

Application Number	Expiry Date	Parish	Ward
192128	20 November 2019	Wokingham	Evendons

<b>Applicant</b>	Mr B, C and Ms C Maughan
<b>Site Address</b>	Woodside Caravan Site, Blagrove Lane, Wokingham, RG41 4BA
<b>Proposal</b>	Application to vary condition 1 (relating to temporary and personal restrictions) of planning consent 181694 which was a variation to conditions 1 (names of residents) and 2 (number of pitches) of planning permission 152821 (appeal decision APP/X0360/C/15/3085493 dated 15/1/18) for the change of use of land for the stationing of caravans for residential purposes.
<b>Type</b>	Full
<b>PS Category</b>	17
<b>Officer</b>	Graham Vaughan
<b>Reason for determination by committee</b>	Listed by Councillor Sarah Kerr

<b>FOR CONSIDERATION BY</b>	Planning Committee on Wednesday, 13 November 2019
<b>REPORT PREPARED BY</b>	Assistant Director – Place

<b>SUMMARY</b>
<p>The application follows a number of appeals and enforcement action. Three GRT pitches were established on the site in 2015 and although subsequent enforcement notices were upheld at appeal, in 2018 an Inspector allowed for the material change of use of the land to regularise the three pitches. However, the Inspector considered that the harm caused to the character of the area by virtue of the urbanisation of the site was substantial and afforded this significant weight. In weighing the material considerations, the Inspector also considered that the personal circumstances of the occupiers, being medical needs and the needs of the children, to also be significant and again afforded substantial weight. Coming to a conclusion, the Inspector considered that the personal circumstances outweighed the impact on the character of the area only to the extent that a personal and a two year time limited permission would be acceptable.</p> <p>The current application has been submitted as the end of the temporary permission is due in January 2020. The applicant has stated that a permanent and non-personal permission is being applied for but a further temporary and slightly amended personal permission could also be acceptable. In considering whether this would be acceptable, it is necessary to consider whether the site is still suitable for use as three GRT pitches. The circumstances of the case are not considered to have altered significantly in that the area has not been subject to any substantial difference in planning terms. As such, the harmful impact on the character of the area remains. The same people are still occupying the site however there are additional children compared to what was considered at appeal. In addition, a further adult occupies the site due to health issues. As such, the personal circumstances that were put forward before remain the same. Added to this, the impact on highways, drainage and ecology is not considered to be materially different to the appeal.</p> <p>Whilst there are clearly aspects of the application which conflict with local and national policy, there are also elements that accord with them and it is considered this is similar to the planning balance the Inspector made in 2018. On this basis, and as an on balance</p>

decision, it is considered appropriate to come to the same conclusion as the Inspector and allow a further temporary permission for an additional two years. It was also acceptable to alter the personal occupancy to include the additional adult due to health issues. The additional time allowed for occupation of the site would mean that the Local Plan Update process could be well established allowing for a potential alternative site to be found. As such, the application is recommended for approval with the change to the personal and time limit condition as set out below.

## PLANNING STATUS

Overhead cables 15m buffer  
Water Utility Consultation Zones  
Contaminated Land Consultation Zone  
Local Authorities  
Heathrow Aerodrome Consultation Zone  
Affordable Housing Thresholds  
Borough Parishes  
Scale and Location of Development Proposals  
Site Allocations  
Tree Preservation Orders  
Borough Wards  
Landscape Character Assessment Area  
Local Plan Update Submitted Sites  
SSSI Impact Risk Zones  
Thames Basin Heaths SPA Mitigation Zones  
Ordinary Watercourses Consultation Zone  
Historic Flooding Points Consultation Zone  
Ancient Woodland Consultation Zone  
Local Wildlife Sites Consultation Zone  
Ordinary Watercourse

## RECOMMENDATION

**That the committee authorise the GRANT OF PLANNING PERMISSION subject to the following:**

### **A. Conditions and informatives:**

#### *Conditions:*

1. Nothing herein contained shall be deemed to affect or vary the conditions imposed by planning permission 181694, dated 16 November 2018 which conditions shall remain in full force and effect save in so far as they are expressly affected or varied by this permission.

*Reason: For the avoidance of doubt and to ensure that the conditions imposed on the original permission remain in force other than as expressly hereby varied.*

2. Condition 1 now reads:

The use hereby permitted shall be carried on only by (1) Mr Bobby and Mrs Lettie Maughan and their resident dependants, and (2) Ms Caroline Maughan and her resident dependants and Eileen Casey and Mr John Maughan and (3) Mary and Martin Maughan and their resident dependants and shall be for a limited period. When the premises cease to be occupied by those named above, or by 15<sup>th</sup> January 2022, whichever shall first occur, all caravans, buildings, structures, materials and equipment brought onto, or erected on the land, or works undertaken to it in

connection with the use shall be removed, and the land restored to its condition before the development took place.

*Reason: In granting this permission the local planning authority has had regard to the special circumstances of the case and the needs of the occupants.*

All other conditions of planning permission 181694 apply to this planning permission:

1. See above.
2. There shall be no more than 3 permanent gypsy and traveller pitches provided. On each of the 3 pitches no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed at any time, of which only one caravan on each pitch shall be a static caravan or mobile home.

*Reason: In the interests of the amenities of the area. Relevant policy: Core Strategy Policies CP1, CP3, and CP11 and Managing Development Delivery Local Plan Policy TB21.*

3. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site and no commercial activities shall take place on the land, including the external storage of materials or burning of waste or any other material.

*Reason: In the interests of the amenities of the area. Relevant policy: Core Strategy Policies CP1, CP3, and CP11 and Managing Development Delivery Local Plan Policy TB21*

**Informatives:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the NPPF.

<b>PLANNING HISTORY</b>		
<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>
F/2013/0698	Proposed change of use of land to a residential caravan site for two Gypsy Traveller families, to contain two static caravans, two touring caravans and parking for four vehicles with associated hardstanding	Refused 28 August 2013
F/2014/1582	Proposed change of use of land to use as a residential caravan site or two traveller families each with two caravans including one static caravan/mobile home, laying of hardstanding and erection of amenity building.	Refused 31 December 2014 Appeal withdrawn
152821	Enforcement Notice Served 12 May 2015 Hearing took place 15 Dec 2015	Appeal dismissed and Enforcement Notice upheld (Decision dated 15 March 2016) Decision Quashed and remitted for re-

		determination (High Court of Justice decision date 14 July 2016)
152821	Enforcement Notice Appeal (redetermination) Hearing 10 January 2017	Appeal Dismissed and Enforcement Notice Upheld (Decision dated 26 January 2017) Decision Quashed and remitted for re-determination
152821	Enforcement Notice Appeal (redetermination) Hearing 21 September 2017	Appeal Allowed and Enforcement Notice quashed and temporary permission granted for two years (Decision Dated 15 January 2018).
181694	Application for the variation of condition 1 (names of residents) and condition 2 (number of pitches) of appeal reference 3085493 dated 15/1/18	Conditional approval 16 November 2018

#### SUMMARY INFORMATION

##### For Residential

Site Area	0.97 hectares
Existing pitches	3
Proposed pitches	3
Existing parking spaces	Minimum of 3
Proposed parking spaces	Minimum of 3

#### CONSULTATION RESPONSES

WBC Drainage	No objection
WBC Ecology	No objection
WBC Economic Prosperity and Place (Community Infrastructure)	No comments received
WBC Environmental Health	No objection
WBC Growth & Delivery (Planning Policy)	No objection
WBC Tree & Landscape	No comments received

#### REPRESENTATIONS

**Town/Parish Council:** Object to the application and consider it disappointing no alternative sites have been found. Cannot support the site being made permanent but if renewed temporarily then site should be monitored.

**Local Members:** Objection and listed request from Councillor Kerr. Cannot support permanent permission being granted as land has not been identified suitable for occupation and it forms a buffer zone between developments. Inspector previously considered substantial harm to the character of the area and allowed a temporary permission only. Notes there are some inaccuracies in the submission. Also notes a further temporary permission could allow for the Local Plan Update process to identify alternative sites.

**Neighbours:** 16 letters of objection received with regard to the following:

- The Council has failed to find alternative sites. If permission were to be granted on this basis then this should still be a personal permission (See paragraph x).
- The site is outside the area identified for development and acts as a buffer (See paragraphs 9 - 11).
- At the appeal, the Inspector noted substantial harm occurs to the character of the area (See paragraph 22).
- Landscaping is not in keeping with established hedgerow growth (See paragraph 22).
- The site causes a loss of habitat for wildlife (See paragraph 31).
- Loss of privacy due to use of CCTV on the site (See paragraph 24).
- Impact of noise from the use of the site including noise of dogs (See paragraph 24).
- The site degrades the countryside (See paragraph 22).
- Impact of stray dogs allowed to roam (See paragraph 30).
- The applicants should be more accommodating in terms of occupying other sites (See paragraph 11).
- Allowing the permission to be permanent increases the possibility that more occupants will be on the site (See paragraph 38).
- No changes have occurred since the last permission was granted (See paragraphs 34 - 38).
- The site is too close to residential properties and a T junction (See paragraph 25).
- The use of the site has damaged surrounding vegetation (See paragraph 22).
- Blagrove Lane is the limit of the development boundary and this should remain so (See paragraph 19 x).
- The road that is referred to was a temporary track to the sub-station and shouldn't be used to justify the application (See paragraph 20).
- The site was occupied in full knowledge of the refusal of planning permission (Officer Note: Not a material planning consideration; all applications, retrospective or not, must be determined on their own merits).
- The applicants will not find an alternative site as they do not want to move (See paragraphs 9 - 11).
- The reliance on the emotional and physical needs of the children demonstrates the site is not suitable (See paragraph 13).
- The site is visible from different viewpoints including Blagrove Lane and the 'Folly Court' development. This is worse in the winter and at night (See paragraph 22).
- Smoke caused by the wood burner is a health concern (See paragraph 30).
- The amount of work carried out on the site suggests a permanent occupation (See paragraph 21).
- There are less children on the site than what is suggested. (See paragraph 13).
- Lack of consultation for the application (Officer Note: consultation has been carried out in accordance with relevant planning legislation and the adopted Statement of Community Involvement).
- Site is occupied by other people not named in the appeal decision (See paragraph 2).
- Alternative sites are available (See paragraphs 9 - 11).
- Personal issues with other families should not be used as a reason to prevent moving to another site (See paragraph 11).
- The site is at risk of flooding (See paragraph 26).

## APPLICANTS POINTS

- Site is established with landscaping having matured since original decision. The site is also well maintained.
- Further use of the site as GRT pitches allows for the continuation of medical and educational needs of different members of the family.
- There are children living on the site and the Courts have held the rights of children in high regard.
- Despite attempts to find alternative sites, none have become available.

<b>PLANNING POLICY</b>		
National Policy	<b>NPPF</b>	National Planning Policy Framework
Adopted Core Strategy DPD 2010	<b>CP1</b>	Sustainable Development
	<b>CP2</b>	Inclusive Communities
	<b>CP3</b>	General Principles for Development
	<b>CP4</b>	Infrastructure Requirements
	<b>CP6</b>	Managing Travel Demand
	<b>CP7</b>	Biodiversity
	<b>CP8</b>	Thames Basin Heaths Special Protection Area
	<b>CP9</b>	Scale and Location of Development Proposals
	<b>CP11</b>	Proposals outside development limits (including countryside)
Adopted Managing Development Delivery Local Plan 2014	<b>CC01</b>	Presumption in Favour of Sustainable Development
	<b>CC02</b>	Development Limits
	<b>CC03</b>	Green Infrastructure, Trees and Landscaping
	<b>CC04</b>	Sustainable Design and Construction
	<b>CC07</b>	Parking
	<b>CC09</b>	Development and Flood Risk (from all sources)
	<b>CC10</b>	Sustainable Drainage
	<b>TB10</b>	Traveller Sites
	<b>TB21</b>	Landscape Character
	<b>TB23</b>	Biodiversity and Development
Supplementary Planning Documents (SPD)	<b>BDG</b>	Borough Design Guide – Section 4

<b>PLANNING ISSUES</b>
<p><b>Description of Development:</b></p> <p>1. A two year temporary planning permission was allowed for Gypsy/Romany/Traveller (GRT) pitches, reference 152812, on appeal against an Enforcement Notice. However, the Inspector incorrectly identified the number of pitches and the names of the occupants when issuing the appeal decision. As a result, application 181694 was submitted and approved and this corrected the number of pitches to three and the</p>

names of the occupants to the correct persons. For confirmation, application 181694 was considered by the Planning Committee in November 2018.

2. Condition 1 of 181694 controlled the occupiers of the site and the duration of the permission for a period of up to two years i.e. until January 2020. This application seeks in the first instance to remove the personal and temporary limitations; alternatively in the second instance to make the permission permanent but amend the personal limitation; and, in the third instance, to renew the temporary permission and personal limitation. In both the second and third instances it is proposed to add John Maughan to the permission in addition to those already named: Bobby and Lettie Maughan (and their resident dependents), Caroline Maughan and Eileen Casey (and their resident dependents), Mary and Martin Maughan (and their resident dependents). This would regularise the fact that John Maughan is currently residing with Caroline Maughan due to health issues.

**Principle of Development:**

3. The National Planning Policy Framework (NPPF) forms a material consideration with a presumption in favour of sustainable development. The supporting document entitled Planning Policy for Traveller Sites (PPTS) (2015) sets out guidance to ensure fair and equal treatment for gypsies and travellers and also requires due regard for the protection of local amenity and the local environment. These documents state that new traveller site development in the open countryside away from existing settlements should be restricted and that sites in rural areas should respect the scale of, and not dominate, the nearest settled community as well as avoiding placing undue pressure on local infrastructure (paragraph 25 of PPTS).
4. Policy H of the PPTS sets out that when determining planning applications for traveller sites, LPA should consider the following issues amongst others, relevant matters when determining applications for traveller sites:
  - a. The existing level of local provision and need for sites;
  - b. The availability (or lack) of alternative accommodation for applicants;
  - c. Other personal circumstances of the applicant/occupants;
  - d. Locally specific criteria; and,
  - e. Authorities should determine applications for sites from any travellers and not just those with local connections’.
5. *Local Provision and Need for sites:* The Planning Policy for Traveller Sites (PPTS) requires local planning authorities to ensure they have a supply of specific deliverable sites sufficient to provide 5 years’ worth of pitches/plots against assessed need. The Council’s most recent Gypsy and Traveller Accommodation Assessment is that which was updated and published in September 2017 (2017 GTAA). The study dealt with both the overall cultural need for pitches as well as the need based on the revised planning definition contained within the PPTS. It is clear from PPTS paragraph 9 that locally set targets should be based on the Gypsies and Travellers that meet the definition contained in PPTS Annex 1 of that document.
6. The 2017 GTAA identifies a need for 90 net pitches between 2017/18 and 2035/36 of which a subset of 26 represents the need based on this PPTS definition. In the period 2019/20 – 2023/24, the current five year period, there is an identified need for 6 pitches against the PPTS definition. To this, an under supply of 2 pitches from the years 2017/18 – 2018/19 is added which equates to a need for 8 pitches.

7. The council has proactively approved permissions for a number of pitches in recent years. There are unimplemented permissions for a total of 7 pitches (VAR/2014/1945; 171589; 173022; 173365). In addition to this, planning application 192012 proposes 3 additional pitches at the Carters Hill council owned Gypsy and Traveller site. Application 192012 is identical to an application that was approved in 2006 and it is considered deliverable within the five year period. Together this supply of pitches equates to 6.25 years' worth of supply.
8. Note: The supply provision is taken at a point in time, in this case 31 March 2019. It is acknowledged that 173022 has been implemented and 192012 was granted conditional approval on 23 September 2019. Additionally, 192174 was granted 4 October 2019. The impact on the supply provision will be taken into account at the next update i.e. 31 March 2020.
9. *Alternative Sites*: The applicant has advised that some alternative sites have been considered but have been disregarded either due to suitability, in terms of availability of pitches or not able to support pitches, but also affordability. It is noted that the provision of alternative sites was a key consideration for the Inspector at the appeal stage and the lack of sites in the short term added weight to the decision. Whilst it is considered limited evidence has been submitted to demonstrate consideration of other sites, it is acknowledged that the applicant has made an attempt to find an alternative location.
10. Submitted comments state that the Council should be providing an alternative site for the applicant and this should have been completed in the two year timescale. However, the Council does not currently have available land for this provision and therefore is unable to meet this request. Unfortunately, the Council is in part reliant on the private sector to provide additional GRT pitches. Nonetheless, it is noted that sites for GRT pitches have been put forward as part of the Local Plan Update. Whilst the acceptability of these sites needs to be assessed through this process, it is considered additional land could potentially be available once this completes in approximately two years.
11. In addition, comments have been raised with regard to the applicant's desire to move to a suitable alternative site and, in particular, in relation to specific families that occupy other sites. This matter was considered by the previous Inspectors and, in one appeal decision, it was noted that despite the difficulties arising between different families, there was no clear reason why a site couldn't be occupied by more than one family. With regard to the current application, this is still considered to be the case. Nonetheless, when allowing the appeal the most recent Inspector would have considered this i.e. the lack of *suitable* alternative sites does not change the weight applied in the planning balance.
12. *Personal Circumstances*: The PPTS sets out that the personal circumstances of gypsies and travellers should be considered. The personal circumstances of the occupiers are the need for a home; the needs of their children; and, medical needs of both the adults and children. As has been established by case law, the personal circumstances are a material consideration and should be afforded weight in the planning balance. With regard to the need for a home, it is noted that, as per the Inspector's findings in the 2018 appeal, not granting permission would result in the occupiers losing their homes. Linked to the above, it is considered there are currently

no alternative sites available in the short term that would enable the occupiers to move to a different site. Additionally, it should be acknowledged that the loss of the current site would result in an increase in demand for pitches.

13. In terms of the children on the site, it is noted that the number has risen to a total of 17 (with another due imminently). As per the Inspector's previous findings, the rights of the children are a material consideration that should be afforded substantial weight. In particular, the Council should have regard to the case of *Jane Stevens v SSCLG & Guildford BC* [2013] EWHC 792 (Admin) which stated that, where gypsy families include children, rights under Article 8 of the European Convention on Human Rights must be interpreted in the light of international law. The Supreme Court's judgment in *ZH (Tanzania) v SSHD* [2011] UKSC 4 establishes that the 'best interests' of children should be a primary consideration, reflecting Article 3(1) of the United Nations Convention on the Rights of the Child.
14. Given the above, the additional children since the previous application and the Inspector's appliance of weight in this regard, it is considered there is no material reason to come to a different conclusion on this matter. Added to this is the fact that most of the children of school age are attending local schools and therefore continuity in this respect would be of significant benefit. For clarification, two children are not currently attending school due to medical reasons however discussions are on-going with the Local Education Authority to resolve this. It should be noted that the PPTS states, in respect of planning policies, that Local Planning Authorities should promote access to health services and attendance of schools.
15. It has been identified that there are medical needs of the children who are receiving support in respect of different ailments. Additionally, it is understood John Maughan had medical needs which require care/assistance from other family members and therefore residing at the site has been the best option available to him. The stability and continuity of this care for both adults and children is important in the consideration of the site being occupied for a longer duration.
16. Comments have raised concern that the amount of children occupying the site is incorrect. The numbers have been confirmed with the applicant through the application process and it should be noted that applications must be determined on their own merits based on the information received. In any case, the number of children is a secondary consideration is assessing the rights of the child. Ultimately, even if there were fewer children occupying the site, this would not alter the weight applied to this aspect.
17. *Locally specific criteria:* Policy CP11 of the Core Strategy relates to proposals outside development limits designed to protect the separate identity of settlements and maintain the quality of the environment. The current application site is located outside of development limits but does not comply with the criteria set out in the policy. As such there is conflict with this policy however weight should be applied to the fact that the existing and established use of the site is for gypsy and traveller pitches. Policy CP2 of the Core Strategy supports proposals that address the requirements of 'the specific identified needs of minority groups in the borough, including Gypsies, Travellers and Travelling Show people' and therefore the application accords with this policy.

18. MDD Policy TB10 is a PPTS compliant policy which states that planning permission may be granted for new Gypsy and Traveller pitches or extensions to existing sites where a number of criteria are satisfied. Specifically, location in relation to settlements, access to services, no significant barriers to development, impact on character, amenity of neighbouring land uses and impact on the SPA. Subject to the issues outlined below the application conflicts and accords with different aspects of this policy. However, this must be balanced against the other policies in the local plan and national guidance that requires local planning authorities to have a 5 year provision for GRT pitches. Indeed any permitted additional pitches will help towards meeting the Council's statutory duty to provide accommodation for cultural Gypsies and Travellers and provide greater flexibility and certainty of future supply. Added to this, some weight should be given to the fact that if the permission is not renewed then there will be additional demand for pitches as a result of those currently on the site.

**Character of the Area:**

19. The site is located off Blagrove Lane on land formerly used for agriculture. Previously, the site was an area of grass with vegetation to the boundaries and contributed to the countryside character of the area. As noted by the Inspector in the January 2018 appeal decision, the road in particular delineated the difference between countryside and the residential dwellings. This was also in the knowledge of the additional properties created at Folly Court which, whilst introducing additional built form, was on a previously developed site.

20. For clarification, the new road that is referred to in the application submission relates to a temporary track created for access to an electricity sub-station west of the site. This would have been created by the utilisation of permitted development rights in relation to the needs of a particular utilities provider. Given the necessity for such works, in planning terms it is not considered that this should lend any weight to the proposal.

21. Concerns have been raised regarding the amount of work carried out and how this lends towards a permanent occupation. Nonetheless, it should be acknowledged that the Inspector granted permission for the change of use of the land the establishment of pitches. As such, whilst there is the identified harm to the character of the area, the use of the site is considered to be in accordance with what was approved.

22. The provision of the pitches undoubtedly impacts on the character of the area. The green field has been replaced by hardstanding, fencing and caravans with additional residential paraphernalia which, ultimately, has resulted in damage to the landscape character. It is noted that landscaping has been provided at the entrance in particular however this does not and cannot overcome the fact the site has changed from a rural countryside character to a more urban one. In the 2018 appeal decision, the Inspector placed substantial weight on the harm to the character of the area, to the extent they did not consider a permanent permission was acceptable citing the conflict with policies CP1 and CP3 of the Core Strategy. In the application submission, it is stated that the landscaping has now established, not least the area between the site and the new properties at Folly Court. Indeed it is noted that views into the site are effectively filtered by vegetation but not to the extent that it cannot be seen. Nevertheless, the Inspector also considered that even if vegetation was built up the access from Blagrove Lane would still be visible and the use would still not be appropriate in terms of character. Whilst comments have been raised regarding the

species of planting in comparison to the existing hedgerow, it is not considered that this leads to a substantial harmful impact.

23. Given the above, very limited weight is placed on the fact that landscaping is more established on the site than previously considered. Therefore, it is considered there is no material reason to come to a different conclusion to the Inspector and, as such, there is still substantial harm to the character of the area and conflict with policies CP1 and CP3. As the Inspector considered, this harm is severe and therefore afforded substantial weight in the planning balance.

**Residential Amenities:**

24. There are existing residential properties on the opposite side of Blagrove Lane and to the north particularly along Cammel Close and Daubeny Close. Due to the separation distance to these properties however the continued use of the site would not have any harmful impact on residential amenity in terms of overlooking, overbearing or a loss of light and this would be in accordance with policy CP3 of the Core Strategy. Comments have been raised with regard to the use of CCTV on the site however given that this can be installed without planning permission in residential areas, it is not considered that this leads to a harmful impact. It is acknowledged that the continuation of the use of the site would result in increased noise and activity compared to if the site remained in agricultural use and this would result in some harm to residential amenity which is afforded weight in the planning balance.

**Access and Movement:**

25. The site is accessed from Blagrove Lane with an established access and gates set back from the highway. A gravel drive then provides access to the pitches and there is ample parking for the occupiers and any visitors. No concern is raised with regard to this aspect. Additionally, the level of traffic generated is not considered to detrimentally impact the highway network and acceptable sight lines are achievable from the access. Therefore, it is considered the continued use of the site would still be in accordance with local policies CP6 and CC07 and this is afforded weight in the planning balance.

**Flooding and Drainage:**

26. The existing pitches utilise two cess pits which provide foul water drainage and no alterations to this are proposed. Clarification on surface water drainage was also requested and the applicant confirmed that much of the clay that existed on the site was removed and replaced with crushed concrete hard-core and gravel to allow for surface water to drain to the grassed areas adjacent. This has not caused drainage issues and it should be noted that the previous Inspector considered the impact to be acceptable. The Drainage Officer has considered the additional information and does not raise any objection to the application. As such, it is considered the continued use of the site would accord with local planning policies CC09 and CC10 and this is afforded weight in the planning balance.

**Landscape and Trees:**

27. As noted above there is considerable harm identified to the character of the area and, therefore, it follows there is harm to the landscape character. Indeed the site clearly conflicts with the aims of the landscape strategy given the urbanisation that has occurred. As such, the continued use of the site would prolong the harm that is caused and this would be contrary to policy TB21 of the MDD Local Plan. It is acknowledged that landscaping has been planted and established which does partially mitigate the

impact on the area however no further landscaping is proposed and the Inspector stated that additional landscaping would not be enough to overcome the harm that arises.

28. At a site specific level, it is noted that the pitches do not infringe on trees and the main impact that has occurred is the loss of the hedgerow fronting Blagrove Lane. As stated above, this impact causes harm and would remain if the site continues in its current use. As such, there is clear conflict with local planning policies TB21 and CC03 and this should be afforded weight in the planning balance.

**Environmental Health:**

29. With regard to site layout, it is considered the provision of three pitches with fencing allows for appropriate space to the site boundaries. With regard to the impact of noise, as noted above there is some infringement of residential amenity. Nonetheless, it should be noted the Inspector considered the use of the site to be acceptable in this regard and the Environmental Health Officer has not objected to the application.
30. Concerns have been raised with regard to the impact of dogs from the site roaming and barking as well as smoke from a wood burner. Ultimately however this is not considered to be a material planning consideration and would need to be resolved through an assessment of statutory nuisance by Environmental Health. As such, no weight is applied to this aspect in the planning balance.

**Ecology:**

31. The site is not subject to any significant ecological designations and it is accepted that it holds little ecological value as a result of the existing use. A Local Wildlife Site is located to the north west of the site however the existing boundary treatments would prevent any significant movement of species. Concerns have been raised with regard to impact on local wildlife and it is noted that there is, inevitably, a detrimental impact in terms of a site specific impact which is contrary to policy CP7 of the Core Strategy and TB23 of the MDD Local Plan. This should be afforded weight in the planning balance but nonetheless the impact is limited.

**Community Infrastructure Levy (CIL):**

32. As per policy CP4 of the Core Strategy, proposals should provide appropriate arrangements for the provision of infrastructure. This requirement is covered by CIL however no new build floor space would be created by the proposal. As such, it does not meet the trigger required to comply with policy CP4.

**Special Protection Area (SPA):**

33. The site is within 7km of the Thames Basin Heaths SPA but the proposal would not result in an increase in the number of residential units. As per policy CP8, this does not meet the requirement to mitigate potential impact on the SPA.

**Planning Balance:**

34. There is policy support for the provision of gypsy pitches at both national and local level as well as a statutory duty for the Council to provide such pitches. There is also a requirement for the Council to have a five year supply of pitches and at present, the Council can demonstrate this. Nonetheless, this supply is a on a rolling basis and it is acknowledged that the provision of pitches that the supply is currently based on has altered since the previous count. It is likely therefore that additional pitches will

soon be required and this application would help maintain the current level of supply. This provision is given significant weight in the planning balance.

35. As at the previous appeal, the personal circumstances of the applicant are given substantial weight. Additionally, the rights of the children are held in high regard in the Courts as established by case law and it follows that the Council should do the same. In this instance, there are children occupying the site and their continued occupation would be beneficial for their education and medical needs. Furthermore, as identified by the Inspector, the impact of losing their home would be an interference with their human rights.
36. Against this however, is the identified harm in terms of the impact on the character and appearance of the area. The continued use of the site would perpetuate this harmful impact and it is noted that the previous Inspector afforded such weight to this harm that a permanent permission wasn't acceptable. Whilst landscaping has established, and helps filter views into the site, the provision of pitches in this location severely harms the rural character and appearance. Taking other factors into account, there is some harm in terms of noise impacting on residential amenity and local ecological impacts however no harm arises in terms of drainage or highway impacts.
37. Overall therefore, there is conflict and accordance with local and national planning policies. However, the previous appeal on the site is a material consideration and it has to be considered if anything has materially changed since this decision. Ultimately, the development plan is the same, the applicant's personal circumstances are very similar (albeit there is now one more adult and additional children on the site), and the impact on the character of the area is similar being only marginally altered by established vegetation. What is of note however is the progress of the Local Plan Update with potential sites for GRT pitches being submitted for consideration. Whilst limited weight can be applied to the Local Plan Update given the early stage that it is in, it is considered relevant to this application. Allowing a further temporary permission on the site would allow for the Local Plan Update to progress sufficiently that an alternative site could potentially be found.
38. Given the above, it is considered that an on balance decision must be made and that this should be in line with the previous Inspector's findings given the fact that little has materially changed in planning terms. Adding to this however is the potential for an alternative site to be found through the Local Plan Update. As such, it is recommended that in this instance, a further temporary permission (for effectively a two further years from the date of expiry (i.e. four years after the appeal decision)) would be appropriate. As with the Inspector's conclusion, a permanent permission is still considered to be unacceptable. With regard to the alteration to the personal occupation, no objection is raised to including John Maughan given the health issues as stated. For clarification, enabling a further two years occupation of the site with the personal permission would not increase the number of pitches on the site which remains at three. It would also not automatically mean additional people could occupy the site and any such increase would require planning permission in its own right.

#### **The Public Sector Equality Duty (Equality Act 2010)**

*In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and*

*maternity, race, religion or belief. The impact on relevant characteristics have been identified above and no others are believe to be affected.*

## **CONCLUSION**

The application proposes to extend the occupation of the site and amend the personal condition relating to occupancy to include an additional person. The site was allowed to be established as three GRT pitches by an Inspector in 2018 and it is considered the arguments resolved by the Inspector at this time are still relevant now. In particular, the requirement to provide GRT pitches and the personal circumstances of the applicant, in part being the rights of the children, weigh in support of the application. Against this however is the harmful impact identified on the character of the area which, ultimately, remains despite the surrounding landscaping having established. As such, and in line with the Inspector's decision, it is considered a further temporary permission would be the most suitable solution given the material planning considerations. This would also allow for time for an alternative site to potentially be found through the Local Plan Update.