

**IN THE MATTER OF AN APPEAL UNDER S78 OF THE TOWN
AND COUNTRY PLANNING ACT 1990**

**IN RELATION TO LAND AT PLOT 1 to 4, LAND WEST OF
STOVOLDS HILL, CRANLEIGH GU6 8UX**

DRAFT STATEMENT OF COMMON GROUND

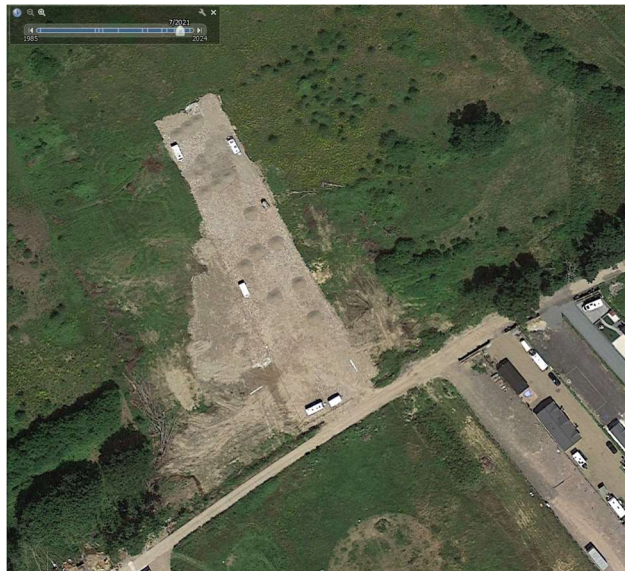
THE PLANNING AND ENFORCEMENT BACKGROUND TO THE SITE

Plot 2 is owned and occupied by Mr Levi Williams and his family

Plot 3 is owned and occupied by Mr Matthew Doherty and his family

Plot 4 is owned and occupied by Mr Mark Doherty and his family

Appeals are proceeding under grounds A, G and D (that the hardstanding was substantially complete prior to April 2020).



Above – aerial photo July 2021

Plot 1, represented by Planning agent Angus Murdoch, is owned and occupied by Mr Barney Doherty and his family

Ground A appeal

A Personal Statement for each family will be provided separately clearly confirming that each family have compelling personal circumstances which attract great weight.

From each Statement, it is agreed that the Appellants are an ethnic Gypsy Travellers by birth and was brought up in the traditional Traveller way of life. It is agreed that the Appellants are Travellers in terms of Annex 1 Planning Policy for Traveller Site 2024 [PPTS 2024].

In July 2021, Plots 1 to 4 were subject to planning application WA/2021/02307 which was refused and not appealed. Plots 3 and 4 of those 4 pitches are currently the subject of a Planning Appeal that is to be determined at a Public Inquiry on 3rd June 2025 (APP/R3650/W/22/3313865, APP/R3650/W/23/3314447, APP/R3650/W/23/3322400, APP/R3650/W/23/3323108). In addition, all 4 pitches lie with a wider area that has been subject to an Injunction Order dated 6 September 2023. However, the September 2023 Injunction Order does not apply to Mr Doherty as he and some of the other Defendants challenged the making of a Final Injunction in the High Court and the Deputy High Court Judge, Karen Ridge, herself a former Planning Inspector, **refused to make a Final Injunction Order against Mr Doherty and some of the other Defendants and quashed the Interim Injunction previously granted.** In her judgment the learned judge described Mr Doherty's Plot 1 circumstances thus:

"The 17-year-old son of Barney and Lizzie Doherty has cystic fibrosis and developmental delay and requires round the clock care with daily physiotherapy and nebulisers. He sleeps with a bi-pac machine which requires a constant electricity supply. If evicted from the site, the family would have to resort to a roadside existence since they

have no other financial means available and no savings. Barney Doherty explains that he wishes to apply for planning permission for which he would need public funding. His solicitor tells him that she may be able to secure discretionary Exceptional Case Funding but the planning agent she has discussed the case with, is not able to look at any of the papers until September 2023. He has limited literacy skills and would need professional representation to submit an application.”

In quashing the Injunction against Mr Doherty (Defendant D7) the learned judge held:

“Conclusions on D3, D5, D6, D7, D8

109. The claimant decided that it was expedient to seek injunctive relief at a point where there was unauthorised development on the land. At that point they had little or no information about the personal circumstances of the defendants, other than their names. The application proceeded on the basis that the site was unoccupied at that time. That position was entirely reasonable.

110. Whilst the claimant continued to visit the site throughout the course of proceedings, this was to gather further information about who was on the site and what further development had taken place, if any, as well as for the purposes of serving court papers and other notices. There is little in the way of the claimant seeking to investigate the welfare position of the defendants as the proceedings continued and as further information came to light.

111. Several of the defendants have significant medical needs and very serious medical conditions. Much of the

information relating to those needs has come to light late in these proceedings.

112. I remain conscious of the duty to uphold lawful decisions made by planning authorities. I must also bear in mind the consequences of a final injunction when there are no alternative sites available, and the defendants are likely to resort to unauthorised roadside camping which would lead to further environmental harm and hardship for the families and children in terms of their welfare needs not being met. These are significant factors militating against the grant of a final injunction on the facts of this case.

113. As each of these matters became apparent it was incumbent on the claimant to investigate matters and to re-assess the balance of factors in light of emerging information. The proportionality of the decision should have been revisited when the claimant became aware of these matters. There is scant evidence to suggest that the claimant meaningfully reviewed the original decision at key points when the identity and needs of individual occupants became known. The impression gained is of an initial decision being taken to pursue injunctive relief and the claimant pursuing it to a final injunction without pausing to re-evaluate the appropriateness of the use of coercive measures on becoming aware as to personal circumstances of the individuals they were concerned with.

114. Section 187B gives the court an original jurisdiction which it is to exercise as it thinks right, and subsection (2) states that the court may grant such an injunction as the court thinks appropriate for the purpose of restraining the breach. The court must exercise its discretion appropriately.

115. As Deputy High Court Judge Timothy Straker QC in Guildford Borough Council v Cooper [2019] EWHC opined:

“Therefore, it is not for the court to act merely as a rubber stamp to endorse a decision of the Local Planning Authority to stop the user by the particular defendant in breach of planning control. Moreover, the court is as well placed as the Local Planning Authority to decide whether the considerations relating to the human factor outweigh purely planning considerations. The weight to be attached to the personal circumstances of a defendant in deciding whether a coercive order should be made against him is a task which is constantly performed by the courts.”

116. I also remind myself of Simon Brown LJ in Porter when discussing the relevance of the local authority’s decision to seek injunctive relief, commenting that the relevance and weight of their decision will depend above all on the extent to which they can be shown to have had regard to all the material considerations and to have properly posed and approached the article 8(2) questions as to necessity and proportionality.

117. Here the defendants accept that there has been a breach of planning control which the court should seek to address. The court must however have regard to all the circumstances, which include the best interests of the children. Given the failures of the claimant to properly engage and grapple with the significant welfare issues of these defendants, and the best interests of the children on site, once they were put on notice of the same, I conclude that there has not been the sort of evaluative exercise properly required before seeking final injunctive relief.

118. I also bear in mind that the local authority chose to seek injunctive relief which carries the threat of imprisonment as opposed to serving an enforcement notice. There is no evidence that upon learning that the site was occupied and upon discovering some of the health difficulties of the defendant, the claimant considered use of

enforcement notice powers as an alternative to pursuing its injunction. It is for the local authority to apply its mind to the enforcement tools at its disposal and act proportionately. That remains a requirement as the factual matrix changes and decisions needs to be revisited.

119. There is also my conclusion that the planning status is not yet final given that the Secretary of State, on appeal may take a different view to the local authority. I also must bear in mind the significant impact that a final injunction would have. Having regard to all matters, I am satisfied that it is appropriate for the court to decline to exercise its discretion to make the final injunction requested and to discharge the interim injunction in force.”

Finally, all 4 pitches were issued with separate Enforcement Notices on 23rd April 2025. **It seems likely that the other 3 EN Appeals will be determined at the same Public Inquiry (just as the s78 Appeals have been linked in the June 2025 Public Inquiry).** A non-determination has been made in respect of Plot 2 which is owned and occupied by Mr Levi Williams and his family so that the Appellant retains the right to also pursue a Ground A Appeal against the EN. The s174 Appeal is being made under Grounds A and G (with a period of 2 years requested rather than the 6 months provided for in the EN). This SoC covers both the s78 and s174 Appeals. A ground D appeal is included with respect to the hardstanding being substantially completed more than 4 years prior to the service of the Notice.

The matters enforced against and the reasons for issuing the EN are as follows:

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without planning permission:

The material change of use of the Land to a residential caravan site for occupation by Gypsies and Travellers.

And all the associated development facilitating the material change of use, which includes:

The erection of fencing on the Land;

The installation of services.

An engineering operation comprising the laying of hardstanding within the area outlined in red on the attached plan.

REASONS FOR ISSUING THIS NOTICE

The breach of planning control consisting of the material change of use of the Land constitutes development as described within S55(1) of the Town and Country Planning Act 1990 (as amended).

It appears to the Council that the breach of planning control consisting of the material change of use has occurred within the last ten years.

The breach of planning control consisting of the laying of hardstanding is an engineering operation and constitutes development as described within S55(1) of the Town and Country Planning Act 1990 (as amended).

It appears to the Council that the breach of planning control consisting of laying of hardstanding has occurred within the last four years.

The development subject of this notice is intentional unauthorised development.

The development of the Land fails to recognise or safeguard the intrinsic character and beauty of the countryside and does not respect or enhance the landscape character of the area, which is an Area of Great Landscape Value and a valued landscape within the setting of the Surrey Hills National Landscape. As such, the development conflicts with Policies AHN4, RE1 and

RE3 of LPP1, Policies DM1, DM4, DM11 and DM15 of LPP2, Policies BNP-G3 and BNP-E3 of the BNP, Policies P1 and P6 of the Surrey Hills Management Plan, as well as the requirements of the NPPF.

The material change of use of the Land to a residential caravan site, which represents an expansion to the envelope of the existing gypsy/traveller development at Stovolds Hill is considered to dominate the nearest settled community, contrary to Policy C of the PPTS.

With the absence of any site-specific evidence submitted to the contrary, the development undertaken on the Land is a highly vulnerable form of development deemed to be highly susceptible to risk from surface water flooding. The local planning authority is unable to conclude that the development would not significantly harm the living conditions of occupiers due to the risk of flooding and so undermines wider consideration of public safety contrary to the relevant requirements of Policies AHN4, CC1 and CC4 of LPP1, Policy DM1 of LPP2 and the requirements of the NPPF.

The development of the Land has been undertaken without regard to the likely impacts on the ecology of the Land, including the impact caused by deciduous woodland (Priority Habitat). In the absence of information relating to the ecology impacts of the development on the ecology of the site, the Council is unable to consider that scale of harm to ecology caused, or the potential impact on protected species. The development therefore conflicts with Policies AHN4,

NE1 and NE2 and CC2 of the LPP1, Policy DM1 and DM11 of LPP2 and the requirements of the NPPF.

The development of the Land as a traveller pitch fails to include adequate provision for amenity or landscaped areas, and there is no provision for play space. It is not evident how waste is managed in relation to the residential occupation of the Land. As such, the development conflicts with Policy AHN4 and TD1 of LPP1 and Policy DM37 of LPP2.

Considering the above, the unlawful development of the Land has been undertaken in conflict with Policies AHN4, RE1, RE3, TD1, NE1, NE2, CC1, CC2 and CC4 of LPP1, Policies DM1, DM4, DM11, DM15 and DM37 of LPP2, Policies BNP-G3 and BNP-E3 of the Bramley Neighbourhood Plan, Policies P1 and P6 of the Surrey Hills Management Plan, Policy C of the PPTS and the requirements of the NPPF.

As no decision has been made in Mr Williams' (nor Mr Doherty's) planning application, there are currently no Reasons for Refusal to address at this stage although it seems likely that, had the Council reached a decision, it would be similar to the previous refusal in 2021 on this site:

The permanent residential development proposed would encroach into the countryside and would be harmful to its intrinsic character and beauty. Moreover, the substantial projection into an otherwise undeveloped field would be harmful to the visual amenity of the Area of Great Landscape Value and the setting of the nearby Area of Outstanding Natural Beauty. Other considerations do not outweigh these harms, which would be contrary to policies RE1 and RE3 of the Local Plan (Part 1) 2018, and to paragraphs 174 and 176 of the NPPF 2021.

The proposed development would sit outside the established Lydia Park site boundary and would constitute an extension of this site. The scale of the resulting enlarged site, when taken together with the adjacent New Acres site to the south, would dominate the nearby settled community contrary to Policy C of the PPTS 2015.

In the absence of a site-specific ecological survey it is not possible to conclude that the impact of the proposed development to protected species would be acceptable. The proposed development would therefore conflict with policy NE1 of the Local Plan (Part 1) 2018, and paragraph 180 of the NPPF 2021.

In the absence of a site-specific flood risk assessment it is not possible to conclude that the proposed development would be safe for future occupiers, nor that there would be no increased flood risk elsewhere. The proposed development would therefore conflict with policy CC4 of the Local Plan (Part 1) 2018, and paragraph 167 of the NPPF 2021.

PLANNING POLICY AND NATIONAL GUIDANCE

By section 70(2) of the Town and Country Planning Act 1990 ['1990 TCPA'] when dealing with an application for planning permission regard is to be had to the provisions of the Development Plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 ['the 2004 Act'] states: *"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

The Development Plan comprises of the Waverley Borough Local Plan (Part 1) and the Waverley Borough Council Local Plan (Part 2): Site Allocations and Development Management Policies, the latter adopted in March 2023. The Bramley Neighbourhood Plan was adopted on 13 January 2022.

The LPA consider the Appeal site to be located in the setting of the National Landscape. This is not agreed and will be the subject of specific expert evidence called by the Appellant at the Public Inquiry addressed in the Proofs of Evidence.

The draft Statement of Common Ground between the Council and those representing the 4 Appeals being heard at the June 2025 Inquiry helpfully sets out the issues between the parties as follows:

Planning Policy

*The main policies relevant to the appeals are set out in two policy documents referred to as Local Plan pt 1 and Local Plan pt 2. The four sites are all located on land identified as countryside, and as an Area of Great landscape Value (AGLV). An extract from the local plan Proposals Map **is attached**, that shows the location of the 4 sites and the appropriate boundaries of the National Landscape and AGLV ref **SoCG Plan 2**.*

The 4 appeal sites are not in the AONB but are all within the AGLV, which is recognised in local planning policy as providing a supporting role to the AONB. Dunsfold Road is situated 160-260m north of the appeal sites, with the land to the north of Dunsfold Road being designated as a National Landscape.

Although there is a Green Belt in parts of the district, the appeal sites are not within the Green Belt.

Local Plan (Part 1) 2018

The Waverley Local Plan (Part 1) 2018 (LPP1) was adopted in February 2018, having been found sound by the Inspector. The policies detailed below are referred to in the refusal reasons.

Policy RE1 Countryside beyond the Green Belt

Policy RE3 Landscape Character

Policy NE1 Biodiversity and Geological Conservation

Policy CC4 Flood Risk Management

Policy AHN4 Gypsies, Travellers and Travelling Showpeople Accommodation

Waverley Local Plan (Part 2) 2023

The Waverley Local Plan (Part 2) 2023 (LPP2) was adopted in March 2023. It is up to date and afforded full weight in the assessment of planning applications. The policies listed below are considered the most important policies for determining the application.

Policy DM1 – Environmental Implications of Development

Policy DM11 – Trees, Woodland, Hedgerows and Landscaping

Policy DM15 - Development in rural areas

Policy DM37 - Design Principles for Gypsy and Traveller Sites

The Local Plan pt 2 had not been adopted at the time of the 4 applications being determined so these policies are not referred to in the reasons for refusal. However, it is agreed that the policies referred to above from LPPt2 are relevant and have been included in the 4 Statements of Case.

The Local Plan pt 2 makes a number of allocations, which includes several new sites for Gypsies and Travellers within the borough, but none on Lydia Park.

It is relevant that although the two plans are separate documents with different roles, the Inspector examining LPP2 reported in March 2023 that the latter was the ‘daughter document’ to LPP1 and that taken together the two plans (including the allocations in LPP2), proposed to meet the requirements for gypsy and traveller sites in the borough based on the needs assessment of 2018 which pre-dates the 2024 National Policy changes.

National Policy

The NPPF and PPTS (December 2024) set out national guidance and are both relevant.

The most notable changes were to the definition of Gypsies and Travellers, being, Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such, as well as, the emphasis within paragraph 28 of the PPTS upon the provisions in paragraph

11(d) of the NPPF now applying to Traveller sites when an LPA cannot demonstrate an up-to-date 5 year supply of deliverable sites, and the PPTS' emphasis on sustainability considerations in line with paragraph 13.

Reasons for Refusal

The four applications subject to appeal were submitted and determined on different dates but the reasons for refusal are similar. In all cases:-

Reason 1 refers to the sites' designation, countryside and AGLV, and landscape impact;

Reason 2 refers to the potential impact of the developments proposed on the settled community;

Reason 3 refers to Ecology;

Reason 4 refers to Flood risk.

RR1 Character and Appearance

The Appeal Schemes are located within an Area of Great Landscape Value (AGLV). In terms of published landscape character, they are located within the Low Weald National Character Area and overlooked by the Wealden Greensand National Character Area to the north. At a local level, they are located within the Grafham to Dunsfold Wooded Low Weald Character Area, associated with the Wooded Low Weald Landscape Type, and overlooked by the Loxhill to Catteshail Wooded Greensand Hills Character Area associated with the Wooded Greensand Hills Landscape Type.

In addition to the above characteristics, the surroundings of the appeal site include the substantially developed Lydia Park and New Acres caravan sites. The characteristics will also be affected by the Dunsfold Park Garden Village development.

It is accepted that the developments would result in harm to the character and appearance of the area and landscape. The level of harm is disputed.

RR2 Impact on the settled community

Stovolds Hill is in effect a cul-de-sac that in addition to providing access to the appeal sites also provides access to a scattered group of about 20 dwellings, to a small industrial unit, and to adjacent farmland.

In addition to the above characteristics, Stovolds Hill features the substantially developed Lydia Park and New Acres caravan sites.

Asides from these immediate surroundings, the nearest Village is Dunsfold (~2km as the crow flies), which hosts a greater number of residential dwellings. A much larger village of Cranleigh is situated around 2.2 – 3.7km (as the crow flies) from the appeal sites.

Dunsfold Aerodrome lies around 1.1km south of the appeal site (as the crow flies), for which is an allocated site benefitting from planning permission for redevelopment to become Dunsfold Park Garden Village, which is understood to include ~1800 new homes, a new school, community centre, expanded business park, and supporting infrastructure. This is the first phase of a wider Policy to provide around 2600 new homes on the site. Based on the masterplans, the outskirts of the development would be around 1km by Stovolds Hill road from the appeal site, with the denser residential development being around 1 mile by Stovolds Hill road.

RR3 Ecology

No detailed ecology reports were submitted with the 4 planning applications. RR3 for each application refers to the lack of information in relation to Ecology.

An Ecological Impact Assessment report has since been provided for each of appeal sites B, C and D by Darwin Ecology.

In relation to appeal A, a Preliminary Ecological Appraisal was provided following the submission of the appeal which recommended follow up reports, a subsequent Ecological Walkover and HSI report, then a further Ecological Report including eDNA surveys , both prepared by Darwin Ecology, were submitted. The findings are relevant to all appeal sites.

*The appellant considers the detail in support of the appeals sufficient to conclude that ecological harm **can be overcome in line with the reports recommendations and the allowance for planning conditions.***

The LPA consider the reports undertaken to be insufficient, dispute the reports' findings and recommendations, and consider that harm has occurred which can not be overcome by planning conditions.

RR4 Flooding

RR4 for each application refers to the lack of information in relation to Flooding.

2 separate flood risk assessments have since been provided. That from UNDA addresses sites B, C, and D, and that from Flume Consulting Engineers addresses site A.

The appellants consider the reporting undertaken to appropriately display that the developments would be safe in terms of flood risk, owing to appropriate planning conditions, and would not harmfully increase risk of flooding elsewhere.

The LPA dispute the findings of the Flood Risk Assessments and conclude that they cannot establish if and how the developments would result in increased flood risk, danger to life, damage to property or harm to the local water course and surrounding community.

Highways

There are no highway safety issues and no objections by the highway authority to the appeal proposal.

Need – General and Personal

The latest GTAA was undertaken in 2018 and these and other details formed part of the background papers to the preparation of the Local Plan pt 2. The latter addressed the general need for Gypsy and Traveller sites in Waverley District and allocated additional sites to meet the need identified in the Local Plan. This Plan was adopted in 2023.

The 2018 GTAA identified a need for 37 G and T sites that met the 2015 definition, and for 63 pitches for all others (unknown & non-Travellers).

Planning permission has been granted for 63 pitches since 2017 with 14 additional pitches being allocated in LPP2.

The PPTS requires the LPA to identify and update annually a supply of sites sufficient to provide 5 years' worth of sites.

In December 2023, the PPTS was revised, including a reverted Planning Policy definition of Gypsies and Travellers, reverting to the 2012 definition. These amendments were made in light of the Lisa Smith judgement handed down on 31 October 2022, which determined the PPTS 2015 to be unlawfully discriminatory.

In December 2024 the PPTS definition was again revised, the definition is as follows, Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of

living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

The PPTS now applies to all Gypsy and Traveller households irrespective of whether or not they do travel, ceased to travel, or simply are ethnically Gypsies and Travellers with a preference for residing within a Caravan.

*A new GTAA has been commissioned by the LPA. **It has not been published.***

*The application details for all 4 appeals include details of the personal health and other needs of the appellants and their respective families. These health and other needs **are material considerations in the determination of the appeals**. As each site includes families with children, it is also relevant that the best interests of children are a primary consideration.*

Matter of Disagreement

The following matters are in dispute:

The level of harm in terms of landscape character and the character of the surrounding area, and whether any harm can be suitably mitigated through the landscaping measures put forward and those that could be secured by way of planning condition.

Whether the appeal sites are within the setting of the National Landscape.

The impact upon the settled community and whether such would be overdominating and harmful.

Whether the developments would be safe from flood risk, with consideration also to the provision of planning conditions.

Whether the developments would unduly impact surrounding flood risk, with consideration also to the provision of planning conditions.

The impact from the developments on biodiversity, habitats and protected species, and if any impact can be mitigated through ecological recommendations and planning conditions.

Whether or not there is an unmet need within the Borough.

Whether the Borough can demonstrate an up-to-date 5 year supply of sites.

Whether the developments are located in a sustainable location having consideration to paragraph 13 of the PPTS.

Whether the tilted balance, owing to the provisions of 11d, is engaged.

The GTAA upon which the Council argue they have a 5 YHLS of Traveller sites is from 2018 and thus can not be said to represent an up-to-date assessment of need for the purposes of the NPPF 2024 or PPTS 2024.

Legislation that is relevant to this matter includes the Housing Act 2004, the Planning and Compulsory Purchase Act 2004, the Human Rights Act 1998, the Criminal Justice and Public Order Act 1994 and the Equality Act 2010.

Given the Appellant's Traveller status, the specific Local Plan policy to apply is Policy AHN4 of the Local Plan 2018 (Part 1) sets out a sequential approach for identifying sites for Travellers and Travelling Showpeople within Part 2 of the Local Plan. It also sets out the criteria against which proposals for permanent and transit sites for Gypsies and Travelling Showpeople will be assessed. This policy is set out in full below:

Provision shall be made for Gypsies, Travellers and Travelling Showpeople in accordance with the Waverley Traveller Accommodation Assessment.

Specific sites to meet the identified need within the Borough will be allocated within Part 2 of the Local Plan: Site Allocations and Development Management Policies.

A sequential approach will be taken to identifying sites for Travellers and Travelling Showpeople within Part 2 of the Local Plan: Site Allocations and Development Management Policies in the following order.

- providing additional pitches within available existing authorised sites;*
- suitable extensions to available existing sites;*
- use of available land within settlements or other available and suitable brownfield land outside settlements; and other available and suitable land that does not fall within the above three categories.*

Traveller sites in the Green Belt will not be supported, except in very special circumstances.

Rural Exception Sites solely for affordable Gypsy, Travellers and Travelling Showpeople sites will be considered in accordance with Policy D of the Planning Policy for Traveller Sites.

Allocations or proposals for permanent and transit sites for Gypsies, Travellers and Travelling Showpeople will only be permitted if:

- safe and convenient vehicular and pedestrian access to the site can be provided;*
- there is easy and safe access to the strategic road network and the site does not generate traffic of an amount or type inappropriate for the roads in the area;*
- the site is able to accommodate on site facilities for the parking and manoeuvring of vehicles and storage, play and residential amenity space;*
- the site is located within a reasonable distance of local facilities and services including schools and health facilities;*
- the site does not have an unacceptable impact on the physical and visual character of the area or on the amenities of neighbouring land uses;*
- the site is capable of being provided with essential services; and*
- it accords with other policies in the Plan.*

Existing authorised Traveller and Travelling Showpeople sites will be safeguarded unless no longer required to meet identified need.

I note that the Officer's Report for WA/2021/02307 which included this Appeal site found:

Other matters

The proposed site is considered safe and convenient both for vehicular and pedestrian access, would link with the strategic road network, and would not generate an inappropriate level of traffic. There would be adequate space for vehicles, storage, and residential amenity, local services would not be excessively distant, and essential services could be provided. The remaining criteria identified in policy AHN4 would thus be met, though in itself this is a neutral factor in the balance.

It is considered the location, current use, and context of the site would mean the proposal would not result in the loss of the best and most versatile agricultural land, nor result in the fragmentation of an agricultural holding.

The proposed pitches would provide an adequate standard of accommodation for future occupiers and would not be unduly detrimental to the amenity of neighbours.

No ecological appraisal has been submitted. Although the appraisal submitted in relation to land to the north-east (WA/2020/1382) does not indicate the presence of protected species, and no further information was requested for previous permissions on land to the south and east, in this case information from a third party suggests the presence of Wood White butterflies in the vicinity. As this is a protected species under the Wildlife and Countryside Act 1981 it is not considered unreasonable to require that its presence or otherwise is ascertained prior to any grant of permission.

Consequently, in the absence of such information it is not possible to conclude the development to be acceptable on ecological grounds.

The site is within an area at low (1 in 1000 year) risk of surface water flooding. Policy CC4 requires the submission of a site-specific flood risk assessment for developments in such areas. In the absence of this, it is not possible to conclude the proposed development to be acceptable from a flood risk standpoint.

The site is not in the Green Belt, although about 50% of the Borough is, which limits what provision can be made elsewhere.

As a single pitch, the proposal is of a scale and extent that does not dominate the nearest settled community.

The proposal has been designed to comply with DM37 which states:

DM37: Design Principles for Gypsy and Traveller Sites

New Gypsy and Traveller sites should measure at least 500 square metres (unless extended families are sharing facilities, in which case their needs will be assessed individually).

Each pitch should provide:

- *A utility building*
- *An amenity area*
- *Hard standing for a trailer, touring caravan and another vehicle.*
- *Landscaping*
- *Access that promotes the ease of movement whether walking, cycling or driving*
- *Sufficient provision for waste management.*
- *Pitches should be laid out to promote the security and safety of residents.*
- *Provision of play space will be required at a site-wide level.*

Conclusion

The Appellant's evidence will establish that the proposal complies with the relevant policies in the Development Plan and, pursuant to the first limb of s38(6) of the 2004 Act, the Appeal should be allowed, subject to reasonable Conditions.

However, if a conflict with the Development Plan was found, the second limb of s38(6) allows for planning permission to be granted *"if material considerations indicate otherwise than determining the application in accordance with the Development Plan."*

Those other material considerations in this case, include:

the need for further sites for Gypsies and Travellers a) nationally, b) regionally, c) locally and d) personally for the Appellant

the unavailability of suitable alternative sites;

the Appellant's personal circumstances in particular his family's physical and mental health needs;

deficiencies with Development Plan policy provision for Gypsy and Traveller caravan sites in Waverley;

the consequence of the Appeal being dismissed for the Appellant;

Human Rights considerations and matters of common humanity

The Best Interests of the Appellant's Children.

The Appellant will respectfully ask the appointed Inspector to allow his s78 and/or Ground A Appeal(s).

If the Inspector is against the Appellant on his Ground A/s78 Appeal(s), he will request a longer compliance period than 6 months so that any interference with his family's accommodation and medical needs are minimised.