The Planning Inspectorate

Appeal Decision

Inquiry held on 4, 5 and 6 October 2016

Site visit made on 5 October 2016

by Karen L Ridge LLB (Hons) MTPL Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 05 December 2016

Appeal Ref: APP/F0114/W/15/3136780
Rough ground and buildings, Queen Charlton Lane, Queen Charlton, Keynsham, Bristol BS31 2SQ

- 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 Mrs Kathleen O'Connor against the decision of Bath & North East Somerset Council.
- The application Ref. 14/01379/FUL, dated 17 March 2014, was refused by notice dated 4 September 2015.
- The development proposed is change of use of land to a private gypsy and traveller caravan site.

Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to a private gypsy and traveller caravan site on Rough ground and buildings, Queen Charlton Lane, Queen Charlton, Keynsham, Bristol BS31 2SQ in accordance with planning application Ref. 14/01379/FUL, dated 17 March 2014 and subject to the conditions in the schedule annexed hereto.

Procedural Matters

2. The proposed change of use has already occurred in part in that the family brought caravans on to the site in or around 2009. In addition an area of hardcore has been laid and some wooden utility buildings (not included in the appeal proposal) have been erected and a storage shed has been positioned on the site.

3. The address provided on the planning application form stated that the site was on Redlynch Lane. This was the address of the site in three of the four previous appeal decisions[1] relating to the same parcel of land. However since 2013 the Council has referred to the site as being on Queen Charlton Lane and this formed part of the address used by the Council for advertisement purposes during the consultation process on the application. The signed Statement of Common Ground[2] (SCG) submitted on behalf of both parties further records the agreement that the site address should include reference to Queen Charlton Lane.

[1] See background paragraph later for further details.
[2] Inquiry document 5.

4. Notwithstanding the agreement between the parties, one of the Appellant's witnesses, Mrs Burley, gave evidence that she believed the correct address should be Redlynch Lane. Given that there is a written agreement between the parties about which address should be used and given that nothing turns on whichever address is used I do not propose to look behind the agreement in the SCG. I shall simply adopt the address agreed upon. For this reason I have amended the address from that which appears on the application form to that which has been agreed in the SCG and it is this address which appears above.

5. Whilst the location and extent of the appeal site is clear, there was no plan with a red line delineating the site before the Inquiry. With the agreement of the Council the Appellant has submitted a new plan[3], plan 1/2016 Location Plan, which accurately depicts the appeal site.

6. The appeal site is adjacent to a parcel of land (the blue land) owned by a relative of the Appellant. During the course of the Inquiry the Appellant made an offer to remove structures currently on the blue land in the event that planning permission is granted. To secure this offer it was agreed that the Appellant should be afforded the opportunity of submitting a unilateral undertaking (UU) made pursuant to section 106 of the Town and Country Planning Act 1990 (as amended). An executed UU has been received and the Council has confirmed that it is satisfied with the drafting of the UU and has no further comments. I shall return to this matter later.

7. The Appellant has applied for a permanent planning permission but she has indicated that should a permanent permission not be forthcoming then she would seek a personal permission for a temporary period of 5 years.

Gypsy status and occupation of the site

8. The site is occupied by the Appellant and her four adult children, as well as her daughter-in-law and three grandchildren whose ages range from 3 months to 3 years. Gypsies and travellers are defined in the Government's Planning Policy for Traveller Sites (PPTS) as '*persons of a nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependents' educational or health needs or old age have ceased to travel temporarily…'.*

9. The Council does not dispute the gypsy status of the Appellant and her family members and her gypsy status was considered and accepted by the last two appeal Inspectors. The Appellant comes from an Irish Gypsy family and on the information before me, I am satisfied that the Appellant and her family fall within the PPTS definition for planning purposes.

Main Issues

10. The appeal site lies within an adopted Green Belt and it is agreed by the main parties that the proposed change of use of the land, as well as the construction of the toilet block, would constitute inappropriate development in the Green Belt. Paragraph 16 of the PPTS stipulates that traveller sites in the Green Belt are inappropriate development.

11. As with previous Green Belt policy the National Planning Policy Framework (the Framework) provides that inappropriate development is, by definition, harmful

[3] Inquiry document- plan (1).

to the Green Belt and should not be approved except in very special circumstances. The Framework confirms that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

12. It follows therefore that the main issues in this case are:

- the effect of the proposed development on the character and appearance of the surrounding landscape and on the Green Belt;
- the effect of the proposed development on the setting of heritage assets, namely the Queen Charlton Conservation Area;
- whether or not the site is in an acceptable location having regard to local and national policies which seek to promote sustainable development;
- whether there are any other material considerations in support of the proposal, including the need for, and provision of, accommodation for gypsies and travellers within the area, and the accommodation needs, rights and personal circumstances of the Appellant and her family;
- finally, whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations in support of the proposal and, if it is, whether there exist very special circumstances that justify the grant of planning permission.

Reasons

Background

13. The appeal site has a long planning history. In 1994 a planning application for the stationing of caravans on the land was refused and subsequently an enforcement notice was served. Appeals were lodged against the refusal of planning permission and against the enforcement notice. The appeals[4] were heard together and temporary planning permission was granted for a period of three years. For personal reasons the Appellant and her family did not stay on the site for the full three year period and vacated it early to return to Northern Ireland.

14. In 2000 the family moved back onto the appeal site and a second application for planning permission was submitted which went to appeal following a refusal. Following an Inquiry in 2002 the appeal was dismissed[5]. However this decision was subsequently quashed by the High Court and remitted back for redetermination based upon a challenge regarding the Inspector's finding that the Appellant lacked gypsy status. The second Inquiry opened in September 2003 and the appeal was again dismissed[6].

[4] Reference T/APP/C/94/Q0125/635478 and T/APP/Q0125/A/94/243662/P6
[5] Reference APP/F0114/A/01/1061067
[6] APP/F0114/A/01/1061067

15. In 2002 the Appellant vacated the site and returned in 2009 when another application for planning permission was submitted and refused. Following a hearing in September 2010 the appeal was dismissed[7]. This appeal was subsequently challenged without success in both the High Court and Court of Appeal. The current appeal arose from the refusal of a second application for planning permission submitted in March 2013. Injunction proceedings in the Magistrates Court have been adjourned until January 2017 pending the outcome of this appeal decision.

16. To varying extents all of the above appeal decisions and court decisions are material considerations to which I shall have regard in my determination. In addition I must also have regard to the current policy position at local and national level and to any other material changes in circumstances since the previous appeals.

Planning policy

17. The development plan for the area includes the Bath & North East Somerset Core Strategy (CS) which was adopted in July 2014 and forms part 1 of the Council's Local Plan. Of particular note is policy CP11 which sets out specific criteria to be used in allocating gypsy and traveller sites and determining planning applications in relation to such sites.

18. There are also some saved policies from the Bath & North East Somerset Local Plan (LP), adopted in 2007. In terms of emerging policies the Council has submitted its 'Placemaking Plan' to the Secretary of State and an examination which commenced in September 2016 was concluded the following month. In addition the Council had previously prepared a preferred option 'Gypsies, Travellers and Travelling Showpeople Site Allocations Development Plan Document (DPD)'. This has been replaced by a Travellers' Sites Plan which is at an early stage. The parties agree that these expressions of emerging policy attract only limited weight.

The effect upon the landscape and the Green Belt

19. Effect upon the character and appearance of the landscape: one of the criteria in CS policy CP11 requires sites to be well-designed and well-landscaped and to have '*no unacceptably adverse impact'* on the character and appearance of the surrounding area. LP policy NE.1 confirms that development will not be permitted if it does not conserve or enhance the character and local distinctiveness of the landscape.

20. The Council's Landscape Character Assessment 2003 '*Rural Landscapes of Bath & North East Somerset'* classified the district according to different landscape character types. The site is on the northern edge of the Dundry Plateau character type which generally comprises open windswept landscapes with indented valleys at the edges of the area and small woods and tree belts in valleys and around settlements.

21. The appeal site is located a short distance to the south-east of the small village of Queen Charlton and to the south-west of the settlement edge of Keynsham. It is roughly triangular in shape and set back from the road behind double wooden gates. The south-western boundary of the site curves round from the entrance to the rear and consists of a mature hedgerow boundary with

[7] APP/F0114/A/10/2127069

hedgerow trees which provide significant screening. The northern boundary is also mature with scattered trees to the rear which restrict views from the north into the site. The western boundary is next to the adjacent paddock and is delineated by an earth bund with some non-native boundary planting which has gaps in it and is at odds with the wider landscape.

22. On my accompanied visit I saw that there were three touring caravans on the site, two large wooden buildings and two smaller wooden utility buildings. The proposal would result in two mobile homes and four touring caravans being positioned on the site, together with a toilet block and a mono-pitch stable block. In addition there would be vehicles and other domestic paraphernalia associated with a residential use. In the 2003 appeal planning permission was sought for two mobile homes and one touring caravan. In the 2010 appeal the proposal included two single unit static caravans and three touring caravans.

23. In terms of the baseline for my assessment of the effect upon the landscape, the site is agricultural land and the current structures on the site do not benefit from planning permission. To the extent that the proposed development would bring caravans and other structures onto this agricultural land, it would be alien in this landscape. The introduction of the caravans and other structures would therefore conflict with the primary characteristics associated with the Dundry Plateau. It would change this part of the landscape causing some moderate, albeit localised, harm to its character. I now turn to consider the visual effects upon the landscape.

24. Queen Charlton sits at the head of a valley. When travelling out of the village towards the site, the road descends into the valley before rising again past the appeal site. Along this stretch of highway there is mature tree cover and established boundary hedgerows both along the highway and framing open fields, particularly on the northern side of the road. This closes off wider ranging views and creates a more intimate setting. From the public highway outside the site the close-boarded double gates are a somewhat incongruous feature in an agricultural setting and wider rural context.

25. The proposed location of two mobile homes along the south-western boundary and the presence of extended landscaping to create a curved access track into the site would help to ensure that there would only be glimpsed views of the caravans from the lane outside. The only real physical indication of the site would be the gates which are untypical of the standard open field gates seen in the area. The caravans could however still be glimpsed in winter months or in hours of darkness when internal illumination from within the site might be seen. Of course there would also be activity associated with the daily comings and goings of site occupants and the gates opening and closing which would provide fleeting internal views of the site. I do not consider that there are any measures which could be taken which would materially reduce the harmful effect of the gates.

26. I contrast my assessment above with the position which was before the 2010 appeal Inspector who recorded that the site was readily seen from the lane and that the upper parts of the caravans would be clearly seen above the bunds on the western boundary. Both the 2003 and 2011 appeal Inspectors identified

views of the site from the lane[8] outside the site and from Dapwell Lane. However, as acknowledged by Mr Potterton, these views no longer exist due to the maturation of vegetation and in particular the boundary hedgerows. Travelling towards the site along the lane the planting on the earth bund and the mature roadside hedgerows would largely if not completely obscure views of the caravans. This is a material change since the 2010 appeal.

27. The 2003 and 2010 appeal Inspectors both made findings to the effect that any earth bunds would be alien and intrusive. The landscape proposals plan indicates the existence of bunds on all three boundaries. The bunds on the northern and south-western boundaries are much less conspicuous given that the mature planting has assisted their assimilation. The bund on the western boundary is a more obvious man-made feature in the landscape. With re-profiling and more sympathetic planting the adverse effects would be reduced but the earth bund along this boundary would remain an uncharacteristic feature.

28. The only other public view of the site is from an access track to the rear of Monk Court. From here flashes of the white caravans would be seen at least in the intervening period whilst the proposed planting established itself. However, this view is partial and from this limited vantage point the site is seen as part of a much wider vista which takes in wide-ranging views of the river valley. I do not believe that a condition controlling the colour of the caravans would be of any practical effect in that permission is being sought for a change of use and the caravans on site could be changed over time. In any event, in the longer term the planting would probably obscure views of the caravans and other domestic paraphernalia. However the earth bund and planting on top on the western boundary would remain an incongruous feature. As a result the proposal would result in minor visual harm to the landscape.

29. I now turn to consider the effect of the promises made within the UU. In the event that planning permission is granted the UU secures the removal of all temporary and permanent structures from the adjoining paddock area. If the structures on the adjoining land are unauthorised they could be removed by enforcement action and the UU would be of no material effect. However in this instance there is some evidence to suggest that the structures are likely to be immune from such action, having been on the land in 1999[9]. The removal of these structures would result in a small improvement both to landscape character and to the appearance of the rural area. I therefore take this matter into account in my final assessment.

30. The proposed landscape mitigation measures would assist in reducing this harm to a limited extent and the removal of unauthorised structures on adjoining land would deliver a limited benefit. Having regard to all of the above I conclude that there would be minor resultant harm to the character and appearance of the landscape having regard to the nature and scale of the development and the nature and extent of views of the development. In this regard the proposal is contrary to LP policy NE.1.

[8] The Inspectors' references are to Redlynch Lane (which was the address cited in those appeals). As previously confirmed the parties are agreed that the site is on Queen Charlton Lane and it is this lane that was being referred to in previous decisions as acknowledged by Mr Potterton in his proof of evidence §5.5 and §5.7.
[9] The aerial photograph of the appeal site and adjoining land taken in 1999

31. CS policy CP11 requires there to be 'no unacceptable adverse impact' which would appear to distinguish between an adverse impact which may be acceptable and one which is unacceptable. In other words it is not an absolute requirement not to cause an adverse impact but a requirement qualified by the use of the word unacceptable. Whether or not the minor adverse impact which I have identified is acceptable will depend on all other considerations which need to be weighed in the balance.

32. The Green Belt: CS policy CP8 reiterates that the openness of the Green Belt will be protected from inappropriate development. Criterion (i) of CS policy CP11 provides that sites should not lie within the Green Belt unless, in the case of a planning application on unallocated land, very special circumstances exist.

33. LP policy GB.2 states that permission will not be granted for development within or visible from the Green Belt which would be visually detrimental to the Green Belt. Policy GB.2 dates from 2007 and is somewhat at variance with national policy. I therefore attribute reduced weight to it and shall focus on the application of the more recent CS policy CP8 and the objectives set out in the Framework.

34. Openness is largely concerned with the physical absence of development. To the extent that the proposal would introduce elements such as caravans, vehicles and other built structures where previously there were none there would be a diminution of openness. On behalf of the Council, Mr Potterton contends that the proposed mitigation/landscape scheme would also reduce openness but I disagree with part of his assessment in that the introduction of planting on the edges of the site would be permissible in the Green Belt. I do not consider that these matters should be taken into account in a calculation as to the reduction in openness. The bunds are a different matter and I agree that the introduction of earth bunds reduces openness to a limited extent having regard to the size of the bunds.

35. In terms of the previous appeals I have already set out the extent of development considered in those appeals. I also acknowledge that the extent of proposed development before me is, as a matter of fact and degree, a little more than was previously considered. The current proposal would result in one additional touring caravan, one toilet block and a stable and these elements would be over and above those considered by the 2010 Inspector. Therefore openness in this appeal is harmed to a somewhat greater degree than previously in terms of a consideration of additional physical development on the land.

36. In relation to the visual impact on the Green Belt as part of a wider consideration of the effect on openness I rely upon my findings in relation to the effects upon character and appearance above. Whilst those visual effects are limited, the visual dimension is only part of the consideration of openness as has been made clear by the Court of Appeal in the Turner[10] judgment. That judgment also clarified that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result of a new building. I would quantify the degree of harm to openness as moderate in this case contrary to the objectives in CS policy CP8.

[10] Tuner v Secretary of State [2016] EWCA Civ 466

37. One of the main purposes of the Green Belt is to safeguard the countryside from encroachment and it is agreed that the proposal would result in encroachment into the open countryside. Paragraph 88 confirms that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed [my emphasis]. The loss of openness and the encroachment occasioned by the development proposed are both other harms which fall to be weighed in the balance. I do not accept the Appellant's contention that they are one and the same thing or that a finding of loss of openness automatically means that a finding of encroachment follows. Loss of openness is clearly capable of constituting an encroachment into the countryside but this is a matter of planning judgment having regard to the nature and scale of development and its location, context and its effect.

38. In this case I conclude that there would be a moderate degree of encroachment into the open countryside having regard to the nature of development proposed and its location, context and effect. The overall harm to the Green Belt by way of inappropriateness, loss of openness and encroachment shall be afforded substantial weight as indicated by the Framework.

Heritage assets

39. The Framework requires the significance of a heritage asset to be assessed, including any contribution made to the setting of an asset. It goes on to categorise any harm to the significance of a heritage asset as either '*substantial harm to or total loss of significance of an asset'* or '*less than substantial harm to the significance of an asset*'. In addition LP policy BH.6 confirms that development affecting a Conservation Area will only be permitted where it preserves or enhances the character or appearance of the area.

40. I am assisted in my assessment as to the significance of the Queen Charlton Conservation Area by the original description of the conservation area upon designation. In addition the Council's expert witness in this case has produced a draft Character Appraisal and Management Proposals document which looks likely to be adopted following consultation and a positive indication from the Parish Council.

41. Queen Charlton is a small historic settlement focussed around a central crossroads, with most of the village contained within the designated Conservation Area. The unspoilt quality and number of historic buildings with unifying materials and architectural flourishes contribute to a high quality conservation area. The Queen Charlton Conservation Area is a particularly fine example of a historic agricultural settlement developed over centuries with most of the buildings surviving from the C17th to C19th. The conservation area has the appearance of one untouched by development in the last century.

42. The history of the village is evident in its distinctive form clustered around the village green framed by the grade II* listed Parish Church of St Margaret and other handsome dwellings. The significance of the conservation area is derived in large part from the well-preserved nature of the village and the retention of original features and characteristics both in terms of the buildings themselves and also in terms of the public spaces and boundary treatments within the village. The village is physically isolated with a single small rural road into and out of the village.

43. The village is generally inward looking. However the surrounding rural landscape is acknowledged[11] as forming an important setting which also contributes to the significance of the heritage asset. In particular the mediaeval historic field pattern around the village and the wider rural setting all contribute to the significance of the asset and assist in understanding the history and importance of the conservation area.

44. From the eastern part of the conservation area there are panoramic views out over the river valley towards the east and south-east. From this side of the conservation area the appeal site is located towards the horizon on the opposite side of the valley. The entrance to the appeal site is seen in the context of the south-eastern approach to the conservation area and after travelling through the conservation area on the exit out of the village.

45. As part of the rural landscape surrounding the village I am satisfied that the appeal site forms a component part, albeit a relatively small one, of the landscape setting to the conservation area. It is not just a case of determining that the appeal site can be seen from the conservation area. I have reached this conclusion on the basis that the landscape containing the appeal site is one in which the conservation area is experienced and understood. This involves not just looking at static views but assessing dynamic views as one travels through the landscape. I further conclude that the landscape contributes to the significance of this heritage asset for the reasons set out earlier.

46. In my earlier analysis I have set out the extent and types of views which would occur with the development in place and after planting measures become established. Whilst the appeal proposal would be glimpsed in the distance it would still result in some compromise to the high quality views out over the valley. At dusk, lighting on the site would also draw the eye of the viewer. The earth bund in particular is untypical of the area. I have also taken into account the small benefit which would accrue in terms of the removal of unauthorised structures on the blue land. In coming to my conclusions on this matter I have had regard to the appeal decisions referred to earlier. My findings in this regard are similar to those Inspectors.

47. Due to the distances involved and the relatively small part which the appeal site would play in the overall panoramic view I conclude that that a minimal amount of harm would be caused to the significance of the asset which would be at the lowest end of the 'less than substantial harm' range. As such the proposal would be contrary to LP policy BH.6.

The location of development

48. LP policy T.1 seeks, amongst other things, to reduce the adverse impact of all forms of travel and to reduce the growth of traffic by measures which encourage the use of public transport, cycling and walking. One of the criteria in policy CP11 requires sites to be suitably located to allow access to local community facilities and services. Similarly the Framework seeks to reduce the need to travel and encourage sustainable transport measures.

49. The PPTS provides that traveller site developments should be strictly limited in open countryside that is away from existing settlements. In its plan-making section the PPTS confirms that local planning authorities should ensure that

[11] Draft Queen Charlton Conservation Area Character Appraisal and Management Proposals.

traveller sites are sustainable economically, socially and environmentally. It provides that policies should, amongst other things, provide a settled base that reduces the need for long-distance travelling and reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.

50. The site is a short distance from Queen Charlton village which has a very limited range of facilities and no shop or school. It is about 3 kilometres from Keynsham town centre which has a wider range of facilities and 1 kilometre from its urban edge. There are no pedestrian footways linking the site to either Queen Charlton or Keynsham. The route to Queen Charlton is short and given the nature of the road it would not deter reasonably fit pedestrians and cyclists during daylight hours. The route to Keynsham is busier and longer would deter many pedestrians and cyclists due to the nature of the road and traffic speeds along it.

51. There are currently bus stops approximately 150 metres to the east of the site on Charlton Lane with infrequent services to Keynsham, Wells and Bishop Sutton. A more regular service can be accessed via a bus-stop some 1400 metres from the site on Charlton Road at Lays Farm and this service provides regular access to Keynsham town centre. An additional stop on this service is to be provided as part of a residential development at Bilbie Green which is a little closer to the site. A school service also runs past the Poplars Cottage stop and the Bilbie Green stop and this is also available to members of the public.

52. The site is typical of that in many rural locations. It is within a reasonable distance of the larger settlement of Keynsham. Whilst I accept that any journeys to the facilities in Keysham are likely to be accessed by the private motor vehicle, these journeys would be relatively short ones. In addition I am conscious that many gypsy families undertake linked trips with workers travelling from the site collecting shopping on their way home. Providing the family with a settled base would also reduce the need for long-distance travelling. Taking all of the above matters into account I conclude that the site is in a reasonably accessible location when things are considered in the round.

53. I appreciate that this finding is contrary to that of my colleague Inspector in the 2003 decision. However the concept of sustainability has developed since 2003 and involves broader considerations. I further note that the location of the site in accessibility terms was not an issue in the 2010 appeal when national policy in relation to gypsy and traveller sites was to be found in Circular 01/2006. On behalf of the Council, Mr Griggs-Trevarthen[12] confirmed that at the last appeal the Council was satisfied that the location of the site was acceptable when considered against the advice in Circular 01/06.

54. For all these reasons I therefore conclude that the proposed site would be acceptable in terms of its location and in broad conformity with the local and national policies outlined at the start of this section.

The general need for sites

55. The Framework advises that it should be read in conjunction with the PPTS which explains how gypsy and traveller accommodation needs should be

[12] Cross-examination.

assessed, and sets out relevant policies and criteria for considering such proposals. Policy B of the PPTS requires local planning authorities, in preparing local plans, to set targets which address the likely permanent and transit site accommodation needs of gypsies and travellers in their area. Local planning authorities are encouraged to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets, whilst protecting local amenity and the environment.

56. A Gypsy and Traveller Accommodation Assessment (GTAA) was undertaken by the Council in 2012. It identified an immediate and on-going need for 24 permanent and 5 transit pitches for the period 2012 to 2017, with a further 4 permanent pitches for the years 2018 to 2027. Planning permission has been granted for 8 permanent and 5 transit pitches at the Carrs Wood site on the edge of Bath. Planning permission for one single pitch was granted in 2013 in relation to a site near Whitchurch. This leaves a current unmet need for 15 pitches by 2017. The DCLG bi-annual caravan count figures provide some additional information and record levels of unauthorised caravans of between 27 and 50 in the last five counts. The last two count figures record 12 and 14 socially rented caravans which presumably reflect the recent grants of planning permission. This still leaves some 35/36 unauthorised caravans recorded in the last two counts which would indicate a continuing level of need higher than that predicted by the GTAA.

57. The local need must also be seen in the context of a regional and national unmet need. Mr Murdoch paints a picture of significant and prolonged unmet need at a regional level.

58. The Council's 'Travellers' Sites Plan' is at an early stage with site assessment work ongoing. The Council recognises that work needs to be done to work jointly with adjoining authorities to comply with its Duty to Co-operate. It anticipates the publication of a revised set of site options in April/May 2017, thereafter the publication of a draft DPD and then an examination process leading to eventual adoption in November 2018. Even on the assumption that there is no slippage in the timetable and things runs smoothly this would mean that any subsequent applications for planning permission would not be determined until 2019 at the earliest.

59. The Council has already undertaken two previous 'Calls for Sites' which yielded 6 available sites, four of which were in the Green Belt. The appeal site was put forward as a possible site. There are acknowledged difficulties with the two non-Green Belt sites and the Council accepts that it is likely that Green Belt sites will be required to meet the unmet need. This is not surprising given that a large part of the district is within either a designated Green Belt or a designated Area of Outstanding Natural Beauty leaving only 24% of the district untouched by either of the designations[13].

60. The Appellant contends that there has been a long-history of failure to meet policy requirements both in terms of assessing requirements and in meeting those requirements. Despite national policy objectives the Council have yet to allocate sites to meet an accepted outstanding need. This is a factor which weighs in support of the proposal.

[13] Inquiry document 9

61. Paragraph 25 of the PPTS provides that where a Council cannot demonstrate an up-to-date five year supply of sites, this should be a significant material consideration when considering applications for the grant of temporary planning permission. In this case, the Council accepts that it does not have a five year supply. In the first instance the Appellant is seeking a permanent planning permission. In these circumstances, I consider that the lack of a five year supply and the general unmet need attracts some weight in support of a permanent permission. The unmet general need at regional and national levels and the long history of failure to provide sites are also factors which weigh in support of the proposal.

The personal circumstances and accommodation needs of the Appellant and her family

62. There are no suitable alternative pitches available to the Appellant and her family either on private sites or Council sites. The Council accepts that if the appeal is dismissed it is likely that the family would have to resort to roadside encampments. The recent injunction proceedings indicate that action would be taken which would result in the family having to leave the site quickly. Mrs O'Connor confirms that she has been searching for alternative sites for a number of years and has instructed a local agent to alert her to any such sites but all to no avail.

63. In the past the Appellant has spent periods on the appeal site, on the road and on local authority sites. There were problems with Council sites in Redruth and Yeovil in that drug dealing was occurring on the site and the family suffered from racist abuse due to their Irish Traveller heritage. Understandably Mrs O'Connor does not want her family to grow up in such an environment.

64. There are three children on the site. The Appellant's grandson Jeremiah has started in the reception class of St Kenya School in September and is doing well having settled in quickly. Her granddaughter Pearl will be 3 years old in December and due to start pre-school nursery. Dismissal of the appeal would result in a serious and significant disruption to the education of these children at key moments in their school careers and this is particularly the case for Jeremiah. A third grandchild has recently been born and lives on the site with her mother.

65. In terms of medical needs all of the family members require a settled base to access healthcare provision. Mrs O'Connor suffers from type 2 diabetes and is on medication and required to attend for 3-monthly check-ups. She is also taking medication for high blood pressure, vertigo, arthritis and scoliosis of the spine. In the past she has been prescribed medication for depression arising as a result of worries about her circumstances. James O'Connor is the Appellant's eldest son and he has suffered from depression following a road traffic accident in 1999 and has taken medication for asthma and gallstones.

66. The Appellant's middle son has left the site and is on the road travelling. Her youngest son, Thomas, also suffers from depression and other ailments but does not receive any medical treatment for these. Eileen, the Appellant's daughter also suffers from psychiatric disorders and anxiety as well as type 2 diabetes. Mona Lisa is the Appellant's daughter-in-law and the mother of her three grandchildren. She has had problems with migraines and asthma. Her GP affirms that she is an excellent mother committed to providing educational opportunities to her eldest two children. I have no doubt that dismissal of the appeal would be extremely disruptive to the family, potentially exacerbating

their existing medical conditions and making accessing medical care very problematic. This would especially be the case for the youngest member of the family who has already had a health-scare necessitating urgent medical intervention. There can be no doubt that the best interests of the children would be served by remaining on the site as it provides them with a settled base. This is a primary consideration in the determination of this appeal which attracts substantial weight.

67. Article 8 of the European Convention on Human Rights provides the right to respect for private and family life. The Appellant's desire to provide a permanent site for her whole family is understandable. The personal, educational and healthcare needs of the Appellant and her extended family add weight in favour of the proposal. In practical terms dismissal of this appeal would amount to an interference with Mrs O'Connor's rights, to the extent that she would be deprived of an opportunity of providing a settled base for her entire family, they would lose their current home and in all likelihood have to resort to the uncertainties of roadside encampments. Taking the above factors into consideration I attach substantial weight to these matters in support of the proposal.

Other Matters

68. Highway safety concerns have been raised by some local residents. Visibility at the access is restricted in both directions to around 30 metres and the speed limit is 60 miles per hour. However the Council has not raised an issue about highway safety and Mr Davies confirmed that traffic speeds past the site are probably less than 30 miles per hour given the nature and alignment of the carriageway. The road is lightly trafficked and the appeal proposal would generate a limited number of movements. Given all of these factors I am satisfied that there would be no material harm to highway safety.

Overall Conclusions

Paragraph 134 balance

69. I have found that there would be less than substantial harm to the significance of designated heritage assets, namely the Queen Charlton Conservation Area. It is well-established that any harm to the significance of a heritage asset should be given considerable importance and weight and that any harm or loss must be clearly and convincingly justified.

70. I now turn to consider the planning balance required by paragraph 134 of the Framework. Against this harm I must consider the public benefits of the proposal. The Council does not have a five year supply of gypsy and traveller sites as required by the PPTS and the provision of a site for the Appellant and her family would contribute to the supply. It would also reduce the need for long-distance travelling and the risk of environmental damage caused by unauthorised encampments. In this case I conclude that the public benefits of the proposal outweigh the less than substantial harm caused to the heritage asset in question.

Green Belt balance in terms of a permanent permission

71. PPTS stipulates that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

In relation to the consideration of a permanent planning permission, I have found that the proposal is inappropriate development in the Green Belt which would result in a moderate loss of openness and result in a moderate degree of encroachment into the open countryside. I attach substantial weight to these matters. In addition the proposal would result in minor harm to the character and appearance of the landscape and less than substantial harm to a designated heritage asset. I conclude that the proposal would be contrary to the development plan taken as a whole when the development plan policies which are contravened are considered.

72. Factors in support of the proposal include the local unmet need for gypsy and traveller sites to which I attach some weight. I also attach moderate weight to the wider regional and national need and the long-standing failure to deliver sites. I attach substantial weight to the personal accommodation needs of the Appellant and her family in light of the lack of alternatives.

73. I attach substantial weight to the education and healthcare needs of the family including those of the children whose best interests are served in remaining on the site. I am particularly conscious of the young ages of the children. Jeremiah in particular has just started his school career and an interruption to his schooling at this time when he is being introduced to reading and numbers alongside his peers would be particularly disruptive and could have long-lasting implications. His mother struggles with literacy and is committed to improving the prospects of her children through education.

74. The youngest member of the family is a few weeks old and is particularly vulnerable at a time in her life when contact with health professionals and access to medical practitioners is probably at its greatest. It is common practice for young babies to have regular check-ups at clinic appointments and subsequent vaccinations throughout their early years. An uncertain life on the road would deprive the family of regular access to healthcare. In combination these factors are exceptional and to my mind represent the most significant material change in circumstances since the last planning appeal.

75. Overall I conclude that the harm identified is clearly outweighed by the other factors in support of the grant of a permanent planning permission such that very special circumstances exist. Whilst the proposal is contrary to the development plan when taken as a whole I conclude that the material considerations in support of the grant of a permanent planning permission outweigh the conflict which I have identified.

76. In coming to this conclusion I have considered all of the other appeal decisions before me. I have come to a different decision from my Inspector colleagues on the basis that there have been a number of material changes since those appeals were determined. In this case it is the exceptional combination of personal circumstances and the weight which I have attached to them which has tipped the balance clearly in favour of the grant of a permanent planning permission.

Conditions

77. The Council put forward conditions in the event that the appeal is allowed. These conditions were discussed fully at the Inquiry and I have considered them in light of the advice within the National Planning Practice Guidance. Given the nature of the development it is necessary to impose a condition

limiting occupation of the site to gypsies and travellers. Given that it is based upon the personal circumstances of the Appellant it was agreed that a condition making the permission personal to the Appellant and her family is reasonable. A condition requiring restoration of the land in the event that the Appellant and her family leave the site is also required.

78. It is also necessary to impose conditions requiring development in accordance with the submitted plans and limiting the use to the siting of two mobile homes and four touring caravans only to reflect the development applied for. An additional condition was discussed requiring details of foul and surface water drainage, external lighting, the internal layout of the site and details of the toilet block as well as a landscaping scheme. Given that the Appellant and her family are already on the site this condition is drafted to ensure that a scheme is brought forward and complied with within a specified timeframe otherwise the use would have to cease. The Appellant understands the nature of this condition and in the interests of enforceability I shall impose it in the form discussed at the Inquiry. A landscaping condition and maintenance plan is also required.

79. I agree that it is necessary to remove permitted development rights in relation to means of enclosure within the site. I shall also impose the additional suggested conditions which control outside lighting and restrict commercial activities and commercial vehicles in order to protect the character and appearance of the area. I have imposed a specific condition requiring details of the stable block to be approved prior to its erection.

Karen L Ridge

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Stephen Whale of Counsel

He called

Mr Charles Potterton BA, Dip LA, CMLI	Landscape Architect
Mr John Davey MRTPI, MIHBC, DipTP	Conservation Consultant to the Council
Mr Howard Davies MCILT, MIHT	Highways and Traffic Engineer
Mr Christopher Griggs-Trevarthen BSc, MSc, MRTPI	Senior Planning Officer, Bath and North East Somerset Council

FOR THE APPELLANT:

Mr Stephen Cottle of Counsel

He called

Mrs Nichola Burley MA, Dip. Con Arch, MRTPI, IHBC	Heritage Vision
Mr Rhodri Crandon BA (Hons) DipLA	Landscape Architect
Mrs Kathleen O'Connor	Appellant
Dr Angus Murdoch BA, MSc, PhD, MA MRTPI	Planning Consultant

INTERESTED PERSONS:

Ms Sam Worrall	Support Worker to Mrs O'Connor
Mrs Philipa Pagett	Vice-chair of Compton Dando Parish Council
Mr Dennis Griffiths	Neighbour

DOCUMENTS SUBMITTED DURING THE COURSE OF THE INQUIRY

1 Appellant's opening statement.
2 Opening statement of the Local Planning Authority.
3 Rebuttal proof of evidence from Mrs Nichola Burley, submitted by the Appellant.
4 Report to Committee on Carrs Wood site, Lower Bristol Road.
5 Statement of Common Ground from both main parties.
6 Appeal decision Land adjacent to 'The Poplars', Redlynch Lane, Queen Charlton, Keynsham, Bristol (APP/F0114/A/01/1061067), submitted by the Council.
7 DCLG bi-annual count of traveller caravans to January 2016, submitted by the Appellant.
8 Supplementary information relating to existing bus services from Mr Howard Davies, submitted by the Council.
9 Email Richard Stott dated 5 October setting out B&NES data, submitted by the Council.
10 Ann Dear v SoS CLG and Doncaster MBC [2015] EWHC 29 (Admin), submitted by the Council.
11 Letter from Michael O'Connor submitted by the Appellant.
12 Summary proof of evidence of Dr Angus Murdoch, submitted by the Appellant.
13 CRE report 'Common Ground: Equality, good race relations and sites for Gypsies and Irish Travellers, submitted by the Appellant.
14 Table of Green Belt and Other Harms submitted by the Appellant.
15 Secretary of State decision letter re land at and adjacent to 148 Croydon Road Keston BR2 8HN (APP/G5180/A/11/2154680) submitted by the Appellant.
16 Written submission of Mr and Mrs Griffiths.

PLANS SUBMITTED DURING THE COURSE OF THE INQUIRY

1 Location plan 1/2016, submitted by the Appellant.
2 AOD levels at site and centre of village submitted by Mrs Burley on behalf of the Appellant.
3 Plan of site application boundary of planning permission ref 15/04290/FUL, submitted by the Appellant.
4 Plan of site application boundary of planning permission ref 16/02077/FUL, submitted by the Appellant.

PHOTOGRAPH SUMBITTED DURING THE COURSE OF THE INQUIRY

1 Google earth photograph, submitted by the Appellant.

SCHEDULE OF CONDITIONS ATTACHED TO PLANNING PERMISSION

1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the Planning Policy for Traveller Sites (August 2015).

2) The use hereby permitted shall be carried on only by Mrs Kathleen O'Connor, Mr James O'Connor, Mr Thomas O'Connor, Mr William O'Connor, Mr Eileen Patricia O'Connor, Mrs Mona Lisa O'Connor and their dependent children.

3) If the premises cease to be occupied by the persons named in condition 2 above, the use hereby permitted shall cease and all materials and equipment brought on to the premises in connection with the use, including the amenity blocks hereby approved, shall be removed and the land restored to its former condition in accordance with a scheme of work submitted to and approved in writing by the local planning authority.

4) The use hereby permitted shall be carried out in accordance with the submitted plans; location plan 1/2016, drawing TDA.2041.01.

5) No more than 6 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be a static caravan or mobile home) shall be stationed on the site at any time.

6) 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;
      - notwithstanding the details on drawing TDA.2041.01 the internal layout of the site, including the siting of caravan bases, access road (including details of surface treatment), internal fencing and gates and parking areas;
      - details of all the toilet block including dimensions and details of all external materials;
      - the landscaping of the site, including details of species, plant sizes and proposed numbers and densities;

      (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.

   ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if 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 site development scheme shall have been approved by the Secretary of State.

iv) the approved site development scheme shall have been carried out and completed in accordance with the approved timetable.

7) Any trees of plants indicated in the approved site development scheme which within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.

8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no other means of enclosure shall be erected other than those in the approved site development scheme.

9) There shall be no external lighting on the site other than that which is contained within the approved site development scheme.

10) No more than three commercial vehicles shall be kept on the land for use by occupiers of the caravans hereby permitted and such vehicles shall not exceed 3.5 tonnes in weight (unladen weight).

11) No commercial activities shall take place on the land, including the external storage of materials.

12) Prior to any erection of the stables details of the elevations, dimensions, external materials and location within the site shall be submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

END OF CONDITIONS