



Planning Appeal Decision

Inquiry held on 25 & 26 January 2006

Site Visit held on 27 January 2006

by Lucy Drake BSc MSc MRTPI

an Inspector appointed by the First Secretary of State

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Date

0.6 MAR 2006

Appeal Ref: APP/F4410/A/05/1184850

OS Field 5566, Hall Villa Lane, Toll Bar, Doncaster, DN5 0RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Angela Smith against the decision of Doncaster Metropolitan Borough Council.
- The application, No.04/6357/P/FUL, dated 9 September 2004, was refused by notice dated 18 January 2005.
- The development proposed is the use of the land as a private gypsy caravan site for 10 plots.

Summary of Decision: The appeal is allowed and planning permission granted subject to the conditions set out in the Formal Decision below.

Procedural matters

1. Both sides accepted that the development had to be regarded as inappropriate in the Green Belt, as defined by PPG2, the Government's planning policy guidance note on Green Belts. The Council did not seek to contest the gypsy status of any of the site occupants. Prior to the start of the inquiry the Council withdrew their first and fifth reasons for refusal, concerning the effect of the adjoining Sewage Treatment Works (STW) (now dismantled) and provisions for foul drainage. At the inquiry the Council accepted that the site occupants, who are its joint owners, had control over the roadside hedge and that, subject to conditions, an adequate visibility splay could be provided and maintained. They therefore, in effect, also withdrew their 3rd reason for refusal.
2. The decision was delayed to allow the principal parties to comment on any relevant matters arising from Circular 01/2006: Planning for Gypsy and Traveller Sites, which was issued in the week after the inquiry. Neither of the main parties chose to make any further comments.

The main issues

3. The main issues in this case therefore are:
 - (a) The impact of the development on the character of the area, the openness of the Green Belt and the purposes of including land in it.
 - (b) The consequences of allowing the appeal for the Council's approach to residential development on Greenfield sites.
 - (c) The provision of and need for gypsy sites within the District.

- (d) The accommodation needs and personal circumstances of the site occupants.
- (e) Their alternative accommodation options were the appeal to be dismissed.
- (f) Whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Background

4. The appeal site lies about 300m north west of the village of Toll Bar, which itself lies just to the north of Doncaster. It is an irregularly shaped plot of about 1.3 ha, separated from surrounding fields by the former STW to the west, an access track to the south, a disused railway line to the north and Hall Villa Lane to the east. Until about 5 years ago it was in agricultural use. For a period subsequently it was used for residential purposes, without planning permission by a Mr F Connors who stationed two caravans on it, together with a shed and a hardcore access. This development was the subject of an enforcement notice in September 2002 which was unsuccessfully appealed in 2003 (Document 11). The requirements of the notice were to cease the use of the land for residential purposes and remove the residential units, the wooden shed and hardcore from the land and return the land to its previous condition.
5. It is not clear whether Mr Connors fully complied with the notice, but he vacated the site and in the summer of 2004 sold the land to a group of 10 gypsy families, which included the appellant. They cleared the site of fly-tipped materials, laid down hardcore, divided the majority into 10 plots separated by fencing and gates, erected a number of utility blocks and a stable, and over the following few months brought caravans onto the site and took up residence. At the date of the inquiry most of the plots contained caravans, but some of the families were away travelling. The corner of the site closest to the former STW is used as a paddock for grazing some of the horses belonging to James Morrison on Plot 8.
6. One member of each of the families provided a written statement (Brown Appendix 7) and four were called to give evidence. The Council did not seek to contest the evidence of any of those not called.

Planning policy

7. The development plan for the area includes the Doncaster Unitary Development Plan adopted in 1998. The Council has also referred to their LDF Core Strategy, published in December 2005 for consultation purposes. This is at a very early stage in the statutory process and I can only give it limited weight, in comparison to the adopted UDP.
8. The development is contrary to UDP Policy ENV3 (Development in the Green Belt) unless very special circumstances can be shown to exist. Paragraph 3.2 of PPG2 provides that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
9. UDP Policy PH21 lists 13 gypsy caravan sites which are identified on the Proposals Map. It says that the Council supports their retention and development and will seek to ensure a high standard of environment. PH22 says that in considering the location of further gypsy caravan sites the Borough Council will have regard to:
 - (a) the proximity to the urban area, particularly residential areas;

- (b) the impact on the countryside, agriculture, visual impact and landscaping treatments, including screening;
 - (c) the self-contained nature of the proposed development;
 - (d) the availability of public services/utilities and access to community facilities and shops;
 - (e) access arrangements;
 - (f) the relationship with other sites particularly the existing level of provision in the Borough and its take up;
 - (g) other policies of the UDP as they affect the proposed development.
10. Although the UDP was adopted in 1998, much of the supporting text to Policies PH21 and 22 reads as if it was written only just after the issuing of Circular 1/94: Gypsy Sites and Planning in January of that year. No quantitative assessment of the amount of gypsy site accommodation required in the Borough (as required by paragraph 12 of 1/94) appears ever to have been done. Certainly no such information informed the UDP. The list of sites in PH21 may have included some proposed sites when first drafted, though whether this is correct and which they were is uncertain. But all of the sites listed are known to have been in existence since at least the mid 1990s.
11. With regard to the criteria of PH22, the Council accepted at the inquiry that the development accorded with all apart from (b), and (g) in terms of Green Belt Policy. The site is well located in terms of its minimal impact on any residential property but with good accessibility to the services and facilities of Toll Bar which has historically been home to a number of gypsy families. The Council's Gypsy Liaison Officer had not received any complaints about the site occupants from the local community.
12. LDF Core Strategy Policy CS-H6 (Document 7) says that the need for additional caravan sites for Gypsies and Travellers will be assessed and kept up to date. Where possible sites will be allocated to meet any identified unmet need. Preference will be given to:
- Locations in or near settlements with access to local services
 - Brownfield sites
 - Sites which are, or can be, successfully integrated into the local landscape
 - Sites which can be readily delivered
 - Small extensions to well managed existing sites
13. The lower case text goes on to say that provided local need can be quantified and unmet need identified, additional sites will be allocated through the Housing DPD. Sites within the Green Belt are not entirely ruled out but very special circumstances would need to be demonstrated and this would need to have regard to the fact that there are extensive non-Green Belt opportunities in Doncaster.
14. Relevant national policy includes PPG2, PPS7 and Circular 01/2006: Planning for Gypsy and Traveller Sites which replaced 1/94 just after the close of the inquiry. Circular 01/2006 recognises that the advice set out in 1/94 has failed to deliver adequate sites for gypsies and travellers in many parts of England over the last 10 years. The most significant change in Government policy relates to the requirement of all local planning authorities to undertake a Gypsy & Traveller Accommodation Assessment and provide additional sites through the development plan process, to meet assessed needs, as determined in collaboration with Regional Planning Boards (RPBs). Development Plan Documents (DPDs) will be expected to identify specific sites to provide for identified needs, on the basis of criteria set out in the

Core Strategy and following community involvement. DPDs will additionally be expected to include criteria-based policies to meet unexpected demand.

Reasons for the decision

The impact of the development on the character of the area, the openness of the Green Belt and the purposes of including land in it.

15. The character of the area to the north of Toll Bar village is essentially rural, mainly in arable use with fields separated by hedges, and scattered dwellings and farms. The large house on the opposite side of the road, which is subject to an agricultural occupancy condition, is an important element in the local landscape, but I must discount the caravan and associated development at Green Meadows, directly opposite the appeal site as it is subject to enforcement action by the Council, following an unsuccessful appeal against an enforcement notice (Document 12). In the wider area there are a number of other caravan sites: on two authorised gypsy sites further south on Hall Villa Lane and at Tilts Farm, about 1km to the north, and until recently there were buildings and plant at the Sewage Treatment Works. But in essence the character of the area is agricultural and open, with very little development between Toll Bar village and Tilts Lane.
16. The development of this former field by the laying out of hard surfaces and driveways, the erection of fences, gates, stables and amenity blocks and the bringing on to the site of touring caravans, mobile homes and vehicles has undoubtedly had a substantial local impact upon the character of the area and the openness of the Green Belt. Only about a third of the site area: the triangular portion on the western side next to the former Sewage Treatment Works and a strip of land about 10m wide next to the roadside hedge, remains undeveloped.
17. The roadside hedge provides a good screen to the site when passing it, especially during the summer and autumn. But it is less effective when bereft of leaves, and at all times of the year there are views into the site from Hall Villa Lane when approaching from the north or south. It was accepted by all parties at the site visit that the very quiet road conditions I saw were typical of Hall Villa Lane. In my view the small amount of passing traffic lessens the degree of harm to the public interest in terms of its visual impact. The upper parts of caravans are visible from Tilts Lane, about 1km to the north and the A19, about 1.5km to the west, but their effect upon the openness of the general view and the character and appearance of the area is slight from these distances.
18. The visual impact could be further mitigated by additional planting on the northern and southern boundaries but this would take time to mature and the desirable use of native species would reduce this effect during the winter and spring. Native hedgerows are a characteristic of the local area and would not appear out of keeping with the local landscape. But it has to be accepted that even with additional planting the development at the appeal site will have a locally harmful effect upon the essentially rural character and appearance of the area and the openness of the Green Belt.
19. The development also represents an encroachment into the countryside. But it does not conflict with any of the other purposes of including land in Green Belts, as set out in paragraph 1.5 of PPG2.

the consequences of allowing the appeal for the Council's approach to residential development on Greenfield sites.

10. Of the two outstanding reasons for refusal, one alleges conflict with the Council's Greenfield Moratorium, adopted as supplementary to the UDP in 2002. This states a presumption against the grant of planning permission for housing development on Greenfield sites in the Borough, in the light of both the national and regional targets for housing development on brownfield sites, which Doncaster had been failing to meet, and the availability of brownfield housing sites with planning permission, sufficient to meet the RPG housing requirement for the foreseeable future. The adoption of this approach has been highly successful in substantially raising the percentage of housing development on brownfield sites in recent years.
11. An analysis of the documentation presented to me (including the Regeneration Sub-Committee Reports from September 2002 and March 2003 in the Council's Appendices) and my questioning of the Council's witness leads me to the following conclusions:
- There is no evidence that the Council's brownfield or total housing targets specifically include or address provision for gypsy caravan sites.
 - There is no evidence of any needs assessment for gypsy caravan sites being either carried out or informing an assessment of general housing need.
 - There is no mention of gypsy site provision either of the Committee Reports or any suggestion that this particular housing need played any part on the Council's consideration of the Greenfield Moratorium.
 - There is no indication that any of the identified brownfield housing sites have been assessed in terms of their potential (including their viability) for development as a gypsy caravan site.
 - The Council has carried out no systematic search for land suitable for gypsy caravan sites in at least the last 10 years and possibly longer.
 - Were planning permission refused in this case the Council could not identify any alternative brownfield housing site, or sites, where the accepted need for these residents could be met in either the short or longer term.
 - UDP Policy PH22 expresses no preference for brownfield, over greenfield, sites. Core Strategy Policy CS-H6 gives a preference to brownfield gypsy caravan sites but does not exclude the use of greenfield, or even Green Belt land. These policies are distinct and separate from those concerning housing development.
12. I find no evidence to suggest that the Council's Greenfield Moratorium was intended to apply to gypsy caravan sites. But even if it were, the absence of any identified brownfield alternatives to meet this specific type of housing need, negates its practical effect in this case. The policy approach and delivery mechanisms for new housing have long been distinct from that for gypsy caravan sites. In these circumstances allowing the appeal would have no material consequences for the Council's approach to residential development on Greenfield sites.

The provision of and need for gypsy sites within the District

23. Doncaster is believed to have the largest gypsy and traveller population in the country, estimated at between 4,000 and 6,000, although the great majority live in conventional, socially rented housing. In recent years the Borough Council has made considerable efforts to improve the way they provide services to the travelling community (Document 5). The recent Draft Gypsy and Traveller Action Plan (Document 6) proposes a multi-faceted and multi-agency approach to:
- Better involve the gypsy and traveller community in decision making processes
 - Establish baseline information and influence service provision
 - Promote inclusion and community development
 - Meet cultural needs in site provision.
24. Regrettably this commendable approach has not yet involved a quantitative analysis of gypsy and traveller accommodation needs, either in terms of whether existing 'provision' meets existing needs, or whether and to what extent it is capable of meeting future needs. A needs assessment for both short and long-stay sites is included as item 4.4 of the Draft Action Plan, but the expected timescale is described as 'Long' (on the spectrum of Immediate, Short and Long).
25. On the limited information available to the inquiry, essentially the Council's monthly caravan counts and the oral evidence given by their Gypsy Liaison Officer the following can be established:
- The Council own and run 5 caravan sites which provide accommodation for gypsies and travellers. That at Nursery Lane, Sprotborough (10 pitches) is let exclusively to New Age Travellers and the one at Gibbons Lane, Thorne (10 pitches) was closed in 2003 and has recently been re-opened as a transit site. The remaining 3 sites offer a total of 39 permanent gypsy pitches and have been fully occupied for many years.
 - Turnover at the Council sites tends to be extremely low. The vacation of 9 pitches in the last 4-5 months, for a variety of reasons, was very unusual and all were re-let within a few days. The Gypsy Liaison Officer is currently aware of 17 families with an immediate need for a pitch on a permanent Council site. That list does not include any occupant of the appeal site or individuals with an accepted need and local connections but whose behaviour or past history would make them unsuitable licensees.
 - There are 17 authorised private caravan sites in the Borough which are assumed to provide accommodation for gypsies, but it is uncertain whether any are subject to conditions restricting their occupation to gypsies only. This substantially lessens the degree to which they can be relied upon to meet gypsy needs, as much will depend upon the wishes and intentions of the owners. In the limited time available it was established that no such condition applied to Tilts Farm, Tilts Lane which according to the Great Meadows appeal decision (Document 12) has a licence for '40 spaces'; or the Hacienda, Kirkhouse Green which was granted planning permission for a 33 double pitch gypsy caravan site in 1996 (Document 13). Anecdotal evidence, not challenged by the Council suggests that no gypsies are currently living at Tilts Farm and although the site is not full the owner is no longer accepting gypsy-owned caravans. At several of the larger private sites, including Stockbridge Lane, Bentley (40 pitches) and Whitegates, Station Road, Dunscroft (25 caravans at the last count), the great majority of caravans are reported to be occupied by non-gypsies.

- 11 of the private sites are small in scale (less than 10 caravans) although their authorised capacity and whether the number of caravans stationed on them exceeds this is uncertain.
 - The evidence does not suggest spare capacity for gypsies on any authorised caravan site within the District. The Gypsy Liaison Officer is aware of regular 'doubling up' of caravans and families on both Council and private pitches, on a temporary or permanent basis.
 - The only planning application for a new private caravan gypsy site in the last five years has been at the appeal site.
 - In July 2005 there were 12 unauthorised gypsy sites in the borough containing a total of 66 caravans, all on land owned by the occupants. The appeal site contained more than any of the others, with 15 recorded just before the inquiry. In addition there were 3 unauthorised encampments, one accommodating 184 caravans attending a Christian Convention, which was a short-term event. The number of caravans on unauthorised sites, owned by their occupants, has grown steadily from 27 in July 2003 to 71 in July 2005. All but one of these (including those on the appeal site) are recorded as 'tolerated' by the Council.
26. The picture built up from these various elements is of a limited availability of permanent residential pitches for gypsies on Council-owned sites with the total number of permanent pitches reduced following the change of Gibbons Lane to a transit site and a substantial demand for any vacancies. There is a mixed picture with regard to private sites, with some of the larger ones no longer accepting gypsies and other family sites full to capacity. 'Doubling up' of caravans on pitches on authorised sites and a steady increase in the number of caravans on unauthorised sites, with no additional, authorised permanent gypsy sites provided in at least the last 5 years, or planned.
27. The Council's Gypsy Liaison Officer and his colleagues recently estimated an immediate need for between 25 and 50 additional pitches. This figure is based on their personal knowledge of need by individual families but excludes those on unauthorised sites, those doubled up on authorised sites and those travelling away from Doncaster. Setting aside any need arising from gypsies living in houses who would wish to live on a caravan site if one were available, I consider it likely that the number of authorised pitches required is considerably in excess of this estimate and that there is a substantial and growing mismatch between the provision of and need for additional gypsy sites within the Borough. This factor weighs in favour of the development.
28. Information on the situation in adjoining authorities is very limited. But from the ODFM Count figures for Yorkshire and Humberside (Document 10), Doncaster has a significantly larger public provision than any other authority, and at least 5 of the surrounding 7 authorities have no private sites recorded.

The accommodation needs and personal circumstances of the site occupants

29. The Council did not dispute the need of all the site occupants to have access to land in the Doncaster area as a base on which they can station their caravans and live in, continuing to travel seasonally. None had ever lived in a house for more than a few months (generally unsuccessfully) and almost all had been stopping on unauthorised land, occasionally occupying temporarily vacant pitches on private sites, for many years before moving onto the appeal site. They all have historic, business or family links with the Doncaster area and

are all related by birth or by marriage, travelling together or stopping in the same area during the winter. It was accepted as not essential they all lived together, or that they had to live close to Toll Bar, but they all wished to stay in the Doncaster area.

30. Until moving onto the appeal site none of the children had had more than a very small amount of schooling and it had been very difficult to obtain primary health care. Since moving on, most those of primary school age (5 out of a possible 7) have secured school places. The parents of the other two say that they are awaiting the outcome of the appeal before requesting a school place. There are 11 children of pre-school age living at the site. Without a fixed address on an authorised site, access to schooling is, in practice almost impossible. The Council's Gypsy Liaison Officer's view was that if the families had to leave the appeal site, the children would not be educated.
31. Since moving onto the site it has also been possible for the families to register with local GPs and dentists, often for the first time in their lives. Mr & Mrs Wilson (Plot 3), who are in their early 50s, were diagnosed with asthma, diabetes and high blood pressure only after registering with a GP since moving onto the site. They require regular medication and monthly checks.
32. The site occupants' need for a suitable site on which to live and from which they can have a normal family life with access to education and health care and the ability to integrate into the local community is an important consideration which has to be given considerable weight.

Their alternative accommodation options were the appeal to be dismissed.

33. Although a decision to take enforcement action requiring the site to be vacated were the appeal to be dismissed would be subject to the discretion of the Council, the fact that there is a valid enforcement notice for the site, upheld on appeal does potentially foreshorten the process. The fact also that the only other unauthorised gypsy site in the Borough where enforcement action is being pursued, in the form of an injunction, is the much smaller site on the opposite side of the road (Green Meadows, Document 12) suggests that such action is a strong probability, if only on the grounds of consistency.
34. The Council appears to be a long way off commencing a gypsy accommodation needs assessment and identifying alternative additional sites. The Planning Officer's expectation that sites would be identified as part of the Housing Policy Preferred Options paper this summer, to be incorporated in the LDF by 2007, seems to me to be unrealistic, both in the approach and timescale, given the requirement to undertake a separate needs assessment in both PPG3, s225 of the 2004 Housing Act and the new Circular.
35. About half of the Borough lies outside the Green Belt, so it may well be possible to find suitable sites elsewhere to meet identified. But as the search process has not yet started, and there is no certainty of a suitable, available, affordable and acceptable site (or sites) being found outside the Green Belt to meet the needs of the site occupants within any firm timescale, this cannot be relied upon to meet their short or even medium term needs.
36. The alternative accommodation options for the site occupants are extremely limited. Many had been looking for several years for a site to own or rent without success. Some had registered with local authorities seeking a pitch on a Council-owned site but had not secured one. Sarah Swales (Plot 1) had been living on the White Towers site at Intake, run by

Doncaster MBC, but had left because of 'trouble with people fighting', which had affected her health.

37. The 10 families had clubbed together to buy the site for £10,000. This, and improvements they had undertaken, had absorbed most of their savings. Some had borrowed the money off relatives and were still paying it back. If the appeal were dismissed and the families forced to move away, it is by no means certain that they could get their money back, and even if they could, any land with development value for any other use would be beyond their means. Their alternative accommodation options are therefore further limited by lack of financial resources.

38. Doncaster's Gypsy Liaison Officer was unaware of any suitable alternative site within the Borough, or in any other part of Yorkshire & Humberside, to accept any or all of the residents. He accepted the statement of all the residents that the only alternative to staying on the site would be a return 'to the roadside'. This would be likely to mainly involve stopping on land belonging to other people or public bodies, which would incur both enforcement costs and considerable disruption and hardship to the families involved. That land might also be in the Green Belt and may have a greater impact upon residential amenity or cause greater visual harm.

39. In the planning appeals concerning the Green Meadows site (Document 12) it was concluded that the Tilts Farm caravan site had vacant spaces and this was a material consideration leading to a dismissal of the appeal. In paragraph 52 my colleague concluded that 'if the appeals were dismissed, there is no basis for me to conclude that [Mr Smyth] would be forced into an itinerant lifestyle, to the detriment of his children's education and his daughter's health'. The current poor condition of the Tilts Farm site, the dangerous and unhealthy living conditions and the unwillingness of the owner to let pitches to gypsies was established at this inquiry and it was accepted by the Council that it was not an alternative accommodation option for the appeal site occupants.

40. The absence of any alternative, available, affordable, acceptable and suitable land to which the site occupants could move has to be afforded considerable weight in favour of the development.

Whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

41. Under the provisions of paragraph 3.1 of PPG2 inappropriate development in the Green Belt should not be approved, except in very special circumstances. Paragraph 3.2 of PPG2 provides that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

42. Inappropriate development is, by definition, harmful to the Green Belt and in undertaking the necessary balancing exercise to determine whether it is justified, substantial weight must be attached to this harm in all cases. To this must be added the harmful effect upon the essentially rural character and appearance of the local area and the openness of the Green Belt, and to the encroachment into the countryside.

43. On the other side of the balance is the unquantified, but on the basis of the limited information substantial and growing, mismatch between the provision of and need for

additional gypsy sites within the Borough; the site occupants' need for a suitable site on which to live and from which they can have a normal family life with access to education and health care and the ability to integrate into the local community; the absence of any alternative, available, affordable, acceptable and suitable land to which they could move; and the limited progress made by the Council in undertaking their responsibilities with regard to the assessment of the accommodation needs of gypsies and travellers and the identification of suitable sites.

44. Dismissal of the appeal would, in all likelihood, require the occupants to vacate the site (which has to be regarded as their home) without any certainty of suitable alternative accommodation being readily available. This would represent an interference with their home and family life which in my view outweighs the harm which has been and would continue to be caused by the development, in terms of its effect upon the public interest. Dismissal of the appeal would have a disproportionate effect upon the rights of the occupants under Art 8 of the European Convention on Human Rights. I accept that the site was established without the benefit of planning permission, and indeed in the face of an extant enforcement notice. But this was after a long period of search for suitable land and when the alternative was a continued itinerant existence depending largely on unauthorised encampments. The disproportionate consequences for the families concerned arising from a dismissal of the appeal is a substantial factor weighing in favour of the development.
45. The option of a temporary permission, perhaps for a period of 3 years was raised. This would lessen the longer term harm to the Green Belt and the character and appearance of the area, but is only justifiable where there is likely to be a material change in circumstances, in particular a realistic likelihood that suitable, affordable and acceptable alternative accommodation will become available before the end of that time. The longer the occupants remain on the site, the greater their ties to the local area, and the more children will be enrolled at local schools. This case can be distinguished from the Waldens Farm, Bromley appeal decision (Brown Appendix 8) by the time-limited nature of the children's special educational needs in that case and the vulnerable nature of the Green Belt in that part of London. I do not consider a temporary planning permission to be an appropriate response in this case.
46. In conclusion I find that the harm by reason of inappropriateness, and the additional harm to the character and appearance of the Green Belt, is clearly outweighed by the totality of the other considerations outlined above and that very special circumstances do exist, such as to justify inappropriate development in the Green Belt.

Conclusions

47. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed, subject to conditions.

Conditions

48. A draft list of standard conditions prepared by FINS for use in gypsy appeals was circulated at the inquiry and formed the basis of a discussion on the subject.
49. Notwithstanding the need for additional gypsy site provision in the area, in undertaking the Green Belt balance which led to my decision to allow the appeal, it is the weight I have attached to the needs of the individuals involved for a site in this area and their personal circumstances, including their rights under Art 8 of the ECHR, which are critical to my

conclusion that the other considerations in this case clearly outweigh the identified harm. I therefore consider it necessary to impose a condition limiting occupation of the site to the current occupants, and their dependants. I appreciate that the Council are concerned about the enforceability of such a condition, but it has commonly been imposed in other gypsy cases. If pitches are sold, or sub-let this should be evident from Council Tax records and an application for a variation of this condition could be assessed with regard to the needs of another family or individual.

50. In order to control the number of caravans on the site, and their effect upon visual amenity it was agreed that a condition limiting the number of pitches (to 10) and the number of caravans on each of them (a maximum of three caravans on each of which only one shall be a residential mobile home) was necessary. The larger number to be permitted on Plot 6 reflects the larger size of that pitch and the 3 related families living on it.
51. It was further agreed that conditions preventing any commercial activities at the site, or the stationing of vehicles over 3.5 tonnes in weight are necessary to safeguard the residential character of the site and the impact of such activities on the occupants and the surrounding area. In order to safeguard the screening value of the roadside hedge I shall impose a condition requiring its maintenance at a trimmed height of no less than 3m from ground level, as well as one requiring the maintenance of a visibility splay from the site access up to the railway bridge. Further planting can be required by the landscaping condition.
52. Finally there were several matters which it was agreed should be subject to further submitted details within a specified timescale including: foul and surface water drainage, any buildings including amenity blocks and stables, external lighting, internal layout including areas to be kept free of any development, landscaping and boundary fencing.

Formal Decision

53. I allow the appeal and grant planning permission for the use of the land as a private gypsy caravan site at OS Field 5566, Hall Villa Lane, Toll Bar, Doncaster, DN5 0RQ in accordance with the terms of the application No. 04/6357/P/FUL dated 9 September 2004, and the plans submitted therewith, subject to the following conditions:
 - 1) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Sandra Swales; Peter and/or Marina Wilson; Frank and/or Violet Gaskin; Terry and/or Helen Welch; James and/or July Smith; Susan and/or John Finner Sr; Falon and/or John Finney Jr; Luke and/or Susan Botton; Willy and/or Tina Harty; James and/or Serena Morrison; Henry and/or Becky Gaskin; Nathan and/or Angela Smith.
 - 2) When the land ceases to be occupied by those named in condition 1 above, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to the land in connection with the use shall be removed. Within 3 months of that time the land shall be restored to its condition before the use commenced.
 - 3) There shall be no more than 10 plots on the site and on each of the plots (apart from Plot 6) no more than three caravans shall be stationed at any time, of which only one caravan shall be a residential mobile home. On Plot 6 there shall be no more than 4 caravans, of which no more than 2 shall be residential mobile homes.
 - 4) No commercial activities shall take place on the land, including the storage of materials.

- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 6) No part of the roadside hedge shall be removed without the prior written consent of the local planning authority, apart any trimming necessary to maintain a visibility splay from a distance 2.4m back from the site access to the nearside parapet of the railway bridge.
- 7) All other parts of the roadside hedge shall be maintained at a height of no less than 3m from ground level at that point. Should any parts of the hedge die, or become diseased they shall be replaced with plants of the same species within the next planting season.
- 8) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme for:
 - the means of foul and surface water drainage of the site;
 - proposed and existing external lighting on the boundary of and within the site;
 - the internal layout of the site, including individual plots, hardstanding, access roads, parking and amenity areas and areas of open space;
 - tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities;
 - boundary fencing, including its colour; and
 - details of any buildings including amenity blocks, day rooms or stables existing or proposed on the site(hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
 - ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 9) At the same time as the site development scheme required by condition 8 above is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of five years of the proposed planting commencing at the completion of the final phase of implementation as required by that condition; the schedule to make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

LMDrake

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr A Masters of Counsel

He called:

Mr Nathan Smith	Occupant Plot 10 and husband of appellant
Mrs Serena Morrison	Occupant of Plot 8
Mr Peter Wilson	Occupant of Plot 2
Mrs Fallon Finney	Occupant of Plot 6
Mr Philip Brown MRTPI	Philip Brown Associates, 74 Park Road, Rugby, Warwickshire, CV21 2QX

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Barrett of Counsel

He called:

Mr Steven Plater	Gypsy Liaison Officer, DMBC
Mr Martin Graham MRTPI	Principal Planning Officer, DMBC

DOCUMENTS

- Document 1 List of persons present at the Inquiry.
- Document 2 Copy of the letter notifying local people of the inquiry and list of those notified.
- Document 3 List of additional information sought by the Inspector prior to the Inquiry.
Documents received at the Inquiry
- Document 4 Unitary Development Plan Policies PE21, PE22 and SPH6.
- Document 5 Towards a Gypsy and Traveller Strategy 2005, DMBC February 2005.
- Document 6 Draft Gypsy & Traveller Strategy Action Plan, Final Draft, 30 September 2005, DMBC.
- Document 7 DMBC LDF Core Strategy, Preferred Options, Policies CS-H6 & CS-H7, December 2005
- Document 8 Location of all authorised and unauthorised sites in DMBC containing caravans believed to be occupied by gypsies, January 2006,
- Document 9 DMBC Gypsy Caravan Counts, July 2003-January 2006.

- Document 10 ODFM Gypsy Caravan Count figures for Yorkshire and Humberside, July 2003-July 2005
- Document 11 Enforcement notice dated 30 September 2002 and appeal decision APP/F4410/C/02/1102392, dated 3 June 2003 relating to the appeal site.
- Document 12 Appeal decision APP/F4410/C/01/1057841 dated 3 December 2002 relating to Green Meadows, Hall Villa Lane, opposite this appeal site.
- Document 13 Planning permissions for Tilts Farm, Tilts Lane, Bentley, 21 September 1987, and Hotel Hacienda, Kirkhouse Green Road, Kirkhouse Green, Askern, 11 November 1996.
- Document 14 Names of all adults resident on the site and their relationship with each other.
- Document 15 Doncaster LDF Core Strategy Key Diagram, December 2005

PLANS

- Plan A Location plan
- Plan B Site plan