Appeal Decision

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 24/10/2025

Appeal reference: CAS-03390-W2G2H2

Site address: Land south of Tyn y Coed, Moss Road, Gwersyllt LL11 6HA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Ms Ann Delaney against an enforcement notice issued by Wrexham County Borough Council.
- The enforcement notice, numbered ENF/2023/0265/ENF/2024/0343, was issued on 6 March 2024.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land from an agricultural/equine use to a mixed use of agricultural/equine and a gypsy and traveller site.
- The requirements of the notice are to:
    1. Permanently cease the use of the land for residential purposes.
    2. Permanently remove the touring caravans from the land.
- The period for compliance with the requirements is 9 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.
- A hearing was held on 12 August 2025.
- A site visit was made on 12 August 2025.

Decision

1. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely without planning permission, the material change of use of the land from an agricultural/equine use to a mixed use of agricultural/equine and a gypsy and traveller site at Land south of Tyn y Coed, Moss Road, Gwersyllt LL11 6HA, as shown on the plan attached to the notice and subject to the conditions set out in the schedule of conditions to the decision.

Procedural matters

2. I wrote to the main parties (the appellant and the local planning authority (LPA) and Natural Resources Wales (NRW) on 15 July 2025. The letter was to seek clarification and

information on several topics and the submission of a Statement of Common Ground (SOCG). The main parties responded accordingly by the 29 July 2025.

3. The third iteration of the SOCG was provided on 11 August 2025. Areas of agreement between the main parties included the definition of Gypsy and Traveller, the development plan, the provision of sites and the unmet need, the availability and deliverability of alternative sites (to the extent on how the LPA intend to meet the unmet need), highway safety and suggested conditions.

4. Areas of disagreement included the impact on the openness of the green barrier, the availability of alternative sites and the time-period for compliance.

5. NRW responded to my request on 1 August 2025 indicating that it raises no objection to the development of a private treatment plant (PTP) and that this was acceptable in principle, and that this method of foul drainage could be screened out of an appropriate assessment of likely significant effects on the River Dee and Bala Lake Special Area of Conservation (SAC). This response was in the light of my request for a Section 63(3) notice under The Conservation of Habitats and Species Regulations 2017 (the Regulations).

6. The hearing discussion was carried forward onto the site and prior to closing, I indicated that I should be given a copy of the relevant Tree Preservation Order (TPO) pertaining to the appeal site. This document was provided following the hearing.

7. In the light of the appellant's misunderstanding that the TPO covered all trees on the yard area of the site and did not extend to the evergreen trees on other boundaries, I wrote to the main parties to establish whether a planning condition could be imposed that protects the evergreen trees from felling. The main parties agreed that a planning condition would be reasonable.

The EN notice and the matters arising from the submissions

8. At the hearing, it was accepted that the ground (a) appeal and the deemed application derives its terms directly from the allegation. The appellant had challenged this interpretation because as part of the refused planning permission (ref: GWE P/2023/0711) for the site, amenity buildings/dayrooms and static caravans formed part of the development. However, this was refused planning permission on 23 January 2024 and was not appealed.

9. The allegation as worded does not incorporate the amenity buildings and only seeks the removal of touring caravans. To accept these additional items to form part of the ground (a) and deemed application would extend the meaning of the statutory provisions of Sections 177(1)(a) and 174(1)(a) because it would add matters to the whole part of the breach enforced against as stated in the EN. It was evident that these additional items were not present when the EN was issued nor were they on the site during the site inspection.

10. However, as indicated in my letter dated 15 July 2025, given that the EN expressly refers to the inadequate provision of drainage in a SAC catchment (in the reasons for issuing the EN), it was accepted that the planned provision of the PTP could be considered under-ground (a), since this proposal was in direct response to the EN.

11. The appellant refers to the mis-description of the EN in relation to an equine use. Whilst it is clarified that no ground (b) was being pleaded, the appellant indicated that no commercial or recreational equine use was being undertaken, and that it was an agricultural use of the land, in line with the planning permissions for the site.

12. The planning history indicates that permission was granted in 2002 for a field shelter and touring caravan, with the caravan being permitted for a temporary basis. In 2004 an agricultural notification for a shed for use for agricultural machinery and shelter for horses and sheep was determined to require planning permission. In 2010 an agricultural building was granted permission for livestock. The appellant claims that the stable blocks were approved under this permission. The Council asserts that from 2003 some agricultural and equine uses with stables were being used and that these uses were interchangeable on the land.

13. From what I saw on site several buildings were used as stables and some for agricultural feed storage. It is probable that the equine use was undertaken since the horses were not used to farm the land. I consider that the allegation in all probability is correct, that a mixed use is undertaken on site that fluctuates in intensity and physical extent.

14. The appellant indicates that the caravan site is lawful on the appeal site. This is because the caravan which was granted planning permission by reference 21255 should have been removed on 30 June 1994 by planning condition no. 3. The breach of planning control had continued since, with one caravan being replaced by another, and the use of the caravan site in breach of the condition had persisted for more than ten years.

15. However, as indicated in the hearing, this was raised in response to the letter dated 15 July 2025, it was not raised before, and is a hidden ground (d) appeal in that no enforcement action could be taken in respect of the breach of planning control.

16. In the light of this, I indicated that evidence would need to be sought and that the hearing procedure would be inappropriate for this legal ground to be aired where evidence of fact would need to be tested under cross-examination and under oath/affirmation in an inquiry. As a result, the appellant instructed that no case was being made under-ground (d), and the statement made on this matter could be struck out of the proceedings. This matter was not considered further and the appellant indicated that the appeal proceeds under the grounds (a) and (g) as pleaded.

Planning Policy

17. The Council's decision to adopt the Wrexham County Borough Local Development Plan 2013-2028 (LDP) was quashed by the High Court on 19 May 2025. The LDP is no longer part of the development plan for Wrexham and is a non-adopted plan. The LDP had gone through an examination and was found sound. The Council has decided to ask the Welsh Government to withdraw the LDP. The EN was issued detailing relevant LDP planning policies.

18. The SOCG now list the relevant planning policies pertaining to the development enforced against. The development plan now includes Future Wales (FW) and the Wrexham Unitary Development Plan (UDP) 1996 - 2011. The UDP was adopted in 2005 and is time expired in 2011. Nevertheless, it forms part of the development plan having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004. Section 38(6) states that 'planning applications must be determined in accordance with the adopted plan, unless material considerations indicate otherwise'.

19. The relevant UDP policies cited in the SOCG are GDP1, PS1, PS2, H9 (Gypsy Caravan Sites) and EC6 (Biodiversity Conservation). Policy EC1 deals with green barriers.

20. LDP policies are relevant because they form part of the strategy constraining development. It defines the settlement boundary and areas of Green Wedge. It provides targets for defining housing requirements based on recent evidence and has undergone a plan examination. The examination found the LDP sound. LDP policies given their more

recent formation are closer in conformity to national planning policy and FW, than the UDP.

21. However, there are exceptions. LDP Policy H4 provides land allocations for Gypsy and Traveller Sites. As the LDP is unlikely to be pursued and maybe withdrawn, the allocation is unlikely to be delivered. There is no planned allocation for Gypsy and Traveller sites for the foreseeable future. The policy is of limited weight. There is no timescale at present for a replacement LDP to be produced.

22. LDP Policy H5 – Gypsy and Traveller Accommodation is a development management policy and provides guidance for proposed sites outside of planned allocations. It is in general conformity with national planning policy and can therefore be given significant weight.

23. LDP Policy SP6 – designates the appeal site as a Green Wedge. The Green Wedge seeks to protect openness of the land for the Plan period 2013-2028. The designation was identified through the Strategic Green Wedge Review (2016).

24. The policy is in conformity with Planning Policy Wales (PPW) Edition 12 and defers consideration of planning applications to the guidance contained in PPW on green wedges. I consider this policy, and the Green Wedge designation can be given significant weight in this case given the degree of conformity with PPW.

25. The UDP Green Barrier designation conferred protection up until 2011. The UDP has the status of a development plan for planning decisions. The Green Barrier has been carried over to Green Wedge for the appeal site following the Strategic Review in 2016. The Review of the Green Wedge aligned with the changes to the settlement limits is based on more recent and up-to-date evidence.

26. UDP Policy EC1 can therefore be attributed significant weight in the consideration of this appeal. The designation has been carried over under this more recent strategic review.

27. LDP Policy NE1 considers International and National Nature Conservation Designations. LDP Policy NE3 deals with trees, woodland and hedgerows. LDP Policy NE6 considers waste-water treatment and river water quality. Policy SP12 deals with design principles and master planning framework. Policy SP2 considers the location of development. Policy T1 deals with managing transport impacts and policy DM1 considers development management considerations.

Conclusions on the relevant and significant policies applicable to the deemed application

28. The policies that are of significance to the determination of the appeal are listed below. This is due to their high degree of conformity with national policy. Other policies form part of the development plan for the area and are not outdated and continue to have conformity with national policy guidance.

29. The policies which meet these criteria and are of significance in this appeal are:

FW Policy 9, and

UDP Policies GDP1, PS1, PS2, H9, EC1, EC6, and

LDP Policies H5, SP2, SP6, SP12, NE1, NE6, T1 and DM1.

The ground (a) appeal and the deemed application

30. The ground (a) and deemed application derives its terms directly from the allegation. What is sought is therefore the material change of use of the land to a mixed use of agriculture/equine and a gypsy and traveller site. As explained above the amenity buildings were not present when the EN was issued. Two touring caravans were present

amongst a range of outbuildings used for agriculture and equine uses and vehicles associated with the use. The EN does not purport to act against the outbuildings as these may have become established through the passage of time or are authorised developments.

31. The main issues are,

- whether the development is acceptable in principle having regard to relevant planning policies, unmet need and delivery of alternative sites, and
- whether the development is inappropriate development in the Green Wedge, and
- the effect on the character and appearance of the area, and
- the drainage implications of the development and its impact on the River Dee and Bala Lake SAC, and
- the effect of the development on highway safety, and
- whether there are other considerations which clearly outweigh the harm to the Green Wedge, thereby justifying it on the basis of very exceptional circumstances.

Principle of development and the Definition of Gypsies and Travellers

32. It is common ground between the parties that the appellant and her immediate family fall within the definition of Gypsies and Travellers as defined by the Welsh Government (WG) Circular 005/2018: Planning for Gypsy, Traveller and Showpeople Sites June 2018 (Circular 005/2018). Having considered the written and oral evidence at the hearing, I have no reason to dispute this stance. The legislative and policy framework relating to Gypsies and Travellers is therefore engaged.

33. The appeal site is outside the settlement boundary of the non-adopted LDP. The settlement limit abuts the appeal site and was drawn around Pension Court immediately to the east of the appeal site. It carries significant weight given the foregoing reasons on the strategic review of the settlement boundaries and the Green Wedge that underpins the evidence base in the LDP. The site is therefore considered to be located outside the defined settlement limit and LDP Policy SP2 directs new development to be located within it.

34. Similarly, the appeal site is outside the settlement limit as shown in the UDP. UDP Policy PS1 directs that new development for housing is within the settlement limit.

35. However, LDP Policy H5 indicates that gypsy and traveller sites will be supported in sustainable locations within or adjacent to existing settlement boundaries with access to local services. The policy goes on to say that if it can be demonstrated that no suitable pitches are available at such locations, sites in the countryside will be supported. The policy refers; in bringing forward sites, consideration should be given to paragraph 37 of WG Circular 005/2018. Proposals will also be assessed against Policy DM1.

36. UDP Policy H9 (Gypsy Caravan Sites) is also a relevant policy and can be given moderate weight. Policy H9 indicates that in exceptional circumstances where sites for caravans for individual gypsy families cannot be accommodated within settlement limits, consideration will be given to other proposals, subject to compliance with Policy GDP1 (Development Objectives).

37. Local Authorities are required to assess the accommodation needs of Gypsy and Traveller families and to allocate sites to meet the identified need as set out in PPW paragraph 4.2.36. The assessment of Gypsy and Traveller accommodation needs, and the duty to make provision for sites where the assessment identifies need, are statutory requirements under the Housing (Wales) Act 2014. The Council's Gypsy and Traveller

Accommodation Assessment (GTAA) 2022-2027 approved by the WG has settled on a need for 22 pitches up to 2027. These sites will not be delivered through a planned provision in the LDP under Policy H4.

38. The SOCG accepts that the Council does not have sufficient pitches to meet this unmet need within the County. The Council's submission is that the Housing Department has no current plans to provide any additional sites/pitches. The evidence indicates there is about 24 family pitches for Gypsy and Traveller sites have come forward through the submission of planning applications or are identified as unauthorised developments. This demonstrates a significant demand that is unmet.

39. The appeal site is not an allocated site, even though these no longer persist in the LDP. The principle of development must be assessed under LDP Policy H5, and to a lesser extent UDP Policy H9, given my conclusion on its moderate weight.

40. The appeal site adjoins the settlement boundary and is within walking distance of a local convenience store. The local bus stop is situated on Summerhill Road a short walk up Moss Road. Sections of Moss Road has no pavement, although this would be common to other occupants of residencies nearby, situated on this road. The appellant may have access onto Summerhill Road via a private right of way over the appellant's land, although this is currently blocked-off. The appellant asserts that this is her own land and has passage by foot to the road, but this would need to be resolved through civil proceedings. However, this matter is unresolved at present. Despite this, I consider the appeal site scores relatively highly in terms of sustainability.

41. The appellant and her children have accessed local educational and health facilities. The site location is predominantly accessed by private motor vehicles, but this does not preclude it from the consideration that it broadly meets paragraph 37 of Circular 005/2018. I consider that the appeal development's location does not conflict with LDP Policy H5.

42. LDP Policy H5 indicates that if it can be demonstrated that no suitable pitches are available at such locations (within settlements), sites in the countryside will be supported. Given the status of the planned allocations in the LDP not coming forward, the demonstrable unmet need identified in the GTAA, and the demand currently showing 24 pitches in the County either seeking authorisation or are being investigated under enforcement provisions, policy compliance in my view has been established. At the hearing, the Council accepted that there were no alternative sites available. The Council's Gypsy and Traveller Liaison Officer has visited the appeal site and has indicated that there are no sites available, and no sites would come forward within the timetable of a temporary consent. The Council accepts this finding. I therefore conclude that the appeal site is in accordance with LDP Policy H5.

43. For the reasons I have outlined in relation to LDP Policy H5, the appeal development is compliant with UDP Policy H9, since there are no sites available within settlement limits.

44. No other issues pertaining to amenity standards of the site have been made, to indicate that the principle of development is unacceptable. Residents have raised concerns in relation to noise (on-site generators), anti-social behaviour, lighting, overlooking/privacy and reported issues with rodents, waste pollution and nuisance. The Council has not raised these matters as areas of concern in the stated reasons for issuing the EN. There is no compelling evidence of demonstrable harm caused by the development. When viewed from Pension Court the appeal development is well screened by protected trees and by fencing positioned on the development side of these trees. Overlooking and privacy is not an overriding issue that would make this development unacceptable in

principle. External lighting installations can be controlled by planning condition, and this is one of the agreed conditions to be imposed.

45. Other environmental issues relating to noise and anti-social behaviour are administered by other legislative controls outside the remit of this appeal.

46. My overall conclusion is that the development is acceptable in principle.

Whether the development is inappropriate development in the Green Wedge

47. The appeal site is in the Green Wedge. The appellant initially asserted otherwise, but it was latterly accepted that the appeal site remains in the Green Wedge. LDP Policy SP6 Green Wedge indicates at paragraph 3.51 that PPW provides specific guidance on the consideration of planning applications with green wedge designations.

48. PPW paragraph 3.78 sets out that other forms of development would be inappropriate development unless they maintain the openness of the Green Belt or Green Wedge and do not conflict with the purposes of the designation. The development does not fall within any of the purposes that are classified as an exemption to the definition of inappropriate development in PPW. Therefore, provided the development maintains the openness of the Green Wedge and does not conflict with the purposes of the designation then it would be considered as not inappropriate development.

49. Openness is not specifically defined but can be inferred as the absence of urban sprawl and encroachment or intrusion on the countryside. It can be visual and spatial. To maintain openness there must be a comparable situation to the condition of the appeal site prior to the development enforced against taking place. In this instance, maintaining openness would not be achieved since there is a greater coverage of development now, than before the development took place, by virtue of the stationing of touring caravans and the movement of vehicles associated with the use.

50. Openness is not maintained, and I conclude that the development is inappropriate development in the Green Wedge. In accordance with PPW, substantial weight should be attached to any harmful impact which a development would have on the purposes of Green Belt or Green Wedge designation.

51. In LDP Policy SP6 the purposes of the Green Wedge designation are to act as buffers between settlements to prevent settlement coalescence in areas under pressure for development, assist in safeguarding the countryside from encroachment, and protect the setting for the urban area and assist in urban regeneration by encouraging the reuse of derelict and other urban land.

52. The Green Wedge lies between the urban areas of Gwersyllt and Broughton and is designed to prevent settlement coalescence working in conjunction with the settlement boundaries for these areas and to safeguard the countryside from encroachment.

53. Given my conclusion on openness not being maintained there is also additional encroachment and minor coalescence that has occurred due to the residential use of the site and the stationing of caravans on it than before the development took place. The purposes of the Green Wedge designation are not met.

54. However, the extent of the harm on openness and the purposes of the Green Wedge must be tempered by several mitigating factors. The appeal site has several established buildings on the site and have and are being used for agricultural storage and equine uses. The EN does not seek their removal being established overtime or are authorised by planning permissions. The siting of the caravans is amongst these established structures. The enclosed yard as described above is predominantly enclosed by trees. These are protected on one side by a TPO and can be further constrained by imposing an

agreed planning condition on other boundaries to control further felling. The scale of the development is modest. The development enforced against is in practice within this enclosed yard area. The activity of the site by the movement of vehicles in and out of the yard area is marginally above that of the preceding authorised use of the site.

55. In all, whilst openness is not maintained and there is slight encroachment/coalescence, impact is strictly limited on the countryside landscape due to these mitigating factors. The site does not in practice act as a buffer from coalescence of settlements as intended by LDP Policy SP6 since it is enclosed and predominantly already built on. I therefore conclude that the harm in all these respects is limited and minor in nature.

56. However, in accordance with the advice contained in PPW, harmful impacts merit substantial weight. The development is contrary to LDP Policy SP6 and PPW. The development is also contrary to UDP Policy EC1.

57. My conclusion is that the development is inappropriate development in the Green Wedge because it does not maintain openness and conflicts with the purposes of the designation.

Character and appearance

58. The appeal site is surrounded by trees having regard to the yard area of the site where the caravans have been stationed. These are protected by TPO or can be controlled by planning condition to prevent future felling. This position was accepted by the main parties in correspondence post-hearing, after establishing the extent of the TPO provisions.

59. The appeal site is not undeveloped, as there are agricultural, equine and storage buildings across the yard area where the caravans are stationed. The residential paraphernalia of the domestic use is contained within this enclosed yard area where vehicles are parked. The driveway which exists onto Moss Road is established and served the equine and agricultural use that preceded the residential use enforced against. Traffic movements would not be substantially greater than the historic use of the site.

60. The impact incurred on the character and appearance of the area by the stationing of two caravans on the enclosed yard site, as the extent of the development enforced against, is slight, due to established screening.

61. There is no significant harm caused by the development to the character and appearance of the area. I find that the development does not conflict with LDP Policies DM1 and SP12. The development accords with the character and appearance of the site, existing buildings and surrounding landscape in terms of siting, layout, scale and landscaping. Policy DM1 provides that development proposals must accord with or enhance the character of the site, in my view, this development meets the former requirement that it accords, given the context of the site as described above.

62. It follows that the development does not conflict with similarly expressed UDP Policies GDP1 and PS2.

63. In any event, the principle of development is acceptable in a countryside location, albeit located immediately adjacent to the settlement limit. This Gypsy and Traveller site by implication of compliance with LDP Policy H5 and UDP Policy H9, provides support for it, in a countryside location.

The drainage implications of the development and its impact on the River Dee and Bala Lake SAC

64. For the reasons outlined above the EN development includes a PTP to deal with foul drainage from the site.

65. NRW responded to my request on 15 July 2025 under Section 63(3) of the Regulations. NRW raised no objection to the PTP in a sewered area given the considerable difficulties

in achieving a connection to a public sewer and the appellant's detailed assessment of the issue in line with WG Circular 008/2018, '*Planning requirement in respect of the use of private sewerage in new development, incorporating septic tanks and small sewage treatment plants, July 2018*'.

66. I conclude the evidence provided in this case precludes a feasible connection to a public sewer and I concur with NRW on this matter.

67. NRW accepted that the PTP could be screened out of an appropriate assessment of likely significant effects on the River Dee and Bala Lake SAC, in response to Section 63(3) of the Regulations. I also concur with NRW that the PTP is now justified and there is no longer a pathway to the SAC via additional foul drainage loading and that the PTP is therefore unlikely to be a source of additional nutrients and or pathway for impacts.

68. The appellant has demonstrated that the daily discharge rate for the PTP is below the threshold for such developments in the catchment of the SAC, and would drain into a drainage field which is more than 40m from any surface water feature, is further than 50m from a SAC boundary and is at least 200m from any other discharge to ground in accordance with NRW published guidance. NRW is satisfied with the foregoing matters, and I would concur.

69. There is no evidence that the development would have a detrimental impact on the SAC and the water environment. NRW's advice, in my view, should be followed and I conclude that the deemed application should not be refused on this basis.

70. In my view, the development does not conflict with LDP Policies NE1 and NE6, and UDP Policy EC6.

71. The development can be screened out, and it does not impact upon qualifying features of the SAC with no likely significant effect. I am satisfied that the development alone or in combination with other projects would not have a likely significant effect on the conservation objectives of the SAC.

72. In my view, it is not necessary to undertake an Appropriate Assessment.

The effect of the development on highway safety

73. The agreed SOCG indicates that a visibility splay of 2.4m by 25m would be required in a 20mph area. This is set out in Planning Policy Wales Technical Advice Note 18: Transport Table B Annex B (TAN 18), and Manual for Streets (MfS).

74. The appellant has agreed that highway works to the junction of the access onto Moss Road could be undertaken in accordance with a scheme to be agreed with the LPA. There is no impediment for the access to be widened, access splays provided with the agreed visibility sight lines, gates to be set back and drainage to form part of the scheme. The appellant owns the land either side of the access track and notes that this can be achieved at this location.

75. The Council noted that whilst accepting the agreed visibility sight line in accordance with MfS and TAN 18 the concern is not everyone sticks to the speed restriction. However, the sight stopping distances in national advice is that which has been accepted for roads in built-up areas where the actual or design speeds are 60kmh/37mph or below.

76. At the hearing, the Council indicated that the road speed restriction will be maintained at 20mph at this location in a review of local speed limits in the area and would not be increased to 30mph. Should individual drivers exceed the speed limit then that would apply across the whole built-up area where residential accesses are prevalent, and it would not be sound to apply a different standard in this case. No compelling evidence has

been provided in the form of actual speed surveys to indicate that the location merits a different approach to the national stopping sight distance set in TAN 18 and MfS.

77. At the hearing, the appellant indicated that there was one incident of a slight accident near the MOT garage further up Moss Road recorded in 25 years. At the hearing, an interested party indicated that this is inaccurate and recalls at least three accidents in the last 10 years but acknowledges that these were not recorded on accident records.

78. However, the evidence does not indicate that the stopping sight distance should be increased above the nationally agreed requirements, and whilst there would be a slight increase in traffic associated with the residential use over the established agricultural and equine uses, I consider the agreed junction highway improvements would overcome such concerns.

79. The appeal development does not conflict with LDP Policies T1 and DM1 (criterion vi) as the appellant has accepted improvements that would mitigate any significant adverse effects upon the transport network and highway safety. Similarly, the development does not conflict with the UDP development plan Policy GDP1 (criterion d).

80. I conclude that the development does not harm highway safety.

Planning conditions

81. I have considered the suggested planning conditions within the context of the advice set out in WG Circular 016/2014: The Use of Planning Conditions for Development Management (2014) and have imposed those which meet the relevant tests, albeit with minor amendments where necessary to aid precision.

82. As discussed at the hearing suggested conditions 1 and 2 and in part number 8 in the SOCG are not needed as they do not reflect the deemed application. This is reflected in condition 2 below as to the development enforced against in the EN and what was present on site when the EN was issued. Whilst accepting this development would be a caravan site for Gypsy and Travellers, the proposed static caravans and amenity buildings are not part of the breach of planning control but may be the subject of any subsequent planning application that would vary the terms of this condition.

83. At the hearing discussion took place on whether a cessation of use of the land condition for Gypsy and Travellers and the removal of structures post occupation should be imposed. However, for the reasons outlined, the decision to allow a permanent permission is justified in this case as stated in condition 1 below, and the use of the land for a Gypsy and Traveller site on a permanent basis is necessary for the reasons expressed in the decision.

84. Broad agreement was reached in relation to conditions 3 – 5, 7 – 9, in relation to the details and timing. Condition 6 is revised to reflect the need to provide details of retained trees on the site not protected by TPO. Future management of the trees and implementation can be further considered by agreement with the LPA as and when works are needed with the standard five years for replanting to take place for trees that are diseased, dying or are damaged.

85. Full reasons for each of the planning conditions as well as relevant policy references are set out in full under each condition.

Other considerations

86. PPW states that inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm to the Green Wedge designation.

87. One such other consideration is the unmet need for Gypsy and Traveller accommodation in the area. The WG approved GTAA has settled on a need for 22 pitches up to 2027. It is accepted that these sites will not now be delivered through a planned provision in the LDP, given that the LDP will not progress. The UDP is time expired and is out of date and provides no new allocated sites for Gypsy and Traveller sites. The unmet need identified in the GTAA is a significant consideration and there is no prospect of delivery through planned provision. The only prospect is that sites will be granted planning permission, but as evidenced in this case that provides no assurance that will happen.

88. Based on the number of current planning applications and enforcement investigations that account for some 24 family pitches for Gypsy and Traveller sites, it is apparent that the actual level of need is even greater than that identified in the GTAA.

89. The Council accepts that there is a clear need for additional Gypsy and Traveller pitches within the County. The appellant and her family who comply with the definition of Gypsy and Traveller status if evicted from this site have no alternative site to go. There is no compelling evidence to contradict the appellant's submissions that they are not in genuine need of accommodation.

90. Section 103 of the Housing (Wales) Act 2014 indicates where a housing authority's approved GTAA identifies a need within its area, the authority must exercise its powers so far as may be necessary to meet those needs. By Section 56 of the Mobile Homes (Wales) Act 2013 the authority must exercise its power to provide sites for mobile homes. This is a statutory duty and is an important other consideration. Circular 005/2018 paragraph 14 aligns with Section 103. The thrust of this guidance indicates that the development plan has a key role in assisting the local housing authority to fulfil its statutory duty.

91. As the LDP is a non-adopted plan and is unlikely to be taken forward, the Council acknowledge that delivery of Gypsy and Traveler sites will not be brought forward through the plan led system. The LDP took a considerable amount of time to reach the adoption stage and has since been decided by the Courts that the adoption of it should be quashed.

92. In terms of the development plan in force, the UDP is out-of-date, and is out of kilter with the identified needs assessment in the GTAA. In relation to the provision of sites there is therefore no development plan in place that provides Gypsy and Traveller sites in the County for the foreseeable future. The production of a new development plan is likely to take several years more than a temporary planning permission could achieve (usual duration of 3 years).

93. The plan led delivery mechanism for providing suitable Gypsy and Traveller sites is not in place, and this policy vacuum will not deliver the identified unmet need and the actual level of need as summarised above. This other consideration aligns with the first consideration and is just as important.

94. The Council confirmed that there are no alternative sites available within the County. The Council's Gypsy and Traveller Liaison Officer had visited the appeal site and indicated that there are no sites available. The Council acknowledged that no sites would come forward within the timetable of a temporary consent, given the status of the development plan as summarised above.

95. There is therefore no strategy in place to deal with the Gypsies and Travellers that are in immediate need for accommodation. The appellant told the hearing that she and her family have never lived in bricks and mortar accommodation and that this never formed part of her way of life and would be counter to her ethnic and cultural background. Having

regard to this point, the appellant is unlikely to find suitable alternative accommodation should planning permission be upheld.

96. The appellant confirmed that she and her family of seven children would have nowhere to go, and they will be forced to potentially reside on the roadside and live a nomadic lifestyle. Most of the children are in local schools and have excellent attendance records and have established roots in these communities which is the first generation of this family unit to have done so. The youngest child has established a positive relationship with the local health visitor and the Traveller Education Service. The appellant and her family are registered with the local health facility. The real possibility that the appellant and her family would lose their home and would be displaced with no fixed alternative base in mind clearly engages the rights under Human Rights Act 1998 and the Equality Act 2010.

97. Nevertheless, in this case I need not delve into the personal circumstances of the appellant and her family, which are compelling and significant, as I consider that the other considerations collectively merit substantial weight and clearly outweigh the harm to the Green Wedge designation.

98. I find that the matters in favour of the development constitute the very exceptional circumstances necessary to conclude that the development would be in accord with PPW's Green Wedge policy.

99. UDP Policy EC1 does not refer to very exceptional circumstances. However, the PPW version that preceded the current version of PPW had this consideration included for decision makers. Therefore, there is no significant difference in the way UDP Policy EC1 operates to that of LDP Policy SP6. The appeal development does not therefore conflict with UDP Policy EC1.

100. LDP Policy SP6 designates the Green Wedge but defers consideration to the specific guidance contained in PPW. There would be no conflict as PPW acknowledges the need to consider very exceptional circumstances.

Overall Planning Balance and Conclusions

101. I have found that the development is acceptable in principle. There is also no significant harm caused by the development to the character and appearance of the area. There is no harm caused by the development to the River Dee and Bala Lake SAC and to highway safety.

102. I have found that the minor and limited harm to the Green Wedge, even when attributed substantial weight, is clearly outweighed by the matters in favour of the development. These matters constitute the very exceptional circumstances required to ensure compliance with Green Wedge policy. They amount to compelling reasons why permission should be granted in this instance on a permanent basis.

103. I have not examined in detail the personal circumstances and whilst these are also matters in favour of the development, I consider the other considerations listed where sufficient to clearly outweigh the harm to the Green Wedge and comprise very exceptional circumstances to justify favouring the appellant's case in this appeal. Given my conclusion that the development merits a permanent permission because the planning circumstances were unlikely to change in the short to medium term, a temporary permission would be inappropriate.

104. The appeal is therefore allowed under the ground (a) and the deemed application and the EN is quashed. Planning permission should be granted, subject to conditions, on the application deemed to have been made under Section 177(5) of the Act as amended.

Given my conclusions on the ground (a) and deemed application that the EN will be quashed, the ground (g) appeal does not fall to be considered.

105. In coming to this conclusion, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under Section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at Section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by Section 8 of the WBFG Act.

Iwan Lloyd

INSPECTOR

DOCUMENTS SUBMITTED AT THE HEARING

1. Appellant's submission on the green barrier
2. Interested party's closing submission

DOCUMENT SUBMITTED AFTER THE HEARING

3. Tree Preservation Order submitted by the Council
4. Correspondence from the appellant and the Council on a planning condition retaining existing trees

SCHEDULE OF CONDITIONS in relation to Appeal Ref CAS-03390-W2G2H2:

1) The occupation of the site shall only be by Gypsies and Travellers as defined by paragraph 2 of Welsh Government Circular 005/2018 and the resident dependants of such persons.

   Reason: In accordance with LDP Policy H5 in that the Gypsy and Traveller site is justified in this location on a permanent basis.

2) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which none shall be static caravans) shall be stationed on the site at any time. Any caravans positioned on the site shall be capable of being lawfully moved on the public highway, without division into separate parts.

   Reason: To reflect the deemed application under Section 177(5) of the Act as amended in the interests of clarifying the extent of the permission in accordance with LDP Policy H5.

3) Within three months of the date of this decision a scheme of access arrangements, junction widening, positioning of any gates, the implementation of the agreed visibility splays in either direction, surface water access junction drainage provisions, parking and manoeuvring shall have been submitted for the written approval of the local planning authority. The scheme shall include a timetable for implementation. The works shall be implemented and retained in accordance with the approved details.

   Reason: In the interests of highway safety in accordance with LDP Policies DM1 and T1.

4) Within three months of the date of this decision a foul water drainage scheme to cater for the disposal of foul water flows from the site shall have been submitted for the written approval of the local planning authority. The scheme shall include a timetable for its implementation. The works shall be implemented and retained in accordance with the approved details.

   Reason: To ensure that an adequate foul drainage scheme is installed to protect the health and amenity of residents and to ensure no detriment to the environment of the River Dee and Bala Lake SAC in accordance with LDP Policies DM1, NE1 and NE6.

5) Within six months of the date of this decision a scheme for biodiversity enhancements shall have been submitted for the written approval of the local planning authority. The scheme shall include a timetable for its implementation. The works shall be implemented and retained in accordance with the approved details.

   Reason: To ensure the development delivers net benefit to biodiversity in accordance with FW Policy 9.

6) Within three months of the date of this decision a scheme of hard and soft landscaping, showing all trees to be retained as part of the development, together with a timescale for the implementation of all landscaping works, shall be submitted to and approved in writing by the local planning authority. The landscaping of the site shall be carried out in accordance with the approved scheme and plan showing tree retention. Any trees or plants which within a period of 5 years from planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

   Reason: In the interests of the visual amenity of the area in accordance with LDP Policies DM1 and NE3.

7) Within three months of the date of this decision details of all external lighting at the site shall be submitted to and approved in writing by the local planning authority prior to installation. The details shall include the position, height, angle of lighting, illuminance level and hours of operation. All lighting shall be installed and maintained in accordance with the approved details.

   Reason: In the interests of the living conditions of nearby residents and in the interests of the visual appearance of the area in accordance with LDP Policy DM1.

8) No commercial activities shall take place on the site, including the storage of materials.

   Reason: In order to protect residential amenity in accordance with LDP Policy DM1.

9) No more than three commercial vehicles used by occupants of the site to travel to and from work shall be stationed, parked or stored on the site and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

   Reason: In order to protect residential amenity in accordance with LDP Policy DM1.