

# Report to Development Management Committee

## Workload and Performance Review for Quarter July to September 2018

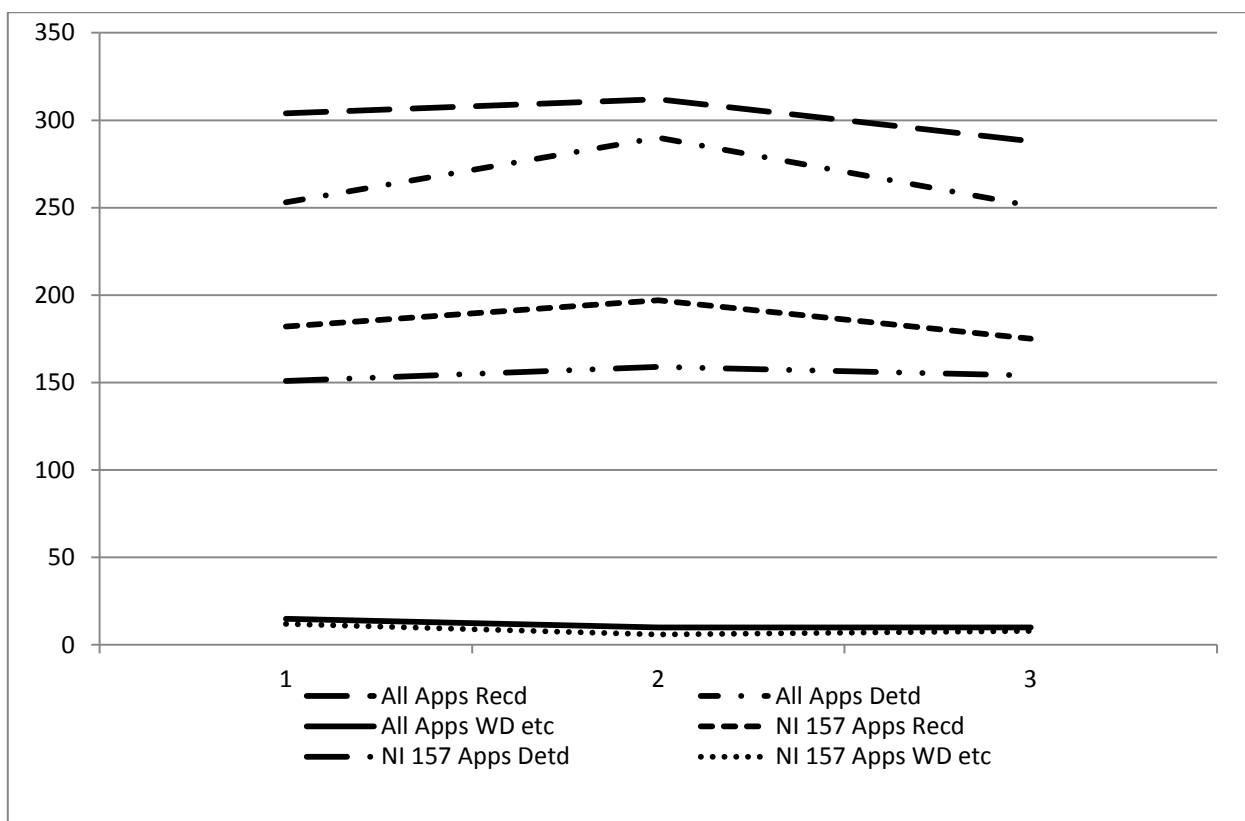
### Introduction

This is a report to the Development Management Committee which provides a summary of performance in four key areas of work, planning applications, appeals, enforcement and informal enquiries, together with a brief commentary on each section.

### Section 1: Applications received and determined

Our application caseload comprises applications which form the basis for our performance measured against the Government performance target NI157 and other applications which are excluded from these categories and relating to proposals amongst which are applications from the County Council, Notifications for Agricultural, Telecommunications and works to trees. This is set in the context of the rolling 12 month period.

#### *Applications Received and Determined*



2018-19 revised	July	Aug	Sep
All Apps Recd	304	312	288
All Apps Detd	253	290	251
All Apps WD etc	15	10	10
NI 157 Apps Recd	182	197	175
NI 157 Apps Detd	151	159	154
NI 157 Apps WD etc	12	6	8
All O/Standing			
NI 157 O/Standing	718	746	757

Major Applications Received: 24  
 Minor/Other Applications Received: 530

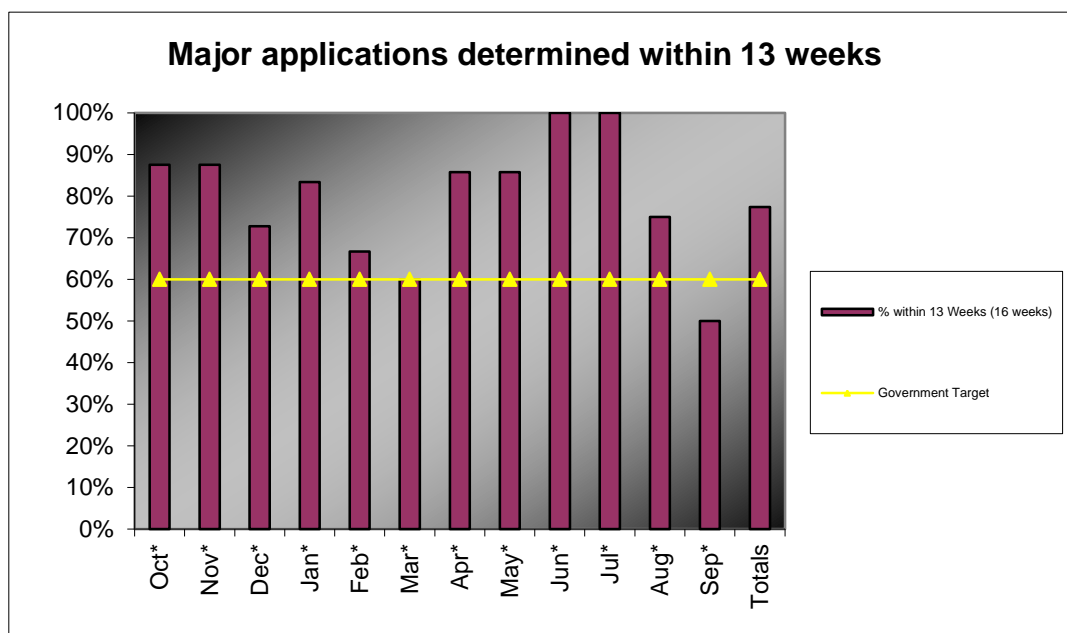
Major Applications Determined: 11  
 Minor/Other Applications Determined: 453

Major Applications Outstanding: 108  
 Minor/Other Applications Outstanding: 649

**Section 2: NI 157 – Speed of Determination of applications**

Introduction

This section sets out information regarding our performance in speed of decision for each of the 3 categories of applications, which are measured against the performance target – NI157 (a) major, (b) minor, and (c) other.



	Oct*	Nov*	Dec*	Jan*	Feb*	Mar*	Apr*	May*	Jun*	Jul*	Aug*	Sep*	Totals
Number of Major Applications Decided	8	8	11	6	3	10	7	7	4	1	4	6	75
Number within 13 Weeks (16 weeks) inc. Ext of time*	7	7	8	5	2	6	6	6	4	1	3	3	58
<b>% within 13 Weeks (16 weeks)</b>	<b>88%</b>	<b>88%</b>	<b>73%</b>	<b>83%</b>	<b>67%</b>	<b>60%</b>	<b>86%</b>	<b>86%</b>	<b>100%</b>	<b>100%</b>	<b>75%</b>	<b>50%</b>	<b>77%</b>
Government Target	60%	60%	60%	60%	60%	60%	60%	60%	60%	60%	60%	60%	60%

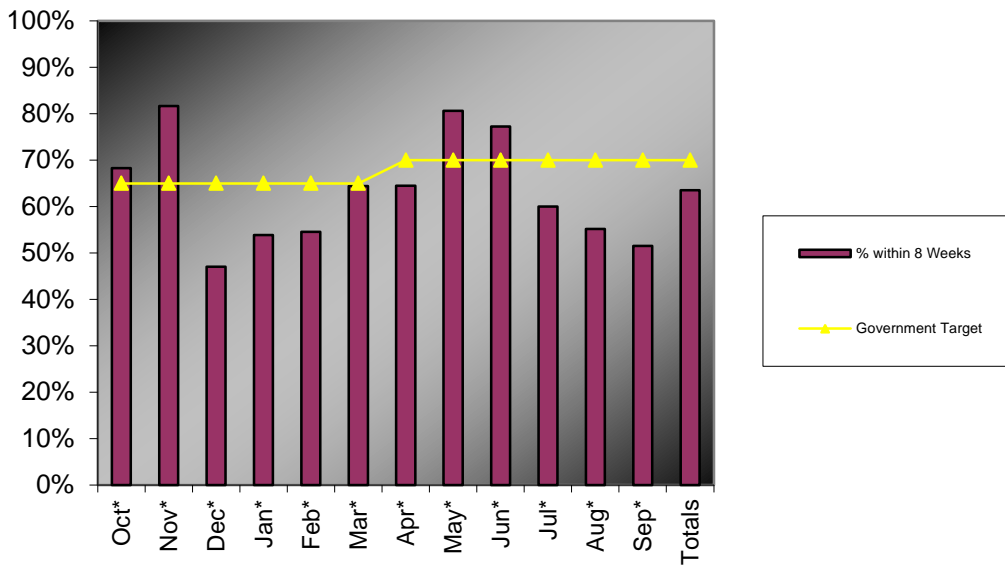
\*Including extensions of time & PPAs

The quarterly performance achieved are:

July – September 2018: 64%

Rolling 2 year average: 79%

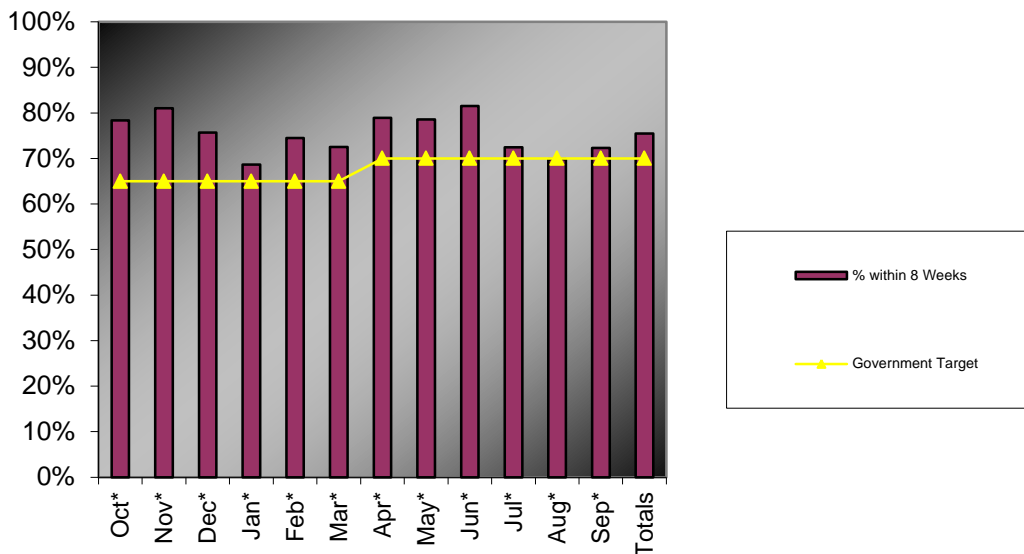
### Minor applications determined within 8 weeks



	Oct*	Nov*	Dec*	Jan*	Feb*	Mar*	Apr*	May*	Jun*	Jul*	Aug*	Sep*	Totals
Number of Minor Applications Decided	41	49	51	39	33	45	31	31	44	40	29	33	466
Number within 8 Weeks inc. Ext of time*	28	40	24	21	18	29	20	25	34	24	16	17	296
<b>% within 8 Weeks</b>	<b>68%</b>	<b>82%</b>	<b>47%</b>	<b>54%</b>	<b>55%</b>	<b>64%</b>	<b>65%</b>	<b>81%</b>	<b>77%</b>	<b>60%</b>	<b>55%</b>	<b>52%</b>	<b>64%</b>
<b>Government Target</b>	<b>65%</b>	<b>65%</b>	<b>65%</b>	<b>65%</b>	<b>65%</b>	<b>65%</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>

\*Including extensions of time

### Other applications determined within 8 weeks



	Oct*	Nov*	Dec*	Jan*	Feb*	Mar*	Apr*	May*	Jun*	Jul*	Aug*	Sep*	Totals
Number of Other Applications Decided	111	116	107	99	102	91	95	112	130	109	126	112	1310
Number within 8 Weeks inc. Ext of time*	87	94	81	68	76	66	75	88	106	79	88	81	989
<b>% within 8 Weeks</b>	<b>78%</b>	<b>81%</b>	<b>76%</b>	<b>69%</b>	<b>75%</b>	<b>73%</b>	<b>79%</b>	<b>79%</b>	<b>82%</b>	<b>72%</b>	<b>70%</b>	<b>72%</b>	<b>75%</b>
Government Target	65%	65%	65%	65%	65%	65%	70%	70%	70%	70%	70%	70%	70%

For minor and other applications the government previously had no target and so the target of 80% shown was set internally by AVDC. From 1 April 2017 a government target of 65% has been set for minor and other applications.

For the quarter July to September we achieved

Minors: 56% within the time period against a target of 70%  
Others: 71% against a target of 70%  
Joint minors and others: 68% against a target of 70%  
Joint rolling 2 year average: 76% against a target of 70%

Appendix 1 details the Major applications determined in the quarter.

Outstanding applications beyond determination date and without or an expired PPA/extension of time in place as at 14 November 2018.

Majors: 88  
Minors and Others: 307

The first planning authorities subject to the Government's "special measures" regime for under-performing authorities were designated in October 2013, and performance data was published by the Department for Communities and Local Government (DCLG). Designations will be reviewed annually. Poorly performing authorities will be "designated" based on speed and quality:

- \* Speed: less than 40% of majors determined within 13 weeks averaged over a two year period; or within such extended period as has been agreed in writing between the applicant and the local planning authority.
- \* Quality: 20% or more of major applications that have been overturned at appeal (appeals allowed) over a two year period.

The government have announced new government targets increasing those on speed for majors to 50% in 2017 rising to 60% for 2018 based on the previous 2 years October to September. They are combining minors and others into a non major category with a target of 65% in 2017 rising to 70% for 2018 over this 2 year period. The quality targets will be 10% applications that have been overturned at appeal (appeals allowed) over a 2 year period.

Authorities could be designated on the basis of either criteria or both. The current performance over this 2 year period exceeds the threshold for speed and is less than the threshold for quality and thus does not fall within the poorly performing designation.

### **Section 3: Appeals against refusal of planning permission**

#### **Introduction**

This section deals numerically with our performance in relation to appeals against refusal of planning permission. Whilst there is no government performance target a benchmarking measure is that we should seek to achieve success in 65% or more of appeals against planning decisions.

Determined	Dismissed	11
	Allowed	6
	Withdrawn/NPW	0
	Split	0
	Turned Away	0
	Varied	0

Costs	Against AVDC
	For AVDC

\*Split decisions are counted as an Allowed appeal

In the quarter between July and September a total of 20 appeals were determined, 17 of which were against refusals of planning permission. Of the 17 appeals against refusals of planning permission which are used for reporting purposes 35% were allowed which is equal to the Council's target of not more than 35% appeals allowed.

Attached at Appendix 2 is a list of all of the appeal(s) which are used for reporting purposes against refusals of planning permission that were allowed. As there are a large number of appeals a summary on all has not been provided. There is a summary on some highlighted for awareness and learning points.

The government statistics published in August 2017 for quality show that the percentage of major applications that have been overturned at appeal is 2.4% and that for minor and other developments overturned at appeal is 1.1% for AVDC during the period of 24 months from July 2014 to June 2016. This is well below the governments threshold of 10% overturned for quality.

#### **Section 4: Enforcement**

##### Introduction

This section details statistics relating to Enforcement matters and details the numbers of complaints received, cases closed together with the number of cases which have led to Enforcement action. Enforcement appeals are also dealt with separately and performance can be assessed accordingly.

Cases on hand at beginning of quarter	473	Cases on hand at end of quarter	578
Cases Opened	184	No of Cases closed	79
No. of Enforcement Notices Served	2	No. of Temporary Stop Notices Served	0
No. of Stop Notices Served	0	No. of Breach of Condition Notices Served	0
		No. of Planning Contravention Notices Served	0

**In the 3 month reporting period 116 cases were resolved as follows:**

Performance Figure	Notes
42% of complaints were resolved within 14 days	Generally more straightforward cases where a yes/no decision is required following initial evidence gathering
54% of complaints were resolved within two months.	Normally requiring more extensive evidence gathering and/or consultations involving 3 <sup>rd</sup> parties.
63% of complaints were resolved within 5 months.	On top of the actions identified above these cases normally require some formal action or an application for retrospective planning permission.
Remainder	Where formal legal action is involved it can take many years to resolve complaints and can include appeals and further judicial review.

**Enforcement Appeals**

Lodged	PI (Public Inquiry)	0	Determined	Allowed	0
	IH (Hearing)	0		Dismissed	0
	WR (Written responses)	0		W/Drawn	0
	Total	0		Varied	0
				Total	0
Costs	For AVDC	0		Against AVDC	0

**Enforcement Summary**

The volume of complaints received in q2 rose by 18%. This is in addition to the service having seen a 27% increase in the number of complaints received over the last 3 years. During the quarter, two Planning Enforcement Officers moved on into new roles and one role remained vacant, despite several rounds of recruitment. This caused the number of outstanding cases overall to rise significantly, to above 500. However, a number of these cases (90) are pending planning applications to regularise or involve the monitoring of compliance with a notice.

Notwithstanding the above challenges, significant progress has since been made to make resource available and focus attention on closing cases. During the quarter, two junior members of the team were recruited and an additional contract resource was deployed to focus on backlog cases, which meant that new staff were able to focus on newly received cases. Encouragingly the proportion of cases resolved within 14 days increased from 24% to 42% during the quarter.

Our response to complaints is prioritised based on the level of harm the suspected breach is causing. This means that 'low' category complaints will take longer to resolve than those that are causing a 'high' level of harm. Generally speaking, geographical concentrations of cases, reflects Aylesbury and Buckingham, along with the areas where the delivery of development is highest.

## **Section 5: Other Workload**

### **Introduction**

In addition the teams have dealt with the following:-

#### **Discharge of Conditions and non material amendments.**

Quarter – Out	114
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#### **Chargeable Pre-Application Advice, including commercial**

Quarter - Out	109
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#### **Non chargeable Informals**

Quarter - Out	2
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### **Conclusion and Recommendation**

It is recommended that the Committee **NOTE** the report.

This report primarily intends to give details of factual information based on statistical data.

It is hoped that Members find the report's content helpful.

### Major Applications Determined: Quarter July to September 2018

**Bold** numbers denote applications determined outside the target period. Performance for this quarter is 64% which is above target; \* denotes those applications that had an extension of time request agreed. The small number of applications mean that performance is volatile and in this quarter involved applications where securing the right outcome outweighed the need to meet targets and applications where the revocation of the regional spatial strategy required a reassessment of the scheme.

Reference	Off	Received	Proposal	Address	Valid	Decision Date	Decision
17/03801/ADC*	CBR	02/10/2017	Redevelopment of existing vacant commercial site for Aylesbury Vale District Council Waste Transfer Centre, including the reprovision of vehicle repair/MOT workshop, recycling and food waste sorting building and bulky waste storage facility in 3 no. new buildings, with ancillary facilities including upgrade of external areas and parking provision.	The Depot Pembroke Road Aylesbury Buckinghamshire	03/10/2017	21/08/2018	AVDC application - Approved
18/00561/ADP*	NKJ	14/02/2018	Application for reserved matters pursuant to outline permission 16/00691/AOP relating to scale, appearance and landscaping of a residential development of 12 dwellings	The Harrow PH And Land To Side And Rear 27 Bishopstone Bishopstone Buckinghamshire HP17 8SF	16/02/2018	26/09/2018	Details Approved
18/01316/ADP	JASTRA	16/04/2018	Approval of reserved matters pursuant to outline permission 16/00780/AOP regarding appearance, landscaping, layout and scale for 50 dwellings with associated garages, parking, landscaping and highway infrastructure.	Land Rear Of Aylesbury Road Aston Clinton Buckinghamshire	16/04/2018	16/07/2018	Details Approved



Reference	Off	Received	Proposal	Address	Valid	Decision Date	Decision
17/01364/APP*	MAXSAN	11/04/2017	Residential development comprising the erection of twelve dwellings with garages, access road, parking, drainage and associated works.	Land Off Gorrell Lane Tingewick Buckinghamshire	12/04/2017	04/09/2018	Approved
17/03253/APP*	LAUASH	22/08/2017	Erection of new B1 unit together with regularisation of building sizes and fenestration to units 11, 12 and 13 with landscaping and parking.	Ladymead Farm Denham Quinton Buckinghamshire HP22 4AN	22/08/2017	02/08/2018	Approved
18/02183/APP	DW	20/06/2018	Creation of reptile embankments, hibernaculum and new natural habitat	Land North Of Westbury Court Business Centre Bicester Road Marsh Gibbon Buckinghamshire OX27 0AD	20/06/2018	05/09/2018	Approved
18/01344/APP*	DALJON	18/04/2018	Erection of manufacturing building	Kee Process Ltd College Road Business Park College Road North Aston Clinton Buckinghamshire HP22 5EZ	24/04/2018	11/09/2018	Approved
18/01130/APP*	NKJ	29/03/2018	Erection of five dwellings	Land At Queen Catherine Road Steeple Claydon Buckinghamshire	11/04/2018	15/08/2018	Approved
17/01348/APP*	SCOHAC	10/04/2017	Erection of 21 dwellings including access arrangements, car parking, provision of landscaping and other associated works.	Land Adjacent To Ivy Cottage Main Street Grendon Underwood Buckinghamshire	10/04/2017	28/09/2018	Refused

Reference	Off	Received	Proposal	Address	Valid	Decision Date	Decision
17/04058/AOP*	SCOHAC	24/10/2017	Erection of up to 20 residential dwellings with all matters reserved other than access.	Land At Biddlesden Road Westbury Buckinghamshire	25/10/2017	15/08/2018	Refused
18/00325/AOP*	LAUASH	26/01/2018	Erection of nine dwellings, access, associated external works and landscaping	Land Off Tyne Road Aylesbury Buckinghamshire HP21 9LT	29/01/2018	14/09/2018	Refused

### Appeal performance – Quarter July to September 2018

In the quarter between July and September a total of 20 appeals were determined, 17 of which were against refusals of planning permission. Of the 17 appeals against refusals of planning permission which are used for reporting purposes 35% were allowed which equals the Council's target of not more than 35% appeals allowed.

A list of all the reportable allowed appeals in this quarter is set out below.

<b>Application Reference: 17/02318/APP 17/02322/ALB</b>	<b>Decision: Delegated</b>
Site: Candlewick Cottage, 16 Main Street, Mursley, Buckinghamshire, MK17 0RT	
Development: Demolition of existing barns and erection of replacement dwelling and detached garage	
<p>This application was refused for reason that it would constitute the irreplaceable loss of heritage assets for which there is no clear and convincing justification resulting in loss of significance and causing harm to the setting of the adjacent listed building and to this part of Mursley Conservation Area. Furthermore the proposal to erect a new dwelling on the site of the existing curtilage listed barns would comprise a cramped form of development that would fail to preserve the setting of the listed building, 16 Main Street, causing harm to its significance. It would also fail to preserve or enhance the character and appearance of Mursley Conservation Area. It was considered contrary to the statutory duty and the NPPF and there were no public benefits to outweigh the harm.</p> <p>The Inspector considered that the barns were not regarded as part of the listed building having regard to the physical layout, past ownership and use and function of the barns. Whilst they would be a non designated heritage asset, this was a modest level of local value and interest and if re used would require extensive rebuilding so their limited value would be lost in any event. He found the replacement buildings would be very similar to that existing and would not substantially change the listed building setting, would not appear cramped as it reflects to footprint of the existing and would have minimal impact on the character and appearance of the CA. He considered that the benefits of the contribution to housing supply, economic benefits and accessible location would jointly outweigh the loss of the non designated heritage asset, and granted permission and consent subject to conditions.</p> <p>A claim for costs was dismissed as the council had considered the evidence and matters and arrived at its own judgements on the various issue and the Inspector considered that it would not be reasonable to find the council acted unreasonably in this regards.</p>	

<b>Application Reference: 17/02372/ALB</b>	<b>Decision: Delegated</b>
Site: The Thatched Cottage, Main Street, Chackmore, Buckinghamshire, MK18 5JF	
Development: Single storey rear extension (Amendment to listed building consent ref 16/02338/ALB).	
<p>The proposal was to extend the existing flat roofed extension to a depth of 3.5m. The application was refused for reason that the extension was of basic design and incongruous to the listed building and would harm this designated heritage asset, which is not outweighed by public benefits.</p> <p>The Inspector considered that there was a similar permission and listed building consent in a similar position to that proposed which constitutes a fall back position of considerable weight.</p>	

The main difference are that the extant permissions were offset from the flank walls by 1m and a window instead of a door. The scale, massing and architectural style would be very similar to that and would have no greater impact on the LB and this would be preserved. Consent was granted subject to conditions.

**Application Reference: 17/03534/AOP**

**Decision: Delegated**

Site: Longhorn Farm, Weston Road, Aston Clinton, Buckinghamshire, HP22 5EJ

Development: Application for outline planning permission for the erection of a single single story self annex with all matters reserved.

The proposal was for a new annex to be constructed on the piece of amenity land between Longhorn Farmhouse and the access track, and would be ancillary to the Farmhouse.

It was considered that it would result in a scheme which would be out of keeping in the locality and which would be located on an undeveloped part of the site that forms part of the open countryside, adjacent to an existing group of dwellings. As a result the proposal would represent an unacceptable form of development which would encroach into the open countryside which would significantly harm the openness of the area and fail to respect the character and appearance of the immediate surrounding area.

The reason for refusal was: The proposal would fail to comply with the core planning principles of the National Planning Policy Framework to recognise, and thereby impairing, the existing rural character and appearance of the area. The failure to comply with the core planning principles of the National Planning Policy Framework and the harm caused significantly outweighs any benefits of the proposed development. The proposal would therefore be contrary to the principles of the National Planning Policy Framework.

The Inspector considered that there is some open land directly behind and to the countryside side of the complex of buildings at Longhorn Farm. However, there is recent housing development on the settlement side of the buildings and opposite the site across a track. Consequently, the character and appearance of the area is changing to be more urban in nature. The annex would be located in the countryside outside the boundary of Aston Clinton under the Aylesbury Vale District Local Plan (AVLP) 2004. Policy GP11 states that residential annexes to dwellings outside the built-up areas of settlements will be permitted providing they are physically attached to the dwelling and capable of being incorporated with the existing residential accommodation. It further indicates that detached annexe accommodation will not be permitted in locations where the erection of new houses would not be granted, which would be the situation here given the site's location outside the settlement boundary. For these reasons, there would be a conflict with a policy of the development plan.

The emerging Aston Clinton Neighbourhood Plan (ACNP) has been through independent examination and is afforded significant weight in the decision making process. Under ACNP policy H1, the appeal site comes within a settlement boundary and proposals will be supported provided they accord with the design and development management policies of the plan. In this regard, ACNP policy HQD1 seeks to secure high quality design. The indicative block plan demonstrates a garden and car parking could be provided given the size of the plot. The appeal plot is sufficiently spacious to accommodate a building and would not be cramped in relation to neighbouring buildings as shown on the illustrative plan. Based on the proposal and its context, there are no reasons why matters of scale, density, height, massing, landscape, layout and materials cannot be considered in any reserved matters pursuant to an outline permission. On the basis of the details, there are no other criteria under ACNP policy HQD1 that are directly relevant or cannot be assessed at reserved matters stage. For all these reasons, the proposal would comply with the ACNP.

These local circumstances and the progress of the ACNP lead the Inspector to determine the

proposal other than in accordance AVDLP. They are material considerations that outweigh the conflict with the development plan and therefore, the appeal site would be suitable for an annex building. He granted permission and considered a condition is necessary to ensure that the annex building is ancillary to the use of the converted building at Longhorn Farm. Conditions requiring details of hard and soft landscaping, and maintenance relate to landscaping matters, which would be submitted pursuant to any outline planning permission and so are unnecessary.

Cost claim: This was refused as the council had put forward adequate evidence to support its arguments and did not act unreasonably.

<b>Application Reference: 18/00415/APP</b>	<b>Decision: Delegated</b>
Site: 33 Turnfurlong Lane, Aylesbury, Buckinghamshire, HP21 7PQ	
Development: Single storey first floor side extension	
<p>This extension was refused by reason of its scale, massing and design would be out of keeping with the existing dwelling and would unacceptably dominate and overwhelm it. Such extensions would result in an incongruous and strident feature that would attract undue attention visually and be prominent within the street scene. The proposal would therefore detract from the character and appearance of the existing dwelling, its setting and the street scene in general contrary to policies GP9 and GP35 of the Aylesbury Vale District Local Plan, the advice set out in the Council's Residential Extensions Design Guide, and the NPPF.</p> <p>The Inspector considered this was a relatively small addition to the dwelling with a depth approx. half that of the dwelling with pitch and form to match and would not appear unduly prominent or discordant in the street scene and therefore accord with the character and appearance of the area. He granted permission subject to conditions</p>	

<b>Application Reference: 18/01052/APP</b>	<b>Decision: Delegated</b>
Site: 109 Aston Clinton Road, Weston Turville, Buckinghamshire, HP22 5AB	
Development: Single storey detached outbuilding	
<p>The proposal was for a detached annexe which was refused as it would conflict with policies GP11 and GP35 of the Aylesbury Vale District Local Plan, policy H2 of the Weston Turville Neighbourhood Plan and would not constitute sustainable development. The proposed building would not fit within the existing form of development within the immediate area and would not be capable of being incorporated with the main dwelling. It would form a detached and self contained accommodation which would tantamount to a new dwelling.</p> <p>The outbuilding was located towards the rear garden in close proximity to the fence with No111 and the Inspector found it would be modest in scale, both in terms of its height and footprint in the context of neighbouring properties and the extent of the garden. The site was in an established ribbon of development, and had a close relationship with the dwelling and the Inspector considered no harm would arise</p>	

<b>Application Reference:</b>	<b>Decision: Committee overturned</b>
Site: Oakview Park, Arncott Road, Boarstall	
Development: use of land as a residential caravan site for 19 gypsy families, including access road, hardstandings and boundary walls/fencing.	
<p>A further appeal was allowed relating to Oakview Park for a gypsy and traveller site. The full copy of the decision is attached as this was an overturned officer recommendation.</p> <p>A cost award was dismissed as the council was found not to have acted unreasonably as it was</p>	

a matter of judgement as it substantiated the reasons for refusal



## Appeal Decision

Inquiry Held between 31 July and 2 August 2018

Site visit made on 2 August 2018

**by Mark Dakeyne BA (Hons) MRTPI**

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

Decision date: 21 August 2018

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**Appeal Ref: APP/J0405/W/18/3193773**

**Oakview Park, Murcott Road, Arncott, Bicester, Bucks OX5 2RH**

- 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 J Maloney and others against the decision of Aylesbury Vale District Council.
  - The application Ref 16/03442/APP, dated 12 September 2016, was refused by notice dated 31 August 2017.
  - The development proposed is use of land as a residential caravan site for 19 gypsy families, including access road, hardstandings and boundary walls/fencing.
- 

### Decision

1. The appeal is allowed and planning permission is granted for use of land as a residential caravan site for 19 gypsy families, including access road, hardstandings and boundary walls/fencing at Oakview Park, Murcott Road, Arncott, Bicester, Bucks OX5 2RH in accordance with the terms of the application, Ref 16/03442/APP, dated 12 September 2016, subject to the conditions set out in the attached schedule.

### Application for costs

2. An application for costs was made by Mr J Maloney and others against Aylesbury Vale District Council. This application is the subject of a separate decision.

### Preliminary Matters

3. The appeal site is already in use as a residential caravan site. Walls and fencing divide the 19 pitches and delineate the central access road. Most of the pitches were occupied when I visited the site.
4. A Statement of Common Ground dated 19 June 2018 between the appellants and the Council sets out the matters of agreement and disagreement. However, the appellants indicated that they were not seeking a planning permission limited by condition to particular occupants. In this respect it was agreed between the main parties at the inquiry that whether the existing site occupants satisfied the definition of gypsies and travellers in the annex to Planning Policy for Traveller Sites August 2015 (PPTS) ('the planning definition') would not be issue which would be determinative for the appeal.

5. The new National Planning Policy Framework (the Framework) was published a few days before the inquiry. The main parties had regard to its contents in presenting their evidence and I have taken it into account in my decision.

### **Main Issues**

Having regard to the above the main issues are:

- (1) the effect on the character and appearance of the area;
- (2) whether the traveller site is sustainable taking into account local and national policies; and,
- (3) the provision of and need for traveller sites in the area.

### **Reasons**

#### *Character and appearance*

6. The appeal site lies within an area of open countryside to the south of Arccott and to the north of the M40. Level and gently sloping medium sized fields with hedgerow boundaries is the predominant landscape feature. The regimented and relatively tight layout of pitches and hard landscaping on the appeal site are not in character with the surrounding historic field pattern. However, the rural landscape and tranquillity has already been disrupted to an extent by the M40 carving through the countryside, the Ministry of Defence (MoD) bases and activities in and around Arccott and the moto-cross circuit between the site and the village.
7. The Aylesbury Vale Landscape Character Assessment (LCA) shows the appeal site as lying within the Panshill Vale Landscape Character Type. The LCA carried out in 2008 recognised that the M40, pylons and development on the edge of Arccott were visually intrusive. The LCA's summary of the landscape's condition as poor and its sensitivity as moderate is still relevant. In this context the development causes some further harm to the landscape character.
8. In terms of visual impact the site is not readily seen in longer distance views because of the barrier of the M40 to the south, the buildings in and around Arccott to the north, the belt of woodland to the east and the network of field boundaries to the west. With regard to medium distance views the caravans and mobile homes on the site are most obvious when seen from the southern approach along Murcott Road including at the site entrances to New Park Farm and Four Winds Farm. The upper parts of the structures are visible on the slightly rising ground above the intervening vegetation. Similar private views can be obtained from the drive and first floor bedrooms to New Park Farm although the most prominent caravans seen from the house appeared to be those on a triangle of land closest to the road which is beyond the appeal site.
9. From the historic bridleway known as Boarstall Lane to the north and west the field boundary hedgerows largely mask the site from public views. On the initial section off Murcott Road, the large MoD buildings towards the village and some semi-derelict outbuildings adjacent to the track are the dominant features. Further along a field gate to the west of New Park Farm does allow some of the caravans to be seen between vegetation but the gap is fairly narrow.
10. From the site entrance on Murcott Road the walls, caravans and vehicles on the easternmost pitches are clearly visible but most of those passing are likely to be in vehicles travelling upwards of 40 mph so for them it is a fleeting view.



11. Where the caravans can be seen they are a discordant feature in the landscape. However, from most public and private views existing vegetation screens and softens the visual impact and provides a backdrop to the site. The structures are not seen against the skyline. Outside the summer months when deciduous trees and hedgerows are not in leaf, the site and the structures on it would be more visible. However, the same could be said for other buildings and structures in the vicinity. For example the MoD buildings and boundary security fencing on the opposite side of the road were inconspicuous in August because of the substantial roadside hedge but would become more evident over the winter months.
12. Planting has taken place around the perimeter of the site but there are some gaps and in a few places trees and shrubs are dead or dying. Some of the planting, such as the line of willows, is not characteristic of the area. However, additional landscaping could take place to fill the gaps and replace the failed and uncharacteristic planting. Moreover, the layout plan, as well as annotating landscaping to the site boundaries, also shows indicatively additional planting within the site including around the pitches. There would also be the scope to replace some of the areas of hardstanding with grass. Such landscaping would not only soften the site entrance but also make the site attractive from within for residents.
13. The PPTS accepts that gypsy and traveller sites can locate in rural areas. In doing so it is logical to also accept that some visual harm will occur from many sites particularly those that are not on land which was previously developed, untidy or derelict and that caravans will be a part of the rural scene in some countryside locations. Although in this case soft landscaping would not result in a positive enhancement of the environment and increase in the openness of the site compared to when it formed part of a field, further planting would have the potential to achieve some of the other benefits set out in paragraph 26 of the PPTS.
14. In the previous appeal decisions in 2009<sup>1</sup> the Inspector did not support a permanent permission 'because of the scheme's substantial adverse landscape consequences'. However, since then planting on some of the site boundaries has become established; further development has taken place nearby including that on the MoD land to the east; and national policy has changed with the introduction of the PPTS. Furthermore, it is significant that the Council promotes the site as an allocation in the emerging Vale of Aylesbury Local Plan 2013-2033 (ELP). In the assessment of the site<sup>2</sup> which forms part of the evidence base for the ELP no significant landscape impacts were identified. This was on the basis of 19 pitches, not the 13 proposed in the allocation. In this respect it differs from other sites proposed for allocation which are seen as sensitive in the landscape e.g. land opposite Causter Farm, Nash.
15. In conclusion there would be some harm to the character and appearance of the area. There would be conflict with Policy GP.35 of the Aylesbury Vale District Local Plan January 2004 (LP) as the development would not respect and complement the physical characteristics of the site and surroundings and the natural qualities and features of the area. However, because of the level of sensitivity of the landscape, the limited visibility of the site and the scope to

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<sup>1</sup> APP/J0405/A/08/2072065 and 2072199 dated 8 May 2009

<sup>2</sup> Aylesbury Vale Gypsy, Traveller and Travelling Showpeople Site Assessment Report July 2016

undertake further planting, the level of harm to the character and appearance of the area would be moderate.

*Sustainable site*

16. The appeal site is about 850m from the southern edge of Arncott and just over 1km from a small convenience store, village hall and recreation ground within the village. Arncott itself is categorised in the Cherwell Local Plan as a Category A Service Village where residential development within the built-up limits can take place. The nearest primary school and a satellite surgery are in Ambrosden about 4km away. Secondary schools and larger scale health care facilities are in Bicester which is about 7km from the site. In these respects the site is not physically isolated or away from the nearest existing settlements which together provide a good range of facilities.
17. Once Murcott Road leaves the built up area it does not have pavements or lighting and is subject to the national speed limit. Vehicles pick up speed when they exit the 30mph speed restriction zone at the edge of the village. Although there is a grass verge between the appeal site and the settlement, when I visited much of the verge was overgrown and uneven. Some journeys from the site to the village may be undertaken on foot or by cycle but I would not see the route as welcoming for pedestrians or that attractive to cyclists, particularly in poor weather, outside daylight hours, or if accompanied by young children.
18. The nearest bus stops are also about 1km from the site. They give access by an hourly service to Ambrosden, Bicester and Oxford during the daytime Mondays to Saturdays with reduced frequency in the evening. The Sunday service is limited to two afternoon journeys in each direction. Although the service is reasonable for a village of the size of Arncott, the walk to the bus stop, as with the journey on foot to village facilities, would be an obstacle to its use.
19. Therefore, the opportunities to use sustainable transport modes are constrained. Moreover, it is not proposed to make walking more attractive by providing a footway between the site and village. However, whilst most journeys would be undertaken by private vehicle, trips to access facilities would not be long. Moreover the PPTS, in accepting that many sites will be in rural areas, is cognizant of the fact that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, notwithstanding the objectives of the Framework to promote accessible services, healthy lifestyles and a choice of transport modes.
20. Furthermore, the PPTS at paragraph 13 considers the sustainability of traveller sites in the round. The provision of a settled base for up to 19 traveller families would promote access to health services; ensure that children can attend school on a regular basis; reduce the need for long-distance travelling and possible environmental damage caused by unauthorised encampments; and allow some to live and work from the same location. The site is not in a flood plain and would provide a site of reasonable environmental quality for its occupants.
21. During periods that the site has been occupied there have been incidents of pollution, including contamination of water courses, and anti-social behaviour such as dumping and burning of waste, trespass and damage to property. Raw

sewage has recently been identified close to the site. Excessive numbers of caravans have been evident. Some of the occupants appear to have been transient which is likely to have contributed to these problems.

22. However, provision of appropriate foul and surface water methods of disposal could be secured, and burning of materials prevented, by condition. There are signs of community integration through attendance at local schools, use of local facilities and the establishment of friendships with the settled community. I see no reason why peaceful and integrated co-existence between those on the site and the local community, including nearby residents, cannot be achieved over time if respect and good neighbourliness is shown by all. This should be assisted by the removal of the tensions and uncertainty caused by a development unauthorised since 2012.
23. The nearest dwellings at New Park Farm are separated from the appeal site by an access track, a row of conifers and a large agricultural style barn. The use would not have an unacceptable impact on the living conditions of nearby residents by reason of noise, disturbance or loss of privacy.
24. The site is within the rural parish of Boarstall which includes a small village some 2km to the south-east and scattered farmsteads. However, the nearest settled community is at Arncott. I was not made aware of other traveller sites near to the appeal site or village. A development of 19 pitches would not be out of scale or dominate the village of Arncott.
25. The previous Inspector in 2009 considered that the site was reasonably sustainable for a temporary permission but that other sites might be identified as more sustainable. The Council has been through the exercise of comparing sites in the ELP and assessed Oaksvie Park as being relatively close to services and facilities and having the benefits of a settled base.
26. Accordingly the traveller site is sustainable taking into account local and national policies. There is no conflict with the Government's policy of very strictly limiting new traveller development in open countryside as the site is not away from existing settlements.

#### *Provision and need for traveller sites*

27. The PPTS requires that local planning authorities make their own assessment of the need for traveller sites and in producing their local plan provide 5 years supply of deliverable sites as well as a supply of additional sites for later in the plan period.
28. The most recent assessment of accommodation needs for gypsies and travellers in Aylesbury Vale was undertaken in 2016 with the report published in February 2017<sup>3</sup>. At the base date of the GTAA, February 2016, there were some 10 permanent authorised gypsy sites in the District containing a total of around 65 pitches together with three sites with temporary permission (14 pitches) and eight sites containing unauthorised pitches, including the appeal site (42 pitches)<sup>4</sup>. The significant number of temporary and unauthorised pitches at the base date suggests an underlying unmet need even before any household growth is factored in.

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<sup>3</sup> Aylesbury Vale, Chiltern, South Bucks and Wycombe District Councils Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA) Final Report February 2017 - Opinion Research Services (ORS)

<sup>4</sup> Para 4.6 of the GTAA

29. The report identified a current and future need for 8 pitches for the period 2016-2033 for those who met the planning definition ('the knowns'). However, it was not possible to determine the traveller status of a large number of households (87) because either they refused to be interviewed or were not on site at the time of the researchers' visit. ORS assumed that 10% of those not interviewed ('the unknowns') met the planning definition based on national data.
30. However, for several reasons the identified needs for those who meet the planning definition appears to be an underestimate. A number of sites have been granted permanent planning permission since the base date of the GTAA providing some 28 pitches<sup>5</sup>. The assumption is that all the site occupants in these cases met the planning definition. An appeal decision<sup>6</sup> made before the publication of the GTAA determined that the occupiers of 3 pitches at Ickford met the planning definition but despite this evidence the GTAA discounted them in its assessment because at the time of the researchers' visit no contact was possible. Therefore, it is reasonable to assume that of the sites which have obtained planning permission from 2016 onwards 100% of occupants have met the planning definition.
31. In the case of the appeal site the GTAA indicates that of 13 pitches assumed to be occupied only 5 interviews were conducted. Contact was not possible with 8 households. This information led to the conclusion that none of the households occupying the site in 2016 met the planning definition. Whilst this appeal decision does not seek to determine the gypsy status of the occupants of Oaksvie Park, from what I have heard and read several of the households would appear to fall within the planning definition and certainly significantly more than the 10% assumed by ORS.
32. ORS have conducted many GTAA's and their findings have been accepted in Local Plan Examinations and appeal decisions. The appellants have not put forward an alternative analysis. That said I am mindful of some of the other criticisms of the GTAA by the appellants in this case and that of ORS in other appeals, including a failure to explore further during interviews some of the answers about working and travelling habits. These criticisms tend to reinforce my view that the findings of need within the GTAA are an underestimate.
33. The Council has used the GTAA to support the emerging Vale of Aylesbury Local Plan 2013-2033 (ELP). However, the Council has taken a precautionary approach to addressing gypsy and traveller needs by proposing to allocate enough sites to meet the needs of both 'knowns' and 'unknowns' for the first 10 years of the ELP (69 pitches), including the appeal site. The other allocations are sites with permanent and temporary permission, vacant pitches and major development areas on the edge of Aylesbury. In view of my findings above I see this as a pragmatic and sensible approach. Moreover, in seeking to provide for the 'unknowns' the planning policies of the ELP are reflecting paragraph 61 of the Framework and the needs of different groups, in this case those of gypsies and travellers who may not meet the planning definition but for cultural and ethnic reasons are rooted in the gypsy way of life.

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<sup>5</sup> Para 8.15 of the Housing Topic Paper January 2018

<sup>6</sup> Appeal Decision Ref: APP/J0405/W/15/3005295 dated 9 February 2016

34. The ELP is currently being examined. There are objections to the Council's approach to meeting the needs of both 'knowns' and 'unknowns' and the proposed allocation of the appeal site. However, the Council continue to support its approach as its preferred strategy as shown by its representations to the relevant hearing session on 19 July 2018<sup>7</sup>.
35. The GTAA identified that two sites in 2016 had vacant or unimplemented pitches. A few pitches on the appeal site are undeveloped or unoccupied. However, there is no evidence that pitches elsewhere are available for occupants of the appeal site. Indeed the vacant pitches at the site near Biddlesden were said to be reserved to accommodate new households formed from the extended family who occupy the site. No known alternative sites are available for the site occupants.
36. I conclude that there is a need for additional gypsy and traveller sites in the District and the appeal site would contribute to meeting the need as proposed in the ELP. There is also a general unmet need nationally and regionally. I accept that using the GTAA as a basis for need and having regard to recent permissions there is a 5 year supply of specific deliverable sites in the District for the 'knowns'. However, for the reasons that I explore above that is not the full picture.

#### *Other Matters*

37. There has been a failure to comply with some of the conditions imposed on the previous permission. However, there is more likely to be the commitment and wherewithal to invest in the site if permanent permission is granted. The Council has powers to ensure that conditions are enforced.
38. Visibility at the site access is reasonable, a splay of 2.4m by 160m being achievable. The Highways Authority did not object to the application and the previous Inspector found that dismissing the appeal on highway safety grounds was not justified, albeit he was only considering a temporary permission.
39. I have not considered in detail the personal circumstances of the site occupants as the appellants are not relying on this factor in support of their case. Some families have only been on the site for a short period. That said for those existing and new occupants who meet the planning definition and stay, the site would provide a settled base. Along with a settled base come the advantages of access to health and education services, including for those with specific health and learning needs. There are a number of families on the site with school aged children some of whom attend local schools. There would also be advantages for the general well-being of the families in being settled and having continual access to basic amenities and a secure living environment. In particular a settled base would be in the best interests of the children.

#### *Conditions*

40. A condition would be needed to control the occupation of the pitches to those who meet the definition of travellers within PPTS.
41. Conditions are required to limit the number of pitches, caravans and commercial vehicles in the interests of the character and appearance of the area. Controls on commercial activities and burning of materials are needed

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<sup>7</sup> ID11

for similar reasons and also to safeguard the living conditions of nearby residents.

42. A site development scheme would ensure that soft and hard landscaping, lighting, drainage, refuse storage, and water supply were appropriate to protect the character and appearance of the area, prevent pollution and unacceptable surface water run-off and be in the interests of the living conditions of nearby residents and occupants of the site. In view of the scale of the site some provision should be made for children's play, either in a communal area or through the layout of each pitch.
43. The 2009 appeal decision included a condition relating to visibility splays. Although most of the splays appear to be within highway land the requirement to maintain visibility within them should be included in the interests of a safe and suitable access.

### **Planning Balance and Conclusions**

44. There would be conflict with Policy GP.35 of the LP, the only relevant development plan policy that has been brought to my attention. I give full weight to the policy insofar as it is relevant to the use as it is consistent with the Framework's objectives of protecting and enhancing the natural environment and recognising the intrinsic character and beauty of the countryside. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
45. There would be moderate harm to the character and appearance of the area. I have found no other material harm.
46. In terms of benefits the site is sustainable when considered in the round. The site would contribute to meeting the need for gypsy and traveller sites in the District. The site would provide a settled base for up to 19 families which would have a number of advantages and be in the best interests of the children who live on the site.
47. The development plan does not contain any policies which are directly relevant to gypsy and traveller sites. This is a failure of policy recognised by the ELP which is proposing allocations through Policy S6, including the appeal site, and introducing criteria based Policy D10 specific for gypsies and travellers. The proposal would accord with Policy S6 and satisfy most of the criteria within Policy D10. The site would exceed 13 pitches but the Site Assessment Report does not raise any overriding issues with a 19 pitch site and a couple of the other sites proposed for allocation would be larger. Although the policies are subject to unresolved objections I give moderate weight to them as they are reasonably consistent with the Framework and PPTS and reflect the preferred approach of the Council.
48. Overall I conclude that the conflict with the development plan and the other harm are outweighed by the benefits. Material considerations indicate that the appeal should be determined other than in accordance with the development plan. The appeal should be allowed.

*Mark Dakeyne*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites August 2015 (or its equivalent in replacement national policy).
- 2) The development hereby approved shall comprise no more than 19 pitches as shown on the approved Site Location Plan and Site Layout Plan.
- 3) No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 1 shall be a static caravan or mobile home) shall be stationed on each pitch at any time.
- 4) No more than one commercial vehicle per pitch shall be kept on the land. Each vehicle shall not exceed 3.5 tonnes in unloaded weight and shall not be stationed, parked or stored on the site except within the relevant pitch and shall not be used other than by occupiers of that pitch. No other commercial vehicles shall be kept on the land.
- 5) No commercial activities, including the storage of materials, shall take place on the land other than the storage of materials in vehicles authorised to be parked on the site.
- 6) No burning of materials or waste shall take place on the land.
- 7) 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 3 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
  - (i) within 3 months of the date of this decision a scheme (hereafter referred to as the Site Development Scheme) shall have been submitted for the written approval of the local planning authority for:
    - (a) hard and soft landscaping. Hard landscaping shall include means of enclosure and surfacing materials. Soft landscaping shall include identification of all trees, shrubs and hedges to be retained showing their species, spread and maturity; and new tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities;
    - (b) external lighting within the site;
    - (c) details of foul, surface and waste water drainage (including 'grey' waste water from washing/shower facilities) either by connection to a public sewer or by discharge to a properly constructed sewage treatment plant, septic tank or cesspool. All drainage and sanitation provision shall be in accordance with all current legislation and British or European Standards;
    - (d) details of the means by which a wholesome and sufficient water supply shall be provided to all the occupied pitches within the development;
    - (e) communal storage and collection area for refuse and recyclables; and,
    - (f) play space for children.
  - (ii) If within 12 months of the date of this decision the local planning authority refuse to approve the Site Development 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 Site Development Scheme shall be implemented in full in accordance with the approved details no later than 6 months from its written approval.

Upon implementation of the approved Site Development Scheme specified in this condition, that scheme shall thereafter be maintained. No lighting, hardstandings or means of enclosure other than those forming part of the approved scheme shall be constructed or erected on the site.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 8) If within a period of 5 years from the implementation of the Site Development Scheme, any trees or plants which formed part of the approved site development scheme die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.
- 9) Visibility splays shall hereafter be maintained on both sides of the site access measuring not less than 2.4 metres along the centre line of the access by 160 metres along the edge of the carriageway. The areas contained within the splays shall be kept free of any obstruction exceeding 0.6 metres in height above the nearside channel level of the carriageway.



## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Isabella Tafur of Counsel

Instructed by Aylesbury Vale  
District Council

She called

Philippa Jarvis  
BSc (Hons) Dip TP MRTPI

PJPC Ltd (Planning Consultancy)

### FOR THE APPELLANT:

Alan Masters of Counsel

Instructed by Philip Brown  
Associates Ltd

He called

Tom Tipthorpe

Site Occupant

Margaret Connors

Site Occupant

Margaret McDonagh

Site Occupant

Philip Brown BA (Hons)  
MRTPI

Philip Brown Associates Ltd

### INTERESTED PERSONS:

Lawrence Odell

Chairman of Boarstall Parish and Local Resident

## **LIST OF DOCUMENTS SUBMITTED AT THE INQUIRY**

- ID1 Costs application submitted by the appellants
- ID2 Draft conditions submitted by the Council
- ID3 Extract from Inspector's report on the examination of the Maldon District Local Development Plan 2014-2029 submitted by the Council
- ID4 Appeal decision ref: APP/V2635/W/17/3180533 dated 2 February 2018 submitted by the Council
- ID5 Appeal decision ref: APP/P0240/W/17/3169799 dated 26 March 2018 submitted by the Council
- ID6 Appeal decision ref: APP/N1920/W/17/3173518 dated 26 January 2018 submitted by the Council
- ID7 Appeal decision ref: APP/P0240/A/12/2179237 dated 21 December 2016 submitted by the appellants
- ID8 Appeal decision ref: APP/X0360/C/16/3153193 dated 2 July 2018 submitted by the appellants
- ID9 Note of site visit to New Park Farm by Environment Agency submitted by Mr Odell
- ID10 Council's Opening Statement
- ID11 Council response to Inspector's Question 49 of examination of Vale of Aylesbury Local Plan 2013-2033 submitted by the Council
- ID12 Statement of Personal Circumstances of occupiers of Pitches 3, 4 and 5 submitted by the appellants
- ID13 Statement of Personal Circumstances of occupiers of Pitch 19 submitted by the appellants
- ID14 Letter from Mr Odell to Mr Tipthorpe re water supply submitted by the appellants
- ID15 Post Hearings Note from Programme Officer on next steps of examination of Vale of Aylesbury Local Plan 2013-2033 submitted by the Council
- ID16 Child's Plan relating to one of children of site occupants submitted by the appellants
- ID17 Letter from manager of Arcott Supermarket submitted by the appellants
- ID18 Closing submissions by the Council
- ID19 Closing submissions by the appellants
- ID20 Council's response to appellants' costs application



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## Costs Decision

Inquiry Held on 31 July 2018

Site visit made on 2 August 2018

**by Mark Dakeyne BA (Hons) MRTPI**

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

**Decision date: 21 August 2018**

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### **Costs application in relation to Appeal Ref: APP/J0405/W/18/3193773 Oakview Park, Murcott Road, Arccott, Bicester, Bucks OX5 2RH**

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr J Maloney and others for a full award of costs against Aylesbury Vale District Council.
  - The inquiry was in connection with an appeal against the refusal of planning permission for the use of land as a residential caravan site for 19 gypsy families, including access road, hardstandings and boundary walls/fencing.
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### **Decision**

1. The application for an award of costs is refused.

### **The submissions for Mr J Maloney and others**

2. The costs application was made in writing at the inquiry<sup>1</sup>. The following additional points were made orally.
3. The Council's case runs counter to the allocation of the site through Policy S6 in the emerging Vale of Aylesbury Local Plan 2013-2033 (ELP) and the case made in supporting the allocation at the ELP examination hearings. The Council cannot rely on objections from others having regard to its position as set out in the response to the ELP Examination Inspector's questions on the subject<sup>2</sup>. The Officers' Report to the Planning Committee also recommended that planning permission be granted. The allocation of the site was agreed by the Council before the rejection of the planning application.
4. This is a clear case where costs should be awarded.

### **The response by Aylesbury Vale District Council**

5. The response was made in writing at the inquiry<sup>3</sup>.

### **Reasons**

6. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

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<sup>1</sup> ID1

<sup>2</sup> ID11

<sup>3</sup> ID20

7. The Council refused planning permission on two grounds, the effect on character and appearance and the location of the site relative to services and facilities. The Council was not bound to follow its Officers' recommendations on the application. The Council substantiated both reasons in its evidence by reference to specific impacts. In relation to the first ground this included objective analysis of both landscape character and visual impacts. With regard to the second ground, evidence about the likelihood of use of different modes of travel and the distance to key services and facilities was elicited.
8. Conditions dealing with matters such as soft landscaping would offer some mitigation in relation to character and appearance. However, it was not clear cut that such measures would enable the development to go ahead. Moreover, no mitigation was offered to encourage the use of sustainable modes of travel.
9. It was not necessary to consider whether the residual cumulative impacts on the road network would be severe as the application was not refused on highway safety grounds.
10. The fact that the Council is proposing to allocate the appeal site in the ELP does not prevent it from refusing planning permission. The ELP is subject to objections both in relation to the approach to meeting the needs of both 'knowns' and 'unknowns' and to the allocation itself. The Council's approach is subject to scrutiny and has yet to be found sound. Moreover, the considerations applicable to an emerging local plan process are different to those at play with a particular proposal. On the one hand the relative merits of sites are assessed to provide a supply of sites for the plan period to meet accommodation needs. On the other hand specific harms and benefits are weighed in the balance in the context of the existing development plan.
11. The Council has not prevented or delayed development which should clearly have been permitted. There was conflict with a relevant development plan policy, Policy GP.35 of the Aylesbury Vale District Local Plan January 2004. It was a matter of planning judgment as to whether other material considerations indicated that the appeal should be determined other than in accordance with the development plan. My decision went against the Council but its position was not unreasonable.
12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*Mark Dakeyne*

INSPECTOR