Application Report

Planning, Housing and Health North Devon Council Lynton House, Commercial Road, Barnstaple, EX31 1DG



Application No: 79124

Application Type:Full ApplicationApplication Expiry:6 December 2024Extension of Time Expiry:6 December 2024Publicity Expiry:14 November 2024

Parish/Ward: SATTERLEIGH & WARKLEIGH/CHITTLEHAMPTON

Location: Local Roots Tree Nursery

Chittlehamholt Umberleigh Devon EX37 9PG

Proposal: Change of use of land to allow siting of one caravan as

gypsy and travellers accommodation (amended plans and

information)

Agent: Mr Lewis Andrews

Applicant: Mr T May **Planning Case Officer:** Mrs D. Butler

Departure:

EIA Development:

EIA Conclusion: Development is outside the scope of the Regulations.

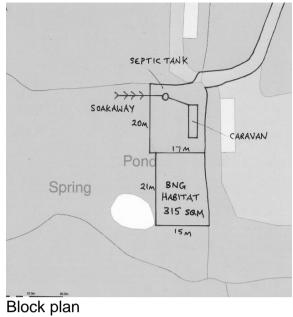
Decision Level/Reason for Committee – Called in by Councillor Whitehead

Report to Committee (If

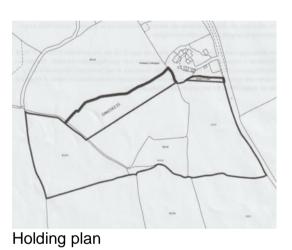
Applicable):

Site Description

The site is located in the countryside to the north of Chittlehamholt. The site comprises 3.48 hectares and is used largely for commercial forestry use. The applicant is currently living on the site using a converted coach which is parked within one of the fields. The site contains various buildings and structures and is currently being used for a nursery/forestry use. The fields are bounded by mature hedgerows and trees and is accessed from a single gateway.









Aerial photo

Recommendation

Approved

Legal Agreement Required: No

Planning History

Reference Number	Proposal	Decision	Decision Date
59578	ERECTION OF 3 FIELD SHELTERS & HAY STORAGE FOR LIVESTOCK at LAND AT DEASON, , , CHITTLEHAMHOLT, UMBERLEIGH, DEVON, EX37 9PG	FULL PLANNING APPROVAL	17 December 2015
72364	Prior notification of the erection of an agricultural building at land near Deason Farm Chittlehamholt	Prior Approval Required	23 November 2020

Reference Number	Proposal	Decision	Decision Date
	Umberleigh Devon EX37 9PG		
72618	Erection of agricultural building at Land adjacent Deason Farm Chittlehamholt Umberleigh Devon EX37 9PG	Withdrawn	21 January 2021
75202	Removal of existing extension and erection of new extension to dwelling at 1 Deason Cottages Chittlehamholt Umberleigh Devon EX37 9PG	Approved	14 June 2022
78222	Variation of condition 2 (approved plans) attached to planning permission 75202 (removal of existing extension and erection of new extension to dwelling) in respect of various design amendments at 1 Deason Cottages Chittlehamholt Umberleigh Devon EX37 9PG	Approved	11 April 2024

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Advert Control Area Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 45 metres in height.	Within constraint
Class III Road	
Landscape Character is: 5D Estate wooded farmland	Within constraint
USRN: 27503153 Road Class:C Ownership: Highway Authority	4.18
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
DM01 - Amenity Considerations DM02 - Environmental Protection DM04 - Design Principles DM05 - Highways DM06 - Parking Provision DM07 - Historic Environment	

Constraint / Local Plan Policy	Distance (Metres)
DM08 - Biodiversity and Geodiversity	
DM08A - Landscape and Seascape Character	
DM28 - Rural Worker Accommodation	
DM30 - Sites for Traveller Accommodation	
ST01 - Principles of Sustainable Development	
ST07 - Spatial Development Strategy for Northern Devon's	
Rural Area	
ST14 - Enhancing Environmental Assets	
ST15 - Conserving Heritage Assets	
ST20 - Providing Homes for Traveller Communities	
, and the second se	

Consultees

Name	Comment
Building Control	No comments received.
Manager	
Reply Received	Called into Diagnic of Committee 27 and identify and for a
Councillor S Whitehead	Called into Planning Committee'To consider the need for a traveller site in North Devon. To consider the location of this site, in
vviilleneau	particular to look at the proximity to neighbouring properties in
Reply Received	accordance with Policy DM01 of the Local Plan, the highway
19 September	access in accordance with DM05 of the Local Plan and the facilities
2024	of the village'.
Councillor S	No further comments received.
Whitehead	
Reply Received	
DCC -	Landkey I have carried out a subsequent site visit have the
Development	following additional information in relation to application 79124 at
Management	'Local Roots'.
Highways	
	On 4/10/2024 from 1448hrs to 1518hrs (30 minutes) I observed
Reply Received	(whilst measuring) traffic volumes on the road as five vehicles
16 October 2024	travelling north being four car type vehicles and one delivery van, and six vehicles travelling south being five cars and one car pulling
2024	a caravan. Whilst travelling to and from the site I also encountered
	a few other vehicles including a tractor and telehandler. Although
	not at a peak time of the day, this demonstrates the very low
	volume of traffic on this road.
	In the absence of a speed survey, by driving passed the site
	entrance a number of times, and following other vehicles at their speed, I estimate the speed of vehicles to be around 30mph in both
	directions. This is consistent with similar rural roads of this width
	and horizontal alignment. While measuring on site, vehicles
	noticeably slowed down when seeing me, and vehicles exiting the
	site entrance can be seen by passing vehicles from the adjacent
	bends in the roads.

Name	Comment
	The surfaced road width in the vicinity of the site varies from 3.6m to 5.4m. At the time of my visit the hedge either side of the site entrance had not recently been cut, but the hedge either side of the adjacent Deason Cottages entrance had recently been cut. Below are details of the site entrance, and for comparison also details of the entrance for the adjacent Deason Cottages.
	Site entrance 4.3m wide, although gate posts are wider. From 2.0m back (not the usual 2.4m based on the low volume of passing traffic – para 7.7.7 of the Manual for Streets) the visibility splay to the left on exiting was approximately 37m to the centre of the road. To the right was approximately 23m. If the hedge was cut on both sides I estimate these splays could be approximately 78m to the right and 55m to the left (providing visibility to the bends in the road).
	Deason Cottages 3.8m wide. From 2.0m back the visibility splay to the left on exiting was approximately 45m to the centre of the road. To the right was approximately 80m.
	For a new entrance with 85%ile speed of traffic at 30mph, the required splays would be 43m. The proposal is therefore considered acceptable as while the existing splays are slightly below that expected for a new entrance, if the hedge is cut the splays are likely to be acceptable. Furthermore, the additional visibility of the entrance from passing traffic, and the lack of evidence that other nearby substandard accesses are demonstrably harmful, gives me no reason to prove that the proposal would result in an unacceptable impact on highway safety.
	The site is likely to have some caravan type access. I have no swept path analysis to consider, but considering nearby accesses, including many field accesses with not dissimilar accesses which have tractor and trailer access semi-regularly, I have no evidence to suggest that access by caravan would be significantly problematic
DCC - Development Management Highways	The proposal will result in a small number of vehicle movements using the existing agricultural access, through which there is already potential for a number of larger vehicle movements associated with the land use.
Reply Received 23 September 2024	Providing that the land remains in the use of one occupier (as proposed) and not a public gypsy and traveller site where occupiers come and go throughout the year, then there is not likely to be significantly more traffic associated with the proposed use than the current use. The access is no worse than many

Name	Comment
	nearby, including the adjacent Deason Cottages from which there is potential for more vehicles than this proposal.
	The existing access is slightly substandard in design compared to the requirements for a new access, however it is already established with an extant use. Traffic flows passing the entrance are low, commensurate with a road accessing a small rural village. The road is of single track nature, with passing places along its length.
	There are no recorded personal injury collisions on the road from the B3227 through Chittlehamholt proper to the B3226 in the past five years of available data between 1/1/2019 and 31/12/2023.
	The nearest school is 3.8 miles away at Umberleigh, which is not within walking distance.
	The pub and small village shop are the only facilities within realistic walking distance, and therefore it is unlikely that pedestrians would face an unsafe situation when carrying out day to day trips as they would be very likely to be by car. There is no realistic prospect of public transport use from the site.
	It would be in the applicant's own interest to trim the hedge back to ensure visibility from and of passing traffic.
	Recommendation: NO OBJECTION TO THE PROPOSED DEVELOPMENT
Designing Out Crime Officer	Thank you for this application, have no objections in principle to the proposed change of use.
Reply Received 29 August 2024	
Environmental Health Manager	I am writing further to your recent consultation with Environmental Health concerning a change of use of land to allow siting of one caravan as gypsy and travellers accommodation at
Reply Received 2 September	Chittlehamholt.
2024	I am satisfied that there is adequate provide for foul and surface water disposal by way of a septic tank and soakaway for surface water. There are no other environmental amenity concerns in relation to the siting of the caravan pitch in the location within the plans.
Gypsy & Traveller Liaison officer	Devon has only three local authority Gypsy/Traveller sites: Exeter; this site is a long-term residential site, leased by Elim Housing, which holds a waiting list.
Reply Received 23 August 2024	The East Devon site is managed by Elim Housing is leased by the County Council, due to the terms of the lease, the chance to offer pitches are restricted. Teignbridge; Teign Housing offers the only

Name Comment pitches for those identifying as New Travellers. No pitches are available in North Devon where the applicant resides with his family. Whilst accommodation for the settled community is increasing in the South West there is still little provision for Gypsy and Traveller families. There are no agreed/emergency or transit sites in Devon and most of the traditional stopping places have been blocked off or developed for other purposes. Due to this, it is essential for Gypsy and Traveller families to have an authorised stable base from which they may access services such as Health and Education, that the rest of us may take for granted. It also provides the security to travel for economic purpose, knowing that there is an authorised base on return. I have met with the applicant and visited the site. I can confirm that the applicant meets the planning definition of a Gypsy for the purpose of submitting a planning application as set out in the government's 'planning policy for Traveller sites'. The definition being: 'Persons of nomadic habit of life whatever their race or origin. including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such.' Tommy is from a Romany Gypsy family and has a long history of travelling for economic purpose. He has a history of living in North Devon locally and travelling nationally for economic purpose. On the birth of his daughters, Tommy has wanted a stable base from which to live in order that his daughter's education is not interrupted by being moved on from the side of the road; there is no pitch provision for him in North Devon which he could access. The only other option available to him, was to go through the private planning process. The site would be a small family site, consisting of 1 residential pitch to accommodate a residential mobile home and a space for a touring vehicle so that Tommy can still travel for economic purpose when he needs too. Tommy has communicated that the pitch wouldn't be visible from the public highway through screening, furthermore, he has been open and willing to work with the authorities to regularise this situation to a satisfactory conclusion for all involved. This application is supported.

Name	Comment
	Small private sites continue to be the best option for local planning and housing authorities in relation to accommodation for Gypsies and Travellers. Meeting this need in Devon is important if the number of unauthorised encampments and unauthorised developments are to reduce across the county; at the same time, it allows local planning authorities to fulfil their responsibility to meet the accommodation need alongside the more general housing needs for other communities in Devon.
	The County Council has a range of responsibilities in these matters; on education, health and welfare grounds this application is supported, recognising the lack of pitches available on authorised sites within Devon
Heritage & Conservation Officer	I understand that further information is to be provided. I will make a fuller consultation response once I have had the opportunity to view that information.
Reply Received 3 October 2024	
Heritage & Conservation Officer	No further observations.
Reply Received 13 November 2024	
Planning Policy Unit Reply Received 19 November 2024	Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan in the determination of a planning application, then the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The Council has an adopted Local Plan (October 2018) which has been subjected to a five year review which concluded that the policies in the plan remain up-to-date. Both the NPPF and the "Planning Policy for Traveller sites" (December 2023) are material considerations to this application.
	Paragraph 1 of Annex 1 of the PPTS defines the meaning of "gypsies and travellers" as 'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such'. Devon County Council's Traveller Liason Officer has confirmed that that the applicant meets this definition and as such local plan policies relating to traveller accommodation are applicable to this application.
	The site is in the countryside where Policy ST07(4) applies. Development is limited to that which meets local economic and

Name	Comment
- tuillo	social needs; this is an enabling policy so acceptable forms of development are those enabled to meet needs through the specific provisions of other relevant policies within the Plan, such as DM30.
	Together, policies ST20: Providing Homes for Traveller Accommodation and DM30: Sites for Traveller Accommodation set out the policy principles for traveller accommodation in the plan area.
	Policy ST20: Providing Homes for Traveller Accommodation states:
	 (1) Delivery will be pro-actively pursued to provide adequate and appropriate accommodation to meet the identified needs and demands of traveller communities in northern Devon whilst recognising their traditional and nomadic way of life and respecting the interests of the settled community. (2) During the period 2011-2031, provision to meet identified needs in northern Devon will be made to deliver: (a) at least 15 pitches for permanent traveller accommodation; and (b) at least 2 transit sites or emergency stopping places each providing for the accommodation of 4 or 5 pitches. (3) Where allocation offers the most appropriate mechanism for delivery, sites will be allocated through a Development Plan Document to provide an appropriate range of accommodation to meet the identified accommodation needs and demands of travellers across northern Devon. (4) Proposals for traveller accommodation will be supported where they will meet an identified need whilst respecting the principles of sustainable development and having regard to the interests of the settled community. (5) Existing authorised sites providing traveller accommodation will be safeguarded unless it is demonstrated that they are no longer required to meet identified need.
	Work was undertaken in 2017/18 to prepare a Traveller Site Assessment Study as the first step in preparing a separate Development Plan Document as detailed in (2)(c), however the number of identified sites considered suitable and available to meet future needs was inadequate to accommodate the number of new pitches required and the decision was taken to consider applications on case by case basis, taking into consideration both ST20 (4) and of criteria listed in policy DM30 (2)
	Paragraph 27 of the PPTS states that:" If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission[footnote 9]" The Councils' cannot currently demonstrate a five year supply of deliverable traveller sites; the current need is for 5 pitches within

Nome	Commant
Name	the next 5 years and there are no unimplemented permissions in
	the pipeline. As such, consideration needs to be given to both policy DM30(2) as well as the policies of the PPTS. When considering DM30 (2) (d) as to whether the occupants can gain reasonable access to local services, it is noted that the application
	site is located one mile from Chittlehamholt which has both a shop and a pub, although, as with any residential development within the village, occupants will need to travel further for other services such as those relating to health and education.
	Other policies which will need to be considered include ST01, ST14, ST15, DM01, DM02, DM05, DM06, DM07, DM08, DM08A.
Satterleigh & Warkleigh Parish Council	•It is essentially an application for a new dwelling in the countryside.
	•The siting of a caravan on hard standing in a field does not
Reply Received	conform to the requirements of:
11 September 2024	paragraph (c) of policy DM24 (Rural Settlements) Policy DM26 replacement Dwellings
2024	Policy DM27 re use of redundant buildings.
	Policy DM28 Rural Worker accommodation.
	•Impact on neighbouring amenity needs to be carefully considered. The applicant is already living on the site with a resulting impact.
	•North Devon Council has a shortfall in available Traveller accommodation as against the targets defined in paragraph (2) of policy ST20 however this refers to temporary accommodation and as such should not be a material consideration.
	•The applicant has provided no evidence that their need for accommodation cannot be reasonably met by any existing or planned provision. Both the applicant and several supporting comments on the application state that the applicant has been operating his business in North Devon since 2010. Their accommodation needs have clearly been successfully met in the past.
	•As there is currently no North Devon and Torridge Development Plan Document for Traveller Sites, national planning policy should be consulted with regard to the strategy regarding site location. NPPTS states:
	i.Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure

Name	Comment	
	ii.Policy D: Rural exception sites: If there is a lack of affordable land to meet local traveller needs, local planning authorities in rural areas, where viable and practical, should consider allocating and releasing sites solely for affordable traveller sites. This may include using a rural exception site policy for traveller sites that should also be used to manage applications	
	iii.Policy F: Mixed planning use traveller sites - Local planning authorities should not permit mixed use on rural exception sites	
	• Should this application be granted, this site would be a mixed-use site, comprising a tree nursery, wood storage and drying facilities, and residential accommodation. It is therefore not eligible as a rural exception site	
	Site Suitability Assessment in relation to: 1. Heritage Assets 2. Site Access & Safety 3. Residential Amenity (Impact of site and adjoining users on each other) 4. Foul drainage	
	Assessment from DCC of the applicant and whether the applicant has been or is leading a nomadic lifestyle	
	Request for conditions for hard standing to be removed and visits allowed to ensure compliance with permission.	
Satterleigh & Warkleigh Parish Council Reply Received 13 November 2024	 Traveller sites PPTS is a material consideration. Regard needs to be had as to the assessment of nomadic life. The PC should have sight of the assessment. Policy F of the PPTS applies to the mixed use. The Parish Council raise the issue of a rural exception site and mixed use as set out in the PTTS. The site being in the open countryside should be subject to greater scrutiny. Conditions dealing with use should be applied. Environmental impact: BNG report appears in accurate in the location. The site used for grazing which need high biodiversity areas, the assessment of poor pasture demonstrates a deterioration. Highway Safety: Disputes the DCC Highways Authority assessment of visibility being acceptable and the increased movements such as for the school run being at the peak times of day. 	
	Historic Environment:	

Name	Comment	
	 The Heritage assessment is not compliant with the requirements of policy DM07. The scope of the report does not extend to the setting and the surroundings. 	
	 Impact on Local Community: Due to the existing relationship any peaceful coexistence is already at risk. There are concerns over noise and disturbance that does not minimise the impact on the neighbours. There is conflict with the aims of PTTS in reducing these tensions. 	
Sustainability Officer Reply Received	No comments received	
Sustainability Officer Reply Received	No comments received	

Neighbours / Interested Parties

Comments	No Objection	Object	Petition	No. Signatures
0.0	15	35	0.0	0.0

The representations received have been split into different categories to help simplify the responses. The summary of the representations are set out below:

Objections:

Evidence of Gypsy/Traveller status:

- The basis of the application suggests a nomadic lifestyle which appears to not be the case as the site will be for dual purpose of residential and business.
- There is no evidence supporting the applicant as a member of the travelling community.
- The applicant has other housing options.
- The proposed housing does not seem fit for purpose thereby indicating it will be a second home.
- The level of permanency does not relate to a nomadic lifestyle.
- The Gypsy Liaison officer's report is factually incorrect where the number of sites is stated and there is no evidence aside from her assertion that the applicant can be regarded as of true Romany origin.
- The status or indeed any other identity should not have any bearing on a planning application; to treat one identity over another is discriminatory.
- Mr May does not appear to lead a nomadic lifestyle as his bus has not left the site for the last three years and he has been living there since he bought the land approximately three years ago.

Housing in the countryside:

- The development sets a precedent for anybody to buy a piece of land and put a Caravan or House on it
- This application constitutes a new dwelling in the countryside but is outside the nearest developed area and should, therefore, be rejected

Impact on village:

- It is unsuitable for the location and the rural setting of the villages of Chittlehamholt, Warkleigh and Satterleigh
- The installation of permanent features required to park a caravan do not seem necessary
- this development would change the character of the village.
- overcrowding and a loss of the peaceful environment that attracts residents and visitors.

Highways:

- There is already an unacceptable level of traffic in the village, and this would make it worse.
- Vehicles already speed through the village.
- The site entrance is on a lane with a maximum speed limit of 60 Mph and very limited line of site from the entrance
- The site has insufficient, safe access for the ingress/egress of a trailered caravan.
- Has there been a risk assessment on the health and safety of either the occupants or visitors where traffic is concerned?
- There is no footpath

Drainage:

- The application does not demonstrate adherence to drainage requirements.
- The proposed septic tank may well have an environmental impact on the spring and the pond
- A percolation test has not been performed

Amenity:

- The site is close to neighbouring properties.
- Impact on the adjacent neighbours with regard to noise and nuisance.
- Invasion of privacy.

Heritage Impact:

- The application is next to 4 Grade 2 Listed Cottages.
- The applicant should have to describe the significance of any heritage assets affected through a Heritage Impact Assessment.
- Newly formed and field shelters have been extended and enclosed which have changed the farming heritage landscape.
- There are two Grade II listed buildings adjacent to Mr May's land, which are surrounded by their gardens and orchards. They were once farm workers cottages, serving the adjacent farm and situated within the farmland that surrounds them. The land should still be considered within that context as part of the rural heritage of the area.

Wildlife:

 There is a healthy colony of bats and numerous raptors in the immediate area as well as other wildlife that would be affected.

Others

- changing the use of the land will mean the loss of another vital, rural area
- The said land has recently been planted as a wood and not a tree nursery with forestry restrictions.
- There is no walking route to the nearest school in Umberleigh and no school in Chittlehampton it closed last year.
- No planning has been submitted for the extensive unauthorised works on the site,
- Impact on ground water quality.
- There are no economic benefits to a residence of any kind on site

Support:

Wildlife and Biodiversity:

- The applicant is improving Biodiversity
- Local family run businesses supporting the incredible natural biodiversity of our wildlife
- minimal environmental impact

Economic Development:

- By expanding his business, Mr May will continue to contribute to the community's growth and sustainability,
- The potential to provide training/employment opportunities in the long term
- Mr May was brought up in the area and worked with his business since 2010 in the local community.
- The applicant has planted more than 3000 trees on site, with thousands more in holding. He supports other planting projects across the area

Need for Gypsy/Traveller Pitch:

This application for travellers and gypsy site is well needed here in North Devon.

Others:

 The local area needs more housing options for low income families and young people

Considerations

Proposal Description

This application seeks detailed planning permission for the change of use of land to allow siting of one caravan as gypsy and traveller's accommodation (amended plans and information).

Planning Considerations Summary

- Use of the site and history
- Compliance with Gypsy and Traveller definition.
- Principle of development

- Design
- Landscape and setting
- Amenity
- Heritage Impact
- Ecology
- Highways
- Flood Risk and Drainage
- Planning Balance
- Equality and Diversity

Planning Considerations

In the determination of a planning application Section 38 of the Planning & Compulsory Purchase Act 2004 is relevant. It states that for the purpose of any determination to be made under the planning Acts, the determination is to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for this area includes the Devon Waste Plan and North Devon and Torridge Local Plan. The relevant Policies are detailed above.

Section 16 of the Listed Building Act, in considering whether to grant listed building consent for any works the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

In considering to grant planning permission which affects a listed building or its setting the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses in accordance with Section 66 of the Listed Building Act.

The National Planning Policy Framework (NPPF) is a material consideration.

Use of the site and planning history:

The site has historically been left to grass with the fields bounded by hedgerows and trees. Some of the buildings on site already have permission from prior to the applicant's ownership and one new building has been granted prior approval for kiln drying and log storage. This is being constructed. The applicant has established a nursery/forestry business on the site and is currently growing trees and plants alongside his Tree Surgeon business.

The site has an established agricultural use. The Town and Country Planning Act 1990 states that the definition of agriculture includes:

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly;

Section 55 Town and Country Planning Act 1990 (TCPA90) defines "development", development requires planning permission. It also identifies what is not development, and includes the following:

"(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

[...]

(e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used"

The TCPA90 does not include a definition of "forestry" or "afforestation", but the Forestry Commission guidance on "Environmental Impact Assessments for woodland" (dated 28 September 2021) (the Guidance) states:

"Afforestation means conversion of a non-woodland land use, for example agriculture, into woodland or forest (these terms are used interchangeably) by means of planting, or facilitating natural regeneration (self-sowing) of trees to form woodland cover. This can include proposals for short rotation coppice (SRC) and short rotation forestry (SRF), including energy crops and Christmas tree plantations."

Paragraph (e) authorises changes of use from non-agricultural to agricultural uses: McKellan v Minister of Housing and Local Government (1966) 198 E.G. 683 (though a change back to the previous use may require planning permission).

A simple change of use from open space to the planting of trees to create woodland / forest is not therefore development and would not require planning permission. However associated activities (engineering operations, erection of buildings etc) may require permission.

Whilst this is not relevant to this application it has been included to help set the context of the recent planning history and planning status

<u>Definition and compliance with Gypsy and Traveller status</u>

For the purposes of planning policy "gypsies and travellers" are defined as:

"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such"

The Policy and Project Coordinator (Vulnerable and Travelling Communities) Officer at Devon County Council has been consulted on the application and has confirmed that the applicant is from a Romany Gypsy family and meets the planning definition of a Gypsy for the purpose of submitting a planning application as set out in the government's 'planning policy for Traveller sites'.

Whilst many of the objections to the application have raised this compliance as not being accurate, they have not seen the full assessment carried out by DCC. The LPA do not hold this information but are satisfied with DCC's consultation response and confirmation that the applicant complies with definition of a gypsy and Traveller for the purposes of planning.

Principle of development

Policies ST20 and DM30 of the North Devon & Torridge Local Plan sets out the principle for the provision of Homes for Traveller Communities. These states that:

(1) Delivery will be pro-actively pursued to provide adequate and appropriate accommodation to meet the identified needs and demands of traveller communities in

northern Devon whilst recognising their traditional and nomadic way of life and respecting the interests of the settled community.

- (2) During the period 2011-2031, provision to meet identified needs in northern Devon will be made to deliver: (a) at least 15 pitches for permanent traveller accommodation; and (b) at least 2 transit sites or emergency stopping places each providing for the accommodation of 4 or 5 pitches.
- (3) Where allocation offers the most appropriate mechanism for delivery, sites will be allocated through a Development Plan Document to provide an appropriate range of accommodation to meet the identified accommodation needs and demands of travellers across northern Devon.
- (4) Proposals for traveller accommodation will be supported where they will meet an identified need whilst respecting the principles of sustainable development and having regard to the interests of the settled community.
- (5) Existing authorised sites providing traveller accommodation will be safeguarded unless it is demonstrated that they are no longer required to meet identified need.

Policy DM30: Sites for Traveller Accommodation

- (1) Sites for traveller accommodation will be allocated within a separate North Devon and Torridge Traveller Site Allocations Development Plan Document.
- (2) Sites for traveller accommodation will be identified and planning applications will be supported, providing the sites meet all of the following criteria:
- (a) the development is commensurate and proportionate to the scale and nature of the nearest settled community;
- (b) it does not have an unacceptable landscape, visual or environmental impact;
- (c) it offers an acceptable level of amenity to prospective occupants and will have no significant detrimental impact to the amenities of neighbouring occupiers;
- (d) the site is located where occupants can gain reasonable access to local services and facilities including health and school provision;
- (e) it does not place undue pressure on local infrastructure and services:
- (f) the health and safety of occupants and visitors will not be at risk through unsafe access to the site, noise pollution or unacceptable flood risk;
- (g) adequate on-site provision is afforded for vehicle parking and manoeuvring along with appropriate storage space, ancillary facilities and residential amenity space;
- (h) the site is capable of being provided with essential services; and
- (i) the scale of employment activity is balanced to the residential component of the proposal.
- (3) Proposals seeking to deliver transit accommodation will be required to demonstrate that they offer adequate, safe and convenient access to the strategic highway network.
- (4) Proposals seeking to deliver accommodation for travelling show people will be required to offer adequate provision for the on-site storage, maintenance and testing of associated equipment.

Provision of adequate housing to meet an identified need and site delivery

- Paragraph 27 of the Policy Paper: Planning policy for traveller sites
- Paragraph 60 and 63 of the NPPF

Policy ST20 Part 1,2 and 4

The Policy Paper: <u>Planning policy for traveller sites (NPPTS)</u> document sets out the Governments Planning Policy for Traveller sites and should be read in conjunction with the NPPF.

Paragraph 27 of the Planning Policy for Traveller Sites Policy Paper states:

"If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The exception is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads)."

Paragraph 5 of the NPPF states:

"To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community.

This includes assessing housing needed for different groups in the community which includes travellers

The Planning Policy Team have identified that at the current time North Devon and Torridge are unable to demonstrate a 5-year supply of Gypsy and Traveller sites. This is confirmed by DCC who have also commented that Devon has only three local authority Gypsy/Traveller sites with no pitches available in North Devon where the applicant resides with his family. There are no agreed/emergency or transit sites in Devon and most of the traditional stopping places have been blocked off or developed for other purposes.

Due to this, DCC's view is that it is essential for Gypsy and Traveller families to have an authorised stable base from which they may access services such as Health and Education, which the rest of us may take for granted. It also provides the security to travel for economic purpose, knowing that there is an authorised base on return.

The provision of the proposed pitch would meet the identified need of the applicant and his family and would be limited on this basis to 1 pitch.

Part 4 of Policy ST20 requires development to respect the principles of sustainable development and having regard to the interests of the settled community. The site is not within the village or settlement boundary and is in the countryside. The site is however under a mile from the village which offers some amenities such as the pub and shop. The site is also not completely isolated being adjacent to the group of properties at Deason adjacent to the north boundary. There are also numerous properties that are accessed from the road in a similar manner.

The development whilst not considered to be fully sustainable in terms of location needs to be balance against the lack of current provision for meeting the current Gypsy and Traveller

needs in the district. The impact on the settled community and village will be assessed under the other planning considerations in this report.

Impact on the settled village

- Policy C of the Policy Paper: Planning policy for traveller sites
- Paragraph 60 and 63 of the NPPF
- Policy DM30 part a

Policy C Part Paragraph 14 of the NPPTS (Sites in rural areas and the countryside) states that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community. This is also a requirement of policy DM30 of the Local Plan.

The site accommodates a single gypsy family which is not disproportionate to the scale of the existing village.

The site is located 1 mile to the north of the village and access to local services is not dissimilar to that of most of the local residents. For example, there isn't a school within walking distance but there are schools that are accessible in the wider locality.

The other parts of Policy DM30 will be covered in the other relevant sections of the report.

Design

Policy DM04 (Design Principles) of the NDTLP requires development to be appropriate and sympathetic to setting in terms of scale, density, massing, height, layout appearance, fenestration, materials and relationship to buildings and landscape features in the local neighbourhood.

Currently the applicant is living on site in a coach as shown on the photos below.

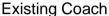


Existing Coach



Existing Coach and field







Wider field setting of Coach siting.





Any structure to be sited shall have to comply with the definitions of what makes a caravan.

This is set out in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968. Caravan' means any structure designed or adapted for human habitation which is capable of being moved from one place to another and any motor vehicle so designed or adapted composed of not more than two sections. It must also be no larger than 20m by 6.8m and with an overall height (measured internally from the floor at the lowest level to the ceiling at the highest level): 3.05m

The proposed intention is to remove the coach and station a caravan. The design and finished appearance is therefore unknown but will be a single storey structure such as a mobile home/caravan or cabin. This would be a reasonably scaled and low impact structure which is not uncommon for Gypsy/Travellers and rural workers.

Landscaping and setting:

DM08A (Landscape and Seascape Character) states that development should be of an appropriate scale, mass and design that recognises and respects landscape character of both designated and undesignated landscapes.

Part 4, Policy H (b) of the PTTS promotes opportunities for soft landscaping and enhances environmental impacts with increased openness. Limiting hard landscaping and isolating features is also encouraged.

The site is not in any designated landscape and is within the Estate Wooded Farmland Landscape Character Area. Valued landscape attributes include:

- Large specimen trees within parkland and open farmland reinforce historic character.
- Strong coherence in building styles.
- A managed, working landscape of agricultural and industrial character.
- Large areas of woodland (including ancient woodland) are important semi-natural habitats.
- A strong sense of history and culture

The site is an agricultural/forestry holding which consists of fields bounded by mature hedgerows and trees. The applicant has also planted additional trees and earth bunding. The position of the residential pitch is adjacent to a mature hedge line near to the existing buildings. There are limited wider views of the pitch due to the screening and topography. It is therefore not considered that the provision of one caravan would result in any significant harm to the character of the wider area.

Amenity

Policy DM01 (Amenity Considerations) of the NDTLP states development will be supported where it would not significantly harm the amenities of any neighbouring occupiers or uses; and the intended occupants of the proposed development would not be harmed as a result of existing or allocated uses.

The closest neighbours are:

- 1-3 Deason Cottages approximately 120m between the proposed caravan and Deason Cottages (Approximately 90m to the edge of the site boundary.
- The next closest properties are 215m and 250m away

There have been objections received relating to the impact on amenity due to noise, privacy and general disruption. The Neighbours and Parish Council have raised concerns over noise and disturbance that does not minimise the impact on the neighbours.

The Environmental health Officer has attended to the site on numerous occasions and has not produced any evidence of a statutory noise nuisance. Much of the noise and movements reported such as chainsaw activity and machinery are those that are normally associated with agricultural and forestry holdings.

There is a reasonable separation distance from the neighbours and the proposed caravan pitch. This are also by numerous hedges and trees between the caravan pitch and northern boundary which limit visibility.

The number of movements and noise generated from a residential use from one caravan is unlikely to result in any significant impact on amenity. The use would be reflective of the adjacent properties (dwelling houses and agricultural land) with similar activities.

Due to the separation distances, scale of development and the development being for a residential use the LPA does not consider there would be a significant impact on the amenity of any neighbouring properties and the development accords with Policy DM01 of the Local Plan.

Heritage Impact

To the north of the site lies Deason Cottages which are Grade II Listed buildings. Paragraph 205 of the NPPF and policy DM07 of the NDTLP states that great weight should be given to the conservation and enhancement of any heritage asset and its setting.

Deason Cottages was a former farmhouse dating from the late 16th/early 17th Century. It was converted into 3 cottages in the late 19th Century and has been subject to other alterations in mid and late C20.

Policy DM07 of the Local Plan states that all proposals affecting heritage assets should be accompanied by a Heritage Statement to enable the impact on the significant of the heritage asset and its setting to be fully considered. Following the consultation period a Heritage Impact Assessment has now been submitted.

The location and relationship between the site and Listed buildings are shown below:



Listed Building and Curtilage



Aerial Photo



View of Deason Cottages from the site



View of Deason Cottages from the field

The proposed caravan would be approximately 90m from the domestic curtilage of Deason Cottages and some 120m from the dwelling itself. The site is set three fields from the listed building, plus the neighbour's amenity areas. There are three hedges between the application site and the listed building.

The duty of the Council as a Local Planning Authority is set out in paragraph 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The duty in relation to Listed Buildings is to preserve its setting or any features of special architectural or historic interest which the building may possess.

Due to the separation distances and intervening mature hedgerows there is no visibility of Deason Cottage from the site of the proposed caravan pitch. There are some long-distance views from around the holding as shown in the photo above.

The Parish Council have raised concerns over the scope of the Heritage Assessment and comments have been sought from the Heritage Officer who has confirmed that she has no observations. It is therefore considered that there would not be any significant harm to the heritage asset and its setting.

Ecology

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017).

Paragraph 186 of the framework and policy DM08 of the NDTLP state that adverse impact on protected species should be avoided where possible and sufficient mitigation used. The wildlife trigger list does not generate the requirement for a wildlife assessment.

Since the 12th February 2024 a mandatory Biodiversity Net Gain is required unless the site is considered exempt. Due to the amount of hard standing involved in this site the LPA considered that this would be outside the scope of any de-minimus work and as such requested a BNG assessment. This has been submitted alongside the required matrix. The baseline habitat is assessed as being modified grassland and sparsely vegetated land and is of low strategic significance.

The proposed habitat in the area for BNG enhancement is 'other neutral grassland. The target condition for the proposed habitat is 'moderate', with a standard time to target condition of 10 years. An updated site plan has been submitted to include this area so it can be appropriately conditioned. The LPA is satisfied that the proposed enhancements would be sufficient to mitigate against any biodiversity harm.

It is recognised that objections have been received in relation to the works on the site and the environmental impact of this however this falls outside the scope of this application.

Highways

Policy DMO5 of the NDTLP states that all development should ensure safe and well designed vehicular access, adequate parking and protect and enhance any public rights of way, footways and other connections. There have been numerous objections raising concerns about highway safety and the impact on the road network.

The site is accessed from a previously existing gated entrance onto the lane. This measures:

- 4.3m wide, although gate posts are wider.
- From 2.0m back the visibility splay to the left on exiting was approximately 37m to the centre of the road.

To the right was approximately 23m.









Access on left side

Access on right side

The Highway Officer has visited the site and commented that during his assessment he encountered a low volume of traffic with a speed of around 30mph which is consistent for similar rural roads of this width and alignment.

Providing that the land remains in the use of one occupier (as proposed) and not a public gypsy and traveller site where occupiers come and go throughout the year, then there is not likely to be significantly more traffic associated with the proposed use than the current use.

The existing access is slightly substandard in design compared to the requirements for a new access, however it is already established with an extant use. If the hedge is cut on both sides these splays could be approximately 78m to the right and 55m to the left which would be acceptable.

The access is no worse than many nearby, including the adjacent Deason Cottages from which there is potential for more vehicles than this proposal. There is no evidence to prove that the proposal would result in an unacceptable impact on highway safety.

The nearest school is 3.8 miles away at Umberleigh, which is not within walking distance. The pub and small village shop are the only facilities within realistic walking distance, and therefore it is unlikely that pedestrians would face an unsafe situation when carrying out day to day trips as they would be very likely to be by car. There is no realistic prospect of public transport use from the site.

The applicant has submitted an amended site plan to include his hedgerows and visibility splays so these can be conditioned to be retained.

The Highway Authority have therefore not raised any objections to the development and the LPA considers there would not be significant harm to the safety and functioning of the road network.

Flood Risk and Drainage

There have been objections raised over drainage and disposal of foul sewage and waste. The site is located outside of any flood risk or Critical Drainage Area.

The Environmental Health Officer has commented that he is satisfied that there is adequate provide for foul and surface water disposal by way of a septic tank and soakaway for surface water. There are no other environmental amenity concerns in relation to the siting of the caravan pitch in the location within the plans

Others

The Parish Council have commented on policy D (Rural exception sites) and Policy F (Mixed use sites) of the PPTS. The LPA do not have any rural exceptions sites allocated for affordable traveller sites. The PPTS does clarify that mixed use sites should not be considered as a rural exception.

The use of the land has been clarified in this report but in reference to policy F part 18 it does state that LPAs should consider mixed residential, and business uses where there are no adverse impacts.

The holding has a historic agricultural use as far as the LPA is aware. The site is still being used for agricultural/forestry purposes including a nursery (permitted under an agricultural use) but the development would introduce a residential use.

The situation is not dissimilar to the siting of a rural workers dwelling associated with an agricultural/rural business. Whilst the assessment that applies to this application is different in that it is not assessing a functional need the existing use of the land is not uncommon for the district and rural areas. Even if the applicant were to move from the site the nursery and forestry use could continue on its own merits.

Planning Balance

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise

Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and the NPPTS. The LPA need to consider the existing level of provision and need for sites, availability of alternative accommodation, personal circumstances of the applicant and also local specific criteria to help applications on non-allocated land whilst considering the impact on the settled community.

The council has a significant under provision of gypsy and traveller pitches and has not currently provided any of the 15 pitches required under the Local Plan. Paragraph 27 of the Governments Planning Policy for Traveller Sites Policy Paper states: "If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of planning permission.

Policy B part 13 of the PPTS states that LPA should ensure that traveller sites are sustainable. Economically, socially and environmentally. Policy ST20 of the Local Plan also requires pitches to respect the principles of sustainable development and have regard to the interests of the settled community. The three dimensions of sustainability, and this the presumption in favour of sustainable development is set out in the NPPF and includes Economic, Social and Environmental considerations.

Economic benefits would arise from the applicant being able to carry out his existing tree surgeon business throughout the district whilst establishing further benefits through the nursery. It would not require employment for construction such as a dwellinghouse would, but the occupants would be likely to support local amenities such as the village shop, pub etc.

Social benefits would include meeting a type of housing need that is currently not provided for. Part J of the PPTS J states that LPAs should enable the provision of suitable accommodation from which travellers can access education, health, and welfare and employment infrastructure. The gypsy and traveller way of life is inherently linked to private transport however having a settled based will provide better access to medical and educational facilities.

Some case law interprets that 1 mile is near to the upper end of the scale of what could be considered a reasonable and sustainable distance from established settlements.

Environmentally the impact of development would be minimal in landscape terms and heritage terms, however mitigation exists which would reduce these impacts over time such as additional landscaping and Biodiversity Gains.

The report has demonstrated how no objections have been raised by consultees in terms of highways and traffic movements, noise or nuisance issues and Heritage impact. The impact on the settled community from one family is therefore unlikely to be significant. The site Is not in any designated landscape area, area of flood risk or critical drainage area.

The provision of one gypsy/traveller pitch would meet an identified need in the district in a location where there is no significant harm to the wider area. The site is rural but is still in close proximity to the village, similar to other properties in the vicinity. It is therefore considered that when considering the planning balance, the benefits of the development outweigh any harm.

It is therefore recommended that the application should be approved.

Conclusion

The application is considered to accord with the adopted development plan. Approval of the application is therefore recommended subject to the imposition of planning conditions

Human Rights Act 1998

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

Article 8 – Right to Respect for Private and Family Life

THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED').

The Equality Act 2010 prohibits discrimination, harassment and victimisation against persons with "protected characteristics". Race is a protected characteristic. Some Gypsy and Traveller groups are protected by the Act's prohibition against race discrimination. This includes Romany Gypsies.

The European Convention on Human Rights (included in UK law by the Human Rights Act 1988) confers rights on the settled community as well as on travellers.

Consideration has been had to the requirements of the applicant and impact on the settled community. It is considered that the planning balance carried out in this report sufficiently demonstrates that due regard has been had to the Equality Act and Human Rights.

Recommendation

Approved

Legal Agreement Required: No

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason:

The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans/details:

NDC002A Location Plan received on the 18/10/24 NDC001A Site Plan received on the 18/10/24 ('the approved plans').

Reason:

To ensure the development is carried out in accordance with the approved plans in the interests of proper planning.

3. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annexe 1: Glossary of the planning policy for traveller sites (August 2015)" or a dependant of such a person residing with him or her, or a widow or widower of such a person.

Reason:

The site lies in an area where an unrestricted caravan site would not normally be permitted unless justified for a rural worker in accordance with policies ST07 and DM28 of the North Devon and Torridge Local Plan.

4. Not more than one caravan as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended shall be stationed on the land at any time.

Reason:

To safeguard the amenities of the area and in the interests of highway safety in accordance with Policies DM01, DM04, DM05 and DM08 of the adopted North Devon Local Plan

5. Once the approved caravan is sited and first occupied on the land the residential use of the existing coach shall be ceased and the coach removed from the land.

Reason:

To ensure the site remains limited to one residential pitch at any time to protect the amenity of the neighbours and wider area in accordance with policies DM01, DM05, DM06 and DM08 of the North Devon and Torridge Local Plan.

6. The enhanced habitat specified in the approved (HMMP) shall be managed and maintained in accordance with the approved (HMMP) and monitoring reports shall be submitted to local planning authority in writing in accordance with the methodology and frequency specified in the approved (HMMP).

Reason:

To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990.

7. The visibility splays shall be retained for that purpose in accordance with the approved location plan.

Reason:

To provide adequate visibility from and of emerging vehicles and to allow for the future improvement of the road in accordance with Policy DM05 of the North Devon and Torridge Local Plan.

Informatives

1. Statement of Engagement

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission. This has included consideration of the need for the development, siting, impact on the wider area, highways impact, heritage impact, ecology impact and amenity of nearby neighbours.