



Appeal Decision

Inquiry opened on 31 August 2011

Site visits made on 2 September and 6 October 2011

by Clive Hughes BA (Hons) MA DMS MRTPI

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

Decision date: 6 December 2011

Appeal Ref: APP/K0235/A/11/2149691

Land north of Bushmead Road, known as St Joseph's Farm, Upper Staploe, St Neots, Bedfordshire PE19 4JD

- 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 Patrick Rooney against the decision of Bedford Borough Council.
 - The application Ref 10/02302/FUL, dated 10 September 2010, was refused by notice dated 16 February 2011.
 - The development proposed is the use of land for the stationing of caravans for the residential purposes for 2 gypsy pitches and 2 transit pitches together with formation of hard standing and shared utility/ dayroom ancillary to that use to accommodate all residents on site; with stables for the applicant's horses.
 - The inquiry sat for 4 days on 31 August, 1 & 2 September and 6 October 2011.
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Procedural matters

1. I have used the address of the appeal site as set out in the Statement of Common Ground. By email dated 15 July 2011 the Council stated that it would not be pursuing the first reason for refusal, as set out on the decision notice, concerning visibility splays and highway safety. Nonetheless, at the Inquiry the local residents' group, RAIDIUS, stated that they would be pursuing the highway matters. I have therefore identified this as a separate issue.
2. I have had regard to the Government's intention to revoke Regional Strategies and the fact that this intention is reflected in the *Localism Act* which has now received Royal Assent. The Courts have held that this intention is capable of being a material consideration, but in this case it is of limited weight due to the stage it has reached in the parliamentary process. For the time being the Regional Strategy remains part of the Development Plan.
3. I have taken account of the provisions of Circular 01/2006 *Planning for Gypsy and Traveller Caravan Sites* as a material consideration. However, the Secretary of State has announced that this Circular will be revoked, describing it as flawed, and this affects the weight that it can be given. Nonetheless, at present it remains an extant Circular. I have also had regard to the draft Planning Policy Statement *Planning for Traveller Sites* and to the draft *National Planning Policy Framework*. However, these documents are currently out for consultation and so may change. In these circumstances they can be given little weight.

4. The proposed development includes the formation of a new vehicular access to Bushmead Road, to the east of the existing vehicular access point. I have included this new access in the description of the development.

Decision

5. The appeal is dismissed insofar as it relates to the 2 transit pitches and the day room. The appeal is allowed insofar as I grant temporary, personal, planning permission for the use of land for the stationing of caravans for the residential purposes for 2 gypsy pitches together with formation of hard standing and I grant permanent planning permission for the formation of new vehicular access and the erection of stables for the applicant's horses on land north of Bushmead Road, known as St Joseph's Farm, Upper Staploe, St Neots, Bedfordshire PE19 4JD in accordance with the terms of the application Ref 10/02302/FUL, dated 10 September 2010, subject to the 14 conditions set out in the annex to this decision.

Applications for costs

6. At the Inquiry, two applications for costs were made by Mr Patrick Rooney, one against Bedford Borough Council and the other against RAIDIUS. A further application for costs was made by RAIDIUS against Mr Rooney. These applications are the subject of separate Decisions.

Main issues

7. The main issues are (i) the effect of the development on the character and appearance of the area; (ii) whether the development would accord with policies in the development plan and national advice which promote sustainable patterns of development; (iii) whether there is sufficient justification for a stable block of the size proposed taking account of the amount of grazing land available and the intended use of the stables; (iv) the effect of the development on highway safety; and (v) whether the other material considerations advanced in support of the development are sufficient to outweigh any identified harm.

Reasons

Background

8. The appeal site comprises a field, formerly in agricultural use, in a rural location. The development has already commenced. At the time of my first visit the site was occupied by a mobile home and three touring caravans. Part of the site has been hard surfaced and there is some, albeit limited, planting. The site is occupied by the appellant, his wife and some of their children. The two eldest children are married and spend most of the time travelling, only occasionally returning to the site. The appellant is not seeking a personal permission but the Design and Access Statement says that it is intended that the two pitches with mobile homes would be occupied by the appellant, his wife, her mother and their younger children. The two transit pitches would be available for the two older daughters, their husbands and children when they visit the site. The day room would be used by the whole family. The appellant would keep his horses in the stables and use the appeal site, with the adjoining land that is in his ownership, and possibly other land, for horse grazing.

9. On 9 November 2007 an incomplete planning application for a caravan pitch for a gypsy family was submitted; unauthorised works were carried out over the following week-end. Unchallenged evidence to the Inquiry was that when asked about the works taking place on the site, the appellant told a local resident that he was laying the foundations for stables. The planning application was not validated. A Temporary Stop Notice was served on 16 November; an Enforcement Notice on 11 December; and a Stop Notice on 14 December 2007. On site there was a static caravan and 3 touring caravans.
10. An appeal against the Enforcement Notice was made by Kathleen Rooney; this included a deemed application for planning permission. Following a Public Inquiry, the Inspector dismissed the appeal and refused the deemed application. The Inspector concluded that, notwithstanding the significant weight attached to such factors as the identified and immediate need for sites in the borough, the lack of alternative sites, and personal considerations, this did not outweigh the harm arising from the impact on the character and appearance of the countryside and highway safety. The Inspector considered granting a temporary planning permission but concluded that while some temporary harm to the countryside would be justified, a temporary permission would not be appropriate due to the impact on highway safety. She did, however, extend the period for compliance from 1 month to 18 months to enable the appellant to find an alternative settled base. This period for compliance ended on 10 September 2010. The application the subject of this appeal is dated 10 September and was validated on 30 September 2010.
11. A planning application made by the appellant, for the use of the land for the keeping of horses and the erection of a stable block/ feed store/ tack room and manure store on the site, was refused solely on highway safety grounds in 2009. The site plan showed that the site included all of the current appeal site as well as adjoining land in the appellant's ownership. The plans showed that the block would comprise two stables, feed store and tack room. The amended layout plan showed the stables to be sited on the hard surfaced area between the mobile home and the road.

Character and appearance of the area

12. The site is located in a countryside location outside any settlement boundary. It can be seen from public vantage points from several different directions, with views or glimpses of the development from Bushmead Road, Duloe Butts (C25) and the public footpath network to the north and east of the site (Footpaths FP21 and FP23).
13. Policy CP9 of the Council's *Core Strategy & Rural Issues Plan* (CS&RIP) sets out a sequential approach to site provision for Gypsies and Travellers. It says that planning permission will be granted for sites in the countryside where a need for additional sites for Gypsies and Travellers has been identified; there are no sites within or adjoining the urban area that are reasonably available or suitable; and provided certain requirements are met. In this case there is an acknowledged need for additional sites and no alternative sites are currently available either within or adjoining urban areas or, indeed, in the countryside. The requirements identified in the policy include that the siting and landscaping ensure that any impact on the character and appearance of the countryside is minimised. The Inspector who determined the previous appeal on this site considered that a sensible interpretation of this policy must be that the impact of the development be minimised to an acceptable degree. That seems a

reasonable interpretation. Policy CP24, which relates to all forms of development, requires that new development protects and, where possible, enhances the quality and character of the landscape. Circular 01/2006 identifies that rural settings, where not subject to special planning constraints, are acceptable in principle.

14. The topography of the area is mostly flat, with the land rising slightly to the north. The Council's *Landscape Character Assessment* (2007) identifies that the site lies within the defined Thurleigh Clay Farmland where views are generally distant over the largely level farmland. This area is dominated by arable farmland generally with large irregular fields. Hedgerows are of variable condition and often include mature trees while there are a few, dispersed, settlements often consisting of scattered farmsteads. Upper Duloe is a very small settlement, comprising only a handful of dwellings. The *Assessment* concludes that the landscape character of the area is moderately sensitive.
15. In terms of the appearance of the proposals, there is a mixed hedgerow along the road frontage of the site and the main view of the existing development from this road is through the site entrance. There are further public glimpses of the site from elsewhere, especially across farmland from Duloe Butts. The clearest public views, however, are from the public footpaths that run to the north, north-east and east of the site, separated from the site by grazing land in the appellant's ownership. From the east and, particularly, from the rising land to the north east, there are clear views of the development. This currently comprises one mobile home, three touring caravans, vehicles, hard surfacing and domestic paraphernalia. I agree with the conclusions of the previous Inspector who considered that the development appears unduly stark and that it unacceptably harms the character and appearance of the countryside.
16. The current proposals would significantly increase the amount of development on the site. There would be one additional mobile home, a dayroom, a stable block and further hard surfacing. The previous Inspector based her Decision on the site being occupied by the current appellant and his family, including the husband of a married daughter and their child. The family would occupy the mobile home and the Inspector had regard to there being 2, 3 or 4 touring caravans in use on the site. The current proposals involve the provision of 2 separate pitches for permanent occupation and 2 transit pitches. The current proposals also involve the loss of part of the hedge along the Bushmead Road frontage to provide a new access and adequate sight lines.
17. Notwithstanding the annotation of one of the plans that says that the transit pitches would be for visiting members of the applicant's family, this is not an application seeking a personal planning permission. If permission is granted, therefore, the site could be occupied by 4 separate families at any one time. In addition there could be further vehicles and activity associated with the stables, which might remain in separate ownership and use. This is a substantial increase in the amount of development that would undoubtedly increase the harm to the appearance of the area. The potential increase in the intensity of the use, arising from an increase in the number of families from one to 4 could also harmfully impact upon the character of the area due to increased noise, activity, traffic generation and visual impact. The proposed increase in scale and intensity of the development would be likely to be especially harmful in an area where there are only a few isolated dwellings.

18. The appellant has submitted a plan that shows indicative planting and the provision of an earth bund along much of the eastern side of the site. The plan shows that there is space for significant planting to the west of the new access and to the north of the proposed development. It also shows that the day room and stable block would be sited to partly block views of the mobile homes and caravans from the public footpaths. With additional planting on top of the bund and strengthening of the existing boundary hedges, in time the impact on the appearance of the area would be reduced.
19. However, this planting would take some time to become effective. The Council's landscape witness estimated that within 10 years the visual impacts of the development could be reduced to an acceptable level. In the short term, however, the impact would be significant, especially along the road frontage due to loss of a substantial amount of the front hedge arising from the need to provide a new access point and adequate sight lines. The Council's landscape witness also expressed concern about the use of a landscaped bund, the concerns being that the bund was out of character in this relatively flat landscape and that planting on the bund could take longer to develop. While some nearby hedges are on low mounds I agree with the Council that the proposed bund, due to its height and length, would appear as an alien feature in the landscape harmfully out of keeping with the character of the area.
20. I conclude on the first issue that the development would be seriously harmful to the character of the area. In the short to medium term the development would be also be seriously harmful to the appearance of the area. This would be in conflict with Policy CP9(iii). Concerning the appearance of the area, it is probable that the speedy implementation and the subsequent maintenance of a planting scheme could reduce the visual damage arising from the removal of part of the front hedge and the visual harm arising from the scale and siting of the development. However, the overall harm to the appearance of the area would not be reduced to an acceptable level due to the substantial raised bund.

Sustainable patterns of development

21. The third reason for refusal states that the proposed development is located in an unsustainable location in the countryside. Policy CP(v) of the CS&RIP is, effectively, in two parts. The first part requires that adequate schools, shops and other community facilities are within reasonable travelling distance; the second part sets out a preference for such facilities being able to be reached by foot, cycle or public transport. Paragraph 64 of Circular 01/2006, which is broadly carried forward in the emerging draft PPS, says that issues of sustainability should not only be considered in terms of transport mode and distances from facilities.
22. The previous Inspector concluded that there are adequate facilities in Eaton Socon and St Neots that are within reasonable travelling distance although she also commented unfavourably on the safety of Bushmead Road for walking or cycling. She stated that residents of this site are unlikely to walk along the road as this would be dangerous; cycling would not be a safe alternative for children. She concluded that other sites identified through the Council's call for sites would be sequentially better located than the appeal site. These all seem to be reasonable conclusions.
23. There are, however, changed circumstances since the previous appeal. In particular there is now a bus service that runs close to the site, heading east

along Bushmead Road before turning north up Duloe Butts just before the appeal site. This bus service could be safely accessed using the public footpaths. This is a limited service that provides 3 busses in each direction on Monday to Saturday (inclusive). The potential to use this new service would accord with Policy CP2(vii) of the CS&RIP. Other changed circumstances include the possibility that there could now be 4 separate families on the appeal site, two of these would not be permanent residents as they would be living in transit accommodation, rather than one extended family as at present. This would reduce the likelihood of shared journeys. It is also a material consideration that the other identified sites have not materialised.

24. Concerning the other factors identified in Circular 01/2006, the provision of a settled site for the appellant and his family or for the potential 2 families on the permanent pitches would provide opportunities for access to schools and health facilities and would reduce the need for long distance travelling. While the way the site was initially developed has not been conducive to the promotion of peaceful and integrated co-existence between the site and the local community, overall the proposed development would result in a sustainable form of development. It would therefore comply with the provisions of Policy CP9(v) and Government advice in Circular 01/2006. This conclusion is in line with that of the previous Inspector who only identified the unacceptable impact of that development on the character and appearance of the countryside and on highway safety as being harmful.

Stable block

25. The stable block would be larger than that refused in 2009 insofar as three stables are now proposed. The siting has also been changed and the block would now be used to help screen the residential part of the development from public view and thereby reduce its impact on the appearance of the countryside. The application states that the stables are for the use of the appellant's horses. He owns land immediately to the east of the appeal site. There are currently no horses on the site as the land is not properly fenced and the appellant's horses are currently grazed on rented land elsewhere.
26. The previous application for stables was refused solely on highway safety grounds. The current proposals differ in that the proposals include a new access from Bushmead Road which overcomes this reason for refusal. However, this proposal also differs in that the appeal site is much smaller than the previous application site. The land in the appellant's ownership that lies to the east was included within the previous application site; it lies outside the current site. According to the Council its previous inclusion ensured that there was sufficient grazing land for the horses. This land remains in agricultural use and there is no proposal to change the use to equestrian use. This land, therefore, can only be used for agricultural purposes, which includes the grazing of horses, and not for the keeping of horses.
27. Both parties referred to *Sykes v SoS (1981) 42P&CR19*. In the current case, horses would be kept in the stables and the surrounding "red" land within the appeal site, with the adjoining "blue" land used for grazing. The fact that the stables include a feed store does not, in my opinion, mean that the horses would be fed wholly or primarily on food supplements or that any grazing is incidental. The "blue" land is of sufficient size for the horses to be grazed there. Three of the horses have been raised from foals and are used primarily

for show purposes at various horse fairs. The other two horses are part of the appellant's business as he trades in horses.

28. I am satisfied that the two uses, agriculture and the keeping of horses, can reasonably be kept separate within the appellant's land ownership and by continuing to use off-site grazing land as necessary. In these circumstances the stables are reasonably necessary and appropriate and so there would be no conflict with Policies CP13 or CP24 of the CS&RIP or Policy B30 of the *Bedford Borough Local Plan 2002*.

Highway safety

29. The previous Inspector concluded that the location of the access to the site would seriously prejudice highway safety by reason of inadequate visibility to the right (to the west of the site) for drivers of vehicles leaving the access and due to the severely limited stopping sight distance (SSD) available for drivers of vehicles travelling westbound if vehicles are waiting to turn right into the site. The current proposals differ in that a new vehicular access is now proposed. The volume of traffic generated by the development would also be potentially greater as the site could be occupied by two separate families on the two permanent pitches; by two further families on the transit pitches; and with the stables in use by separate owners. There has also been a policy change in that *Manual for Streets 2* (MfS2) has now been published to supplement *Manual for Streets* (MfS). This document makes it clear that the guidance it provides may be used in respect of non-trunk roads that are not necessarily streets or in urban areas.
30. In respect of the current appeal the Borough Council did not pursue its reason for refusal concerning the adequacy of the visibility splays where the proposed new access meets the highway; the Council now considers the visibility to be acceptable and that there would be no unacceptable additional harm to highway safety. RAIDIUS, however, argued that the visibility at the access to the site is substandard, having regard to the requirements of the *Design Manual for Roads and Bridges* (DMRB). The appellant's case was based upon the acceptability of the visibility using advice in MfS and MfS2.
31. The *Statement of Common Ground on Highway Matters* (SoCG), helpfully provided by the highway witnesses prior to the resumption of the Inquiry, says that acceptable visibility to the west can be achieved using either DMRB or MfS. The differences between the parties, therefore, relate to the visibility at the access to the east and the guidance concerning appropriate SSDs.
32. Concerning visibility to the east, it is impossible to precisely measure this to the near kerbline as part of the hedge will need to be removed. The part of this hedge that needs to be removed lies partly within the appellant's ownership and partly within the highway. Based upon the submitted plans and a visual assessment it does not appear to encroach into adjoining land. The required DMRB splays need to be measured to the near kerbline; not a position that any oncoming vehicle would be likely to occupy. MfS says that the use of the nearside kerb is for convenience rather than safety. Oncoming traffic, from this direction, would only be on the "wrong" side of the road when overtaking; the geometry of the bends and the lack of sufficient forward visibility would mean that such overtaking would be reckless and it seems probable that such occurrences would be very few and far between. There are straight stretches of road nearby where safe overtaking can occur and the parties agreed that

this is a relatively lightly trafficked road. In any case, the DMRB standard of 160m can be met at the centre of the road. Due to the local circumstances, this seems to be the most logical place for such measurements. I agree with the Inspector who determined the Stragglethorpe Lane appeal that it would be unrealistic and impractical to expect the highway network to be designed to such a high specification that it can safely accommodate bad driving practices.

33. Concerning SSDs, MfS2 recommends that MfS should be the starting point for any scheme affecting non-trunk roads and that, if DMRB standards are used, they should be applied in a way that respects local context. In this case the road is lightly trafficked and vehicle surveys have shown that vehicles slow down when entering the bend at the appeal site entrance; the 85th percentile vehicle speeds at 176m from the entrance are appreciably faster than the speeds at the entrance. MfS2 warns against a slavish adherence to technical standards; it also advises that DMRB is written specifically for trunk roads. Given the local context for this site, I consider that it would be inappropriate for the access to be built to trunk road standards; the MfS standards seem more appropriate for this site. The question needs to be whether it is possible to stop safely, and at an acceptable deceleration rate, rather than whether the speed of through traffic will be affected. I have noted the three submitted appeal decisions in which the Inspectors have each favoured MfS. I accept that the circumstances of these cases all differ in various ways from those at this appeal site. Nevertheless, it is highly unlikely that any access will precisely replicate the conditions at another site and so these differences, in themselves, do not mean that MfS is inappropriate.
34. In respect of this case I have taken account of the alignment of the road, traffic speeds including the fact that vehicles are slowing at the appeal site rather than travelling at a constant speed, forward visibility, the volume of traffic on the road, the narrow, overgrown or non-existent verges, the location of the public footpaths and all the other local conditions brought to my attention. I have also noted that the existing access, which both parties agree is in a more dangerous location in terms of highway safety than the proposed location, has had an unblemished safety record throughout the 3 years that this use has been taking place. Taken together, I consider that the use of MfS is more appropriate in this location. The table as set out in the SoCG demonstrates that the access would be acceptable in highway safety terms.
35. I accept that this conclusion differs from that of the previous Inspector in respect of this site. However, as set out above, circumstances have materially changed. This is acknowledged by the Council in its decision not to pursue the highway reason for refusal.

Other material considerations

36. The other material considerations advanced by the appellant include the national, regional and local need for sites; the lack of alternative sites that are available, suitable, acceptable and affordable; and the failure of policy. If personal permission is considered, then personal circumstances including need, health, education and extended family groups are considered relevant.
37. Neither of the main parties dispute that there is a current need for more sites for Gypsies and Travellers nationally, regionally and in the Borough, although there was some disagreement concerning the scale of the local need. It was also agreed that there are no known alternative sites in the Borough that are

suitable, available, acceptable and affordable. The Council's own site is full and has a waiting list. Concerning the scale of the need, Policy H3 of the adopted partial review of the *East of England RSS* (2009) identifies that Bedford should provide an additional 25 permanent pitches in the period 2006-2011 and 3 transit pitches. A 3% compound increase thereafter would give a total need of 46 permanent pitches by 2021. To date none have been provided although the Council has planning permission for 6 additional pitches and funding for 2 of them. The 2 funded pitches should be available for occupation early in 2012.

38. The Council has recently completed the *Bedford Gypsy and Traveller Accommodation Needs Assessment* September 2010 (the GTANA). This identified a current shortfall of 6 pitches with a net requirement of 18 pitches for the period 2010-2021. However, it was accepted at the inquiry that the current shortfall should not take account of planned sites as they were not yet available. I am also concerned that the demand figure for the appeal site is 1 pitch, whereas the Rooney family clearly needs 2 permanent pitches. The identification of a demand for 1 pitch at Bletsoe seems unrealistic given that there is a temporary planning permission for 4 pitches. Taken together these changes would decrease supply, increase demand and increase the current shortfall to 12 pitches. This is not a substantial figure but it is significant and there are no plans to meet it in the foreseeable future, as only 6 additional pitches even have the benefit of planning permission.
39. Concerning the requirement to 2016, it was accepted that the in-migration figure was one pitch too low. Family formation could be higher or lower depending on whether all the children in the identified age group choose to stay in this area; a mid-range figure of 6 does not seem unreasonable. Of greater concern is the complete absence of any calculation or estimation of need arising from families in bricks and mortar accommodation. The GTANA simply says that there are none on the waiting list and that there must be a proven need for a pitch to be allocated. This does not mean that there are not families in need of pitches due to family formation, overcrowding or a cultural aversion to such housing. Overall, there is a clear and immediate need for more pitches. The Council has planning permission for 6 pitches but only 2 of these have funding and will be available in the foreseeable future.
40. This acknowledged lack of alternative sites carries considerable weight in the appellant's favour. While he has chosen not to go on the Council's waiting list, there is no certainty that the 2 pitches likely to become available next year would be available to the appellant and his family even if he was on the list.
41. The previous Inspector identified that the Council were then (in 2008/9) in the process of preparing the Allocations and Designations DPD and that a call for sites had been carried out. She said that the Council intended to publish its preferred options in August 2009 and anticipated that the DPD would be adopted in April 2011. She reported that the Council's witness anticipated that planning applications would be submitted before April 2009 as there was a resolution by the Full Council and Mayor requiring action towards the provision of sites before April 2009.
42. At the current Inquiry, however, it was reported that there has been slippage in the timetable and that to date no new sites have been provided. Although 6 pitches have the benefit of planning permission, there is funding available for only 2 of these and work on them on site has not yet commenced although tenders have been prepared. The Council's latest timetable shows that

evidence for the LDF Traveller Site DPD will continue to be prepared until March 2012 with the Examination taking place towards the end of 2013. Adoption is anticipated in March 2014. When the previous Inquiry concluded in January 2009, it was estimated that adoption of the DPD would be in about 27 months' time. Today, some 32 months later, adoption is further away than ever with the estimated time until adoption having increased to about 30 months. This failure of policy weighs in the appellant's favour. Concerning transit pitches, the Council has granted temporary planning permission for 9 pitches on land off Meadow Lane, Bedford. It is not clear when this site will become available for occupation but, when ready it will meet the need for transit pitches in the borough, albeit only for a short time.

43. The appellant is seeking an unencumbered permanent permission that does not identify specific occupiers. However, due to the harm identified above, I have taken into account the personal circumstances of the appellant and his family. The family has occupied the site since November 2007; they have no alternative accommodation. While local residents have commented that they are not always on the site that is not an unusual situation as the appellant travels for work. His two married daughters and their husbands and children travel much of the time. The appellant's horses are not kept on the land as it is not properly fenced.
44. There are several children still in full time education. Two daughters attend the Bushmead Primary School; one son attends St Neots Community College. In addition, the two older daughters have children that will need education facilities in due course. One son lives at home but is too ill to work. Amongst other things he has Mitochondrial Disorder, which is a complex and severe medical condition which results in significant motor difficulty. He is mostly confined to a wheelchair. He attends Hammersmith Hospital in London and gets help from other providers. He receives physiotherapy, occupational therapy and speech and language therapy. His condition is deteriorating and evidence shows that it is beneficial if he remains in one place. In addition Patrick Rooney receives regular medical treatment for angina; Kathleen Rooney suffers from depression and her mother, Ada Rooney, has suffered from a number of mini-strokes and needs assistance. The family is registered at the Eaton Socon Health Centre.
45. A stable education and access to health facilities are clearly beneficial to the family. In this regard staying at the appeal site would enable these facilities to be accessed. This carries some weight in favour of the appellant.
46. I have taken account of Article 8 of the *European Convention on Human Rights*. There would be significant interference to Mr Rooney's rights if the appeal was dismissed.

Whether the other material considerations advanced in support of the development are sufficient to outweigh any identified harm

47. I have identified that there would be substantial harm to both the character and appearance of the area. The harm to the appearance of the area may reduce with time as the proposed planting takes effect but it would not be acceptably minimised. In any case, the harm to the character of the area would remain. Against this harm, there are a number of factors that weigh in the appellant's favour. In particular the lack of alternative sites that are suitable, available and affordable; the failure of policy that results from the

Council's failure to provide any pitches despite the clear evidence of surveys that indicate an immediate need; the interference with the appellant's human rights; and, if a personal permission is considered appropriate, the personal circumstances of the appellant and his family. The site is within a reasonably sustainable location and the highway objection can be overcome, although this would result in a significant increase in visual harm in the short term.

48. Concerning the use of land for the stationing of caravans, I am not satisfied that the site is suitable for a development of this scale. The proposals, including the mobile homes, touring caravans and day room would be seriously harmful to both the character and the appearance of the area; the harm to the character would not be reduced with time. This harm is substantial and outweighs the factors in favour of the development.
49. Concerning the stables, the previous objection due to the unsuitability of the access can be overcome by providing the new access and I conclude that permanent permission should be granted.
50. In view of the above conclusions it is necessary to consider the transitional arrangements as set out in Circular 01/2006. Paragraph 45 of the Circular advises that where there is an unmet need, no available alternative Gypsy and Traveller site provision and there is a reasonable expectation of sites becoming available at the end of the period, planning authorities should give consideration to granting temporary permission. These circumstances exist in this case. The Circular adds, in paragraph 46, that in these circumstances local planning authorities are expected to give substantial weight to the unmet need in considering whether a temporary planning permission is justified.
51. There are no alternative sites for the appellant and his family. Refusal of permission would be likely to result in them having to vacate the site and with no alternative sites this could result in a roadside existence. This would be seriously harmful to the family and to the health and education of some of the family members and could result in harm to those on whose land they resorted to. I consider that the balance is therefore now tipped in the appellant's favour and that a temporary personal planning permission for the two residential pitches would be appropriate. Each of these pitches would be occupied by a mobile home and touring caravan. It has not been demonstrated that the two proposed transit pitches are necessary for the appellant or his family as they have no particular health or education needs or a need to live on this site. I have, in part, based this conclusion on the identified personal needs of the appellant and his family who currently live on the site and so a personal permission is justified. However, as only a temporary planning permission is granted, there is no justification for the proposed permanent day room structure, so this part of the proposal is also refused.

Conditions

52. I have considered the conditions set out in the Council's appendices and discussed at the Inquiry. For the reasons set out above I have imposed conditions limiting the time period for the permission to 3 years based upon the expectation that additional sites will become available and made the permission personal to the appellant and his immediate family and dependants. I have restricted the occupation of the pitches and limited the number of pitches and caravans to accord with the terms of the planning application and in the interests of the amenities of the area. Conditions have been imposed in

respect of commercial vehicles, commercial uses and the burning of waste materials for the same reason.

53. A landscaping condition has been imposed to ensure that the front hedge is replanted behind the visibility splays and that planting takes place in the position of the existing access and that this landscaping is subsequently maintained in the interests of the visual amenities of the area. Details of external lighting are necessary for the same reason. I have restricted the use of the stables to prevent any domestic use of the building.
54. Details of a revised site layout are necessary due to the refusal of permission for the day room and transit pitches and to minimise the amount of hardstanding on the site. I have imposed conditions requiring the provision and surfacing of the new access, the profiling of the embankment adjoining the highway and the provision and maintenance of visibility splays, the positioning of any gates and the closure of the existing access in the interests of highway safety.

Conclusions

55. Overall I have taken account of the changed circumstances since the previous appeal decision in respect of a smaller development on this site. I conclude that the appeal should succeed only insofar as a temporary, personal planning permission is justified in respect of the use of the land; that permanent planning permission is justified in respect of the stables and the new access. I further conclude that the appeal in respect of the transit pitches and the day room should fail.

Clive Hughes

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Robin Green	Of Counsel; instructed by the Solicitor to the Council
He called	
Peter White BA(Hons) MA	Team Leader, Appeals and Enforcement
DipTP MRTPI	
Philip Nicholson DipLA	Senior Landscape Architect
DipHort CMLI	

FOR THE APPELLANT:

Michael Rudd	Of Counsel; instructed by Green Planning Solutions
He called	
Matthew Green	Green Planning Solutions
Patrick Rooney	Appellant
David Medlow	Local resident
Kathleen Rooney	Wife of appellant
Jeremy Hurlstone BSc	The Hurlstone Partnership
(Hons) CMILT MCIHT	

INTERESTED PERSONS:

Alistair Burt MP	Member of Parliament for North East Bedfordshire
Cllr Tom Wootton	District Councillor for Wyboston ward
Richard Squire	Chairman, Staploe Parish Council
Steven Kent	Local resident
Howard Purcer	Local resident
Frank Squire	Local resident
Veronica Zwetsloot	Local resident
Graham Fry	Local resident
Paul Zwetsloot	Local resident
Geoffrey Hilliard	Local resident
John Smith	Local resident
Paul Jolley	Local resident
David Rutherford BSc MSc FCIHT	Rutherfords (on behalf of RAIDIUS)
MICE	

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Council's response to witness statement of Patrick Rooney
- 2 File Note 22.08.11 re telephone call Patrick Rooney/ Peter White
- 3 July 2011 caravan count figures
- 4 Planning application concerning emergency stopping place at Meadow Lane, Cardington
- 5 Extract from RSS Single Issue Review Panel Report Dec 2008 pp 55-58
- 6 Highway Statement by Rutherfords

- 7 Planning application, officer report and decision concerning stables on appeal site (2010)
- 8 Statement by Alistair Burt MP
- 9 Letter from Nisa Local 23.08.11
- 10 Two letters from David Medlow 14 & 15.06.11
- 11 Letter from University College London Hospitals to Martin Rooney 19.08.11
- 12 Email from Julie Corner to Peter White dated 23.09.11 (heavily redacted)
- 13 Statement and appendices of Veronica Zwetsloot
- 14 Statement of Richard Squire; Chairman Staploe Parish Council
- 15 Written statement from Richard Banks
- 16 Signed witness statement of Patrick Rooney
- 17 Doctors' letter concerning health of Mrs Ada Rooney
- 18 Signed Statement of Common Ground
- 19 Closing submissions on behalf of Bedford Borough Council
- 20 *Cala Homes (South) Ltd v SoS for Communities and Local Government & Another* [2011] EWCA Civ 639 dated 27.05.11
- 21 Summary closing submissions on behalf of the appellant
- 22 SoS Appeal Decisions concerning Land at Kites Nest Lane and Brownley Green Lane, Beausale, Warks dated 01.09.11
- 23 Skeleton costs application on behalf of the appellant (1)
- 24 Proof of evidence and appendices of Jeremy Hurlstone
- 25 Proof of evidence and appendices of David Rutherford
- 26 Council's notification letter concerning resumed Inquiry
- 27 Bedford BC Decision Notice 11/01767/S53 dated 27 September 2011: Land off Meadow Lane, Bedford
- 28 Email dated 20 September 2011 from Jeremy Hurlstone to Peter White, Bedford BC
- 29 Statement of Common Ground on Highway matters; 6 October 2011
- 30 Extract from DMRB Volume 6 Section 1 p 1/4
- 31 Summary closing submissions on highway matters on behalf of the appellant
- 32 Skeleton costs application on behalf of the appellant (2)

PLANS

- A Drawing No 10_355_001: Location plan
- B Drawings No 10_355_002, 003A & 003B: Site plan existing and proposed
- C Drawings No 10_355_005 & 006: Dayroom; floor plans and elevations
- D Drawings No 10_355_007B & 008A: Stables; floor plans and elevations
- E Drawing No 10_355_010: Section through bund
- F Figure 1A: Potential access location and visibility splays

Annex

Schedule of Conditions (14 conditions):

- 1) The residential use hereby permitted shall be carried on only by the following: Mr Patrick Rooney, Mrs Kathleen Rooney, Mrs Ada Rooney (mother of Mrs Kathleen Rooney) and their resident dependants, and shall be for a limited period being the period of 3 years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.
- 2) When the premises cease to be occupied by those named in condition (1) above, or at the end of 3 years, whichever shall first occur, the residential 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 residential use shall be removed and the land restored to its condition before the development took place.
- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
- 4) No more than one commercial vehicle per pitch shall be kept on the land and no vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) No commercial activities shall take place on the land, including the storage of materials or the burning of waste materials.
- 6) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be a static caravan) shall be stationed on the site at any time.
- 7) The stables hereby permitted shall only be used for the stabling of horses and the storage of ancillary feeds and equipment; there shall be no domestic use or storage within the stable building.
- 8) No development shall take place in respect of the construction of the stables hereby permitted until samples of the materials to be used in the construction of the external surfaces of the building have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days, or such longer period as considered reasonable of the date of failure to meet any one the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme for: the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; the internal layout of the site, including the siting of caravans, plots, hardstanding, access road, parking and amenity areas; tree, hedge and shrub planting including details of species, plant sizes and proposed numbers, densities and future maintenance; the restoration of the site to its condition before the development took place, including a programme for its implementation (or as

- otherwise agreed in writing by the local planning authority) at the end of the period for which planning permission is granted for the use, or the site is occupied by those permitted to do so, (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
- ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 10) The landscaping scheme required under Condition (9) above shall be submitted to the local planning authority and it shall be accompanied by a schedule of maintenance for a period of 5 years of the commencement of the planting of the scheme. The scheme shall include details of a new hedge along the road frontage and new planting in the position of the present access. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.
- 11) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days, or such longer period as considered reasonable of the date of failure to meet any one the requirements set out in (i) to (iv) below:
- i) within 3 months of the date of this decision a scheme for the formation and provision of the new access road shall have been submitted to and approved in writing by the local planning authority. The scheme shall include full details of the necessary embankment profiling works; the surfacing of the new access road for a distance of 15m into the site; the stopping up of the existing access; and the provision of visibility splays. The scheme shall include the maximum achievable stopping sight distances; arrangements for the surface water drainage to be intercepted and disposed of separately so that it does not discharge onto the highway; a programme for the implementation of all these works; and a schedule of future maintenance to ensure that the visibility splays are permanently maintained free from obstructions above 0.6m above carriageway level.
 - ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

- iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 12) No gates shall be installed across the vehicular site access without the prior written approval of the local planning authority. Any gates that are erected shall be sited a minimum of 13m from the near side edge of the adjoining carriageway and shall open inwards, away from the carriageway.
 - 13) The development hereby permitted shall be carried out in accordance with the following approved plans, insofar as they relate to approved elements of the development: 10_355_001, 002, 003A, 004B, 007B and 008A.
 - 14) Notwithstanding the submitted plans and drawings, for the avoidance of doubt the permission hereby granted is for the use of land for the stationing of caravans for residential purposes for 2 gypsy pitches with stables for the applicant's horses. It excludes the 2 transit pitches, the day room, the extension of the hardstanding and the landscaped bunds.