



Appeal Decision

Hearing held on 18 June 2025

Site visit made on 18 June 2025

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2025

Appeal Ref: APP/D3830/W/25/3362298

Moonshine Meadow, Cuckfield Road, Ansty, West Sussex RH17 5AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Keith Deighton against Mid Sussex District Council.
 - The application Ref is DM/24/2175.
 - The development proposed is 5 pitch settled gypsy accommodation site including vehicular access permitted under DM/20/1277.
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Decision

1. The appeal is dismissed, and planning permission is refused for 5 pitch settled gypsy accommodation site including vehicular access permitted under DM/20/1277.

Main Issues

2. The Council has confirmed that had it been in a position to determine the proposal, it would have recommended refusal. I have also had regard to the representations from other stakeholders, including the objection of the West Sussex Newt Officer.
3. Based upon the Council's putative reasons for refusal and other representations, the main issues in this appeal are:
 - Whether the proposed development would be in a suitable location, having regard to the local development strategy;
 - The effect of the proposed development on the character and appearance of the area, with particular regard to the health and longevity of trees;
 - The effect of the proposed development on protected species, with particular regard to the long-term conservation status of Great Crested Newts; and
 - Whether other material considerations, including the need for and supply of pitches, outweighs any harm identified such as to justify the development.

Reasons

Whether in a suitable location

4. The site is a paddock with stable building situated to the west of Cuckfield Road, with an existing gated access to the highway.

5. The proposal would comprise five permanent pitches to provide accommodation for Gypsies and Travellers. Policy DP33 of the Mid Sussex District Plan 2018 (MSDP) safeguards existing Gypsy and Traveller sites and makes provision for pitches at strategic allocation sites. The site is not an existing Gypsy and Traveller site and is not allocated by the development plan.
6. Policy C1 of the Hurstpierpoint & Sayers Common Neighbourhood Plan 2015 defines the extent of the countryside as all areas outside the defined built-up areas and land allocated for development and supports development only of an appropriate countryside use in this location. The site is between two dwelling plots within a ribbon of residential development comprised of detached houses in spacious plots. However, this row of development is separated from any settlement by agricultural land and pockets of woodland. The site is in a rural location and is in the countryside.
7. Policy DP33 sets out criteria for the location of proposals for new Gypsy and Traveller sites and does not preclude development of this type in the countryside. Rather, it requires new Gypsy and Traveller sites be reasonably accessible to schools, shops, health and other local services and community facilities. However, “reasonably accessible” is not defined in terms of distance or modes of travel, thus requiring the decision-maker to exercise judgement.
8. During the hearing, the Council expressed its aspiration that pitches should have equal accessibility as other forms of residential development. However, the appellant indicates that accessible sites in urban or edge of settlement locations are normally unavailable to Gypsies and Travellers for a variety of reasons.
9. The proposed development would be located approximately 1.9km from Ansty, a small village with limited services including a petrol station with convenience store, and approximately 4.7km from the town of Burgess Hill which offers a range of services and facilities including retail, education, health, employment, and public transport links to London and Brighton. Therefore, a good range of services are accessible within a short vehicle journey.
10. Whilst recognising there may be circumstances where development needs to be located in the countryside, MSDP Policy DP21 requires proposals be located to minimise the need for travel and explore and take up opportunities to increase use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport.
11. Cuckfield Road is an undulating road with a national speed limit and frequent traffic. It is not served by public transport, has no pedestrian footways, cycle paths, or street lighting. Whilst the local highway authority (LHA) suggest cycling is a potentially viable option for confident cyclists, I consider the route would be unappealing for most people. The public highway does not therefore offer safe and suitable access for pedestrians and cyclists.
12. Even accepting that Gypsy and Traveller sites may need to be located in rural areas, future occupants would be dependent on use of private motor vehicles to meet their day-to-day needs. In the absence of travel choice, the site would not be reasonably accessible to the range of services identified by Policy DP33, and therefore the proposal would conflict with the policy.

13. The proposed development would not be located to minimise the need for travel or to promote the increased use of alternative means of transport. The proposal would therefore conflict with Policy DP21.
14. There are no policies in the development plan which favour a development of this type in this location. Therefore, having regard to the local development strategy, the proposed development would not be in a suitable location.

Character and appearance - trees

15. The matter in dispute is whether it is possible to ascertain from the proposal the effects of the development on the three trees along the northern boundary with Leigh Cottage. Of this group, one tree is positioned on the boundary, and two trees are situated within the adjacent dwelling plot.
16. From the public highway, there is a perception of dense tree coverage, with trees and tall hedges along highway verges, and woodland in the surrounding landscape. Trees line plot boundaries and are situated within gardens. The site's group of boundary trees provide structure to the landscape, creating separation and screening from the neighbouring dwelling plot.
17. A dense row of trees runs along the site's front boundary and generally obscures views into the site from the public highway. The tree group is set back in the site and is only visible from the highway at an angle through the site access. Views of the tree group would be experienced as glimpses from passing vehicles and is therefore of limited visual prominence from public vantage points. The tree group therefore makes a small, positive contribution to the area's verdant character.
18. Based on the tree report relating to a previous scheme and its observations of the current condition of trees, the Council considers the trees would fall into 'Category B'¹; trees of moderate quality with an estimated remaining life expectancy of at least 20 years which collectively make a visual contribution to the area's character.
19. MSDP Policy 37 indicates that development that will damage or lead to the loss of trees, woodland or hedgerows that contribute, either individually or as part of a group, to the visual amenity value or character of an area, and/or that have landscape, historic or wildlife importance, will not normally be permitted.
20. It is proposed that the tree group would be retained and would comprise a part of the proposed development's soft landscaping. However, the appeal proposal contains no survey of existing trees or details of specific measures to protect trees during construction and over the lifetime of the development.
21. The appellant asserts that no trenching or raising of ground levels would be required within 5m of trees. The northwest plot caravan has been oriented with its short gable end nearest to the tree group to reduce the extent of hardstanding and living accommodation in proximity of trees. The site is relatively flat, and the proposed utility buildings would be small scale with small footprints. Caravans are not built structures but would be sited on hardstanding. Therefore, the extent of excavation works, and hardstanding coverage would be relatively modest.
22. From my site visit, the trees appeared to be set back along the boundary, further from the built development and hardstanding shown on the plan. However, the

¹ Of BS 5837:2012

extent of tree canopy coverage is uncertain, since the plan's annotations of tree canopies are truncated by the boundary annotation. Therefore, the proposed site plan's illustrations of trees are inaccurate and there is insufficient information from which to draw robust conclusions regarding the impact on trees.

23. The Council has suggested a planning condition to prevent commencement of development until a Tree Survey, Arboricultural Impact Assessment and Arboricultural Method Statement have been submitted to and approved in writing. This would enable the effects on trees to be fully assessed, and ensure any harm is mitigated, such as through tree protection measures and construction techniques. In addition, the Council has suggested a condition requiring an updated site plan be provided showing the detailed layout of the site. This would enable the layout to be revised as necessary to avoid impacts to the tree group.
24. However, in the absence of technical evidence relating to the assessment and protection of trees, the proposal fails to demonstrate that it would not damage or lead to a loss of trees during construction or through pressure from future occupants. Consequently, I cannot be certain that, having particular regard to the health and longevity of trees, the proposal would not harm the character and appearance of the area. For this reason, it would not be appropriate for these details to be submitted through a planning condition.
25. The proposal fails to adequately demonstrate that it would comply with MSDP Policy DP37 which supports the protection and enhancement of trees, and requires proposals incorporate existing important trees, prevent damage to root systems, and take account of expected future growth.

Protected species – great crested newt

26. The site is within the red impact risk zone which indicates that highly suitable habitat for great crested newts (GCN) is present in the surrounding landscape.
27. The proposal is accompanied by a Preliminary Ecological Assessment, Sylvatica Ecology Ltd, 2024 (PEA), which found the site is predominantly comprised of mown grass of limited habitat value for GCNs. However, the PEA identifies that denser vegetation and an earth bank to the east border provide deadwood and underground tunnels as potential places of refuge. The West Sussex Newt Officer advises GCN could be passing through the proposed development area.
28. The Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations) identifies GCN as a European Protected Species (EPS). The intentional or reckless killing, injuring, or capturing of GCN, or intentional or accidental disturbance whilst occupying a place used for shelter or protection, and intentional or reckless destruction of these places, is prohibited by the Wildlife and Countryside Act 1982 (as amended). Based on the Natural England risk assessment, the PEA concludes it is likely the proposal would result in an offence being committed unless measures are in place to avoid adverse impacts.
29. The PEA recommends a Habitat Suitability Index Assessment be undertaken for the pond 58m to the south to identify whether it supports GCN and requires the design of the scheme and updated risk assessment be informed by the survey's findings. However, the recommended survey work has not been undertaken.

30. The parties suggest a planning condition be imposed to secure either additional surveys or participation in the district-level licensing (DLL) scheme. The appellant has expressed their intention to join the DLL scheme.
31. At section 99, the ODPM Circular 06/2005² requires the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, be established before permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
32. Due to the site's proximity to breeding ponds, there is a reasonable likelihood that GCN may be present and affected by development. In this case, s99 indicates surveys should be completed and any necessary measures to protect the species should be in place, e.g. secured through a planning condition, before permission is granted. S99 advises that planning conditions to secure ecological surveys after planning permission has been granted should only be used in exceptional circumstances. I have not been provided with any exceptional circumstances in this regard, and therefore, a condition to secure additional survey work after permission is granted would be inconsistent with OPDM Circular 06/2005.
33. Regulation 9(3) of the Habitat Regulations requires a competent authority have regard to the requirements of the associated Directive³ so far as it may be affected by the exercise of its functions. This includes any proposal that might lead to harm to specimens or deterioration or destruction of resting places of an EPS under Article 12(1). I must ensure any potential harm to an EPS would be adequately mitigated and consider whether the proposal is unlikely to be licensed.
34. The appellant has provided no evidence of participation in the DLL scheme. I have not been provided a certificate issued by the DLL administrator. The site is in a red risk zone and the likelihood of the development being licensed is therefore uncertain. I have been provided no details of suggested mitigation measures or any mechanism to secure their provision. Consequently, I cannot be certain the proposal would not offend Article 12(1). I am not satisfied the mitigation hierarchy has been followed and that there would be no significant harm to the long-term conservation status of GCN.
35. Therefore, the suggested condition requiring the appellant join the DLL scheme after permission is granted provides insufficient certainty that a license is likely to be issued and that the effects of the development on GCN would be adequately mitigated. The proposal therefore fails to demonstrate it would not harm the long-term conservation of GCNs and would be contrary to the Habitats Regulations.
36. The proposal would conflict with MSDP Policy DP38 which requires measures be taken to avoid and reduce disturbance to sensitive habitats and species.

Other considerations

Need and supply of pitches

37. MSDP Policy DP33 requires new Gypsy and Traveller sites satisfy a clearly defined need, as evidenced by the Mid Sussex Gypsy and Traveller

² Government Circular: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system, Office of the Deputy Prime Minister, 16 August 2005

³ Council Directive 92/43/EEC of 21 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora (the Directive)

Accommodation Assessment or the best available evidence. The latest available evidence is the Gypsy and Traveller Accommodation Assessment 2022 (GTAA).

38. The need for additional pitches is calculated from survey data of occupants of existing Gypsy and Traveller sites within the district and reflects demographic changes within this group, such as formation of new households or to accommodate teenage children. The GTAA identifies a need for 16 pitches over the period 2021 to 2038 in the district.
39. The GTAA indicates most pitches are needed within the first five-year period following the GTAA's base date⁴. Therefore, the GTAA identifies a need for pitches in the short-term.
40. In addition, the GTAA was not able to interview Gypsies and Travellers living in brick-and-mortar accommodation, and the GTAA indicates some neighbouring authorities are unable to identify sites to meet their need for pitches. The GTAA advises any needs from in-migration and households who wish to move to a site should be carefully considered. Therefore, there is likely to be additional pressure for pitches over the GTAA period, in excess of the identified need figure.
41. The Council's trajectory of pitches indicates the total need will be met in full over the GTAA period through delivery of sites with existing planning permission, and as part of phased development at strategic allocation DP9, located north and northwest of Burgess Hill. However, since the GTAA's base date, only one pitch has been completed. Therefore, past delivery of pitches has been very low.
42. Strategic allocation DP9 would provide 13 pitches, thus representing a large proportion of the identified need figure. However, these pitches are not expected to be delivered until the latter part of the GTAA period, and therefore would not address the short-term need for pitches identified by the GTAA.
43. Policy B of the Planning Policy for Traveller Sites (PPTS) requires local planning authorities identify and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets⁵. The Council calculates a requirement of 10 pitches over the current five-year period from 01 April 2025.
44. There is a demonstrable supply of two pitches within the current five-year period from sites with full planning permission. Set against the requirement, this equates to a one-year supply of pitches. Consequently, there is a significant shortfall in the supply of pitches over the five-year period, and the Council has failed to fulfil the requirements of PPTS Policy B.
45. MSDP Policy DP33 includes criteria for the siting of new Gypsy and Traveller sites. However, this appears to have limited practical effect, since few windfall sites have been delivered. The majority of the Council's area is subject to designations such as national park, national landscape, and zones of influence of European sites, which may further limit the opportunity for speculative development.
46. Whilst Policy DP33 identifies further sites will be allocated by the Traveller Sites Allocations Development Plan Document, as required, this document was not progressed.

⁴ 2021/22 to 2025/26

⁵ Paragraph 10(a)

47. The Council is in the process of reviewing its Local Plan. However, the examining Inspector has confirmed they are minded to fail the Mid Sussex District Plan 2021-2039. Therefore, only minimal weight can be afforded to its draft policies.
48. Some respondents suggested existing Gypsy and Traveller sites could be expanded. However, I have been provided no evidence that works to increase the capacity of existing sites would be forthcoming within the GTAA period.
49. As set out above, the GTAA calculates a need for additional pitches in the area and identifies further unquantified need from other sources. There is a significant shortfall in the supply of deliverable pitches against the five-year requirement. I have identified no alternative sources of supply beyond those sites with existing planning status.
50. Within this context, the proposal would provide five pitches which would be deemed deliverable within five years, as per the PPTS' definition⁶. This would be equivalent to 50% of the total five-year requirement, and therefore the proposal would make a substantial contribution toward the supply of pitches.

Other socio-economic and environmental factors

51. The increase in population associated with the proposal would increase spending within the local community. In addition, the proposal would provide a net gain in biodiversity which would exceed the statutory requirement.

Other Matters

52. Some respondents queried why a settled base is necessary, since Gypsies and Travellers have a cultural tradition of nomadism or of living in a caravan. The PPTS recognises the provision of a settled base reduces the need for long-distance travelling, avoids possible environmental damage caused by unauthorised encampment, and enables occupants to access facilities.
53. Some local residents raised concerns regarding the compatibility of the proposed development within nearby uses. The proposed development would be situated between residential dwelling plots and therefore would be compatible with neighbouring land uses.
54. Concerns were raised regarding the effect of the development on the character of nearby dwellings, and whether the scale of development would be visually dominant. The design of the scheme would satisfy site licensing requirements and would accord with the former CLG Designing Gypsy and Traveller Sites - Good Practice Guide. The width of the two front plots would be broadly similar to the width of the neighbouring dwelling plot to the north, and the site would be well-screened by existing mature trees, vegetation, and fenced boundaries. The proposed static caravans would be single storey height and would be set back from the front boundary. The scale, form and layout would not be out of keeping with the spacious arrangement of neighbouring 1.5 storey detached dwellings and single-storey outbuildings.
55. Local residents consider the area to be vulnerable to surface water flooding. In addition, the site is not served by mains sewerage. It is proposed that the development would utilise rainwater harvesting, discharge surface water off-site,

⁶ As set out at footnote 4 of PPTS

would have a permeable access road, and the development would utilise a package treatment plant to manage foul water drainage. The Council's drainage team considers this approach to be acceptable in principle, subject to conditions to secure full details of foul and surface water drainage, including its timetable for implementation, maintenance, and management over the development's lifetime.

56. Concerns were raised in respect of other utilities infrastructure, including water and electricity supply, and the absence of mains gas. However, there is no substantive evidence before me that there would be harm in respect of these matters, and no objection has been raised by the Council or statutory consultees.
57. The site is close to a Site of Nature Conservation Importance, and many respondents recognise the surrounding area's value to wildlife. As discussed above, the proposal is accompanied by a PEA and the Biodiversity Net Gain Assessment indicates a net gain of 10% or greater would be achieved. Biodiversity enhancement would be secured through planning conditions requiring the PEA's recommendations be implemented. The Council's Ecological Consultant confirmed sufficient ecological information has been provided and raised no object to the scheme subject to the imposition of conditions. Notwithstanding the separate matter in respect of GCN, subject to the relevant suggested conditions I am satisfied the proposal would achieve a net gain in biodiversity and would not harm the Site of Nature Conservation Importance or the species it supports.
58. Concerns were raised by local residents regarding the safety of the public highway for all road users, including vehicles, and suitability of the existing agricultural access. I have had regard to the advice of the LHA which concluded that the proposed development would not have an unacceptable impact on highway safety or result in severe cumulative impacts on the operation of the highway network and would not be considered a significant material intensification of use of the access. Residents recounted that a very serious accident had occurred at Cuckfield Road in recent years. However, data from Sussex Police there were no recorded injury accidents within the vicinity of the site attributed to road layout or the use of the existing access.
59. In addition, the LHA confirmed the proposed car parking would be sufficient. However, were planning permission to be granted, further information would be required to demonstrate the access would be suitable for a fire service vehicle.
60. A previous scheme for three bungalows had previously been refused on the site. I have not been provided full details of the previous scheme. However, I have determined the proposal in accordance with the development and having regard to other material considerations as relevant at time of the decision.

Planning Balance

61. As set out above, the Council cannot demonstrate a five-year supply of deliverable sites. In this circumstance, PPTS Policy H indicates the provisions in paragraph 11(d) of the National Planning Policy Framework (the Framework) would apply⁷.
62. Paragraph 11(d) of the Framework requires permission be granted unless, (i) the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or (ii)

⁷ Paragraph 28

any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

63. The proposal would not harm any area or asset listed in footnote 7 of the Framework. Therefore, the Framework's policies that protect areas or assets of particular importance do not provide a strong reason for refusing the development.
64. Paragraph 187 of the Framework requires planning decisions contribute to and enhance the natural and local environment, such as through minimising impacts on biodiversity, and incorporating features which support priority or threatened species. Paragraph 193 of the Framework makes clear that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. The provision of five pitches would not amount to an imperative reason of overriding public interest, and the proposal would not comply with the Habitats Regulations. Consequently, it would be unlawful to grant planning permission. Therefore, the magnitude of weight to be afforded to the conflict with MSDP Policy DP38 is of the highest order.
65. Key policy, paragraph 135 of the Framework requires proposals be sympathetic to local character and the landscape setting. The conflict between the proposal and MSDP Policy DP37 arising from the uncertain impacts on trees which contribute to the character of the area therefore carries significant weight in this appeal.
66. Framework paragraph 110 requires significant development be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes, and paragraph 115 requires sustainable transport modes be prioritised taking account of the vision for the site, the type of development and its location.
67. As discussed above, occupants of the proposed development would be dependent on private motor vehicles and the location offers very limited travel choice. However, paragraph 110 requires decisions take into account that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
68. Whilst Policy H of the PPTS indicates local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan⁸, Policy C of the PPTS⁹ supports sites in rural or semi-rural settings, provided the scale of such sites does not dominate the nearest settled community. The site is close to existing residential development and is not remote to the extent that it would be deemed to be in open countryside away from settlements, and the scale of development would not dominate the nearest community.
69. Whilst Cuckfield Road is a rural, C-class road, it offers connectivity to the major road network and the location would support a nomadic way of life. PPTS Policy B requires local planning authorities ensure their policies promote access to appropriate health services and ensure that children can attend school on a

⁸ Paragraph 26

⁹ Paragraph 14

regular basis¹⁰. The proposal would provide a settled base thereby advancing access to vital services, such as health and education.

70. Therefore, having regard to the policies of the Framework and PPTS, I afford only moderate weight to the proposal's conflict with MSDP Policies DP33 and DP21.
71. The key policy at Framework paragraph 129 requires decisions support development that makes efficient use of land, taking into account the identified need for different types of housing, and the availability of land suitable for accommodating it. Furthermore, paragraph 61 sets out Government's objective to significantly boosting the supply of homes, including addressing the needs of groups with specific housing requirements, with the overall aim of meeting an area's identified housing need. Aim 4(h) of the PPTS seeks to address the under provision of the supply of pitches. The proposal's contribution of five pitches against a significant shortfall in supply carries substantial weight in its favour.
72. In addition, socio-economic factors including increased local spending, and the environmental benefits of biodiversity net gain, carries modest positive weight, reflecting the scale of the proposed development.
73. Taken as a whole, the adverse impacts of the proposal, in respect of harms to protected species, health and longevity of trees, and the suitability of the proposed location, significantly and demonstrably outweigh the benefits of the proposal. Therefore, the presumption in favour of sustainable development would not apply.
74. I must also consider the possibility of granting a temporary planning permission or a personal permission which would cease when the use is no longer required. Adverse effects associated with the accessibility of the site would cease once the permission expires. However, harm to protected species would be unlawful and would not be acceptable even within a temporary period. Furthermore, any replacement of trees would take time to establish, and therefore the harm to character and appearance would be long-term. A grant of temporary or personal planning permission would not therefore alter the outcome of the planning balance.

Conclusion

75. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given the appeal should be dismissed and planning permission should be refused.

E Dade

INSPECTOR

¹⁰ Paragraph 13

APPEARANCES

FOR THE APPELLANT:

- Phil Rowe BA Hons BTP (Planning), PROwe Planning Solutions (agent)
- Keith Deighton – appellant

FOR THE LOCAL PLANNING AUTHORITY:

- Andy Watt BSc (Hons), MTPL, MRTPI, Senior Planning Officer, Development Management
- Natalie Sharp BA (Hons) MA, MRTPI, Senior Planning Officer, Planning Policy

INTERESTED PARTIES:

- Jo and Jason Alma - local residents
- Alan Davey - local resident
- Andrea Fullalove - local resident
- Catherine Jones - local resident
- Douglas Mower - local resident
- Martin and Penny Stoner – local residents
- Alison Whelan - local resident