The Planning Inspectorate

Appeal Decision

Hearing held on 13 November 2018

Site visit made on 13 November 2018

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 17th December 2018

Appeal Ref: APP/Q3305/W/18/3194428
Marston View, Marston Bigot, Frome, Somerset BA11 5DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 for 2 mobile homes, 2 touring caravans and 1 day room for residential use by Gypsies for which a previous planning permission was granted for a limited period.
- The appeal is made by Mr M Ayres and Mrs C Coles against the decision of Mendip District Council.
- The application Ref 2016/3121/VRC, dated 15 December 2016, was refused by notice dated 26 July 2017.
- The application sought planning permission for 2 mobile homes, 2 touring caravans and 1 day room for residential use by Gypsies granted planning permission for a limited period Ref 2011/3187 allowed under appeal Ref APP/Q3305/A/13/2196679, dated 9 January 2014.
- The permission was subject to conditions requiring the cessation of the use and the removal of the buildings or works on or before three years from the date of the decision.
- The relevant conditions are Nos 1, 2 and 3 which state that:
  (1) *The use hereby permitted shall be carried on only by the following and their resident dependants: Mr Matthew Ayres, Miss Christine Coles, Mr James Barney and Mrs Caroline Ayres, and shall be for a limited period being the period of three years from the date of this decision, or the period during which the land is occupied by them, whichever is the shorter.*
  (2) *When the land ceases to be occupied by those named in condition 1 above, or at the end of three years from the date of this decision, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed.*
  (3) *No later than 6 months following the cessation of the use by those named in condition 1 above the land shall be restored in accordance with a scheme of work previously submitted to and approved in writing by the local planning authority. The restoration works shall be carried out in accordance with the approved scheme*.
- The reasons given for the conditions are:
  (1) *The particular circumstances of the case justify a temporary planning permission for the site residents. A three year period would allow for the identification of Gypsy sites in the Site Allocations DPD which could address the future accommodation needs of the appellants and their family*.
  (2) and (3) *Needed to restore the appearance of the site at the end of the temporary period and to minimise its impact on the local area for the time being.*

Decision

1. The appeal is allowed and planning permission is granted for 2 mobile homes, 2 touring caravans and 1 day room for residential use by Gypsies at Marston

View, Marston Bigot, Frome, Somerset BA11 5DB effective from 9 January 2017 in accordance with application Ref 2016/3121/VRC, dated 15 December 2016, subject to the following conditions:

1) The development hereby permitted shall be in accordance with the following approved plans: TDA.2291.01, TDA.2291.02 and TDA.2291.03.

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

3) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 2 shall be a static caravan or mobile home), shall be stationed on the site at any time.

4) The mobile homes and day room shall only be positioned as shown on drawing number TDA.2291.03 and shall not exceed 2.5m in height above adjacent ground level.

5) No trade or business may be carried on at the site and no materials associated with any trade or business shall be stored on the site. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

6) Within 12 months of the date of this decision, hard and soft landscaping shall be implemented on site in accordance with the details contained within plan number TDA.2291.03 and the 'Landscape Design Statement' (TDA Ref: TDA/2292/RhC/04.17). All trees and hedges around the site, within and on the boundaries of the land edged in blue on plan number TDA.2291.03 shall be retained. Any tree or hedge which dies, is removed or becomes seriously damaged or diseased shall be replaced by a similar species, of a size to be first approved in writing by the local planning authority, during the next planting season or in accordance with a programme of replacement to be agreed in writing with the local planning authority.

Application for costs

2. At the hearing, an application for costs was made by Mr M Ayres and Mrs C Coles against Mendip District Council. This application is the subject of a separate decision.

Background

3. The planning history relating to the current use of land dates back to 2006 with a planning application for 2 mobile homes, 2 dayrooms and 2 touring caravans. That application was refused by the Council and a subsequent appeal Ref: APP/Q3305/A/07/2046511 (the 1st appeal) was dismissed on 2 January 2008 due mainly to the harm to the historic landscape of the Grade II registered park and garden at Marston House and to the setting of Marston House itself which is a Grade II* listed building.

4. A second appeal Ref: APP/Q3305/C/08/2072342 & 2072343 (the 2nd appeal) was against an enforcement notice issued by the LPA which proceeded under s174(2)(g) of the Town and Country Planning 1990 Act ('the 1990 Act') as amended, which is that the compliance period is unreasonably short. The appeal succeeded on 11 September 2008 and the period for compliance was extended to two years.

5. A third appeal Ref: APP/Q3305/A/11/2144121 (the 3rd appeal) against a refusal of planning permission for the stationing of caravans for residential occupation with associated development was dismissed on 29 June 2011 for similar reasons to the 1st appeal.

6. A fourth appeal Ref: APP/Q3305/A/13/2196679 (the 4th appeal) against a refusal of planning permission for 2 mobile homes, 2 caravans and 1 day room for residential occupation was allowed on 9 January 2014 and a temporary planning permission was granted. The decision referred to 'residential use' rather than 'residential occupation' for accuracy.

7. The Inspector dealing with the 4th appeal found that the scheme would have an acceptable effect with regard to the accessibility of services and facilities. He found less than substantial harm to the significance of the registered park and garden and the setting of the listed house, but concluded that a temporary planning permission would strike the right balance between ending the harm to the heritage assets and allowing time for authorised sites to come forward.

8. 6 conditions were imposed, with Condition 1 restricting the use to specific individuals and for a limited period of no more than three years from the date of the decision. Condition 2 required that the use shall cease and required all caravans, buildings, structures, materials and equipment or works to be removed. Condition 3 required the land to be restored in accordance with an approved scheme no later than 6 months following the cessation of the use.

9. The appellants submitted a planning application on 15 December 2016 seeking to remove Conditions 1, 2 and 3 to make the temporary and personal permission general and permanent. The application was refused by the Council on 26 July 2017 for two reasons relating to the accessibility of services and facilities and the effect on the registered park and garden and listed house.

10. The application was made while the planning permission granted by the 4th appeal was still extant, but that permission expired on 9 January 2017. The use and structures remain on site, and so the appellants are effectively seeking planning permission retrospectively. Section 73A(2)(b) of the 1990 Act allows for planning permission to be granted for development carried out before the date of the application in accordance with planning permission granted for a limited period. Section 73A(3)(b) of the 1990 Act allows for such permissions to be back dated to have effect from the end of the limited period granted by the previous permission. Thus, I have dealt with the appeal under Section 73A of the 1990 Act. If the appeal is allowed, a new permission would be granted and any conditions attached to the previous permission would not apply.

11. While the application was submitted on the basis of seeking a permanent planning permission, the appellants have stated that they wish to seek a permission that is personal to them and, if that is not acceptable, then it should be for only a temporary period. Even if this had not been requested, were I to find that a permanent planning permission would not be acceptable, I would need to consider the option of granting temporary planning permission anyway.

Main Issues

12. In its statement of case, and at the hearing itself, the Council confirmed that it would not be defending the first reason for refusal relating to the accessibility of services and facilities due to the Inspector's decision on the 4th appeal.

13. Therefore, the main issues are:

    - The effect of the development on the significance of the Grade II* listed building known as Marston House and the Grade II registered park and garden also known as Marston House; and
    - Whether any harm would be outweighed by other material considerations, such as the need for gypsy and traveller sites and the personal circumstances of the occupiers of the site.

14. While each appeal should be considered on its individual merits, the need for consistency in decision-making is important to maintain confidence in the appeal process. Clear reasons will be needed if different decisions on the same or similar proposal are made. Given the very similar background of the other appeals and the previous findings of harm to the designated heritage assets, it will be necessary to examine whether the current proposal is materially different and has either overcome the harm to the historic environment or, if not, whether the weight to be given to any of the other considerations, such as the need for authorised gypsy and traveller sites and the personal consequences of this appeal failing, has changed that might cause a different outcome to the previous appeals.

Planning Policy

15. It was common ground at the hearing that the appellants, Mr Matthew Ayres and Mrs Christine Coles and their daughter, and the two other occupants of the appeal site, Mr James Barney and Mrs Caroline Ayres, are Gypsies in line with the definition in Annex 1 of the Planning Policy for Traveller Sites (PPTS) published in 2015. I have no reason to disagree. Therefore, the policy context that applies to gypsies and travellers is engaged. I have also had regard to the revised National Planning Policy Framework (NPPF) published in July 2018.

16. The current development plan approach to accommodating sites for gypsies and travellers is set out in Policy DP15 of the adopted Mendip District Local Plan 2006-2029 Part 1: Strategy and Policies (MDLP). The first part of the policy refers to meeting the need for accommodation as identified in the latest Gypsy and Traveller Accommodation Assessment (GTAA) and states that sites will be allocated in a Site Allocations document.

17. The second part of Policy DP15 deals with non-allocated sites and states that planning permission will be granted where a number of criteria are clearly met. Sites should meet an identified need, having regard to any alternative, available, affordable, acceptable and suitable sites elsewhere in the District that could meet the needs of the intended occupiers. Sites should also have regard to access to local services and facilities, address highway safety and parking issues, avoid areas of high flood risk, and not have a significant adverse impact on the landscape, character, built heritage and appearance of the surrounding area or detrimental impact on biodiversity.

18. MDLP Policy DP3 sets out the Council's approach to heritage conservation and seeks to preserve the significance and setting of the district's heritage assets. It requires proposals to demonstrate an understanding of the significance of the heritage asset and/or its setting, and justify any harm to a heritage asset, and demonstrate the overriding public benefits which would outweigh the

damage to the asset or its setting. Policies DP3 and DP15 are both relevant to this appeal and are consistent with the NPPF and PPTS.

19. Interested parties have referred to Policy 36 in the Somerset and Exmoor National Park Joint Structure Plan Review 2000 and Policies EN5 and EN8 of the Mendip Local Plan 2002, but these policies have been superseded and so have no relevance to this decision.

Reasons

Heritage assets

20. The NPPF defines the significance of a heritage asset as the value of a heritage asset to this and future generations because of its heritage interest. Significance derives not only from an asset's physical presence but also from its setting. There is a statutory duty[1] to have special regard to the desirability of preserving a listed building's setting when deciding whether to grant planning permission. The appellants submitted a heritage assessment with the appeal to address such matters. I have taken this assessment, and the Council's and interested parties' responses, into account as part of my decision.

21. The NPPF defines setting as "the surroundings in which a heritage asset is experienced". The Planning Practice Guidance (PPG) clarifies that although views of or from a heritage asset will play an important part in how we experience the setting of an asset, other environmental factors such as noise, dust and vibration will influence this experience along with our understanding of the historic relationship between places. The PPG also clarifies that the contribution setting makes to the significance of the heritage asset does not depend on public access to experience that setting[2].

22. The appeal site is situated within the Grade II registered park and garden formally known as Marston House but also more commonly referred to as Marston Park (hereafter referred to as the park and garden). The site is just inside the northern boundary of the park and garden adjacent to the A361 main road between Frome and Shepton Mallet.

23. The park and garden was registered in 1984 and covers over 200 hectares. It was originally laid out as pleasure grounds and parkland in the 18th century, with modifications in the 19th century, and served as part of the estate for Marston House. The park and garden and the wider estate were sold in the early 20th century and the land ownership and use has fragmented. Nevertheless, the park and garden has considerable significance based on the historical development of the landscape over more than two centuries, with a number of surviving features.

24. Marston House itself is a Grade II* listed building that dates from the 17th century, but was rebuilt in the 18th century and substantially added to in the 19th century. The central part of the house is three storeys with long two storey wings on either side resulting in a façade of around 130m in length. Its significance and special interest is greatly informed by the richness of materials and architectural details along with its history as part of the estate of the Earls of Cork, later requisitioned by the US Army in World War Two, and then restored and rescued from ruin in the 1980s.

[1] Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990
[2] Reference ID: 18a-013-20140306

25. The park and garden forms a key part of the setting of Marston House as the surroundings in which the listed building is experienced. The house is situated on a terrace towards the northern end of the park and garden with panoramic views across parkland and wider countryside to the south. To the north of the house is a dense area of woodland and rising ground which screens the building from the A361. Dropping sharply down from the A361 along Cheese Hill, the house begins to appear in views across the park and garden from the south as far as Tuckmarsh Lane. This includes a public footpath to the south of the house which runs eastwards from Cheese Hill.

26. However, the lack of visibility of the house from parts of the park and garden does not mean that such parts make no contribution to the setting of the house. There is a historic relationship between the house and the park and garden given that the latter was created to serve the former. Therefore, it will be important to assess the contribution the appeal site makes to the setting and significance of Marston House and the significance of the park and garden.

27. The map evidence produced by the appellants from the 18th to 20th centuries reveals that the appeal site formed part of a woodland belt along the northern boundary of the historic park between Cheese Hill and the denser woodland to the rear of Marston House. The function of this belt appears to have been for screening from the road as well as opportunities for the raising of game. By the 1970s, map evidence shows the construction of a layby and a builder's yard along this boundary, although the appeal site itself remained largely treed. By the 1980s map, and around the time of the park and garden's registration, there is a picnic area on the appeal site and structures next to the layby.

28. It is not known what the picnic area looked like or when its use ceased, although an aerial photograph from 2001 shows the appeal site mostly covered in trees with hardstanding to the west as part of the land and structures known now as Jen's Cabin. There is a certificate for the lawful use of land at Jen's Cabin for residential use, including the siting of a mobile home, although the planning status of other structures is less clear and there may be further enforcement investigations. Further to the west is a builder's yard with two buildings that have been in place since at least 1972 based on map evidence.

29. As a remnant of the woodland belt, the appeal site performed a similar function in terms of screening the wider parkland from the main road. Despite the lack of explicit reference to the site and woodland belt in the list entry for the park and garden, this may explain its inclusion within the registration boundary. As such, the appeal site contributed to the significance of the park and garden, and the setting and significance of Marston House.

30. More recent aerial photography including from April 2018 reveals that the appeal development has resulted in the loss of trees within the site to make way for hardstanding and structures including 2 mobile homes and a day room. I observed on my site visit that the hardstanding, structures and surrounding fencing create a suburban appearance. The Council's decision emphasises the harm arising from the visual impact of the use, structures and associated landscaping.

31. From higher parts of the field to the south of the appeal site and above the driveway to Marston House, it was possible at my site visit to see the structures within the appeal site through the bare branches of trees and hedging. From the A361, the reduced foliage at the time of my site visit meant

views of structures were possible for passing traffic and it is possible that lighting can be seen at night. While the field is not a publicly accessible part of the park and garden and the A361 lacks any public footpaths, these views of structures rather than a woodland belt diminishes the parkland boundary.

32. Moreover, the loss of trees and use of the land is not consistent with the historic function of the park and garden and the woodland belt. As such, the development results in harm to the significance of the park and garden as a historic parkland as well as harm to the setting of Marston House in terms of the surroundings in which the listed building is experienced. However, the degree of harm is reduced by a number of factors.

33. The view from the higher part of the field to the south is only a short distance view across a small part of the park and garden. There are other structures to the west of the appeal site at Jen's Cabin and the builder's yard that are part of the same general view from the higher part of the field. I accept that not all of these structures are necessarily lawful, but some evidently are and so there exists a degree of established built form. To the north, traffic passes along the A361 at considerable speed and the views are only glimpses. Furthermore, views of structures from the north and south are not possible at times of the year when there is foliage on the vegetation. This section of the park and garden remains well-screened from the main road.

34. The appellants have also demonstrated a willingness to improve landscaping planting within the site and have set out a proposed scheme in their landscape design statement which could be secured by condition. Moreover, a sizeable tree belt has been planted to the south of the appeal site, stretching as far west as Cheese Hill. It is intended to screen roadside development once it is fully established and would mask the appeal site yet further.

35. There is no intervisibility between the appeal site and Marston House and at my site visit it was not possible to see the house and appeal site structures in the same view due to vegetation and topography. The ability to experience the appeal site from either public or private locations is therefore limited and the development is largely concealed from its surroundings. Furthermore, considering the historic relationship between the site and Marston House, the site had already fragmented and changed in its function by the 1980s to a picnic area, while land to the west had also changed.

36. The visual impact of the use and structures on the two heritage assets, which is the Council's primary concern in its reason for refusal, would be limited. Therefore, the harm arising from the development on the significance of both heritage assets, including the setting of Marston House, is less than substantial and of a small magnitude.

37. Previous Inspectors found a greater degree of harm relating to this development and downplayed the role of planting to screen the site. However, the heritage assessment has demonstrated that the site historically provided a screening function through the use of planting. This is the case now, with the opportunity for enhancements. Moreover, the assessment has also shown that the site had ceased to function as part of historic parkland around the time of the park and garden's registration, meaning concerns regarding fragmentation of land use are lessened. Therefore, this leads me towards a different conclusion on the level of harm.

38. Nevertheless, paragraph 193 of the NPPF states that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation irrespective of the level of harm. Paragraph 194 states that any harm to significance should require clear and convincing justification while paragraph 196 states that less than substantial harm should be weighed against the public benefits of the proposal. I will consider this as part of my overall balance later in my decision.

39. For the avoidance of doubt, while my attention has been drawn to a proposed development of holiday lodges elsewhere in the park and garden, and the apparent lack of objection from Historic England, I have assessed the appeal scheme on its own merits. I do not have full details of the holiday lodges proposal and note that the planning application has yet to be determined. Therefore, I have given it very little weight in my assessment.

40. While not mentioned in the reason for refusal, the Council refers to two other listed buildings in its appeal statement. The Grade I listed Church of St Leonard and the Grade II Church Lodge are located a short distance to the south-west of Marston House on lower ground. Their significance and special interest is informed by their architectural and historic values, while the parkland surroundings and proximity to the house contributes to their setting.

41. There is no intervisibility between the appeal site and these two listed buildings and on my site visit I found that the appeal site and its structures did not appear in the same view as the buildings. There is no obvious historic relationship between the appeal site and the two buildings other than forming part of the same park and garden. Therefore, the appeal development does not negatively affect the setting of the listed church or lodge and so results in no harm to their significance.

Other considerations

42. The PPTS requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against locally set targets and identify a supply of specific developable sites or broad locations for growth for years 6-10 and, where possible, for years 11-15.

43. The Somerset GTAA published in 2011 identified a need for 93 permanent pitches and 80 transit pitches in Mendip for the period 2010 to 2020. In its August 2018 monitoring report (submitted at the hearing), the Council highlighted that the GTAA does not reflect revisions to the definition of gypsies and travellers in the PPTS and that discussions to commission a new Somerset-wide GTAA are underway. Nevertheless, the monitoring report states that existing and future need for pitches totals 104 pitches for the period 2010 to 2022. 26 pitches have been permitted since 2010, mostly on private windfall sites. The results in a total shortfall of 78 pitches. As such, it is evident that there is no 5 year supply of deliverable sites within Mendip.

44. The exact number of unauthorised pitches varies between the main parties, with the Council referring to around 60 pitches and the appellants referring to 156. Either way, it is a significant amount. There was no common ground at the hearing in terms of the precise shortfall of pitches, but there was agreement between the main parties that there is a significant need for gypsy and traveller sites and that the shortfall in pitches is substantial. As such, I consider that need for gypsy and traveller sites carries significant weight.

45. MDLP Policy DP15 does not set a specific target for the delivery of pitches. The examination of the Part 2 Local Plan is underway which deals with site allocations apart from those relating to gypsy and traveller sites. A separate Gypsy and Traveller Sites Allocations Plan (GTSAP) will be produced following the adoption of the Part 2 Local Plan and will be based on an updated GTAA. At the hearing, the Council considered it realistic that a GTSAP could be adopted within the next three years.

46. The 4th appeal decision gave significant weight to claims that a Site Allocations plan should be in place in the next three years. However, more than four years later, the Part 2 Local Plan has yet to be adopted and does not contain any gypsy and traveller allocations. The production of a GTSAP is at a very early stage and will be based on an updated GTAA that has not commenced and requires liaison between all of the local planning authorities in Somerset. At the hearing, the appellants pointed out that a GTSAP does not yet feature in the Council's Local Development Scheme for the production of local plan documents. Therefore, I have little confidence in the Council's estimation of the date of adoption of a GTSAP and the likelihood of the existing need being addressed by site allocations in the short to medium term. This carries significant weight.

47. At the hearing, the appellants confirmed that they are still on a waiting list for alternative sites and in contact with a gypsy and traveller liaison officer. They did not refer to specific attempts to find sites, but cited a lack of available, acceptable and suitable alternative sites in the district. They also argued that recently permitted sites referred to by the Council at Old Gore Wood Emborough and The Smith Evercreech were not available or suitable. At the hearing, the Council was unable to refer to any other available alternative sites with planning permission. The lack of sites carries significant weight.

48. Objectors have commented about the length of time that the development has existed in an unauthorised manner and the number of applications and appeals. However, there is a requirement by Government to ensure fair and equal treatment for gypsies and travellers, in a way that facilitates their traditional and nomadic way of life while respecting the interests of the settled community. Local planning authorities have a responsibility to promote the further provision of sites, while at the same time taking necessary actions to resolve unauthorised sites. It should also be noted that the appeal site was authorised by the temporary permission granted by the 4th appeal.

49. There is a detailed enforcement history relating to the appeal site dating back more than 11 years. The Council has previously issued an enforcement notice requiring the cessation of residential use and the removal of structures from the land. At the hearing, the Council confirmed that should this appeal be dismissed, further enforcement action would be considered. In light of the current shortfall of pitches, and in the absence of evidence to show that there would be alternative places to go, there is a significant likelihood that the appellants' family would have to revert to a roadside existence.

50. The family includes the appellants' daughter who attends school nearby. It is a statutory requirement for any decision taker, including Inspectors, to give consideration to the best interests of the child as a primary consideration. Evidence provided by the appellants show that their daughter is hard working and making good progress at school, with an excellent record of attendance. At

the hearing, the appellants stressed their desire for their daughter to receive a good education up to at least the end of secondary school, and highlighted that this remains rare for female children in gypsy and traveller families. I have no reason to doubt their commitment to improving opportunities for their daughter. The evidence suggests that their daughter has benefitted from a settled place of residence and that to move on could potentially risk her education. As such, I give significant weight to this personal circumstance.

51. Based on evidence provided by the appellants, Mr M Ayres' father has health conditions which appear to relate to stress experienced by the uncertainties relating to the occupation of the appeal site. Moving could disrupt access to current healthcare provision. However, such health conditions are not necessarily unusual given the circumstances and could be resolved by either allowing this appeal or by moving to an authorised location. As such, this personal circumstance carries only moderate weight.

52. There would be an interference with the appellants' home, private and family life if the appeal was dismissed. Previous appeal decisions have found that this would not have a disproportionate effect given the harm to the character and appearance of the area and the significance and setting of heritage assets. The 4th appeal decision found that there was greater certainty that the harm would now be time limited given the reasonable prospect of alternative sites coming forward through the allocation process. As such, it was considered that a temporary permission would protect the public interest by a means that would be less interfering to the appellants' human rights and thus would be a more proportionate response.

53. At the hearing, another three year temporary permission was discussed which the Council generally did not object to. PPTS paragraph 27 says that a lack of an up-to-date 5 year supply is a significant material consideration when considering the grant of temporary planning permission. However, footnote 9 of paragraph 27 states that there is no presumption that a temporary grant of planning permission should be granted permanently. The PPG states[3] that it will rarely be justifiable to grant a second temporary permission and that further permissions should normally be granted permanently or refused if there is clear justification for doing so.

54. As noted above, I have little confidence that three years would be sufficient for a GTSAP to be adopted. The appellants suggested a seven year temporary permission as an alternative to another three year permission. This would allow the appellants' daughter to complete her secondary school education and would increase the chances of finding alternative accommodation, but this still carries much uncertainty. A personal permission without time constraints, also suggested by the appellants, would in effect still be a temporary permission and not provide a long-term benefit in terms of additional authorised pitches.

55. While the appellants' personal circumstances have not altered dramatically since the previous appeal decision, the ongoing and significant need for gypsy and traveller accommodation, the substantial shortfall in sites, and the lack of progress with any site allocations greatly increases the overall weight to the other considerations.

[3] Reference ID: 21a-014-20140306

Overall Balance

56. The development results in less than substantial harm to the significance of the Grade II* listed Marston House and the Grade II registered park and garden of the same name. A temporary permission would limit the harm, but even with a permanent permission, the magnitude of the harm is small. I recognise that previous appeal decisions found greater harm and said that the harm would continue for as long as the current development and use of the site remains. However, based on the appellants' heritage assessment, I consider that the significance of the heritage assets and the impact of the development have been better demonstrated than before, and that the level of harm is low.

57. In considering whether any public benefits exist to outweigh the harm, the Council acknowledged at the hearing that a permanent permission for gypsies and travellers would represent a public benefit. I concur as it would help to address the current substantial shortfall in pitches across the district. I have given significant weight to other considerations relating to the need and supply of gypsy and traveller sites. As such, I can afford reasonable weight to the public benefit of a permanent permission as it would authorise two pitches. This public benefit would be sufficient to outweigh the small harm to the heritage assets. Addressing the personal circumstances of the appellants represents private benefits, but still carries weight in favour of the development, particularly in terms of their daughter's education which I have afforded significant weight.

58. While great weight should be given to conservation of designated heritage assets irrespective of the harm, and there is a desirability to preserve the setting of listed buildings, the balancing of the harm against the public benefits indicates that the effects would be acceptable in this instance. Therefore, clear and convincing justification exists for the harm.

59. I have given consideration to another personal and/or temporary permission, but there is no justification for such permission particularly when the grant of a permanent permission would not be unacceptable in heritage terms and would not conflict with the development plan. The three conditions restricting the use and occupancy of the appeal site which were imposed on the 4th appeal decision are not necessary now.

60. Concluding on the main issues, the development has an acceptable effect on the significance of the Grade II* listed building known as Marston House and the Grade II registered park and garden also known as Marston House. It also has an acceptable effect on the setting of Marston House. The harm I have identified is outweighed by the public benefits and other material considerations including the need for gypsy and traveller sites and the personal circumstances of the occupiers of the site. Therefore, the development accords with MDLP Policies DP3 and DP15, the aims of which have been set out above. There is no conflict with either the NPPF or the PPTS in terms of heritage impacts and the provision of gypsy and traveller sites.

Other Matters

61. Interested parties have raised concerns regarding the accessibility of local services and facilities, but the previous Inspector in the 4th appeal decision found that this was not unacceptable and the Council has withdrawn its first reason for refusal. Nothing in the evidence before leads me to come to a

different finding on this matter. On a separate matter, the Council confirmed at the hearing that it was not seeking to include noise levels from the A361 as an additional concern.

62. I note concerns that granting permission would set a precedent for other sites, where numerous appeals might be submitted in the hope of eventually gaining approval. However, I have determined this development on its own merits, based on the evidence before me, and have found it would comply with the development plan. Therefore, this decision should not be regarded as setting a precedent for any other development. While it is evident that the development lacks local support, my assessment of the heritage impacts and the other considerations have led me to conclude that the development is acceptable.

Conditions

63. For the avoidance of doubt, I have backdated the permission to 9 January 2017 which is the date at which the temporary permission expired. In terms of conditions, Condition 1 provides clarity that the development should be in accordance with the specified plans. As the need for gypsy and traveller pitches has been a key part of my decision, Condition 2 is necessary to ensure all occupiers fall within the definition contained in the PPTS. Conditions 3, 4 and 5 are necessary in the interests of character and appearance in terms of the number, position and height of structures and the use of the site.

64. Condition 6 is necessary to ensure that the landscaping scheme is secured and implemented to provide adequate mitigation of the development. I have specified 12 months rather than 6 for the implementation as the planting of some species may not be suitable in the next 6 month period. Although the appellants were willing to explore an alternative landscaping scheme, I consider that the already submitted scheme would ensure the development has an acceptable effect. If the appellants wish to vary this scheme, this could involve discussions with the Council separate to this appeal.

65. As I have found compliance with the development plan, it has not been necessary to impose a temporary or personal permission. At the hearing, there was discussion about conditions requiring the painting of the mobile homes in a subtle colour and details of external lighting. However, given the limited visual impact that currently exists, I have not considered either condition to be necessary. Interested parties have requested a condition restricting further roadside development along this edge of the park. However, Conditions 3 and 4 control further development within the appeal site, while it would be unreasonable and beyond the scope of the appeal to restrict development on other land outside of the site boundary.

Conclusion

66. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Tom Gilbert-Wooldridge

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Dr Angus Murdoch	Murdoch Planning Limited
Nichola Burley	Heritage Vision Ltd
Rhodri Crandon	Tirlun Design Associates Ltd
Matthew Ayres	Appellant
Christine Coles	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

James U'Dell	Mendip District Council
Jayne Boldy	Mendip District Council
Cllr Dick Skidmore	Mendip District Council

INTERESTED PARTIES WHO SPOKE AT HEARING:

Chris Galpin	Trudoxhill Parish Council representative
Peter Bishop	Marston House representative

DOCUMENTS SUBMITTED AT HEARING

1. Notification letter and mailing list for hearing date and venue, submitted by the local planning authority.
2. Written costs application, submitted by the appellants.
3. Appendix 5 of the appellants' statement of case, submitted by the appellants.
4. Rebuttal statement to the Council's historic environment evidence, submitted by the appellants.
5. Gypsy and Traveller Sites Monitoring Report (August 2018), submitted by the local planning authority.
6. Written statement, submitted by Chris Galpin on behalf of Trudoxhill Parish Council.

DOCUMENTS SUBMITTED AFTER THE HEARING WITH THE INSPECTOR'S AGREEMENT

1. Enforcement history for Jen's Cabin site, submitted by the local planning authority.
2. Historic England correspondence on the holiday lodges proposal, submitted by the appellants.
3. Council's response to the costs application, submitted by the local planning authority.
4. Appellants' final comments on costs application, submitted by the appellants.