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Eich Cyf/Your Ref: DC/2015/01242 01424  
Ein Cyf/Our Ref: APP/E6840/A/17/3168486

05 October 2017

Dear Sir/Madam,

**Town and Country Planning Act 1990**

**Appeal by MR T LEE**

**Site Address: LAND ADJACENT TO UPPER MAERDY FARM, LLANGVIEW, USK ,  
MONMOUTHSHIRE**

Amgaeaf benderfyniad yr Arolygydd  
ar yr apêl uchod.

I enclose the Inspector's decision on the  
above appeal.

Pan fyddwch wedi darllen llythyr y  
penderfyniad yn llawn, neilltuwch yr  
amser i lenwi ein holiadur Adborth  
wedi'r Penderfyniad. Mae'r holiadur  
ar gael ar-lein yn:

Once you have read the decision  
letter fully, please take the time to  
complete our Post Decision Feedback  
questionnaire. The questionnaire is  
available online at:

<https://www.surveymonkey.com/s/PostDecisionQ>

Yours sincerely,

*Paul Newland*

Paul Newland

*Rydym yn Croesawu Gohebiaeth yn Gymraeg a Saesneg*

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## Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 07/09/17  
Ymweliad â safle a wnaed ar 07/09/17

gan **Richard E. Jenkins BA (Hons) MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru  
Dyddiad: 05.10.2017

## Appeal Decision

Hearing Held on 07/09/17  
Site visit made on 07/09/17

by **Richard E. Jenkins BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers  
Date: 05.10.2017

**Appeal Ref: APP/E6840/A/17/3168486**

**Site address: Land Adjacent to Upper Maerdy Farm, Llangeview, Usk, Monmouthshire**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- 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 Mr Lee against the decision of Monmouthshire County Council.
- The application Ref: DC/2015/01424, dated 12 November 2015, was refused by notice dated 2 November 2016.
- The development proposed is the change of use of land to a private gypsy caravan site consisting of 7No. residential caravans and associated development.

## Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to a private gypsy caravan site consisting of 7No. residential caravans and associated development at land adjacent to Upper Maerdy Farm, Llangeview, Usk, Monmouthshire in accordance with the terms of the application, Ref: DC/2015/01424, dated 12 November 2015, and the plans submitted with it, subject to the conditions set out in the schedule below.

## Site, Surroundings and Preliminary Matters

2. The appeal site forms part of a long and irregular shaped parcel of land located immediately adjacent to the southbound slip road of the Usk interchange on the A449 trunk road. The site comprises approximately 0.9 hectares, is surrounded by mature hedgerows and trees and would be accessed via an existing vehicular entrance. The appeal proposal seeks planning permission for the change of use of land to a private gypsy caravan site consisting of 7No. residential caravans and associated development. Two pitches would be located within the general vicinity of the access to the site, whilst the remaining five pitches would be located within what currently comprises a separate field approximately 135 metres north of the site entrance. To enable access to the northern part of the site, the proposed change of use would incorporate a substantial permeable access drive, with each pitch incorporating an area of hardstanding for the parking of vehicles. Utility rooms are proposed to serve the occupiers of site, with foul drainage proposed to be addressed through the provision of cesspits. It is proposed that the visual impact of the development would be mitigated by a substantial landscaping scheme, details of which have been submitted with the appeal.

3. In determining the appeal, it is pertinent to note the planning history of the site. Specifically, an application seeking planning permission for use of part of the site as a permanent base for an extended Romany Gypsy family was allowed on appeal in 2011 (hereinafter referred as the 2011 Appeal)<sup>1</sup>. This granted planning permission for two pitches by the entrance to the site although, in allowing that appeal, the Inspector imposed occupancy restrictions limiting the occupation of the site to the identified main adult occupiers and their dependents. There was some debate at the hearing as to whether the planning permission granted in 2011 had properly commenced and, if it had, whether it remains extant having regard to the planning conditions imposed as part of that permission. However, such matters are clearly beyond my jurisdiction in determining this appeal. As such, I shall determine this appeal on its own particular merits.
4. It is material to the determination of the planning application that a 50 inch diameter public water main which is defined as an asset of strategic importance to Dŵr Cymru Welsh Water (DCWW) traverses the site. This was raised as an issue during the 2011 appeal although, having awarded sufficient time for the water main to be accurately located and marked out on site, the Inspector was given the comfort that the necessary 6.5 metre easement either side of the water main could be achieved without prejudicing the delivery of the proposed development. As such, a planning condition was imposed that prevented development from taking place until a scheme to safeguard the water main had been submitted to and approved in writing by the Local Planning Authority (LPA). It was also conditioned that no caravan should be brought onto the site until details of the intended siting had been approved in writing by the LPA.
5. DCWW have submitted representations to the current proposal<sup>2</sup> stating that, whilst the development proposed is acceptable in principle, given the uncertainty associated with the exact route of the water main, particularly to the northern end of the appeal site, a planning condition similar to that considered necessary in the 2011 decision should be imposed in the event that planning permission is granted. Such matters were extensively discussed at the hearing and I am satisfied that the water main does not represent an insurmountable constraint, not least because the northern part of the site is large enough to accommodate the development proposed and the necessary easement subject to detailed layout considerations. The planning appeal was lodged on the basis of the site layout set out on Drawing No. YH248/S/1A. However, given the need for the safeguarding of the public water main, it is necessary that the exact layout of the development is subject to the written approval of the LPA. This could be achieved through the imposition of a planning condition similar to that referred above. The fact that this should form the basis of the appeal was agreed by all parties at the start of the hearing.
6. At the time of my site visit, part of the current appeal site incorporated, amongst other things, a mobile home, touring caravans, a utility room, hardcore spread on the ground and associated domestic paraphernalia including a washing line, garden furniture and potted plants. However, it has not been made clear that retrospective planning permission is being sought under Section 73A(2)(a) of the aforementioned Act. As such, and bearing in mind the aforementioned requirement for the exact siting of any caravans and associated development to be led by a scheme to safeguard the water main, it is possible that the exact layout of any approved scheme would need to be materially different to that currently on site. Accordingly, I shall not

<sup>1</sup> APP/E6840/A/10/2140260

<sup>2</sup> Hearing Document 2: Dŵr Cymru Welsh Water - Written Representation

determine the appeal on the basis that retrospective planning permission is being sought, but rather as a fresh proposal for 7No. residential caravans and associated development, as set out on the original planning application form.

7. Finally, the fact that the appellant and the other proposed beneficiaries of the proposal comprise Gypsies and Travellers, as defined by Welsh Government Circular 30/2007: '*Planning for Gypsy and Traveller Caravan Sites*', is a matter of common ground. I have fully considered all the evidence on this matter and, in the absence of any evidence to lead me to a different opinion, I am satisfied that this is an appropriate basis upon which to determine the appeal. As such, the national and local policy framework relating to Gypsy and Travellers is engaged.

### **Main Issues**

8. These are: whether the development is acceptable in principle, having particular regard to the principles of sustainability set out in the adopted development plan and national policy; the effect of the proposed development upon the character and appearance of the area; and whether any identified harm would be outweighed by other considerations in favour of the proposal, including those relating to the general provision of Gypsy and Traveller sites within the area and/ or those matters associated with the personal circumstances of the persons to which the proposal relates.

### **Reasons**

#### ***Principle of Development - Site Sustainability***

9. The appeal site is located outside of the development boundaries identified within the Monmouthshire County Council Adopted Local Development Plan (2014)(LDP) and, therefore, comprises open countryside for the purposes of planning. The LDP adopts a generally restrictive approach to development within the countryside, with Policy S1 restricting new residential development outside of the identified settlements to a series of policy exemptions which include the conversion of rural buildings, the subdivision of existing dwellings, and dwellings demonstrated to be necessary for agriculture, forestry or other appropriate rural enterprises in accordance with the provisions of Technical Advice Note 6: '*Planning for Sustainable Rural Communities*' (2010)(TAN6). Policy LC1 of the adopted LDP also provides for a presumption against new build residential development in the open countryside unless it is otherwise justified by national policy or the policies within the adopted LDP.
10. The adopted LDP does not allocate any land for the purposes of Gypsy and Traveller accommodation, but rather relies upon the criteria based approach advocated through Policy H8. Whilst that policy does not specifically require Gypsy and Traveller sites to be located within settlements, it is notable that it requires such sites to be accessible to schools, shops and health care by public transport, on foot or by cycle. It also goes on to state that such sites should be located within reasonable travelling distance of a settlement with services and community facilities, including health and education.
11. There is clearly some conflict between the proposed development and the restrictive approach to development within the countryside promoted through the adopted LDP. It is also clear that there would be some conflict with the principles of sustainability that underpin the most recent expression of national policy in the form of Planning Policy Wales (Edition 9, 2016). Nevertheless, there is no doubt that, in considering proposals that seek to provide accommodation for Gypsy and Travellers, significant weight should be afforded to WG Circular 30/2007. Specifically, despite noting the importance of issues surrounding site sustainability, that document recognises the particular accommodation requirements of Gypsies and Travellers and advises that



sites in rural settings may be acceptable in principle where they are not subject to specific planning or other constraints. Indeed, it goes on to state that the over rigid application of national or LDP policies that seek a reduction in car borne travel would not be appropriate<sup>3</sup>.

12. There is no doubt that the appeal site sits within a rural setting and, given the fact that the roads that lead to the site are largely unlit, narrow and without a segregated pedestrian footway, it is likely that the majority of trips to and from the site would be car borne. However, it cannot be argued that the site is remote from day to day facilities and services with the town of Usk located only a short distance away. Specifically, Usk would offer the intended occupants of the development a broad range of facilities and services, including a nearby primary school, shops and health care. WG Circular 30/2007 identifies the benefit to well-being of providing an opportunity for children to attend school on a regular basis as a key component of site sustainability and, having had regard to all of the relevant factors that can influence site sustainability, including those identified in paragraph 19 of the WG Circular 30/2007, I consider that the siting of a gypsy and traveller caravan site in the location proposed to be consistent with the general thrust of national policy and, therefore, acceptable in principle.
13. I recognise the fact that the appeal proposal seeks planning permission for a materially increased number of pitches relative to that granted planning permission in 2011. However, based on the provisions of national policy, I do not consider the scale of the proposed development to justify the refusal of planning permission on the grounds of site sustainability. In coming to this conclusion, I am particularly mindful of the fact that no other suitable and available alternative sites have been demonstrated to be more attractive in terms of their sustainability credentials.
14. For these reasons, whilst I note a degree of conflict with the overarching spatial strategy promoted through the adopted LDP, including the requirement for Gypsy and Traveller sites advanced through Policy H8(a) to be accessible by public transport, foot or bicycle, I find that the proposed development is consistent with the general thrust of the policy framework relating to the provision of Gypsy and Traveller sites set nationally, with particular reference to WG Circular 30/2007 which represents a significant material consideration.

### ***Character and Appearance***

15. The Council submits that the proposed development would have an unacceptable adverse visual impact on the special character of the surrounding countryside, referring specifically to the size of the site and its incongruous location. Accordingly, in its reasons for refusal, the Council refers to conflict with Policy LC5 of the adopted LDP which relates to the protection and enhancement of landscape character.
16. Given the scale and siting of the proposed development within an area characterised by gently undulating countryside with some sporadic small-scale development, mostly related to agriculture or residential uses, there is no doubt that the proposed change would alter and cause harm to the rural character of the appeal site. However, given that the site is, and would continue to be viewed within the context of the wider intersection of the A449(T), the A472 and the B4235 which includes a spur road adjacent to, and elevated above, the appeal site, I agree with the appellant's assessment that the site's sensitivity to the value of the landscape is of a 'medium' grade. Moreover, I have not seen any cogent evidence to contest the view that,

<sup>3</sup> Paragraph 26 (WG Circular 30/2007)

having regard to the proposed mitigation measures, the magnitude of change would be localised and the level of significance minor.

17. It was clear at the time of my site visit that the site is relatively flat and low lying. It was also clear that the site is well screened by established hedgerows and trees meaning that any visual harm would be largely localised. I recognise that, given the indigenous make up of such landscape features, their screening capacity would be significantly reduced during the winter months. However, I have already referred above to the context set by the Usk interchange on the A449 trunk road and, given the scope for the existing landscaping to be supplemented through an additional scheme of landscaping, such as that submitted with the appeal scheme, I consider that any harmful visual impacts could be effectively minimised.
18. On this basis I conclude that, having regard to the mitigation measures proposed, the overall harm to the character and appearance of the area would be modest and localised. Indeed, having regard to the severity of the harm identified, I find the development to be broadly compliant with the general thrust of Policy LC5 which, amongst other things, seeks to prevent: *unacceptable adverse effects to the special character or quality of Monmouthshire's landscape; significant visual intrusion; significant adverse change to the character of the natural landscape; development sited insensitively and unsympathetically; development that is incompatible within its location; development that fails to harmonise with the landscape; and development that loses or fails to incorporate important traditional features.* For the same reasons, I also find that the site does not represent a prominent location and that it does not, therefore, conflict with Policy H8(d) of the adopted LDP.

***Need and Supply of Gypsy and Traveller Sites/ Personal Circumstances***

19. The most up to date assessment of need comprises the Monmouthshire County Council Gypsy and Traveller Accommodation Assessment (GTAA) (2016) which I am informed identifies a need for 8 pitches to 2021. However, it was confirmed at the hearing that this figure is likely to represent a minimum figure, with the need arising from the proposed occupants of the appeal site not factored into that assessment given their current occupation outside of the area covered by Monmouthshire County Council. On the basis of this position, it is common ground that there is a need for Gypsy and Traveller accommodation within the area.
20. Section 103 of the Housing (Wales) Act 2014 provides a statutory duty on local authorities to provide sites where there is an identified need. However, the Council confirmed at the hearing that there are no Gypsy and Traveller site allocations within the adopted LDP and that the only permitted sites within the authority area are personal permissions that would not be available or suitable for the proposed beneficiaries of the appeal proposal. It was confirmed at the hearing that work has progressed within the planning policy team on a review of the adopted LDP. However, it was acknowledged that the exact form of that review is not yet agreed and that such processes would be likely to take a number of years before any necessary amendments become adopted and formally recognised as the development plan for the area. Such general need, the lack of alternative sites and the lack of a strategy to address the identified need are matters that I consider warrant substantial weight.
21. The Council and a number of interested parties have questioned the need for the appellant and the proposed beneficiaries of the appeal proposal to be accommodated at the appeal site, particularly given their current occupation outside of Monmouthshire. However, whilst I am satisfied that the appellant has satisfactorily demonstrated links to the local area and provided evidence of the unsuitability of his

family's existing accommodation, such personal circumstances do not sit in the forefront of the appellant's case. Indeed, the appellant's agent confirmed at the hearing that, whilst the personal circumstances advanced clearly weigh in favour of the appeal, it is not a personal permission that is being sought. Rather, having regard to the aforementioned statutory duty and the provisions of national policy, it is submitted that the need for the provision of sites within the area represents a significant material consideration.

22. It is well established that the accommodation needs of Gypsies and Travellers should not be constrained by the administrative boundaries of local government and it is common ground that the need for Gypsy and Traveller pitches within the South East Region of Wales, within which Monmouthshire sits for the purposes of planning, remains high. I consider such matters to weigh further in favour of the appeal. Indeed, if the appeal was to be dismissed, there is no doubt that a number of the proposed occupants of the appeal site would remain in unsuitable accommodation, with others resigned to a roadside existence.
23. Based on the foregoing I find that the level of unaddressed need, both locally and regionally, as well as the severe lack of suitable and available alternative sites, to carry with it significant weight. I also find the lack of evidence to indicate that the identified levels of need would not be addressed in the foreseeable future to be a material consideration that weighs in favour of the appeal.

***Other Matters***

24. I have considered all other matters raised through the planning application and appeal process, although I find nothing that renders the proposal unacceptable. Specifically, I have not seen any cogent evidence to indicate that the development would cause material harm to the living conditions of the existing occupants of Llangeview and I have already set out in the preliminary matters above that the high pressure water main does not represent an insurmountable constraint. Concerns relating to highway safety remain unsubstantiated, whilst the requirement for a Delivery and Construction Traffic Management Plan would address highway concerns relating to the delivery of caravans to the site. Drainage is a matter that could be effectively addressed through the imposition of a suitably worded planning condition. Concerns relating to ecology are not supported by any robust evidence and the existence of any legal covenants on site is a private matter that would need to be addressed away from planning processes.

***Balancing Exercise and Overall Conclusions***

25. Therefore, whilst I have found that the principle of locating a private Gypsy and Traveller caravan site at the location proposed would conflict with the overarching spatial strategy of the adopted LDP, I have found that it would be broadly compliant with the provisions of national planning policy which represents a significant material consideration. Moreover, whilst I have found that the proposed development would cause modest harm to the character and appearance of the area, I do not consider that the extent of such harm would run counter to the tests set out in Policy LC5. The levels of unmet need for Gypsy and Traveller accommodation within the local and wider areas also merit substantial weight in the planning balance, particularly given that I have not seen anything to indicate that a strategy exists to address such matters in the foreseeable future.
26. For these reasons, and having considered all matters raised, I conclude that the appeal should be allowed subject to the conditions set out in the schedule below. I



have had regard to the set of personal circumstances advanced by the appellant. However, it is the acceptability of the use of land, and not the identity of the occupants, that has been decisive in this case. Accordingly, I do not consider that it would be reasonable or necessary to limit the occupation of the site to specific persons and neither do I consider it appropriate for the outcome of the appeal to comprise a temporary planning permission. I have had regard to the rights of the future occupiers under Article 8 of the European Convention on Human Rights and the best interests of the children. However, I need not deal with such matters in this decision as I have found in favour of the appellant.

27. In coming to this conclusion, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WCFG Act). I have taken into account the ways of working set out at section 5 of the WCFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WCFG Act.

### ***Planning Conditions***

28. I have considered the suggested planning conditions and, having had regard to the advice in Welsh Government Circular 16/2014: *The Use of Planning Conditions for Development Management* (October 2014), have adjusted their wording in the interest of clarity and precision. As set out above, I have not determined the planning appeal on the basis that retrospective planning permission was being sought and, for this reason, I have imposed the statutory time commencement condition.
29. Condition No.2 restricts the occupation of the site to Gypsies and Travellers, as defined by paragraph 3 of WG Circular 30/2007, whilst Condition No.3 is necessary to ensure that the number of pitches is reflective of the number of considered through the planning appeal. Condition No.4 would safeguard the high pressure water main that runs through the site, whilst Condition Nos.5 and 6 would ensure the satisfactory siting and details of the structures on site. Condition No.7 would require a Delivery and Construction Traffic Management Plan in the interests of highway safety and visual amenity. The effective drainage of the site would be achieved via Condition No.8. Condition No.9 is necessary in the interests of visual amenity, whilst Condition Nos.10 and 11 are necessary to prevent commercial activities taking place and large vehicles being parked on the site. Condition Nos.12, 13 and 14 would require the satisfactory landscaping of the site in the interest of visual amenity. Whilst it would appear that the landscaping scheme submitted as part of the appeal proposal would be adequate, given the potential for a revised layout arising from the requirements of Condition Nos. 4, 5 and 6, I consider it to be more appropriate for a landscaping scheme to be submitted to and approved in writing by the LPA.

*Richard E. Jenkins*

INSPECTOR



### Schedule of Conditions

- 1) The development shall begin not later than five years from the date of this decision.
- 2) The occupation of the site shall only be by Gypsies and Travellers as defined by paragraph 3 of WG Circular 30/2007.
- 3) There shall be no more than 7 pitches on the site and on each of the 7 pitches hereby approved no more than one static caravan as defined in the Caravan Sites and Control of Development Act 1990 and the Caravan Sites Act 1968 shall be stationed on the site at any time.
- 4) No development shall take place until a scheme to safeguard the water main through the site in perpetuity has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include measures to protect access to the pipe for maintenance and repair purposes. The development shall be carried out in accordance with the approved scheme.
- 5) No caravan shall be brought onto the site until details of its intended siting have been submitted to and approved in writing by the Local Planning Authority. The caravans shall only be positioned in the approved locations.  
Any material change to the position of a static caravan, or its replacement by another mobile home in a different location shall only take place in accordance with details submitted to and approved in writing by the Local Planning Authority.
- 6) No development shall take place until details of the siting and materials of the proposed access, hard surfacing, car parking, utility block, refuse storage facilities and details of the means of electricity supply and external lighting have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and within any such timescale as specified by the Local Planning Authority.
- 7) No development shall commence until a Delivery and Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Delivery and Construction Traffic Management Plan shall be adhered to throughout the delivery and construction period and shall clearly detail how the proposed residential caravans are to be delivered to the site.
- 8) No development shall take place pursuant to this permission until a scheme for foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed before any of the caravans hereby permitted are occupied.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that Order with or without modification) no fences, gates or walls and no buildings, containers or other structures shall be erected or brought onto the site other than those expressly authorised by this permission.
- 10) No commercial activities shall take place on the land, including the storage of materials.
- 11) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

- 12) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include details of new planting and other landscaping works as well as indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
- 13) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.
- 14) A landscape management plan, including management responsibilities and maintenance schedules for all landscaped areas, other than privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any of the dwellings on the site. The landscape management plan shall be carried out as approved.

## **APPEARANCES**

### FOR THE APPELLANT:

Dr Angus Murdoch (Agent)

Rhodri Crandon

Tom Lee (Appellant)

J Owen

Ms Owen

Mitzy Lee

Ms Owen

### FOR THE LOCAL PLANNING AUTHORITY:

Paula Clarke

Sarah Jones

Kate Young

Ben Terry

Stephen Griffiths

David Wong

### INTERESTED PERSONS:

Rob Duff

Ian Jeffery

Wendy Wyatt

Martin Wyatt

David Pollit

Alison Davies

Adrian Blight

**DOCUMENTS**

- 1 LPA – Letter of Notification
- 2 Dŵr Cymru Welsh Water – Written Representation