



Appeal Decision

Inquiry Held between 31 July and 2 August 2018

Site visit made on 2 August 2018

by Mark Dakeyne BA (Hons) MRTPI

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

Decision date: 21 August 2018

Appeal Ref: APP/J0405/W/18/3193773

Oakview Park, Murcott Road, Arncott, Bicester, Bucks OX5 2RH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J Maloney and others against the decision of Aylesbury Vale District Council.
 - The application Ref 16/03442/APP, dated 12 September 2016, was refused by notice dated 31 August 2017.
 - The development proposed is use of land as a residential caravan site for 19 gypsy families, including access road, hardstandings and boundary walls/fencing.
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Decision

1. The appeal is allowed and planning permission is granted for use of land as a residential caravan site for 19 gypsy families, including access road, hardstandings and boundary walls/fencing at Oakview Park, Murcott Road, Arncott, Bicester, Bucks OX5 2RH in accordance with the terms of the application, Ref 16/03442/APP, dated 12 September 2016, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr J Maloney and others against Aylesbury Vale District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appeal site is already in use as a residential caravan site. Walls and fencing divide the 19 pitches and delineate the central access road. Most of the pitches were occupied when I visited the site.
4. A Statement of Common Ground dated 19 June 2018 between the appellants and the Council sets out the matters of agreement and disagreement. However, the appellants indicated that they were not seeking a planning permission limited by condition to particular occupants. In this respect it was agreed between the main parties at the inquiry that whether the existing site occupants satisfied the definition of gypsies and travellers in the annex to Planning Policy for Traveller Sites August 2015 (PPTS) ('the planning definition') would not be issue which would be determinative for the appeal.

5. The new National Planning Policy Framework (the Framework) was published a few days before the inquiry. The main parties had regard to its contents in presenting their evidence and I have taken it into account in my decision.

Main Issues

Having regard to the above the main issues are:

- (1) the effect on the character and appearance of the area;
- (2) whether the traveller site is sustainable taking into account local and national policies; and,
- (3) the provision of and need for traveller sites in the area.

Reasons

Character and appearance

6. The appeal site lies within an area of open countryside to the south of Arccott and to the north of the M40. Level and gently sloping medium sized fields with hedgerow boundaries is the predominant landscape feature. The regimented and relatively tight layout of pitches and hard landscaping on the appeal site are not in character with the surrounding historic field pattern. However, the rural landscape and tranquillity has already been disrupted to an extent by the M40 carving through the countryside, the Ministry of Defence (MoD) bases and activities in and around Arccott and the moto-cross circuit between the site and the village.
7. The Aylesbury Vale Landscape Character Assessment (LCA) shows the appeal site as lying within the Panshill Vale Landscape Character Type. The LCA carried out in 2008 recognised that the M40, pylons and development on the edge of Arccott were visually intrusive. The LCA's summary of the landscape's condition as poor and its sensitivity as moderate is still relevant. In this context the development causes some further harm to the landscape character.
8. In terms of visual impact the site is not readily seen in longer distance views because of the barrier of the M40 to the south, the buildings in and around Arccott to the north, the belt of woodland to the east and the network of field boundaries to the west. With regard to medium distance views the caravans and mobile homes on the site are most obvious when seen from the southern approach along Murcott Road including at the site entrances to New Park Farm and Four Winds Farm. The upper parts of the structures are visible on the slightly rising ground above the intervening vegetation. Similar private views can be obtained from the drive and first floor bedrooms to New Park Farm although the most prominent caravans seen from the house appeared to be those on a triangle of land closest to the road which is beyond the appeal site.
9. From the historic bridleway known as Boarstall Lane to the north and west the field boundary hedgerows largely mask the site from public views. On the initial section off Murcott Road, the large MoD buildings towards the village and some semi-derelict outbuildings adjacent to the track are the dominant features. Further along a field gate to the west of New Park Farm does allow some of the caravans to be seen between vegetation but the gap is fairly narrow.
10. From the site entrance on Murcott Road the walls, caravans and vehicles on the easternmost pitches are clearly visible but most of those passing are likely to be in vehicles travelling upwards of 40 mph so for them it is a fleeting view.

11. Where the caravans can be seen they are a discordant feature in the landscape. However, from most public and private views existing vegetation screens and softens the visual impact and provides a backdrop to the site. The structures are not seen against the skyline. Outside the summer months when deciduous trees and hedgerows are not in leaf, the site and the structures on it would be more visible. However, the same could be said for other buildings and structures in the vicinity. For example the MoD buildings and boundary security fencing on the opposite side of the road were inconspicuous in August because of the substantial roadside hedge but would become more evident over the winter months.
12. Planting has taken place around the perimeter of the site but there are some gaps and in a few places trees and shrubs are dead or dying. Some of the planting, such as the line of willows, is not characteristic of the area. However, additional landscaping could take place to fill the gaps and replace the failed and uncharacteristic planting. Moreover, the layout plan, as well as annotating landscaping to the site boundaries, also shows indicatively additional planting within the site including around the pitches. There would also be the scope to replace some of the areas of hardstanding with grass. Such landscaping would not only soften the site entrance but also make the site attractive from within for residents.
13. The PPTS accepts that gypsy and traveller sites can locate in rural areas. In doing so it is logical to also accept that some visual harm will occur from many sites particularly those that are not on land which was previously developed, untidy or derelict and that caravans will be a part of the rural scene in some countryside locations. Although in this case soft landscaping would not result in a positive enhancement of the environment and increase in the openness of the site compared to when it formed part of a field, further planting would have the potential to achieve some of the other benefits set out in paragraph 26 of the PPTS.
14. In the previous appeal decisions in 2009¹ the Inspector did not support a permanent permission 'because of the scheme's substantial adverse landscape consequences'. However, since then planting on some of the site boundaries has become established; further development has taken place nearby including that on the MoD land to the east; and national policy has changed with the introduction of the PPTS. Furthermore, it is significant that the Council promotes the site as an allocation in the emerging Vale of Aylesbury Local Plan 2013-2033 (ELP). In the assessment of the site² which forms part of the evidence base for the ELP no significant landscape impacts were identified. This was on the basis of 19 pitches, not the 13 proposed in the allocation. In this respect it differs from other sites proposed for allocation which are seen as sensitive in the landscape e.g. land opposite Causter Farm, Nash.
15. In conclusion there would be some harm to the character and appearance of the area. There would be conflict with Policy GP.35 of the Aylesbury Vale District Local Plan January 2004 (LP) as the development would not respect and complement the physical characteristics of the site and surroundings and the natural qualities and features of the area. However, because of the level of sensitivity of the landscape, the limited visibility of the site and the scope to

¹ APP/J0405/A/08/2072065 and 2072199 dated 8 May 2009

² Aylesbury Vale Gypsy, Traveller and Travelling Showpeople Site Assessment Report July 2016

undertake further planting, the level of harm to the character and appearance of the area would be moderate.

Sustainable site

16. The appeal site is about 850m from the southern edge of Arncott and just over 1km from a small convenience store, village hall and recreation ground within the village. Arncott itself is categorised in the Cherwell Local Plan as a Category A Service Village where residential development within the built-up limits can take place. The nearest primary school and a satellite surgery are in Ambrosden about 4km away. Secondary schools and larger scale health care facilities are in Bicester which is about 7km from the site. In these respects the site is not physically isolated or away from the nearest existing settlements which together provide a good range of facilities.
17. Once Murcott Road leaves the built up area it does not have pavements or lighting and is subject to the national speed limit. Vehicles pick up speed when they exit the 30mph speed restriction zone at the edge of the village. Although there is a grass verge between the appeal site and the settlement, when I visited much of the verge was overgrown and uneven. Some journeys from the site to the village may be undertaken on foot or by cycle but I would not see the route as welcoming for pedestrians or that attractive to cyclists, particularly in poor weather, outside daylight hours, or if accompanied by young children.
18. The nearest bus stops are also about 1km from the site. They give access by an hourly service to Ambrosden, Bicester and Oxford during the daytime Mondays to Saturdays with reduced frequency in the evening. The Sunday service is limited to two afternoon journeys in each direction. Although the service is reasonable for a village of the size of Arncott, the walk to the bus stop, as with the journey on foot to village facilities, would be an obstacle to its use.
19. Therefore, the opportunities to use sustainable transport modes are constrained. Moreover, it is not proposed to make walking more attractive by providing a footway between the site and village. However, whilst most journeys would be undertaken by private vehicle, trips to access facilities would not be long. Moreover the PPTS, in accepting that many sites will be in rural areas, is cognizant of the fact that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, notwithstanding the objectives of the Framework to promote accessible services, healthy lifestyles and a choice of transport modes.
20. Furthermore, the PPTS at paragraph 13 considers the sustainability of traveller sites in the round. The provision of a settled base for up to 19 traveller families would promote access to health services; ensure that children can attend school on a regular basis; reduce the need for long-distance travelling and possible environmental damage caused by unauthorised encampments; and allow some to live and work from the same location. The site is not in a flood plain and would provide a site of reasonable environmental quality for its occupants.
21. During periods that the site has been occupied there have been incidents of pollution, including contamination of water courses, and anti-social behaviour such as dumping and burning of waste, trespass and damage to property. Raw

sewage has recently been identified close to the site. Excessive numbers of caravans have been evident. Some of the occupants appear to have been transient which is likely to have contributed to these problems.

22. However, provision of appropriate foul and surface water methods of disposal could be secured, and burning of materials prevented, by condition. There are signs of community integration through attendance at local schools, use of local facilities and the establishment of friendships with the settled community. I see no reason why peaceful and integrated co-existence between those on the site and the local community, including nearby residents, cannot be achieved over time if respect and good neighbourliness is shown by all. This should be assisted by the removal of the tensions and uncertainty caused by a development unauthorised since 2012.
23. The nearest dwellings at New Park Farm are separated from the appeal site by an access track, a row of conifers and a large agricultural style barn. The use would not have an unacceptable impact on the living conditions of nearby residents by reason of noise, disturbance or loss of privacy.
24. The site is within the rural parish of Boarstall which includes a small village some 2km to the south-east and scattered farmsteads. However, the nearest settled community is at Arncott. I was not made aware of other traveller sites near to the appeal site or village. A development of 19 pitches would not be out of scale or dominate the village of Arncott.
25. The previous Inspector in 2009 considered that the site was reasonably sustainable for a temporary permission but that other sites might be identified as more sustainable. The Council has been through the exercise of comparing sites in the ELP and assessed Oaksvie Park as being relatively close to services and facilities and having the benefits of a settled base.
26. Accordingly the traveller site is sustainable taking into account local and national policies. There is no conflict with the Government's policy of very strictly limiting new traveller development in open countryside as the site is not away from existing settlements.

Provision and need for traveller sites

27. The PPTS requires that local planning authorities make their own assessment of the need for traveller sites and in producing their local plan provide 5 years supply of deliverable sites as well as a supply of additional sites for later in the plan period.
28. The most recent assessment of accommodation needs for gypsies and travellers in Aylesbury Vale was undertaken in 2016 with the report published in February 2017³. At the base date of the GTAA, February 2016, there were some 10 permanent authorised gypsy sites in the District containing a total of around 65 pitches together with three sites with temporary permission (14 pitches) and eight sites containing unauthorised pitches, including the appeal site (42 pitches)⁴. The significant number of temporary and unauthorised pitches at the base date suggests an underlying unmet need even before any household growth is factored in.

³ Aylesbury Vale, Chiltern, South Bucks and Wycombe District Councils Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA) Final Report February 2017 - Opinion Research Services (ORS)

⁴ Para 4.6 of the GTAA

29. The report identified a current and future need for 8 pitches for the period 2016-2033 for those who met the planning definition ('the knowns'). However, it was not possible to determine the traveller status of a large number of households (87) because either they refused to be interviewed or were not on site at the time of the researchers' visit. ORS assumed that 10% of those not interviewed ('the unknowns') met the planning definition based on national data.
30. However, for several reasons the identified needs for those who meet the planning definition appears to be an underestimate. A number of sites have been granted permanent planning permission since the base date of the GTAA providing some 28 pitches⁵. The assumption is that all the site occupants in these cases met the planning definition. An appeal decision⁶ made before the publication of the GTAA determined that the occupiers of 3 pitches at Ickford met the planning definition but despite this evidence the GTAA discounted them in its assessment because at the time of the researchers' visit no contact was possible. Therefore, it is reasonable to assume that of the sites which have obtained planning permission from 2016 onwards 100% of occupants have met the planning definition.
31. In the case of the appeal site the GTAA indicates that of 13 pitches assumed to be occupied only 5 interviews were conducted. Contact was not possible with 8 households. This information led to the conclusion that none of the households occupying the site in 2016 met the planning definition. Whilst this appeal decision does not seek to determine the gypsy status of the occupants of Oaksvie Park, from what I have heard and read several of the households would appear to fall within the planning definition and certainly significantly more than the 10% assumed by ORS.
32. ORS have conducted many GTAAs and their findings have been accepted in Local Plan Examinations and appeal decisions. The appellants have not put forward an alternative analysis. That said I am mindful of some of the other criticisms of the GTAA by the appellants in this case and that of ORS in other appeals, including a failure to explore further during interviews some of the answers about working and travelling habits. These criticisms tend to reinforce my view that the findings of need within the GTAA are an underestimate.
33. The Council has used the GTAA to support the emerging Vale of Aylesbury Local Plan 2013-2033 (ELP). However, the Council has taken a precautionary approach to addressing gypsy and traveller needs by proposing to allocate enough sites to meet the needs of both 'knowns' and 'unknowns' for the first 10 years of the ELP (69 pitches), including the appeal site. The other allocations are sites with permanent and temporary permission, vacant pitches and major development areas on the edge of Aylesbury. In view of my findings above I see this as a pragmatic and sensible approach. Moreover, in seeking to provide for the 'unknowns' the planning policies of the ELP are reflecting paragraph 61 of the Framework and the needs of different groups, in this case those of gypsies and travellers who may not meet the planning definition but for cultural and ethnic reasons are rooted in the gypsy way of life.

⁵ Para 8.15 of the Housing Topic Paper January 2018

⁶ Appeal Decision Ref: APP/J0405/W/15/3005295 dated 9 February 2016

34. The ELP is currently being examined. There are objections to the Council's approach to meeting the needs of both 'knowns' and 'unknowns' and the proposed allocation of the appeal site. However, the Council continue to support its approach as its preferred strategy as shown by its representations to the relevant hearing session on 19 July 2018⁷.
35. The GTAA identified that two sites in 2016 had vacant or unimplemented pitches. A few pitches on the appeal site are undeveloped or unoccupied. However, there is no evidence that pitches elsewhere are available for occupants of the appeal site. Indeed the vacant pitches at the site near Biddlesden were said to be reserved to accommodate new households formed from the extended family who occupy the site. No known alternative sites are available for the site occupants.
36. I conclude that there is a need for additional gypsy and traveller sites in the District and the appeal site would contribute to meeting the need as proposed in the ELP. There is also a general unmet need nationally and regionally. I accept that using the GTAA as a basis for need and having regard to recent permissions there is a 5 year supply of specific deliverable sites in the District for the 'knowns'. However, for the reasons that I explore above that is not the full picture.

Other Matters

37. There has been a failure to comply with some of the conditions imposed on the previous permission. However, there is more likely to be the commitment and wherewithal to invest in the site if permanent permission is granted. The Council has powers to ensure that conditions are enforced.
38. Visibility at the site access is reasonable, a splay of 2.4m by 160m being achievable. The Highways Authority did not object to the application and the previous Inspector found that dismissing the appeal on highway safety grounds was not justified, albeit he was only considering a temporary permission.
39. I have not considered in detail the personal circumstances of the site occupants as the appellants are not relying on this factor in support of their case. Some families have only been on the site for a short period. That said for those existing and new occupants who meet the planning definition and stay, the site would provide a settled base. Along with a settled base come the advantages of access to health and education services, including for those with specific health and learning needs. There are a number of families on the site with school aged children some of whom attend local schools. There would also be advantages for the general well-being of the families in being settled and having continual access to basic amenities and a secure living environment. In particular a settled base would be in the best interests of the children.

Conditions

40. A condition would be needed to control the occupation of the pitches to those who meet the definition of travellers within PPTS.
41. Conditions are required to limit the number of pitches, caravans and commercial vehicles in the interests of the character and appearance of the area. Controls on commercial activities and burning of materials are needed

⁷ ID11

for similar reasons and also to safeguard the living conditions of nearby residents.

42. A site development scheme would ensure that soft and hard landscaping, lighting, drainage, refuse storage, and water supply were appropriate to protect the character and appearance of the area, prevent pollution and unacceptable surface water run-off and be in the interests of the living conditions of nearby residents and occupants of the site. In view of the scale of the site some provision should be made for children's play, either in a communal area or through the layout of each pitch.
43. The 2009 appeal decision included a condition relating to visibility splays. Although most of the splays appear to be within highway land the requirement to maintain visibility within them should be included in the interests of a safe and suitable access.

Planning Balance and Conclusions

44. There would be conflict with Policy GP.35 of the LP, the only relevant development plan policy that has been brought to my attention. I give full weight to the policy insofar as it is relevant to the use as it is consistent with the Framework's objectives of protecting and enhancing the natural environment and recognising the intrinsic character and beauty of the countryside. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
45. There would be moderate harm to the character and appearance of the area. I have found no other material harm.
46. In terms of benefits the site is sustainable when considered in the round. The site would contribute to meeting the need for gypsy and traveller sites in the District. The site would provide a settled base for up to 19 families which would have a number of advantages and be in the best interests of the children who live on the site.
47. The development plan does not contain any policies which are directly relevant to gypsy and traveller sites. This is a failure of policy recognised by the ELP which is proposing allocations through Policy S6, including the appeal site, and introducing criteria based Policy D10 specific for gypsies and travellers. The proposal would accord with Policy S6 and satisfy most of the criteria within Policy D10. The site would exceed 13 pitches but the Site Assessment Report does not raise any overriding issues with a 19 pitch site and a couple of the other sites proposed for allocation would be larger. Although the policies are subject to unresolved objections I give moderate weight to them as they are reasonably consistent with the Framework and PPTS and reflect the preferred approach of the Council.
48. Overall I conclude that the conflict with the development plan and the other harm are outweighed by the benefits. Material considerations indicate that the appeal should be determined other than in accordance with the development plan. The appeal should be allowed.

Mark Dakeyne

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites August 2015 (or its equivalent in replacement national policy).
- 2) The development hereby approved shall comprise no more than 19 pitches as shown on the approved Site Location Plan and Site Layout Plan.
- 3) No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 1 shall be a static caravan or mobile home) shall be stationed on each pitch at any time.
- 4) No more than one commercial vehicle per pitch shall be kept on the land. Each vehicle shall not exceed 3.5 tonnes in unloaded weight and shall not be stationed, parked or stored on the site except within the relevant pitch and shall not be used other than by occupiers of that pitch. No other commercial vehicles shall be kept on the land.
- 5) No commercial activities, including the storage of materials, shall take place on the land other than the storage of materials in vehicles authorised to be parked on the site.
- 6) No burning of materials or waste shall take place on the land.
- 7) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 3 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - (i) within 3 months of the date of this decision a scheme (hereafter referred to as the Site Development Scheme) shall have been submitted for the written approval of the local planning authority for:
 - (a) hard and soft landscaping. Hard landscaping shall include means of enclosure and surfacing materials. Soft landscaping shall include identification of all trees, shrubs and hedges to be retained showing their species, spread and maturity; and new tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities;
 - (b) external lighting within the site;
 - (c) details of foul, surface and waste water drainage (including 'grey' waste water from washing/shower facilities) either by connection to a public sewer or by discharge to a properly constructed sewage treatment plant, septic tank or cesspool. All drainage and sanitation provision shall be in accordance with all current legislation and British or European Standards;
 - (d) details of the means by which a wholesome and sufficient water supply shall be provided to all the occupied pitches within the development;
 - (e) communal storage and collection area for refuse and recyclables; and,
 - (f) play space for children.
 - (ii) If within 12 months of the date of this decision the local planning authority refuse to approve the Site Development Scheme or fail to give

a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Site Development Scheme shall have been approved by the Secretary of State.

(iv) The Site Development Scheme shall be implemented in full in accordance with the approved details no later than 6 months from its written approval.

Upon implementation of the approved Site Development Scheme specified in this condition, that scheme shall thereafter be maintained. No lighting, hardstandings or means of enclosure other than those forming part of the approved scheme shall be constructed or erected on the site.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 8) If within a period of 5 years from the implementation of the Site Development Scheme, any trees or plants which formed part of the approved site development scheme die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.
- 9) Visibility splays shall hereafter be maintained on both sides of the site access measuring not less than 2.4 metres along the centre line of the access by 160 metres along the edge of the carriageway. The areas contained within the splays shall be kept free of any obstruction exceeding 0.6 metres in height above the nearside channel level of the carriageway.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Isabella Tafur of Counsel

Instructed by Aylesbury Vale
District Council

She called

Philippa Jarvis
BSc (Hons) Dip TP MRTPI

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FOR THE APPELLANT:

Alan Masters of Counsel

Instructed by Philip Brown
Associates Ltd

He called

Tom Tipthorpe

Site Occupant

Margaret Connors

Site Occupant

Margaret McDonagh

Site Occupant

Philip Brown BA (Hons)
MRTPI

Philip Brown Associates Ltd

INTERESTED PERSONS:

Lawrence Odell

Chairman of Boarstall Parish and Local Resident

LIST OF DOCUMENTS SUBMITTED AT THE INQUIRY

- ID1 Costs application submitted by the appellants
- ID2 Draft conditions submitted by the Council
- ID3 Extract from Inspector's report on the examination of the Maldon District Local Development Plan 2014-2029 submitted by the Council
- ID4 Appeal decision ref: APP/V2635/W/17/3180533 dated 2 February 2018 submitted by the Council
- ID5 Appeal decision ref: APP/P0240/W/17/3169799 dated 26 March 2018 submitted by the Council
- ID6 Appeal decision ref: APP/N1920/W/17/3173518 dated 26 January 2018 submitted by the Council
- ID7 Appeal decision ref: APP/P0240/A/12/2179237 dated 21 December 2016 submitted by the appellants
- ID8 Appeal decision ref: APP/X0360/C/16/3153193 dated 2 July 2018 submitted by the appellants
- ID9 Note of site visit to New Park Farm by Environment Agency submitted by Mr Odell
- ID10 Council's Opening Statement
- ID11 Council response to Inspector's Question 49 of examination of Vale of Aylesbury Local Plan 2013-2033 submitted by the Council
- ID12 Statement of Personal Circumstances of occupiers of Pitches 3, 4 and 5 submitted by the appellants
- ID13 Statement of Personal Circumstances of occupiers of Pitch 19 submitted by the appellants
- ID14 Letter from Mr Odell to Mr Tipthorpe re water supply submitted by the appellants
- ID15 Post Hearings Note from Programme Officer on next steps of examination of Vale of Aylesbury Local Plan 2013-2033 submitted by the Council
- ID16 Child's Plan relating to one of children of site occupants submitted by the appellants
- ID17 Letter from manager of Arcott Supermarket submitted by the appellants
- ID18 Closing submissions by the Council
- ID19 Closing submissions by the appellants
- ID20 Council's response to appellants' costs application