



# South Tyneside Council

**Responses to the ExA's written questions ExQ1**

**A19 / A184 Testo's Junction Improvement Project (TR010020)**

<b>1.0</b>	<b>General and Cross-topic Questions</b>
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<b>ExQ1</b>	<b>Question</b>	<b>Comments</b>
<b>1.04</b>	<p><b>Description of the Development: Certainty and Security for the Location of Lettered Works</b></p> <p>Schedule 1 of the dDCO itemises numbered works (Work No.1 to Work No.30), which are located with reference to Plot Nos. utilised on the Land Plans [AS-004], the SoR [AS-009] and the BoR [AS-011], and lettered works (a) to (p), for which locations are not clearly shown on the Land Plans. This issue was raised with the Applicant in ISH1 at Questions 56 and 57.</p> <ul style="list-style-type: none"> <li>• Are the locations of the lettered works sufficiently clearly recorded in the dDCO and the Works Plans, and if not, what if any change to the application documents is required in your view?</li> <li>• Have the effects of the lettered works been sufficiently clearly recorded and assessed in the ES, and if not, what if any additional action needs to be taken in your view?</li> <li>• Do you have any particular concerns about the location or effect of any of the lettered works? If so, please set these out in a table recording the lettered work, the location (if known), the effect(s) of concern and any particular steps that you consider ought to be taken.</li> </ul>	<p>South Tyneside Council considers that the ES and amended dDCO sufficiently covers the lettered works and that the effects have been sufficiently recorded.</p> <p>Notwithstanding this, South Tyneside Council wishes to reserve its position in this respect pending a detailed review of the Applicant's responses to those ExQ1's which are pertinent to this issue (being for example, EXQ1 1.01, 1.02 and 1.03) and which will be submitted at Deadline 2.</p>

<b>ExQ1</b>	<b>Question</b>	<b>Comments</b>
<b>1.0.5</b>	<p><b>Description of the Development: Preliminary Design Elements</b></p> <p>In describing the elements of the scheme, ES paragraph</p>	Deadline 3 for South Tyneside Council comment.

	<p>2.5.7 (referring to paragraphs 2.5.8 – 2.5.20) [APP-018] states that listed elements (gantries and signs, lighting and cabling, fencing, barriers and road surfacing) are 'based on the current preliminary design and are subject to the potential for change at the detailed design stage'.</p> <ul style="list-style-type: none"> <li>• Against each of the topic areas and each of the elements listed in these paragraphs, can the Applicant explain how flexibility in location or specification of these elements has been captured as part of the worst case assessment in the ES? The response to this question should make clear whether and if so how the 'preliminary design' has formed the basis of the assessment in the ES and hence the Rochdale Envelope.</li> <li>• Can the Applicant explain the relationship between the ES and the Engineering Drawings and Sections [APP-009]?</li> <li>• As per ExQ1.0.3, please explain the effect and benefit of the flexibility provided by the current drafting.</li> <li>• IPs, APs and the LPA are requested to consider the Applicant's response to this question and respond in a comment at Deadline 3.</li> </ul>	
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<b>ExQ1</b>	<b>Question</b>	<b>Comments</b>
<b>1.0.6</b>	<p><b>Description of the Development: Operational Maintenance</b></p> <p>Maintenance proposals are described at in the ES at section 2.15 [APP-018] although there is limited reference as to what activities could be required as part of this (foreseen or unforeseen). The dDCO articles that deal with maintenance do not clearly limit the definition to that which has been assessed in the ES.</p> <ul style="list-style-type: none"> <li>• Working from section 2.15 of the ES, the Applicant is</li> </ul>	Deadline 3 for South Tyneside Council comment.

	<p>asked to clarify the extent to which the need to maintain the proposed development has been assessed in the ES and describe the foreseeable maintenance activities that have been considered?</p> <ul style="list-style-type: none"> <li>• The Applicant is asked to comment on the need for the dDCO to limit the extent of maintenance activities to those that have been considered as part of the ES?</li> <li>• At ISH1, the Applicant referred to the general need to enable the operational management and maintenance of a highway permitted as an NSIP to be conducted in a manner broadly equivalent to (and subject to the same absence of legal constraints) as a highway that formed part of the national network prior to the inception of PA2008. With reference to this concept, the Applicant is asked to confirm whether the suite of maintenance activities assessed in the ES is broadly equivalent to those routinely carried out on a highway that formed part of the national network prior to the inception of PA2008? Would any significant activities be anticipated that have not been assessed in the ES?</li> <li>• IPs, APs and the LPAs are requested to consider the Applicant's response to this question and respond in a comment at Deadline 3.</li> </ul>	
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<b>ExQ1</b>	<b>Question</b>	<b>Comments</b>
<b>1.0.8</b>	<p><b>Mitigation: the REAC and the Environmental Masterplan</b></p> <p>Do you have any observations on the contents of or security for the Environmental Masterplan and its relationship with the REAC as a means of delivering mitigation?</p>	<p>South Tyneside Council is continuing to discuss the mitigation proposed with Highways England.</p> <p>South Tyneside Council is confident that an agreed position will be reached, and will be subsequently reflected in a Statement of Common Ground.</p>

ExQ1	Question	Comments
1.0.9	<p><b>Construction Environmental Management Plan (CEMP) and Handover Environmental Management Plan (HEMP)</b></p> <p>The Agenda for ISH1 (Table 1 to Annex E: Questions 59 and 62) identified that there is a complex relationship between the CEMP that would guide and secure delivery of the application proposal during construction and the HEMP that would apply once the application proposal became operational. This complexity also relates to the relationships between the CEMP and HEMP, the REAC [APP-030] and the Environmental Masterplan [APP-053]. Those questions address the way in which that relationship might be more clearly managed in dDCO drafting terms. The Applicant stated that the relationship to a large extent reflected established working practices between Highways England and the contractors delivering works. It undertook to explain this relationship in its post-hearing written submissions at Deadline 1. With reference to that explanation:</p> <ul style="list-style-type: none"> <li>• Are you clear about the relationship between the CEMP and the HEMP?</li> <li>• Are you satisfied with the content of these documents?</li> <li>• If not, what specific changes do you seek?</li> </ul>	<p>South Tyneside Council is continuing to discuss the interrelationships of these with Highways England.</p> <p>South Tyneside Council is confident that an agreed position will be reached, and will be subsequently reflected in a Statement of Common Ground.</p>

<b>ExQ1</b>	<b>Question</b>	<b>Comments</b>
<b>1.0.11</b>	<p><b>The applicant</b>  <b>Materials and Earthworks</b>  <i>The ES at Section 2.13 [APP-018] explains the potential use of fill material from the nearby and consented A19 / A1084 Coast Road project. Chapter 11 of the ES considers the materials balance in further detail, including cut and fill volumes. In that chapter, it is explained that the magnitude of residual impact would be slightly reduced should the A19 / A1084 Coast Road project material be suitable for re-use, but that the residual effect is not reliant on this as a mitigation measure. The data source for that conclusion is described as “[d]esign information (locations, indicative land take proposals, estimates of materials quantities, cut and fill balance) provided by Costain and Jacobs”, but there is no further statement of detail.</i></p> <ul style="list-style-type: none"> <li><i>• Can the Applicant provide a description of the earthworks required to facilitate the development, itemising the assumptions which have formed the basis of the assessment presented in the ES and the cut and fill volumes presented in ES Chapter 11, tabulating the material volumes (in terms of a range between maximum and minimum volumes) and types that could be sourced from the A19 / A1084 Coast Road project.</i></li> </ul>	<p><i>The applicant’s question opposite is shown for information purposes and given its relevance to the South Tyneside Council Deadline 3 question shown below.</i></p>
<b>1.0.11</b>	<p><b>Materials and Earthworks</b>  IPs, APs and the LPA are requested to comment on the Applicant’s response to ExQ1.0.11 at Deadline 3.</p>	<p>Deadline 3 for South Tyneside Council comment.</p>

<b>1.1.</b>	<b>Air Quality and Emissions</b>
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<b>ExQ1</b>	<b>Question</b>	<b>Comments</b>
<b>1.1.6</b>	<p><b>Air Quality Assessment and Policy: Lindisfarne Roundabout AQMA</b></p> <ul style="list-style-type: none"> <li>• Is there a local air quality plan for the Lindisfarne Roundabout Air Quality Management Area (AQMA)?</li> <li>• If so, how does the application respond to it?</li> <li>• If not, are steps in place to prepare a plan and what emerging measures might be relevant to the application?</li> <li>• Do any matters arise from the Lindisfarne Roundabout AQMA that are relevant to the implementation of the 'UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations' (July 2017)?</li> </ul>	<p>South Tyneside Council would comment as follows:</p> <ul style="list-style-type: none"> <li>• There is not a plan specific to the Lindisfarne AQMA. General measures to address Air Quality within South Tyneside are included within South Tyneside's Annual Statues Report.</li> <li>• There are no steps in place to create a specific plan for this area. This is due to attaining 3 years' worth of compliant NO2 monitoring data from our continuous monitoring data, consideration shall be given to revocation of the AQMA subject to further compliant monitoring results attained.</li> <li>• In the "UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations" (July 2017) Defra did identify the A194 as potentially exceeding the EU objective level for NO2, however the road was shown not to exceed by 2021 due to adjustments to the model, therefore no matters arise from the Lindisfarne AQMA that are relevant to the implementation of the UK plan.</li> </ul>

<b>ExQ1</b>	<b>Question</b>	<b>Comments</b>
<b>1.1.8</b>	<p><b>Air Quality Assessment</b></p> <ul style="list-style-type: none"> <li>• Are you satisfied with the data and assumptions used to inform the Air Quality Assessment in the ES [APP-018] [APP-022]?</li> </ul>	<p>Overall, South Tyneside Council is satisfied that the correct model and relevant receptors have been identified within the report. See also our response to ExQ 1.1.6.</p>

	<ul style="list-style-type: none"><li>• The LPA is asked to respond both in general terms and with reference to the specific effects of the application on the Lindisfarne Roundabout AQMA</li></ul>	
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1.2.	<b>Biodiversity, Ecology and Natural Environment</b> (including Habitats Regulations Assessment(HRA))
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ExQ1	Question	Comments
1.2.1	<p><b>West Boldon Lodge: the 'Groundworks lease land'</b>            NGET [RR-008] identifies that land surrounding the operational perimeter of its substation is leased to the Groundworks Trust and is managed to deliver natural environment benefits and for natural environment educational purposes (referred to as the 'Groundworks lease land').</p> <ul style="list-style-type: none"> <li>• NGET is requested to provide a document outlining the management actions undertaken on this land, providing a description of the habitat(s) and species present, summarising relevant habitat and species survey or monitoring data that may be available together with a description of the community or educational activities undertaken on the land (in terms of its target audience(s), typical participation and the benefits considered to be achieved).</li> <li>• Does the ES sufficiently identify the natural environmental values present on the Groundworks lease land and assess the effects of the application proposal upon these values?</li> <li>• Does the ES sufficiently identify the community and educational outcomes derived from the natural environmental values and the management actions present on the Groundworks lease land and assess the effects of the application proposal upon these outcomes?</li> <li>• Is any additional mitigation argued to be necessary to address effects on these values and outcomes and, if so, what might this be and how should it be secured?</li> </ul>	<p>South Tyneside Council have already made comments about the need to secure appropriate replacement tree planting to compensate for the loss of any TPO trees (as was verbally raised at ISH1 and then in our subsequent letter submitted at Deadline 1).</p> <p>South Tyneside Council is continuing to discuss the mitigation proposed with Highways England.</p> <p>South Tyneside Council is confident that an agreed position will be reached, and will be subsequently reflected in a Statement of Common Ground.</p>

<b>ExQ1</b>	<b>Question</b>	<b>Comments</b>
<b>1.2.2</b>	<p><b>Habitats Regulations Assessment (HRA)</b>  The Applicant has concluded in its Habitats Regulations Assessment Report ([APP-045] at paragraphs 3.1.10-11 that there are no likely significant effects on the qualifying features of any European Sites and that a Habitats Regulations Assessment / Appropriate Assessment is not required.</p> <ul style="list-style-type: none"> <li>• Do you agree with that conclusion?</li> <li>• Any IP who disagrees with that conclusion is requested to explain and evidence the basis for their position.</li> </ul>	<p>Yes, South Tyneside Council agrees with the Applicant's HRA conclusion.</p>

<b>ExQ1</b>	<b>Question</b>	<b>Comments</b>
<b>1.2.3</b>	<p><b>Protected Species Licences or Consents</b>  The ES paragraphs 1.8.6-7 [APP-018] identifies that several protected species (including European Protected Species) are present in the application site, but goes on to conclude that no works or mitigation require any type of protected species licence.</p> <ul style="list-style-type: none"> <li>• Do you agree with that conclusion?</li> <li>• Any IP who disagrees with that conclusion is requested to explain and evidence the basis for their position.</li> <li>• Has appropriate mitigation of any effects on protected species (including European Protected Species) been provided?</li> <li>• Any IP who considers that protected species mitigation is not adequate in some respect is requested to explain and evidence the basis for their position.</li> </ul>	<p>Yes, South Tyneside Council agrees with the Applicant's conclusion. It is both acknowledged and supported that Natural England are named in the dDCO as being the relevant consultee with regards to Protected Species Requirements.</p> <p>Notwithstanding the above, South Tyneside is continuing to discuss the mitigation proposed with Highways England.</p> <p>South Tyneside Council is confident that an agreed position will be reached, and will be subsequently reflected in a Statement of Common Ground.</p>

1.4.	<b>Draft Development Consent Order (DCO)</b>
	Annex D to the Rule 6 Letter dated 17 October 2017 provided notice of an Issue Specific Hearing (ISH) on the dDCO which was held on 15 November 2017 (ISH1). Table 1 to Annex E to that letter set out a schedule of issues and questions for examination at ISH1. The examination timetable provides that matters raised orally in response to that schedule are to be submitted in writing by <b>Deadline 1: Tuesday 28 November 2017</b> . Comments on any matters set out in those submissions are to be provided by <b>Deadline 2: Monday 18 December 2018</b> , which is the same as the deadline for responses to these questions. IPs who participated in ISH1 and consider that their issues have already been drawn to the ExA's attention do not need to reiterate their issues in responses to the question below. IPs are requested to review the Deadline 1 written submissions arising from ISH1 before responding to the question below. Matters set out in Deadline 1 written submissions arising from ISH1 are best responded to in Deadline 2 comments rather than in responses to the following question, which aims to capture matters that were not raised at ISH1.

ExQ1	Question	Comments
1.4.1	<p><b>Changes to the dDCO</b></p> <p>To the extent that matters that you raise in RRs or WRs but which were not discussed in ISH1 and in your view require changes to the dDCO and these are not addressed in a Statement of Common Ground that I have asked to be prepared in my Procedural Decisions of 22 November 2017, please:</p> <ul style="list-style-type: none"> <li>• identify the changes to the dDCO that you seek, referring to Articles, Requirements and any other provisions as necessary and where possible setting out your preferred drafting;</li> <li>• for each proposed change, please explain what it aims to achieve and with evidence, why the change is necessary.</li> </ul> <p>Please cross-refer your response(s) to this question to your RR, WRs and to answers to other questions in ExQ1 as necessary.</p>	<p>South Tyneside Council made representations in its response to the Rule 8 letter about three dDCO matters (and further to its oral submissions at ISH1). These were:</p> <ul style="list-style-type: none"> <li>• TPOs - Q51 [of ISH1Table 1 to Annex E].</li> <li>• Archaeology - Q70 [Ibid].</li> <li>• Highways defects liability / handover period - Q29 [Ibid].</li> </ul> <p>South Tyneside Council now notes that the Applicant has submitted drafting changes to the dDCO, as part of their various Deadline 1 submissions and we would wish to make the following comments:</p> <p><b>TPOs</b></p> <p>It would, now, appear to South Tyneside Council that the dDCO follows drafting precedent with regards to</p>

		<p>their being no duty to provide replacement planting for the loss of TPO trees.</p> <p>Notwithstanding this, we would acknowledge that the REAC includes reference to need to mitigate for the loss of TPO trees, as it is relevant to Schedule 2 and the requirements in the drafting of the dDCO.</p> <p><b>Archaeology</b></p> <p>We note that the applicant has proposed a drafting change in the amended dDCO with regards to archaeology. We are content with the change.</p> <p><b>Highways defects liability / handover period</b></p> <p>South Tyneside Council is continuing to discuss the drafting of the dDCO with Highways England about this.</p> <p><b>The dDCO more generally</b></p> <p>South Tyneside Council is confident that an agreed position will be reached, and will be subsequently reflected in a Statement of Common Ground.</p>
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<b>1.6A</b>	<b>Historic Environment</b>
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<b>ExQ1</b>	<b>Question</b>	<b>Comments</b>
<b>1.6A.1</b>	<p><b>The adequacy of the historic environment assessment in the ES</b></p> <p>HistE makes clear in its RR [RR-003] that it 'has no further comments to make on this application'. However, in reaching that conclusion, it identified that it has 'a degree of concern about the Historic Environment section of the ES...' The ExA notes that a degree of concern has been raised and needs to understand if this relates to any important and relevant matter that should be addressed in this examination.</p> <ul style="list-style-type: none"> <li>• To the extent that it feels able to do so, having regard to its general conclusion on the application proposal, HistE is invited to provide a brief summary of the basis for its expression of concern on this point and to identify why nevertheless the sources of its concern are matters that require no further action by it.</li> <li>• If HistE makes a response at <b>Deadline 2</b> which identifies that it had concerns about the characterisation of or response to the local historic environment but that these related to matters more properly within the remit of the LPA, the LPA is invited to respond at <b>Deadline 3</b>, making clear its view as to whether there are any outstanding local historic environment matters that require to be addressed.</li> </ul>	<p>Deadline 3 for South Tyneside Council comment, <u>if</u> HistE respond to Deadline 2.</p>

ExQ1	Question	Comments
1.6A.2	<p><b>The desirability of enhancing heritage assets</b></p> <p>In its RR [RR-003], HistE also expresses some disappointment that the Applicant has chosen not to follow its pre-application advice in relation to NPS policy on the desirability of enhancing heritage assets. The ExA notes that a possible instance of policy non-conformity has been raised and needs to understand if this relates to any important and relevant matter that should be addressed in this examination.</p> <ul style="list-style-type: none"> <li>• To the extent that it feels able to do so, having regard to its general conclusion on the application proposal, HistE is invited to provide a brief summary of the basis for its identification of policy concerns on this point (including whether they relate to any individual heritage assets) and to identify why these are matters that require no further action by it.</li> <li>• If HistE makes a response at <b>Deadline 2</b> which identifies that it had concerns about NPS conformity in relation to opportunities for heritage asset enhancement, but that these related to matters more properly within the remit of the LPA, the LPA is invited to respond at <b>Deadline 3</b>, making clear its view as to whether there are any outstanding enhancement opportunities that desirably ought to be addressed.</li> </ul>	<p>Deadline 3 for South Tyneside Council comment, <u>if</u> HistE respond to Deadline 2.</p>

<b>1.6.</b>	<b>Landscape and Visual</b> <i>Questions relevant to this issue are reserved to be addressed in ISH2. [Shown for information only]</i>
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<b>1.7.</b>	<b>Noise and Vibration</b> <i>Questions relevant to this issue are reserved to be addressed in ISH2. [Shown for information only]</i>
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<b>1.9.</b>	<b>Socio-economic Effects</b>
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<b>ExQ1</b>	<b>Question</b>	<b>Comments</b>
<b>1.9.5</b>	<p><b>Nearby use and development: Land on West Pastures</b></p> <p>During US12, I observed land on West Pastures Lane (shown hatched in red in the plan at Annex A to these questions) in apparent use as a residential caravan park.</p> <ul style="list-style-type: none"> <li>• The LPA is requested to advise me of the planning history and current use and development status of this land.</li> <li>• The Applicant is requested to identify whether and where the ES refers to and assesses the effects of the application proposal on the owners and occupiers of this land.</li> </ul>	<p>South Tyneside Council would comment that:</p> <p>i. The site is allocated in the South Tyneside Local Development Framework (LDF) for gypsy and traveller caravan accommodation. See the LDF Site Specific Allocations Development Plan Document (adopted April 2012), Policy SA10 A) and the related proposals map. <a href="https://www.southtyneside.gov.uk/article/36015/Local-Development-Framework">https://www.southtyneside.gov.uk/article/36015/Local-Development-Framework</a></p> <p>ii. The site is considered to be an established 11 pitch gypsy and traveller caravan site (following a number of planning decisions [including in relation to enforcement notice appeals]) and the most recent and relevant planning permission to the ExA is:</p> <p>ST/0373/13/FUL: Retrospective application to retain the use of the land on a permanent basis as a gypsy and traveller caravan site comprising 11 pitches. Construction of utility building on each pitch. It was granted, subject to conditions; on 9 December 2013. Condition 2 is relevant to the sites occupancy. This decision notice can be viewed <a href="#">here</a>.</p> <p>iii. The relevant planning history for this site is appended to this document at Appendices 1 and 2.</p> <p>iv. The pitches are addressed as:</p> <p>Sites 1 to 11 [inclusive]</p>



		West Pastures Caravan Site Newcastle Road West Boldon NE36 0BE
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**1.10.**

***Transportation and Traffic***

*Questions relevant to this issue are reserved to be addressed in ISH2. [Shown for information only]*

<b>1.11.</b>	<b>Water Environment</b>
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<b>ExQ1</b>	<b>Question</b>	<b>Comments</b>
1.11.4 1.11.5	[Intentionally blank]	<i>It would appear that <u>all</u> of the questions under section 1.11 are directed to the Applicant, but nothing was expressly noted to that effect for ExQ 1.11.4 or 1.11.5.</i>

## **Appendix 1: Relevant Planning History – Land at West Pastures**

ST/1821/05/FUL: Proposed change of use from agricultural land to transit site for travellers including erection of two amenity blocks and sites for five caravans.

Withdrawn 30 August 2005

ST/3572/05/FUL: Proposed change of use from agricultural land to transit site for travellers including erection of an amenity block for 3no caravans (Re-submission of previously withdrawn planning application, ref: ST/1821/05/FUL).

Refused 8 May 2006 – [REDACTED]

The site was moved over the weekend of the 28/29 July 2007. It was cleared of all trees, which were protected by a Tree Preservation Order, hardcore was imported and compacted, and timber fencing erected to define individual plots.

On 9 August 2007 Enforcement Notices were served on the owners/occupiers and caravans on the site. At that time there were 20 caravans on the site.

An appeal was submitted against the Enforcement Notices and this was heard at a public inquiry held on 5 March 2008.

The Inspector issued his decision on 26 March 2008. He allowed the appeal and granted a temporary permission (subject to planning conditions) to remain for 3 years, until 26 March 2011. A copy of this decision is supplied at Appendix 2.

However, the required details were not submitted within the prescribed deadline and, as a result, the temporary planning permission lapsed and a retrospective consent was submitted.

ST/1469/08/FUL : Retrospective application for the change of use from agricultural land for a temporary period, to a caravan site for gypsy and travellers and associated works comprising hard standing, fencing, utility sheds, portaloos, bin storage area and landscaping.

Granted, subject to conditions 9 October 2008 – [REDACTED]

ST/0373/13/FUL: Retrospective application to retain the use of the land on a permanent basis as a gypsy and traveller caravan site comprising 11 pitches. Construction of utility building on each pitch.

Granted, subject to conditions 9 December 2013 – [REDACTED]

## Appendix 2 – Copy of Enforcement Appeal decision(s)



### Appeal Decision

Inquiry held on 5 March 2008

by **Steven Fox BA MA MRTPI**

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.qsl.gov.uk](mailto:enquiries@pins.qsl.gov.uk)

Decision date:  
26<sup>th</sup> March 2008

**Appeals Ref: APP/A4520/C/07/2053240 -2053250**

**Land off West Pastures, Newcastle Road, West Boldon NE36 0BE**

- The appeals are made under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by [REDACTED] and [REDACTED] against an enforcement notice issued by South Tyneside Metropolitan Borough Council.
- The Council's reference is ENF/07/232.
- The notice was issued on 8 August 2007.
- The breach of planning control as alleged in the notice is the unauthorised change of use from agricultural land to caravan site, the importation of inert material to form a sub-base, the provision of hard surfaces and the erection of fencing.
- The requirements of the notice are:
  - 1) Cease the use of the land for the siting of caravans
  - 2) Remove all caravans from the land
  - 3) Remove all hard surfaces and the resultant debris from the land
  - 4) Remove all inert material from the land (i.e. building rubble, hardcore etc).
  - 5) Remove all internal fencing from the land.
- The period for compliance with the requirements is 84 days.
- The appeals were made on the grounds set out in Section 174(2)(a) (f) and (g) of the Town and Country Planning Act 1990 as amended. The ground (f) appeals were withdrawn at the inquiry.

### Decision

1. I allow the appeal, and direct that the enforcement notice be quashed. I grant planning permission on the application deemed to have been made under Section 177(5) of the Act as amended for the development already carried out, namely change of use from agricultural land to caravan site, the importation of inert material to form a sub-base, the provision of hard surfaces and the erection of fencing on land off West Pastures, Newcastle Road, West Boldon as shown on the plan attached to the notice, subject to the following conditions:
  - 1) The use hereby permitted shall be for a limited period being the period of 3 years from the date of this decision. At the end of this period the use hereby permitted shall cease, all materials and equipment brought on to the land in connection with the use shall be removed, and the land restored to its former condition.
  - 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.

- 3) There shall be no more than 11 pitches on the site and on 9 of those pitches no more than 2 caravans shall be stationed at any time, of which only one caravan shall be a residential mobile home. On 2 pitches no more than 4 caravans shall be stationed at any time, of which only 2 caravans shall be residential mobile homes.
- 4) Any caravans positioned on the site shall be capable of being towed on the public highway, in accordance with the relevant Highways Act legislation, without division into separate parts.
- 5) No commercial activities shall take place on the land, including the storage of materials, and no vehicle over 3.5 tonnes shall be stationed, parked or stored.
- 6) The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within two months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-
  - i) within 2 months of the date of this decision a scheme for the layout of the site (including details of plot boundaries, arrangements for the surface and foul drainage, refuse disposal, recreational open space, external lighting and the siting and design of utility buildings and sheds) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
  - ii) within 11 months of the date of this decision the 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 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.

#### **The Ground (a) Appeal**

2. The planning policy framework for this appeal comprises the emerging Regional Spatial Strategy for the North East (RSS), policies of the adopted South Tyneside Unitary Development Plan (UDP) that have been saved by direction under Schedule 8 to the 2004 Act, and the South Tyneside Local Development Framework (LDF) Core Strategy. Also relevant is central government guidance on the control of development in the Green Belt set out in Planning Policy Guidance note 2 (PPG2) and advice in Circular 1/2006, Planning for Gypsy and Traveller Caravan Sites.
3. The emerging RSS supports continuing measures to safeguard the Green Belt and says that specific consideration should be given through the LDF to the special needs of the gypsy and travelling community. Proposed changes to the draft submission incorporate the findings of the regional assessment of gypsy and traveller needs undertaken for the North East Assembly in 2006/7. This estimates a current requirement for 49 pitches in the region, with two being in

North and South Tyneside. The RSS is subject to further consultation, so the guidance set out in the current draft could change. This reduces the weight I can attach to the document. Core Strategy policy SC5 sets out a criteria-based approach to promoting and providing sites for gypsies and travellers where there is a genuine and proven need and demand. As far as the UDP is concerned its policies reflect national advice in PPG2 concerning the control of development in the Green Belt. Policy H9 relates specifically to gypsy caravan sites and says that planning permission will be granted if certain criteria are met, one of which is that the proposed site is not in the Green Belt. Access and transport issues are dealt with in policy T2, which requires that development is satisfactorily served by the existing transportation infrastructure and safe arrangements are made for access. Sustainable development is encouraged by policy ENV3 which has specific objectives of making the most efficient use of the existing settlement pattern and reducing the need to travel.

4. At the opening of the appeal the appellants confirmed that a permanent consent is not being sought. Because of uncertainties relating to site provision and the absence of alternative sites it was argued that a temporary permission of two or three years is justified. There is no dispute between the parties firstly that the appeal development is inappropriate in Green Belt terms and, secondly, that the appellants fall within the definition of gypsies and travellers for the purposes of Circular 01/2006. With this in mind and from what I have seen, read and heard I consider the main issue to be whether the harm caused to the Green Belt through inappropriateness and any other harm relating to the visual impact of the development, highway safety and sustainability is clearly outweighed by other considerations including the need for and provision of gypsy caravan sites and the personal circumstances of the appellants, and that there are the very special circumstances necessary to justify the development. In addition, if a permanent consent is not justified, I shall consider whether the particular circumstances regarding provision of sites for gypsies in this area warrants the grant of a temporary permission.
5. The site lies in open countryside on the west side of West Pastures, a narrow country lane that runs southwards from its junction with the A184. The majority of the site is surfaced with hardcore and road scrapings. Off the access track running along the northern boundary a number of plots are demarked by post and rail and post and timber panelled fencing. With the exception of the westernmost part of the site these plots are occupied by touring caravans.
6. Having viewed the site from a number of points along West Pastures, the A184 and a footpath which runs to the west I consider that not only does the presence of caravans and associated operational development detract from the openness of the Green Belt it also causes significant harm to the character and appearance of this rural area. The caravans, which are predominantly lightly coloured, stand out as prominent alien features in an open landscape comprising fields separated by hedgerows. Whilst there is a limited amount of boundary screening from hedges, mounds, and piles of trees that have been uprooted and stacked, the caravans, fencing, vehicles and structures on the site seriously detract from the open appearance and rural character of the

- area. Consequently the development conflicts with UDP and Core Strategy policies which seek to protect the Green Belt and the countryside generally.
7. At the point where it is joined by West Pastures the A184 is a two lane dual carriageway separated by a central reservation. For westbound vehicles entering and leaving the junction there are deceleration and acceleration lanes and at the mouth there is room for two vehicles to pass safely. Visibility to the right is good and westbound drivers are able to join the main road safely without disrupting traffic flows. However, having driven into and out of the junction I share the Council's particular concern about the potential dangers of vehicles turning right from West Pastures. This manoeuvre involves crossing the westbound carriageway and pausing in the central reservation before joining eastbound traffic. From the central reservation visibility to the left is below the optimum requirement and with the average traffic speed measured at 63.9mph it is likely that a significant proportion of vehicles are travelling at or near the national 70mph speed limit. I found this turning manoeuvre to be difficult in that it was necessary to accelerate quickly when joining the main carriageway in order to avoid following vehicles having to slow down. Factors affecting this are the visibility available and the speed of approaching traffic.
  8. I appreciate that the junction is already used by traffic unrelated to the appeal site, including farm vehicles. But bearing in mind the evidence that the majority of trips from the site to work, school, shops and other facilities are by car the 11 plots (some occupied by more than one family) would generate a not insignificant amount of extra turning movements. Also taking into account that many of the families continue their travelling lifestyle it is inevitable that some movements will involve vehicles towing caravans. My conclusion is that the traffic generated from the appeal site would increase potential highway dangers, particularly from right turning manoeuvres, and thereby conflict with UDP policy T2.
  9. Central government advice and policies in the Council's Core Strategy and UDP direct development towards sustainable locations to achieve a reduction in car journeys and unsustainable travelling generally. The appeal site is poorly located in terms of access to public transport. Bus services run on the A184 but in order to reach the bus stops it is necessary to walk along the highway verge and/or cross the busy road. Boldon's local centre is some 2.3 km away, beyond what I would consider to be a reasonable walking distance particularly as the route involves crossing the main road or walking on the highway verge. I was told that most journeys from the site are made by car, although car sharing takes place on a regular basis. The journeys concerned (to school, shops or work) may be relatively short but the remote location of the site away from settlements and without convenient and safe access to public transport makes this an unsustainable location that conflicts with the above-mentioned policies and advice.
  10. I now turn to the considerations raised by the appellants in support of their appeals.
  11. The position regarding the assessment of need for sites for gypsies and travellers is that the 2006 North East Regional Assembly Gypsy and Traveller Accommodation Assessment (GTAA) indicates a current under-provision for North and South Tyneside of two pitches and does not identify a need for



further sites in the period to 2025. This study recognises that more locally based research is likely to yield more useful results. The appellants express doubts about the veracity of this regional assessment, pointing to the 2007 County Durham GTAA as a more robust exercise that exposed the shortcomings of the regional study. I have some sympathy with this view in that the Durham assessment looks at the needs of the whole gypsy and traveller population, including interviews with those living on both authorised and unauthorised encampments and in housing, and also building in a demand from family formation.

12. The five Tyne and Wear councils commissioned a GTAA which began in January 2008, with a publication date of August 2008. The results will inform individual local development documents. South Tyneside Council anticipates that should the need for a site or sites be established provision would either be made through the Site Specific DPD (expected in March 2011), or by identifying a preferred site and taking it through the planning process. This alternative could lead to provision being made during 2009/10. So there is uncertainty at present as to the need for sites and the level of that need.
13. There are no authorised sites in the Borough and the Council says that historically there has not been a significant problem with unauthorised encampments. The bi-annual counts show incidences of unauthorised encampment, and the appellants refer to a 2006 committee report that says there have been 20 such encampments since 2003. The presence of a not-insignificant number of gypsy families on the appeal site is also an indication of need, particularly as most have long-standing connections with the locality and have regularly stopped in the Gateshead and South Tyneside areas. It seems to me not unreasonable to expect that the ongoing GTAA could well identify a need for site provision in South Tyneside. How and where this need will be met is a matter for the Council through either of the avenues mentioned above. But in light of the November 2007 report on site investigations that was triggered by the current appeals it seems highly likely that, as two possible sites were identified within the urban area at Hebburn, it will not be necessary to look to the Green Belt for future sites. Therefore I do not accept the argument that it would not be practicable to identify and bring forward sites other than in locations outside settlements.
14. It is incontrovertible that a settled base will bring significant benefits for the health and general wellbeing of families whose only realistic alternative appears to be resorting to the roadside or other unauthorised encampments. As I see it the main benefit is for the children to have a stable educational environment where regular attendance and progression through the system becomes possible. In the case of the families at the appeal site eight children attend St Winifred's Roman Catholic Primary School at Gateshead and others who could not gain places there attend school at Boldon. The advantages of a settled education are endorsed by the head teacher.
15. With a settled base it is also possible to register with local GPs and thereby gain access to a range of health care services. This has undoubted benefits, particularly for the health and welfare of children. Evidence was submitted that three of the occupiers of the site have particular health care needs. Their conditions require access to hospital services at Durham and Newcastle, which, I accept, could be gained from many locations in the region. However, in the

event of the appeal being dismissed the evidence is that the site occupiers could not be accommodated on an authorised site in the region as all are full with waiting lists. The only realistic short-term prospect appears to be a return to the roadside, with all the problems, uncertainties and stress that would bring, especially for those already in poor health.

16. In summary I conclude that retention of this development would not only harm the Green Belt through inappropriateness, but would also seriously detract from the character and appearance of the area, compromise highway safety and conflict with development plan objectives of achieving sustainable forms of development. Against this must be weighed evidence of a likely need for the provision of pitches for gypsies and travellers in this area, albeit the level of need has not been established with any certainty. In addition, there are not-insignificant benefits, particularly through access to education and health facilities, arising from the occupiers of the site having a settled base. Dismissal of these appeals would force the families back on the road or onto unauthorised encampments, a situation that would undo the benefits of a settled lifestyle. I attach substantial weight to the harm to the Green Belt by reason of inappropriateness. To this is added the significant harm to the character and appearance of the area, highways safety, the failure to meet sustainability objectives and the resulting conflict with development plan policies. Even taking in to account all the other relevant considerations raised by the appellants I find that they do not clearly outweigh the identified harm. The very special circumstances needed to support the grant of a permanent planning permission do not exist in this case.
17. Mindful of the advice in paragraphs 45 and 46 of Circular 01/2006 I have considered whether the circumstances of this case warrant the grant of a temporary permission, as sought by the appellants. Following the on-going GTAA the Council will have a realistic indication of current and future site needs and be able to make an informed judgment as to provision. Paragraph 46 of the Circular advises that substantial weight attaches to unmet need when considering justification for a temporary planning permission. Whether any required sites are provided through a selection and planning application process or as part of the LDD exercise current uncertainties about the need for and location of any site provision will be resolved within an identifiable timescale. Whilst retention of this development would perpetuate the harm identified above that harm would be limited by a temporary permission. Taking an objective view of all relevant factors, in particular the strong indications that planning circumstances relating to the provision of gypsy sites will have changed at the end of a three year period and the implications for the families if they have to comply with the notice, I consider that the very special circumstances necessary to justify the grant of planning permission for a temporary period do exist. Therefore I shall allow the appeals and grant planning permission subject to conditions.
18. A number of possible planning conditions were put forward and discussed in detail at the inquiry. Temporary permission is justified by the uncertain situation concerning the need for and provision of gypsy sites in the Borough therefore it is appropriate to ensure by condition that occupation of the site is restricted to people falling within the Circular 01/2006 definition. In these circumstances it is not necessary to further restrict occupation to named

occupiers. Conditions relating to the number of pitches and caravans reflect the current situation and would prevent unacceptable intensification. The prohibition of commercial activity is necessary in order to maintain the residential character of the site. Whilst in the case of a temporary permission it would be unreasonable to impose conditions requiring extensive works and capital investment, a number of measures are appropriate in order to regularise the layout of the site, ensure satisfactory drainage and control any structures on the land. Therefore a condition requiring the submission and implementation of a scheme for the site layout is justified in this case.

19. I have taken into account all other matters raised but find nothing to alter my conclusion that a temporary planning permission should be granted subject to conditions as outlined above. Therefore the ground (a) appeals succeed and there is no need to consider the ground (g) appeals.

*Steven Fox*

Inspector