 2018. The proposed development is for a gypsy and traveller site. Works have been carried out and the site is already occupied. The reason for refusal specifically relates to Policy HOU9 and HOU10 of the plan. These policies seek to provide a framework for the assessment of any applications for gypsy and traveller sites that may come forward on non-allocated, windfall sites.
7. The appellant was clear at the Inquiry that the proposed site and pitches therein are intended for occupation by those meeting the definition of gypsies and travellers as set out Planning Policy for Travellers (PPTS). On this basis, Policy HOU9 is therefore the relevant policy against which to assess the development although in reality, the policy requirements of both HOU9 and HOU10 are the same irrespective of whether the definition is met.
8. The starting point is to consider if the site is suitable for a gypsy and traveller site, having regard to relevant policies in the development plan. Policy HOU9 contains a number of criteria that planning applications for non-allocated sites should satisfy. Of particular relevance to this appeal are whether (a) the site is in a sustainable location in terms of accessibility to existing local services; (b) the site is suitable in terms of vehicular access to the highway, ... road safety and servicing arrangements and has access to essential services such as water supply, sewerage, drainage and waste disposal; and that (g) proposals ensure that the occupation and use of the site would not cause undue harm to the visual amenity and character of the area and should be capable of being assimilated into the surrounding landscape without significant adverse effect.
9. Policy GBR2 concerns the "Rural Area beyond the Green Belt", within which the appeal site sits. It permits certain types of development, including accommodation for gypsies and travellers in accordance with Policy HOU9 (or

HOU10), provided that they are compatible with the character and appearance of the rural area.

10. An existing need for sites is not a pre-requisite of Policy HOU9 or HOU10; the site is either suitable or not, having regard to the criteria set out. It would only be necessary to consider other considerations, including the personal circumstances of the individuals for whom the pitches are intended, if I were to find conflict with the development plan as a matter of principle and other considerations needed to be balanced against that conflict.

## **Reasons**

11. Policy GBR2 accepts that gypsy and traveller sites can be accommodated in the rural area beyond the Green Belt. This is consistent with Planning Policy for Traveller Sites (PPTS) issued by the Government which does not seek to prevent gypsy and traveller sites from being in the countryside but rather 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 any undue pressure on the local infrastructure. The main issues must therefore be considered in this context.

### Sustainable Location

12. Policy HOU9 (a) is confined to the consideration of a sustainable location in terms of accessibility to existing local services. Policy TRA1 'Sustainable Transport I' similarly requires that development proposals should, amongst other criteria, primarily be located in places which enable sustainable journeys to be made to key services and facilities to help aid carbon emission reduction.
13. The Council's evidence gives the distances to the hamlet of Westland Green as 200m as the crow flies or 460m by road and 1000m to the village boundary of Hadham Ford. Westland Green contains no facilities. Hadham Ford has limited facilities comprising a part-time post office, part-time Doctor's surgery and a Public House.
14. The nearest Primary School is in Little Hadham some 2.57km away and there is a shop, post office and bakery at Standon about 3.52 km away from the appeal site. There is a convenience store in Much Hadham that is 4.03 km away and a Tesco Superstore at Bishops Stortford some 5.95 km away.
15. A bus operates along Chapel Lane with limited services, operating a single service on Tuesdays and Fridays only. There is also a bus stop by the public house (at the end of Chapel Lane) in Hadham Ford which provides a service to Bishops Stortford approximately 3 times per day, 6 days per week.
16. In the context of a rural setting, the appeal site is not "away from an existing settlement", being close to Westland Green and with Hadham Ford only being some 1km away. Nor is it isolated in that it is quite close the grouping of properties that form Westland Green. Furthermore, it is not remote from services. Other gypsy and traveller sites that form part of the Council's identified existing supply are similarly situated in the rural area beyond the Green Belt in countryside locations. Such distances are not unusual in this context.

17. The walk distance between the appeal site and Little Hadham is circa 15 minutes; a distance regarded as the 'preferred maximum' walking distance<sup>1</sup>. I am mindful, that given the unlit nature of Chapel Lane and lack of pedestrian footpath, in reality, and notwithstanding the availability of bus-stops in a reasonable walking distance if required, the site occupiers will be largely reliant on private vehicles to access services and facilities. However, those services and facilities do not, on a day-to-day basis involve long journeys. As set out in paragraph 103 of the National Planning Policy Framework ('the Framework'), opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
18. The nomadic lifestyle of gypsies and travellers obviously involves travelling for both economic and other purposes, towing their caravan. This involves the use of a private vehicle irrespective of location and so, whilst travelling, the same opportunities for using public transport simply do not apply. When away travelling, it will be necessary to access services and facilities wherever they are, rather than leaving and returning to the site on a daily basis for work. In this sense, and notwithstanding the TRICS data referred to, I would therefore expect overall vehicle trips to be lower than those of the settled community who are working.
19. In terms of other family members (or those that have ceased travelling if Policy HOU10 is to be applied) needing to access services and facilities including schools and medical establishments, the availability of these within a reasonable travelling distance is critical, bearing in mind that land in settlements or edge of settlements considered a suitable and sustainable location for housing for the settled population, is in most circumstances, simply not available to accommodate private gypsy and traveller sites. Opportunities to access regular bus services are therefore also less likely. In this case, the reasonable proximity to local schools, doctors and shops will certainly encourage shorter car journeys.
20. The Council refers to Policy DPS2, within its evidence although it was not referred to in the reason for refusal. This is an overarching policy that sets out the Council's strategy for delivering sustainable development, outlining the hierarchy for the location of development; the lowest tier being limited development in the villages. Whilst two allocations for gypsy sites form part of larger residential allocated sites, on the edge of settlements, prospective land values generally limit the possibility of private sites coming forward within or on the edge of settlements, if there is any prospect they may be suitable now or in the future for bricks and mortar housing. To apply this policy rigidly and out of context with PPTS and policies HOU9 and HOU10 it is likely to prohibit the ability for any sites intended to accommodate gypsies and travellers to come forward as windfalls. I do not therefore consider it a policy of direct relevance to this appeal. Similarly, the requirements of Policy TRA1 which require developments to ensure that a range of sustainable transport options are available to occupants or users, which may involve the improvement of pedestrian links, cycle paths, passenger transport network (including bus and/or rail facilities) and community transport initiatives are of less relevance to gypsy and traveller sites in the countryside.

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<sup>1</sup> Appendix A of Mr Russell's proof of evidence – Table 3.1 Reasonable Walking Distances

21. In wider sustainability terms a settled base can reduce incidents of unauthorised encampments, reduce the need for continuous travel and facilitate consistent access to schools and medical services.
22. To conclude the site does provide a sustainable location for a gypsy and traveller site in relation to accessibility to services and facilities. I find that no conflict with criterion (a) of HOU9 and relevant national policy in this regard arises.

#### Character and appearance

23. In order to satisfy criterion (g) of Policy HOU9 the occupation and use of the site should not cause undue harm to the visual amenity and character of the area and should be capable of being assimilated into the surrounding landscape without significant adverse effect.
24. The Council also relies upon landscape policies not referred to in the reason for refusal, to support its case; in particular Policies DES2 'Landscape Character', DES3 'Landscaping' and NE3 'Natural Environment'. In addition, the Council refers to a 2007 Supplementary Planning Document (SPD) entitled 'Landscape Character Assessment'. This sets out descriptions and guidance relating to the Landscape Character Areas (LCAs) within the District. The appeal site lies within the western perimeter of the Hadhams Valley LCA 93. To the west of this and bordering the site boundary is the LCA 89, Wareside – Braughing Uplands.
25. The surrounding area comprises open fields punctuated with hedgerows and woodland copses. I concur with the views of both the Council's and appellant's landscape witnesses that the area is not a 'valued landscape' in the sense meant by paragraph 170 of the Framework. The surrounding area has no statutory status and is not identified as being of any particular quality that might differentiate it from other countryside in the development plan. It does however enjoy a tranquil rural landscape.
26. At times, open views are enjoyed across fields from Chapel Lane and in other sections the road is enclosed by vegetation. There are other residential properties relatively nearby at Westland Green, which comprise predominantly detached properties in large plots often set within a mature treed setting. The provision of 10 pitches within the site would be of a much greater density and comprise smaller individual plots set out in a regimented pattern. It would not reflect the dispersed pattern of nearby development. But there is no requirement within Policy HOU9 for it to do so. It is inevitable that a caravan site will have different characteristics to bricks and mortar housing. Any caravan site in the countryside is likely to have some impact.
27. The appeal site is adjacent to a section of the road where, when travelling in a westerly direction, open views are gained across the site and the caravans already in situ are clearly visible for a short time on the approach to the access and when passing the site. The impact is much less when approaching from the west going in an easterly direction, due to existing vegetation to the south west of the site (a Local Nature Reserve) and the existing hedge along the north-west boundary. Open and unfiltered views are also available walking towards the site on footpath 54. I also observed long distance views across the valley from A120 / footpath near Stone House Farm where the white of the caravans can be observed on the ridge. Views of the site are otherwise

- relatively well filtered and screened by surrounding vegetation, even during the winter months.
28. The area within the site where the pitches would be situated is set back from Chapel Lane. The proposal is for a sizeable site intended to accommodate 10 pitches. Along with the potential stationing of a mobile home on each pitch, there will be the construction of a utility building, the stationing of a touring caravan for at least some of the time, vehicles and associated residential paraphernalia together with the activity associated with 10 residential pitches. Its size therefore adds to its presence in its tranquil rural surroundings.
  29. The assessment to be made is whether it would cause undue harm to the visual amenity and character of the area and whether it is capable of being assimilated into the surrounding landscape without significant adverse effect. The landscape drawings show that the hardstanding areas which would provide a suitable surface for the stationing of a mobile home, touring caravan and utility building, could be restricted to the section of each plot closest to the access thus limiting the area of 'development' to the central areas. This would ensure a buffer of unsurfaced grassed areas at the outer most sections of each plot allowing for additional supplementary planting to that suggested around the perimeter of the site and between pitches. A paddock area is to be retained between the pitches and Chapel Lane. A condition controlling the actual layout of the site, thus ensuring the retention of the paddock area and limiting the extent of hardstanding areas and where caravans can be stationed could be imposed. Extensive landscaping of appropriate species would not appear out of place in this location and there is scope for the creation of hedges along with tree planting both along Chapel Lane, to the rear of the paddock adjacent to some of the pitches and along the access. This could be controlled through a suitably worded condition.
  30. Whilst it is not intended that gypsy and traveller sites should be hidden from view, some properties found along Chapel Lane are set back and sit within mature trees and planting. Such measures would not therefore be inconsistent in this particular setting. Along Chapel Lane there are already instances of access drives to properties in addition to agricultural access tracks. Whilst the access would remain visible, it would not be out of keeping.
  31. On balance, it is considered that despite the number of pitches sought, whilst the development does cause some harm it is not undue harm and it is capable of being assimilated into the surrounding landscape without significant adverse effect subject to an appropriate scheme of landscaping, that reflects the surrounding area. I therefore find no conflict with Policy HOU9 in this regard.
  32. Policy DES2 'Landscape Character' requires development proposals to demonstrate how they conserve, enhance or strengthen the character and distinctive features of the district's landscape. This policy must be considered in the context of policies HOU9 and 10 and cannot be applied in such a way so as to frustrate the granting of planning permission even where it is found that the proposal would not cause undue harm and so would satisfy criterion (g) of those policies specific to gypsies and travellers. In any event, with appropriate landscaping, it is considered that the proposed development would conserve the character of the area.
  33. PPTS requires that sites should respect the scale of, and not dominate, the nearest settled community. Westland Green comprises a small dispersed



grouping of dwellings in generous plots. Numerically, ten pitches would result in a substantial increase in the number of residential 'units' that may be associated with the nearest settled community if considered in isolation of Hadham Ford. However, the site is not read visually as being part of Westland Green, and in any event, taking the size of the site as a whole, it respects the overall scale of and does not dominate Westland Green.

34. To conclude, the development would not unduly harm that character and appearance of the surrounding area.

#### Highway Safety

35. Paragraph 109 of the Framework states that "Development should only be prevented on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 108(b) requires that a safe and suitable access to the site can be achieved for all users. Policy HOU9 (and HOU10) of the East Herts District Plan require that the site is suitable in terms of vehicular access to the highway, parking, turning, road safety and servicing arrangements. The Council raised no concerns in relation to highway safety.
36. In the vicinity of the appeal site the national speed limit applies. The access as constructed is situated within the planning application site boundary. The proposed bell mouth incorporates land forming part of the bell mouth of the existing neighbouring access track. Whether or not all of the bell mouth forms part of highway land or encroaches on to private land that is not in the ownership of the appellant was a point of dispute at the Inquiry. From the revised drawings before me, and my observations on site, it appears that the access can be wholly created on land either in the appellant's ownership or on highway land.
37. Due to the proximity of the adjacent access, the highways witness for The Residents of Little Hadham, suggested that the highways authority would not support two accesses in such close proximity and / or that a much greater visibility would be required. I saw photographic evidence that there had been a field gate in the general area of the newly formed access and that a substantial log is used to block the adjacent access when it is not in use. I consider it would be reasonable to describe it as an agricultural access and largely restricted to a vehicle capable of moving the log, notwithstanding that I was told it can provide access to the Farm and other buildings on the holding. These can all be accessed by alternative means and without moving a log.
38. Revised drawings show the swept path analysis for a 4x4 towing a caravan (TWG/2r1), a 7.5 tonne box van (TWG/3 r1) and Fire Tender (TWG/4r1). I am satisfied that these movements can be achieved on land in the appellant's ownership and on highway land. I consider it would be a very infrequent occurrence that a vehicle may be waiting to leave this agricultural access at the same time another vehicle is either waiting in the highway to turn right into the newly formed access or waiting to leave. Any emergency vehicles would naturally be given priority into the site by a vehicle sitting in the adjacent access and waiting to exit. Otherwise a vehicle turning right would simply wait in the carriageway in the same way it would wait for a break in on-coming traffic; much in the same way as must happen when the adjacent access is in use. On exiting the site, a vehicle may have to wait until any vehicle impeding visibility moves. Although the log had been moved to one side on the day of

- my visit, I am not persuaded that this is anything other than an infrequently used agricultural access and of very little consequence to the safe operation of the newly created access.
39. The key consideration in my view is whether sufficient visibility can be achieved to ensure the safe operation of the access. The appellant has undertaken a traffic survey by way of an automated traffic count on Chapel Lane which formed the basis of calculating the 85<sup>th</sup> percentile speed. The 85<sup>th</sup> percentile speed represents the speed under which 85% of traffic stays at or below and is the accepted value on which design consideration should be based.
40. The highways witness appearing for Residents of Little Hadham was critical of both the location at which the speed survey data was obtained, being some 100m west of the access and the 85<sup>th</sup> percentile speed used to calculate the necessary visibility splay. In terms of the point at which speeds were recorded, the criticism is that at this point, Chapel Lane narrows and leads around a corner with poor forward visibility. So, it is expected that traffic travelling past the traffic counter approaching the corner would be slowing down and traffic travelling away would be speeding up. In the absence of any evidence to the contrary, I am not persuaded by the evidence before me or from my observations on site that the speeds recorded would be materially different at the location of the access or 100m to the west of it, such that a different conclusion might be reached on this issue.
41. The evidence of the appellant's highways witness was that the measured 85<sup>th</sup> percentile speed is 30mph and this is commensurate with the Target Maximum Speed for a local distributor road as set out in the Hertfordshire County Council (HCC) Highway Design Guide. This states "at worst, the 85<sup>th</sup> percentile speed should not be greater than this target maximum speed". Both parties nevertheless agreed that the definitions in the HCC Design Guide do not align well with existing rural roads.
42. The appellant's position changed having accepted the criticisms made by The Residents of Little Hadham in relation to the calculation of the 85<sup>th</sup> percentile speed<sup>2</sup>. Re-calculating the 85<sup>th</sup> percentile based on the raw data of measured speeds recorded over a 24-hour period, an 85<sup>th</sup> percentile speed of 31 mph, instead of 30.3 mph, was derived. Whilst it exceeds the "at worst" position set out in the Design Guide this is only a marginal increase. Referencing Table 7.1 of Manual for Streets 2 (MfS) the Safe Stopping Distance (SSD) for 31 mph is 2m more than it would be for 30 mph. The appellant demonstrated that adequate visibility splays could be achieved in both directions from the newly created access, that being 2.4m x 34m. Indeed, it is the appellant's position that visibility requirements up to a design speed of 37mph may be accommodated (2.4m x 59m) and thus well within the parameters required for a safe access.
43. The highways witness appearing for The Residents of Little Hadham observed traffic travelling between 30 and 40 mph along Chapel Lane. His assessment of speeds was based on following other vehicles along the lane and keeping at the same speeds. He suggests a visibility requirement of either 59m assuming a speed below 37mph or 74m assuming a speed of 40mph. Both 'y' distances

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<sup>2</sup> The 85<sup>th</sup> percentile traffic speeds had been calculated by summing the individual 85<sup>th</sup> percentile speeds calculated for each hour during the 24-hour period and then dividing by the number of hours to provide an average of the hourly calculated 85<sup>th</sup> percentile speeds.



are derived from MfS. There is no doubt, from my observations on site, that the latter cannot be achieved. However, the observed speeds were *between* 30 and 40 mph so there is no assessment of the most frequent speeds or the 85<sup>th</sup> percentile speed derived from this limited assessment.

44. In terms of reliable data, I prefer that derived from the automated traffic count over a 24-hour period. The raw data provided indicates a recorded speed of 40.1 mph and another at 37.9 mph travelling eastbound that were specifically brought to my attention as being the fastest speeds. These are not however typical of most of the speeds recorded over the 24-hour period with the vast majority being between 20 and low-mid 30s. A couple are unusually low being only around 6 mph which it was accepted could perhaps be attributed to cyclists. In a westbound direction a top speed of 41.6mph was noted. This was significantly faster than most which fell in the upper 20's and low 30s bracket and so, again not representative of typical recorded speeds.
45. A number of cars that passed by the access to the site at the time of my site visit were travelling at sufficient speeds for the drivers of vehicles travelling in the opposite direction to sound their horns. This did not appear to be consistent or typical with the speed of traffic or behaviour of drivers I observed earlier and later on the same day along Chapel Lane or from the recorded speeds. I give this little weight, preferring the data recorded over a 24-hour period and unfettered by a group of people standing around the access point.
46. Moreover, there is ample flexibility within the 'y' distances that can be achieved over and above that required for an 85th percentile speed of 31 mph. On site, I observed that a visibility splay of 2.4 x 59 m could be comfortably achieved.
47. To conclude, it is considered that the development would not have an unacceptable impact on highway safety and a suitable access to the site can be achieved. I find no conflict with Policy HOU9 and other transport policies requiring a safe access or national policy in this regard.

#### Other Material Considerations

48. It seemed to me from the evidence I heard that it is likely that the occupiers were fully aware of the need to secure planning permission but continued to develop and occupy the site in any event. This is further reaffirmed by the decision to not only proceed with the works to the access and areas of hardstanding to be created but to arrange for the arrival of caravans all on the same day and over a Bank Holiday Weekend. This is therefore a case of intentional unauthorised development. That is a material consideration of great weight that weighs against the grant of planning permission.
49. Nevertheless, given that I find that the development accords with the policies of the development plan and national policy, despite the weight to be afforded to this as a material consideration, it would not tip the balance against the grant of planning permission.
50. It is not necessary to consider whether other considerations such as the need for sites or the personal circumstances of the individual occupiers would be other considerations that may justify a grant of pp given that I find in favour of the proposal in any event. For reasons I set out under 'conditions' I do not find it necessary to determine whether occupiers meet the definition of a gypsy or traveller found in PPTS.

## Conditions

51. A number of conditions that I might impose should planning permission be forthcoming were discussed at the Inquiry. The appeal was clearly made on the basis of a site for occupation by those meeting the definition of a gypsy and traveller found in PPTS. However, having found no conflict with Policy HOU9, it follows that there is also no conflict with Policy HOU10. The site would thus be acceptable having regard to the development plan, whether the occupiers were gypsies and travellers meeting the definition or not. Accordingly, whilst it would be necessary to restrict the occupation of the site to gypsies and travellers, it would not be appropriate, in light of my findings to also require the occupiers to be able to meet the definition contained in PPTS. Nor is it necessary to restrict occupation of the site to certain individuals as it was not necessary to consider any personal circumstances or the best interests of any children to determine whether planning permission should be granted or not.
52. It will be necessary to limit the number of caravans on each pitch to no more than two, of which only one can be a static to ensure the development does not cause undue visual harm. In addition, to ensure no undue visual harm arises, and critical to the continued use of the site, is the submission and agreement of landscaping details including details of safeguards and / or protective buffers against the Westland Green and Pigs Green Local Wildlife Site; and details of the layout of the site, including the location of hardstandings, utility buildings and the stationing of caravans. Details of the site access, including the provision of appropriate visibility splays will be required to ensure a safe means of access to the site. Other matters to be agreed include the disposal of surface and foul drainage and external lighting. As the development has commenced, the condition requiring the submission of details will need to be worded in such a way that the use should cease in the event of any failure to comply with this requirement.
53. Based on the evidence before me, a condition requiring a programme of archaeological works is not considered to be reasonable or necessary for a development primarily relating to a material change of use.
54. I consider it necessary to restrict vehicles to those not greater than 3.5 tonnes in the interests of the visual amenity of the area. I saw some additional sheds etc that had been erected. For the avoidance of doubt, this permission does not grant or authorise any additional buildings on the site other than the utility buildings, to be constructed in accordance with the elevational details. A condition clarifying that approval would be required for additional structures would be reasonable and the removal of permitted development rights for fences, walls etc to protect the visual amenity of the area.

## Overall Conclusion

55. For the reasons given above I conclude that the appeal should be allowed.

*C Sherratt*

INSPECTOR

## Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans, except where details are required to be submitted under condition 5: Location Plan (Dwg no. J003258/CD01); Proposed Site Plan (Dwg no. J003258/CD02).
2. The site shall not be occupied by any persons other than gypsies and travellers.
3. There shall be no more than 10 pitches on the site and on each of the 10 pitches hereby approved no more than 2 caravans, shall be stationed at any time, of which only 1 caravan shall be a static caravan.
4. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
5. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
  - i) Within 3 months of the date of this decision a scheme for:
    - the means of foul and surface water drainage of the site;
    - proposed and existing external lighting on the boundary of and within the site;
    - the provision of adequate visibility splays at the site access;
    - the internal layout of the site, including the siting of caravans, plots, hardstanding, access roads, parking and amenity areas;
    - a scheme of tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities including details of safeguards and / or protective buffers against the Westland Green and Pigs Green Local Wildlife Site. Unless identified to be removed, all existing trees and hedgerows on the land, shall be retained. The scheme shall set out measures for their protection throughout the course of development;(hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
  - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
  - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

6. At the same time as the site development scheme required by condition 5 above is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of 5 years of (i) the proposed planting beginning at the completion of the final phase of implementation as required by that condition and (ii) the trees and hedgerows to be retained beginning at the practical completion of the development. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within 5 years of planting or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds or amenity/utility buildings, or other buildings or structures, walls, fences or other means of enclosure other than those shown on the approved plans shall be erected on the site unless details of their size, materials and location shall have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
8. No external lighting, other than that approved under Condition 5 shall be provided without the prior written permission of the Local Planning Authority.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Meyric Lewis

He called:

Ms Ellis Edmonds BA(Hons) Geography, MA URP MRTPI	Principal Planning Officer (Development Management) at East Herts District Council (EHDC)
Kay Mead BA (Hons) LA DipTPS MRTPI	Principal Planning Officer (Policy) at EHDC
Steve Jarman	Senior Research Executive for Opinion Research Services Ltd
Ann Westover BA (Hons) Dip LA CMLI	Landscape Architect Associate for Place Services, (Essex County Council)

### FOR THE APPELLANT:

Mr Alan Masters

He called:

Mr Brian Woods BA (TP) MRTPI	Of WS Planning and Architecture (Planning Witness)
Mr Tom Green BEng CEng MICE	Of SLR (Highways Witness)
Mr Robert Petrow BA (Hons) & PGDipLA CMLI	Managing Director of Petrow Harley Ltd (Landscape Witness)
Mr Timothy Mahoney	Pitch (Plot 1)
Mr Sean Mahoney	Pitch (Plot) 2
Ms Ann O'Driscoll	Pitch (Plot) 3
Mr Clark	For Dena Morgan Pitch (Plots) 4 & 5
Ms Charleene Pryce	Pitch (Plot) 6
Mr Peter Donoghue	Pitch (Plot) 7
Mr T Mahoney	Pitch (Plot) 8
Ms J O'Sullivan	For John O'Sullivan Pitch (Plot) 9

### FOR THE RESIDENTS OF LITTLE HADHAM:

Mr Matthew Reed QC

Instructed by Anthony Allen of Allen Planning Ltd

He called:

Mr Anthony Allen BA Hons Dip TP MRTPI	Of Allen Planning Ltd
Mr John Russell B.Eng CMILT MIHT	Thames Valley Regional Director of Motion Ltd (Highways Witness)

## **DOCUMENTS RECEIVED AT THE INQUIRY**

- 1 Appearances for the Council
- 2 Appearances on behalf of The Residents of Little Hadham (Rule 6 Party)
- 3 Correspondence submitted by the Rule 6 Party from Mr Stigwood.
- 4 Opening Statement on behalf of East Herts District Council.
- 5 Opening Statement on behalf of The Residents of Little Hadham (Rule 6 Party).
- 6 Various letters of support submitted by the appellant.
- 7 Suggested Site Visit Itinerary.
- 8 Supplementary Evidence of Tom Green
- 9 Note from Mr Russell on 85<sup>th</sup> percentile speed calculation.
- 10 Rebuttal Evidence of Mr Green.
- 11 Land registry Document.
- 12 High Court Judgement – East Herts DC v Thomas Docherty and Others [2019] EWHC 2696 (QB).
- 13 Correspondence between Oliver Sowerby of HCC & Mr Green (Nov and Dec 2019).
- 14 Suggested Conditions.
- 15 Costs application on behalf of the Rule 6 Party.
- 16 Costs application on behalf of the appellant.

Note: Responses to the applications for costs and Closing Submissions for all the parties were submitted in writing after the Inquiry concluded.