

APPEALS BY MR. T. DOHERTY, MR. S. DOHERTY, M. M. DOHERTY, AND MR. & MRS. DOHERTY

NEED & SUPPLY REBUTTAL

at Land at Stovolds Hill, Cranleigh, GU6 8UX

April 2026

PINS Ref:

APP/R3650/W/22/3313865 &
APP/R3650/W/23/3314447 &
APP/R3650/W/23/3322400 &
APP/R3650/W/23/3323108

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1.0 INTRODUCTION

1.1 WS Planning & Architecture have prepared this rebuttal, which will be provided by Mr. Brian Woods in respect of the four appeals made against the decisions of Waverley Borough Council (the LPA) to refuse applications for planning permission.

1.2 For completeness, the appeals are as follows,

Appeal A: APP/R3650/W/22/3313865 – Change of use of land for the creation of 1 No gypsy/traveller pitch, comprising the siting of 1 No mobile home and 1 No touring caravan with formation of hardstanding on land centred on coordinates 502107 137748, Stovolds Hill, Cranleigh (*Mr T Doherty*)

Appeal B: APP/R3650/W/23/3314447 - Change of use of land to provide 3 gypsy pitches comprising 3 chalet bungalows (static caravans) and 3 No day rooms and associated works including provision for up to 4 No touring caravans and construction of hardstanding on land centred on coordinates 502157 137845, Stovolds Hill, Cranleigh (*Mr Simon Doherty*)

Appeal C: APP/R3650/W/23/3322400 - Change of use of land for stationing of 1 No static mobile home (caravan) and 1 No touring caravan for use by one family; erection of day room and construction of hardstanding to provide parking (part retrospective) on land north of Lydia Park, Stovolds Hill, Cranleigh (*Mr Mark Doherty and Mrs Allana Doherty*)

Appeal D: APP/R3650/W/23/3323108 – Change of use of land to provide 1 gypsy pitch comprising 1 No static caravan and 1 No touring caravan, erection of day room, and construction of hardstanding to provide parking on land north of Lydia Park, Stovolds Hill, Cranleigh (*Mr Matthew Doherty*)

1.3 It is understood that Mr. Rowe, on behalf of appellants within Appeals C and D shall adopt the position provided by Mr. Woods in respect of Appellants within Appeals A and B. Accordingly, it is requested that this document be treated as a combined statement on behalf of those appellants named above.

- 1.4 In summary of the appellants position, it is submitted that the LPA cannot demonstrate an up-to-date five year supply of sites, and the evidence presented within the new Gypsy, Traveller Accommodation Assessment (GTAA) and its accompanying Pitch Deliverability Assessment (PDA) do not change the conclusions reached.

2.0 THE GTAA – FIGURES OF NEED

2.1 The LPA have published and submitted into these proceedings their GTAA December 2025.

2.2 The report sets out that the baseline date for the study is September 2025. As such, presuming interviews and assessments were conducted after that date, or during that month, they should record assessments of persons against the Planning Policy for Traveller Sites December 2024 definition of Traveller, which is:

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.

2.3 Emphasis has been placed on two points.

2.4 Firstly, the Planning Policy definition does not solely apply to persons whom are ethnically Gypsies and Travellers. Therefore, there can be, nor should there ever have been, a presumption of “non-traveller status” based on appearance, religion, ethnic background, etc. The PPTS definition has included this wording since its publication in March 2015.

2.5 Secondly, to meet the Planning Policy definition of a Traveller a person does not need to lead a nomadic way of life, nor ever have done. They need only to have a cultural tradition of such, **or** of living in a caravan. The definition does not require a person to live in a caravan, nor be an ethnic Gypsy or Traveller. Whilst that may not be the intent of the policy approach, it is the effect of the definition.

2.6 This position is one that appears accepted by Planning Inspector's also, noting the decision made by Inspector Diane Lewis in respect of APP/W3520/X/25/3370693, albeit specific to the definition applied through wording of a condition on a planning permission dated from 1985. A copy is attached at **Appendix 1**.

2.7 Reference is drawn to this decision, and the following paragraphs,

- “24. The meaning or definition of gypsies and travellers in policy guidance has evolved over the years, often in response to court judgements and statutory obligations and duties. This appeal is concerned only with the wording used in the 1985 permission.**
- 25. At the time of granting permission, the local planning authority decided, by relying specifically on section 16 of the 1968 Act, to restrict occupation of the caravans and bungalow on the site to *“persons of nomadic habit of life, whatever their race or origin, but does not include members of an organised group of travelling showmen or persons engaged in travelling circuses, travelling together as such.”***
- 26. There is no debate to be had over the exclusion of travelling showpeople and the main interest is in understanding the term ‘persons of nomadic habit of life’ and who may comply with this description. The appellant, with reference to the reason for condition 1, submitted that the 1985 permission provided for the needs of the traditional travelling community, the traditional and cultural gypsies who had limited accommodation options and were a highly disadvantaged section of society. The permission was not for the benefit of people who had a nomadic habit of life because they travelled away from home to work and needed low cost accommodation, such as workers on construction sites.**
- 27. Case law provides assistance in respect of the definition as worded in condition 1. Whether a person is of nomadic way of life is a functional test to be applied to their way of life at the time of the determination. The travelling or nomadism must be a habit of life, implying travelling is a custom, a lifestyle. The travelling may follow a pattern and rhythm. Whether a person comes from a traditional gypsy background and has travelled in the past may be relevant circumstances. A recurring theme is that there must be a connection between the travelling and the seeking and making a livelihood. The essential connection**

between wandering and working indicates the definition does not embrace people who travel to pre-arranged work. A gypsy may have no fixed abode and no fixed employment and so lives in a caravan. However, the definition does not require a person to live in a caravan. Whether a person does so is capable of being a relevant factor but is not essential. It has been accepted that a gypsy within the definition given by the statute may have a permanent base from which they go out and to which they return. In the event travelling ceases permanently, the person no longer has a nomadic habit of life.

28. In summary, determining whether a person has a nomadic way of life is fact sensitive and requires a matter of fact and degree judgement taking full account of the principles established by the courts and all the facts of the case.

...

43. All statements of truth comment on occupation of the site and whether they and other residents were gypsies or travellers. The appellant's planning consultant (RB) described the process of obtaining the witness statements and considered the witnesses are the best placed to make a judgment on whether or not they comply with the condition 1 definition of gypsies and travellers. However, the statements of truth all refer to the definition in 'Annexe 1 of Planning policy for traveller sites'. In cross examination RB confirmed none of the witnesses were provided with a copy of the document or informed of its contents. There was nothing to indicate the witnesses were informed of the wording of the condition 1 definition, the factors to take into account when considering a nomadic habit of life or that the definition specifically includes people 'whatever their race or origin'."

- 2.8 As is evidenced by ORS' Appendix C (the Household Interview Questionnaire), which is noted to remain largely the same as the questionnaire provided and relied on within the March 2018 GTAA, their interviewers **do not** recite the definition provided by Planning Policy to those persons interviewed.

- 2.9 That is the first issue with the assessment, and the approach of ORS. Persons interviewed are not read the definition against which they are being assessed, and therefore if asked questions directed to determine that they are “non-travellers” (i.e. not ethnically Gypsies, Romanies, or Travellers), the conclusion will inevitably be that they are not persons who meet the definition of Traveller defined by PPTS Annex 1. The reality is that they in fact may do.
- 2.10 The second issue stems from the fact that the interviews are focussed and direct at persons already residing in caravans. They are not directed nor tailored for persons residing in Bricks and Mortar, although within this Borough that is neither here nor there, as ORS are known to rely upon waiting lists and advertising to reach out to the community residing within Bricks and Mortar, who may prefer to reside on a pitch and in a caravan. Those households are excluded from the waiting lists within Surrey CC, as per the guidelines of SCC’s waiting list allocation (See **Appendix 2**). No points will be given (and **no entry onto the site waiting list**) to applicants who have existing accommodation (house, plot or interest in another property). As such, the GTAA itself already demonstrably undercounts need within the Borough by way of the Bricks and Mortar households, some of whom have been evicted from that same accommodation by the LPA, and have been forced to seek alternative accommodation through pitch provision elsewhere.
- 2.11 The third issue that must be taken with the GTAA is that is inaccurate in itself. The report records that a total of 4 interviews were undertaken at the site known as Legend Acres. I (Brian Woods) am privy to information regarding this site as my practice and I are, and have for some time, been acting on behalf of the landowner. He has an application pending for 8 additional pitches, all of which are in situ, and actually has permission for **Five** Static caravans on the land (1 pitch granted under WA/2015/1223 and an additional 4 under WA/2019/0116). As such, the assessment has failed to record 8 pitches that are currently unauthorised, were present at the time of the GTAA (there were 10 statics and 4 touring caravans the last time a member of my Practice attended the site).
- 2.12 Furthermore, the following discrepancies are also noted,

- Old Mill Farm, Old Portsmouth Road, Thursley – Planning permission was granted for a limited period only being the period of four years. That planning permission expired in 2021, and it does not appear the case that any further permission was granted.
- Twin Oaks, Cranleigh – has been pending consideration under WA/2026/00506 for the **loss** of the traveller pitch and replacement with a self/custom build dwelling.
- Wisteria, Alfold - has been pending consideration under WA/2025/00983 for the **loss** of the traveller pitch and replacement with a self/custom build dwelling.

2.13 There would also appear to be anomalies arising from ORS' determination of Pitch numbers, and, like has been done for Legend Acres, undercounting or outright dismissal of additional pitches on existing sites (based upon aerial imagery of those sites), barring those sites at Lydia Park and Burnt Hill, where I am aware the LPA are taking action, or seeking to, against alleged breaches. As such, it fits the LPA's narrative to suggest that there are large scale sites accommodating non-travellers where action being taken can deliver sufficient pitch turnover to meet all of their needs.

2.14 The appellant has no doubt that the LPA's response in large to these issues will be that those unauthorised pitches are occupied by non-travellers, or that households in Bricks and Mortar are not "need", they are "desire". However, for the purpose of the Inspector's determination in this case, he has **no** evidence of that being true, and these issues are largely necessary to be taken up in the appropriate setting of a local plan examination, where they will of course be taken up by representatives of the community.

2.15 The assessment itself is therefore not considered to be robust. It is considered to be a reaction by the LPA to these appeals, and the changes to the PPTS. Indeed, that much should be clear to the Inspector given that when this appeal sat in 2025, as confirmed in Mr. Jarman's own evidence, ORS were appointed to complete a new GTAA for Waverley in February 2024 and it was originally anticipated that the

study would be completed by the end of June 2024. It has taken until December 2025 (in fact January 2026) for the report to materialise, with it suggesting the baseline date was September 2025.

- 2.16 It was even stated by the LPA that the reasons for it being delayed were the complexity of determining an accurate site and yard baseline, and Complexities relating to accurately reconciling completed household interviews to planning permissions. The LPA now ask the Inspector as decision maker in these appeals to accept that those issues have all been resolved and overcome to such an extent that the assessment is considered “robust” and “up-to-date”.
- 2.17 The appellant contends it is not. The assessment is still riddled with errors, uncertainties, and the lack of any assurance that it is correct in its assessment. What it does however provide for this Inquiry is the likely *minimum* scale of need within the Borough.

3.0 THE PDA – THE SUPPLY OF SITES

- 3.1 A Gypsy and Traveller Accommodation Assessment is an assessment of households and the needs within any particular area. Travellers are, as per the definition, nomadic in nature.
- 3.2 As a consequence, there is a degree of Pitch turnover. The GTAA report itself acknowledges that approach frequently ends up significantly under-estimating need as, in the majority of cases, vacant pitches/plots are not in fact available to meet any local need. The report cites an appeal decision (APP/J3720/A/13/2208767) that highlights a GTAA relying upon turnover was found to be unsound,

“West Oxfordshire Council relies on a GTAA published in 2013. This identifies an immediate need for 6 additional pitches. However, the GTAA methodology treats pitch turnover as a component of supply. This is only the case if there is net outward migration, yet no such scenario is apparent in West Oxfordshire. Based on the evidence before me I consider the underlying criticism of the GTAA to be justified and that unmet need is likely to be higher than that in the findings in the GTAA.”

- 3.3 The report also refers to the Best Practice for Assessing the Accommodation Needs of Gypsies and Travellers produced jointly in June 2016 by organisations including Friends, Families and Travellers, the London Gypsy and Traveller Unit, the York Travellers Trust, the Derbyshire Gypsy Liaison Group, Garden Court Chambers and Leeds GATE, which concluded that,

“Assessments involving any form of pitch turnover in their supply relies upon making assumptions, a practice best avoided. Turnover is naturally very difficult to assess accurately and in practice does not contribute meaningfully to additional supply so should be very carefully assessed in line with local trends. Mainstream housing assessments are not based on the assumption that turnover within the existing stock can provide for general housing needs.”

- 3.4 It is therefore perplexing that the PDA relied upon by the LPA to demonstrate a supply relies upon this very matter. Turnover of pitches.
- 3.5 The GTAA records a total of 28 pitches occupied by non-travellers can be relied upon to contributing towards supply, thus reducing the identified need for households who meet the PPTS 2024 definition (including unknown households) from 156 pitches to 128 pitches.
- 3.6 That is not a small figure to be met within a five year period. That is a significant undertaking to deliver sufficient sites, the burden of which is placed solely upon the community to deliver, as the Local Plan makes no provision to meet such a high figure of need.
- 3.7 Turning firstly to the turnover assumed to be available as a consequence of Non-traveller occupation. Those sites, even if they were occupied by non-travellers, cannot be presumed to be returned to available supply. Until any enforcement action is concluded, and compliance is finally secured, those pitches cannot reasonably be treated as part of a firm and deliverable five-year supply. Deliverability must be based on clear evidence, not anticipated outcomes of future enforcement processes, as the obvious question looms over this. What if those households actually meet the 2024 PPTS definition.
- 3.8 Inspector Dignan dealt with this matter when he determined the appeals regarding Ada's Farm in Chertsey, often cited in respect of Intentional Unauthorised Development. I attach the decision at **Appendix 3**. I draw reference to Para's 22 and 23, and also 27 and 28, below,

"22. The matter with the greatest potential to affect both the accuracy of the estimate of need and the supply position concerns two sites adjacent to each other on the northern side of Almnors Road, not far from the appeal site. Little Almnors Caravan Site (LA) has planning permission for the stationing of 20 caravans, while Walnut Tree Farm (WTF) has planning permission for 28 gypsy/traveller pitches, each pitch accommodating 2 caravans, only one of which could be a mobile home, and a utility building. Both planning permissions were granted

on appeal, LA in 2000 and WTF in 2013. The sites were visited by ORS who concluded that the caravans present on the sites were not being occupied by gypsies or travellers. ORS interviewees on another site corroborated that view, but Mr Brown subsequently visited the sites and spoke to the owner who claimed that 37 ethnic Romany Gypsies or Irish Traveller households were living there. The site owner is an Irish Traveller, as is his daughter who is site manager, and both apparently live there as do a number of other members of the extended family and at least one Romany Gypsy who was identified as a resident by ORS. Hence there is some evidence that ORS's characterisation of the site as having no gypsies or travellers was incorrect.

23. The occupancy situation at LA/WTF is therefore unclear, but for practical purposes it is unlikely to add to immediate unmet need, though there remains a possible contribution to future need from new household formation arising from existing households resident on the site. In the circumstances however I am satisfied that the GTAA assessed need provides a reasonable practical basis for planning purposes, albeit with a recognition that significantly greater need than estimated is likely to arise from households that were not interviewed and whose PPTS status was not therefore determined. These form a significant proportion of the gypsies and travellers residing in the borough.

...

27. Another potentially significant problem is that the Council has relied on the provision of 48 pitches at LA/WTF as a major component of supply in the period to 2023/24. It plans first to seek compliance with the terms of the planning permissions through enforcement action, and if that does not work the Council intends to compulsorily purchase the 2 sites, which it says might actually deliver 63 pitches. A very simple and obvious problem with this strategy is that LA does not have 20 pitches, it has planning permission for the stationing of 20 caravans, which it was accepted as common ground early on in this

Inquiry should equate to 10 pitches at most. It is surprising then to see, many months after this was clarified, that it is still being claimed as a 20 pitch site for the purposes of future supply. As for the proposition that the Council has identified breaches of planning control at the site, in reality this statement is based on the conclusion of the GTAA and anecdotal evidence. By the close of this Inquiry, with the Local Plan examination well advanced, no concrete steps had been taken to affirmatively establish the situation on either site, and no enforcement case had been opened.

28. If indeed it does turn out that all of the pitches on both sites are being occupied in breach of the occupancy condition, and can be enforced against, the private site owner will not have to bring them back into their authorised use, though it can reasonably be inferred that he would. But of course it is more likely than not in my view that there are travellers living there, if only the owner's extended family, some of whom may meet the PPTS definition in any case. The compulsory purchase route is also fraught with difficulties. Overall, while it may turn out that LA/WTF makes some contribution to supply eventually, in view of the very limited engagement that the Council has actually had with the sites I cannot be confident that they will make the crucial contribution that the Council has relied upon, certainly within the relatively short time-frame envisaged." (Emphasis added)

- 3.9 This case is important, as it dealt with a similar circumstance being claimed by the Local Authority. I am aware that action was eventually taken by the Local Authority in that case (in February 2024) but that action was subsequently quashed (APP/Q3630/C/24/3341998). I am not aware any further action has been taken.
- 3.10 In the case of Waverley, the parties to this appeal have the evidence that has been presented by the LPA in respect of two sites having been served Breach of Condition Notices, and that, as of the supplementary evidence dated January 2026, compliance of one of those sites is understood to have been achieved.

- 3.11 No further update has been provided to suggest that further BCN's have been served, and even if they have and compliance has been achieved, it does raise the question of who is now occupying those sites.
- 3.12 Therein lies the point to be made in relation to the GTAA/PDA's reliance upon those sites. They are privately owned, by individuals who do not need to rent out any pitch to any person resident in this Borough at the time of the GTAA's baseline. They may have family members elsewhere in the country, in need of a site, who's needs can be met on their land, and thus those families become a component of "*in-migration*" that the GTAA fails to consider.
- 3.13 There is an uncertainty to *who* those sites may provide for, and that the provision of those sites to Gypsies and Travellers will not actually elevate unmet need to an even greater scale. The LPA cannot dictate who the pitches provide for, and by all accounts any member of the community, from anywhere in the UK, could reasonably occupy the site, contributing to unmet need in terms of their children (if any) rather than reducing unmet need.
- 3.14 This goes back to the GTAA's very own point of why reliance upon pitch turnover is not robust. Thus, the identified figure of need being 128 pitches across the 20 year period, with 50 pitches in the first five year period, would be a flawed and unsound figure on which to base the five year supply, as, a point recognised by Inspector Orr in respect of The Old Stoneyard (see *Appendix 6 of Brian Woods Proof of Evidence October 2024*), an over-supply on paper does not equate to no unmet need on the ground.
- 3.15 Turning now to the PDA's own supply of sites. It seeks to suggest that a total of 58 pitches could be delivered within the first five year period. I attach, for reference, a collection of aerial images of all sites listed within the Proformas, to assist the Inspector in observing some degree of context of these sites.
- 3.16 Those pitches originate from the sites recorded by Mr. Jarman on Page 3 and 4 of his supplementary statement. I reproduce the table herein,

Site Ref	Site Name	5-Year Need	Need Met	Need Residual
WAV – 001	The Willows, Runfold	3	1	2
WAV – 002	9 Burnt Hill, Dunsfold	3	3	0
WAV – 003	Bridge View, Runfold	1	1	0
WAV – 004	Hazelwood, Bramley	4	4	0
WAV – 006	Hop Meadows, Runfold	2	2	0
WAV - 017 (10)	Land north of 12A Lydia Park - Yellowstone Park	0	0	0
WAV - 017 (8)	Land north of 11A Lydia Park (1) - Plot 16	0	0	0
WAV - 017 (6)	Land north of Lydia Park - Plot 18	1	1	0
WAV - 017 (2)	Land north of Lydia Park (3) - North of Homestead	0	0	0
WAV - 017 (01)	Land to the north of Lydia Park (4) - The Homestead	0	0	0
WAV - 017 (04)	Land north of Lydia Park (5) - Plot 40 (Land at Stovolds Hill)	1	1	0
WAV - 017 (11)	Land north west of Lydia Park - Ranch Park	0	0	0
WAV - 017 (15)	Land to the West of Lydia Park (Weeping Willow)	2	2	0
WAV – 008	Legend Acres, Farnham	0	0	0
WAV – 009	Lydia Park, Cranleigh	11	11	0
WAV – 010	New Acres, Cranleigh	0	0	0
WAV – 013	Pollingfold Place, Ellens Green	4	4	0
WAV – 020	Thornfields, Badshot Lea	0	0	0
WAV – 016	Twin Oaks, Cranleigh	4	4	0
WAV – 025	Adjacent Burnt Hill Caravan Site, Dunsfold	0	0	0
WAV – 006	Hop Meadows, Runfold	5	5	0
WAV - 017 (16)	Land to the West of Lydia Park (Weeping Willow)	10	10	0
WAV – 007	Kilnside Place, Badshot Lea	1	1	0

WAV - 017 (14)	Land north of Lydia Park Centred Coordinates 502164 137703 (2)	1	1	0
WAV – 009	Lydia Park, Cranleigh	6	6	0
WAV - 017 (9)	Land adjoining 12 Lydia Park - Plot 15	1	1	0
TOTAL		60	58	2

- 3.17 The first matter to note is that WAV-006 (Hop Meadows) is recorded twice, providing a total 5-year need of 7 pitches. Clearly, an error in Mr. Jarman's submission.
- 3.18 This statement shall consider each site in turn and the details provided within the PDA Proformas ("the Proformas").



- 3.19 **The Willows, Runfold:** Granted in 1988, under WA/1988/0456, and is a publicly owned site. No evidence has been provided to suggest or support any position of Surrey County Council agreeing to, or supporting, expansion or intensification of this site. The Proformas provided set out this site measures 1.05ha. Based on OS mapping, shown above, ownership of the site is understood to extend to 1.343ha (1.081ha+0.262ha). However, and extent of that area is woodland/habitat. Under the current legislation, if the site were to extend into that area, Biodiversity Net Gain would be required, which has the potential to render any development unfeasible (i.e. if off-site credits are required which are circa £30,000 depending on Credit Type). The site is therefore constrained in scope of what can be reasonably assumed to be developed (i.e. the Plots themselves). The area comprising the existing plots comprises less than half the overall area (less the

access road), and measures 0.525ha. Accordingly, the plots measure, on average, 525sqm. Those plots cannot be subdivided, or rearranged, in any manner that would achieve the required space standards set by local policy DM37.

- 3.20 Additionally, the site's access lies with the designated area of Flood Zone 3 (see below). The Proforma is silent on why this is deemed acceptable, and there has been no application of Policy (such as the Sequential and Exception Tests). This is not a matter that should be pre-determined by the Inspector in these appeals.



- 3.21 Accordingly, that the LPA rely upon 3 pitches being delivered by this site, is flawed, given that the same issue (Flood Risk) is applied to the appeal sites as a reason to oppose the developments. The Willows is not therefore considered a Footnote 4 site that is available now, offers a suitable location for development, and is achievable with a realistic prospect that development will be delivered on the site within 5 years. It does not offer a suitable location, at a high level, for any additional pitches.
- 3.22 The site is also located within the Zone of Influence of the Thames Basins Heaths SPA. The LPA have no evidence, and provide no evidence, that landowners and developers are accepting of the necessary financial contributions required to make any developments not likely to have significant effect on protected habitats sites, in accordance with the Thames Basin Heaths Special Protection Area Avoidance Strategy.

- 3.23 **9 Burnt Hill, Dunsfold:** Granted permission in 1997 originally, under WA/1997/0581, and a further two pitches in 2002 under WA/2002/2269. This site measures 0.62ha. Based on OS mapping, this site actually measures 0.536ha in terms of ownership extent (see below image). The site accommodates 9 pitches in total already, and so approximately 595.5sqm per pitch. To provide a total of 12, that spacing reduces to 446sqm per pitch. In principle, this conflicts with the requirements of Policy DM37. 9 Burnt Hill is not therefore considered a Footnote 4 site that is available now, offers a suitable location for development, and is achievable with a realistic prospect that development will be delivered on the site within 5 years. It does not offer a suitable location, at a high level, for anything beyond 1 additional pitch. That said, there is still significant uncertainty regarding whether or not it is available and deliverable.
- 3.24 **Bridge View, Runfold:** This site provides 1 authorised pitch, under WA/2005/1140. However, the condition is worded such that a total of 3 static caravans are permitted on the single pitch. The site is stated to measure 0.26ha, thus approximately 0.087ha (870sqm) per “pitch”. However, based on OS Mapping (entangled with Land Registry Extents), that is incorrect. The site measures a total of 0.14ha. The site has extended beyond its land registry boundaries (see below).



- 3.25 Consequently, the site cannot be deemed to be deliverable within the PDA itself for two reasons. The first is ownership. The ownership uncertainty demonstrates that it may not be available, and the LPA have provided inadequate investigations

of that matter. The second is site size. Delivery of an additional pitch would reduce pitch sizes to 350sqm, which would conflict at a high level with Policy DM37. Whilst policy DM37 provides a caveat for family occupied sites, that does not preclude the requirement for a full assessment and judgement to be reached. The Inspector in this case cannot pre-determine such a conclusion, particularly in the absence of any evidence to suggest such a development is capable of being achieved and delivered with the consent of the LPA. Bridge View is not therefore considered a Footnote 4 site that is available now, offers a suitable location for development, and is achievable with a realistic prospect that development will be delivered on the site within 5 years. It does not offer a suitable location, and is not achievable, at a high level, for any additional pitches on the basis of the evidence presented.

- 3.26 It is also noted, having regard to the mapping supplied in respect of The Willows, that the wider access to this site is within Flood Zone 2. This is a matter that would be required to be considered with any additional occupation of the land, but evidently has not been considered by the LPA, and should not be pre-determined by the Inspector in these appeals.
- 3.27 The site is also located within the Zone of Influence of the Thames Basins Heaths SPA. The LPA have no evidence, and provide no evidence, that landowners and developers are accepting of the necessary financial contributions required to make any developments not likely to have significant effect on protected habitats sites, in accordance with the Thames Basin Heaths Special Protection Area Avoidance Strategy.
- 3.28 **Hazelwood, Bramley:** This site benefits from consent for a single pitch, granted in 1994 under WA/1994/1268. The permission is however restricted to 2 static caravans, indicating a family unit occupation arrangement. The LPA indicate an additional 4 pitches could be delivered on this site. The site measures 0.67ha, as such, to provide a total of 6 pitches, each pitch would equate to 0.11ha (1100sqm). Those pitches would be sized in accordance with DM37 requirements. However, access to the site lies within Flood Zone 2, and parts of the site are constrained by the same risk (see overleaf).



- 3.29 Accordingly, that the LPA rely upon 4 pitches being delivered by this site, is flawed, given that the same issue (Flood Risk) is applied to the appeal sites as a reason to oppose the developments. The LPA are inviting the Inspector to pre-determine this sites acceptability, when application of local plan policies and national planning policies may preclude the site being found acceptable.
- 3.30 Hazelwood is not therefore considered a Footnote 4 site that is available now, offers a suitable location for development, and is achievable with a realistic prospect that development will be delivered on the site within 5 years. It does not offer a suitable location, at a high level, for any additional pitches.
- 3.31 **Hop Meadows, Runfold:** The Proformas provided confirm the site measures 0.31ha (3100sqm). It accommodates 5 permitted pitches (WA/2015/0189) but is host to an additional 4 unauthorised pitches. The proforma also records a need of an additional 3 pitches from teenagers. As such, a total of 7 additional pitches are required, conveniently what Mr. Jarman records in the table. This figure, if delivered, would bring the number of pitches to 12, equating to approximately 258sqm per pitch. Clearly, there would be conflict with Policy DM37, for which there is no transparency in the documentation to explain. Evidently, this site cannot be relied upon to deliver the 7 additional pitches Mr. Jarman suggests. Therefore, it is not a Footnote 4 site that is available now, offers a suitable location for development, and is achievable with a realistic prospect that development will be

delivered on the site within 5 years. It does not offer a suitable location, at a high level, for 7 additional pitches.

- 3.32 It is also noted, having regard to the mapping supplied in respect of The Willows, that the wider access to this site is within Flood Zone 2. This is a matter that would be required to be considered with any additional occupation of the land, but evidently has not been considered by the LPA, and should not be pre-determined by the Inspector in these appeals.
- 3.33 The site is also located within the Zone of Influence of the Thames Basins Heaths SPA. The LPA have no evidence, and provide no evidence, that landowners and developers are accepting of the necessary financial contributions required to make any developments not likely to have significant effect on protected habitats sites, in accordance with the Thames Basin Heaths Special Protection Area Avoidance Strategy.
- 3.34 **Land north of 12A Lydia Park – Yellowstone Park:** The LPA advance no additional pitches here.
- 3.35 **Land north of 11A Lydia Park – Plot 16:** The LPA advance no additional pitches here.
- 3.36 **Land north of Lydia Park – Plot 18:** The LPA record 1 undeveloped Pitch on this land, granted under WA/2019/1265. As this pitch is undeveloped, and does not appear to be an occupied pitch at the time of the GTAA or at present, the surplus 1 pitch for which permission exists would count towards the supply of sites. However, it appears that this pitch has been double counted given it would be relied upon in the figure of 28 set out in the GTAA as contributing to supply, thus reducing that figure to 27. It is however noted that need has been identified for 2030 and beyond, what period this need falls in would be a relevant consideration.
- 3.37 **Land north of Lydia Park (3) – North of Homestead:** The LPA advance no additional pitches here.
- 3.38 **Land north of Lydia Park (4) – The Homestead:** The LPA advance no additional pitches here.

- 3.39 **Land north of Lydia Park (5) – Plot 40 (Land at Stovolds hill):** The LPA advance an additional 1 pitch from this site. It is however noted that the LPA also record 4 non-travellers occupying, in addition to 2 households identified. Whilst those meeting the PPTS definition is confirmed in the Proforma, the non-travellers alleged is not. Permission was granted under WA/2021/03196 for 2 pitches, each including a dayroom, static, and touring caravans. The pitches are recorded as occupied, and therefore the two pitches approved are not supply, as suggested by Mr. Jarman's Para 9 table, thus reducing that figure to 25. In respect of the additional 1 pitch the LPA advance as supply, for the very same reasons that the LPA oppose the appeal developments on the grounds of flood risk, this site cannot be assumed to be a Footnote 4 site that is available now, offers a suitable location for development, and is achievable with a realistic prospect that development will be delivered on the site within 5 years, as, at a high level, the same objection would have to apply and it is not evidenced why the appeal sites are no better or worse, but this site would be, in terms of flood risk, given that all sites in the vicinity cross through the same area of flood risk identified and relied upon by the LPA.
- 3.40 **Land north west of Lydia Park – Ranch Park:** The LPA advance no additional pitches here.
- 3.41 **Land to the west of Lydia Park (Weeping Willow):** The LPA advance 2 additional pitches from this site. As set out, this site being located north of Lydia Park cannot be assumed to be a Footnote 4 site that is available now, offers a suitable location for development, and is achievable with a realistic prospect that development will be delivered on the site within 5 years, as, at a high level, the same objection would have to apply and it is not evidenced why the appeal sites are no better or worse, but this site would be, in terms of flood risk, given that all sites in the vicinity cross through the same area of flood risk identified and relied upon by the LPA.
- 3.42 **Legend Acres, Farnham:** The LPA advance no additional pitches here.
- 3.43 **Lydia Park, Cranleigh:** The LPA advance a total of 11 additional pitches here. Noting the comments of interested parties to the appeal, much of which has been directed at the people in occupation, the appellants submit there would be issue

with this assumption. Furthermore, Lydia Park cannot be assumed to be a Footnote 4 site that is available now, offers a suitable location for development, and is achievable with a realistic prospect that development will be delivered on the site within 5 years, as, at a high level, the same objection would have to apply and it is not evidenced why the appeal sites are no better or worse, but this site would be, in terms of flood risk, given that all sites in the vicinity cross through the same area of flood risk identified and relied upon by the LPA.

- 3.44 ***New Acres, Cranleigh:*** The LPA advance no additional pitches here.
- 3.45 ***Pollingford Place, Ellens Green:*** The LPA advance an additional four pitches at this location. It is also noted that they record 1 non-traveller occupying within the GTAA. Permission was granted at appeal for 7 pitches, and so an additional four would elevate that number to 11 pitches in total. The Proforma records the site as measuring 0.62ha, and so 11 pitches being provided would equate to 563sqm per pitch. This would align with Policy DM37's guidance. The site is not at risk of flooding, from pluvial or fluvial sources. The appeal decision in this case is important, as it highlights the primary concern remaining being conflict with Policies D1 and D4 of the WLP and Policy AHN4 of the LP Part 1 in respect of this issue as the development would be significantly harmful to the occupiers of neighbouring properties. Therefore, presumption of an additional four pitches being achievable on this site would require pre-determination from the Inspector that such an issue would be capable of being resolved, or such harm would be outweighed in the balance. It is not therefore considered that this site can be deemed a Footnote 4 site that is available now, offers a suitable location for development, and is achievable with a realistic prospect that development will be delivered on the site within 5 years, as the Inspector should not pre-determine the suitability of the site in respect of such matters, that are not before him.
- 3.46 It is also noted that this site was close to the National Landscape, and strongly opposed by the LPA. That site was also subject of local residents' opposition. This underlines the importance of consultation. The appellants do invite the Inspector to reject any suggestion that the LPA would now agree to its intensification, as there is simply no evidence to support that position.

- 3.47 **Thornfields, Badshot Lea:** The LPA advance no additional pitches here.
- 3.48 **Twin Oaks, Cranleigh:** This site comprises 1 pitch, within a 0.46ha site. It is allocated in LPP2 under Policy DS16 for the provision of 1 additional pitch. As this pitch is allocated already, at least one pitch is accepted as being achievable. However, it is noted that a current application is in seeking Erection of a self-build/custom-build dwelling following removal of existing buildings and a traveller pitch. As such, it would appear that this site is not available, given that it is being advanced for residential accommodation for the settled community. Whilst that application is subject to determination, and obviously accompanied by a presumption against such a proposal without a suitable and appropriate replacement pitch being delivered elsewhere, the LPA provide **no evidence** that the landowner would accept the provision of an additional four pitches on the land, and there is in fact evidence to the contrary. It would appear the likely outcome that is required is the use of compulsory purchase powers, which is of course fraught with issues itself. The site is not therefore considered a Footnote 4 site that is available now, offers a suitable location for development, and is achievable with a realistic prospect that development will be delivered on the site within 5 years, as it is evidently not available now, and there is substantial doubt as to whether or not the development would be delivered on the site within five years.
- 3.49 **Adjacent Burnt Hjul Caravan Site, Dunsfold:** The LPA advance no additional pitches on this site.
- 3.50 **Land to the west of Lydia Park (Weeping Willow):** This site comprises the land south and adjoining the existing weeping willow site. The GTAA records 8 pitches on this land, although it is noted (by way of aerial imagery) with either an additional 11 pitches (or 24 pitches). The discrepancy is noted, and the appellants own discrepancy is caused by aerial imagery not aligning with the approved details of the adjacent permission, thus indicating the site has extended/expanded. As with the other sites in vicinity of Lydia Park and the appeal sites, this site cannot be assumed to be a Footnote 4 site that is available now, offers a suitable location for development, and is achievable with a realistic prospect that development will be delivered on the site within 5 years, as, at a high level, the same objection would

have to apply and it is not evidenced why the appeal sites are no better or worse, but this site would be, in terms of flood risk, given that all sites in the vicinity cross through the same area of flood risk identified and relied upon by the LPA.

- 3.51 Nonetheless, it is noted that the LPA suggest 10 pitches could be provided. Again, it is highlighted that interested parties to the appeal have opposed the appeal schemes, on the basis that has been opposed (the people occupying). It is therefore unclear that such a scheme would be supported by those parties, thus it does not automatically follow that the site, were it acceptable in policy terms, would benefit from planning permission and be delivered within a five year period.
- 3.52 Furthermore, the site is recorded as measuring 0.41ha. This equates to 410sqm per pitch, thus below the requirements of Policy DM37. Whilst policy DM37 provides a caveat for family occupied sites, that does not preclude the requirement for a full assessment and judgement to be reached. The Inspector in this case cannot pre-determine such a conclusion, particularly in the absence of any evidence to suggest such a development is capable of being achieved and delivered with the consent of the LPA.
- 3.53 There is, in addition to the above points, the comparative objections the LPA have raised in respect of the appeal sites (i.e. Protected Species, Intentional Unauthorised Development, Domination of the Settled Community). It is again the case that in suggesting this site is a part of deliverable supply the LPA are inviting pre-determination of the merits of the site.
- 3.54 **Kilinside Place, Badshot Lea:** The LPA advance 1 additional pitch on this site. On the basis of aerial imagery, it appears to be the case that more than that is in-situ, with the recent permission for an additional 3 pitches having been extended to 7 pitches overall. The LPA record the site as measuring 0.4ha (4000sqm). On the basis 5 pitches were provided in total, that would equate to 800sqm per pitch, and would therefore comply with Policy DM37. Indeed, even if 7 pitches were provided, it would still accord with Policy DM37, and so there would be no immediate conflict.

- 3.55 The site is however located within Farnham/Aldershot Strategic Gap, and the application that was recently approved was designed with that particular point accounted for, and not extending beyond the footprint of the site because of that strategic gap. The LPA are therefore inviting the Inspector to pre-determine the acceptability of additional pitches on this basis.
- 3.56 As an aside on this particular site, having represented the landowner in the recent application, I have direct knowledge that the LPA's need assessment, treating the site as unknowns, results in a notable under-estimate of need. This is said, as at the time of the application made there were 6 children, all under 10 at that time. Two of those children are now teenagers, and would comprise immediate need. A further three would comprise teenage need from 2031.
- 3.57 The site is also located within the Zone of Influence of the Thames Basins Heaths SPA. The LPA have no evidence, and provide no evidence, that landowners and developers are accepting of the necessary financial contributions required to make any developments not likely to have significant effect on protected habitats sites, in accordance with the Thames Basin Heaths Special Protection Area Avoidance Strategy.
- 3.58 ***Land north of Lydia Park Centred Coordinates 502164 137703 (2)***: The LPA advance 1 additional pitch here. However, for the same reasons already set out this site cannot be assumed to be a Footnote 4 site that is available now, offers a suitable location for development, and is achievable with a realistic prospect that development will be delivered on the site within 5 years, as, at a high level, the same objection would have to apply and it is not evidenced why the appeal sites are no better or worse, but this site would be, in terms of flood risk, given that all sites in the vicinity cross through the same area of flood risk identified and relied upon by the LPA.
- 3.59 ***Lydia Park, Cranleigh***: The LPA advance 6 additional pitches here. However, for the same reasons already set out this site cannot be assumed to be a Footnote 4 site that is available now, offers a suitable location for development, and is achievable with a realistic prospect that development will be delivered on the site within 5 years, as, at a high level, the same objection would have to apply and it is

not evidenced why the appeal sites are no better or worse, but this site would be, in terms of flood risk, given that all sites in the vicinity cross through the same area of flood risk identified and relied upon by the LPA.

- 3.60 **Land adjoining 12 Lydia Park – Plot 15:** The LPA advance 1 additional pitch here. However, for the same reasons already set out this site cannot be assumed to be a Footnote 4 site that is available now, offers a suitable location for development, and is achievable with a realistic prospect that development will be delivered on the site within 5 years, as, at a high level, the same objection would have to apply and it is not evidenced why the appeal sites are no better or worse, but this site would be, in terms of flood risk, given that all sites in the vicinity cross through the same area of flood risk identified and relied upon by the LPA.
- 3.61 In summary, the appellants position would be, were the LPA's approach to demonstrating a deliverable supply of sites found correct, that any such site must provide, at a high level overview, **no conflict** with any development management policies to be considered acceptable. Where any conflict exists, that requires a planning judgement to be reached on each individual case, and as a consequence means that such sites cannot be deemed to be deliverable for the purposes of supply "automatically", as doing so invites the Inspector to pre-determine acceptability of other sites that may be subsequently concluded as being unsuitable.
- 3.62 Pre-determination of these sites also prejudices, clearly, interested parties to this appeal who may have a differing view to the acceptability of more pitches, or intensified pitches, in the vicinity of the appeal sites.
- 3.63 Furthermore, there are 24 pitches the LPA advance as supply that rely upon the Inspector in these appeals reaching a conclusion that flood risk is not as the LPA allege. If the Inspector sides with the LPA, and determines their position is correct, then it becomes clear that those 24 pitches are not achievable in the terms of Footnote 4 as the LPA suggest. The reason for this would be quite simple, and that is that if flood risk is as impactful to the developments subject of these appeals as the LPA assert, then the access road (i.e. Stovolds Hill) is at the same scale of risk. Whilst those sites recorded on Lydia Park and the vicinity may not be subject

to direct risk, they are restricted in access as a consequence of the flood risk, and thus, a conclusion of the appeal sites being unsuitable on such grounds must also lead to the conclusion that those 24 pitches are equally unsuitable for the same reasons.

- 3.64 Under that scenario, the LPA's asserted supply of sites collapses, and there is a lack of a five year supply to be considered.
- 3.65 A further 15 pitches advanced by the LPA are constrained by a similar issue, flood risk, and the LPA appear to be promoting intensification of sites that put people at risk of flooding, either directly on site, or indirectly through access to sites, as the preferred approach.
- 3.66 On the other hand, were the appellants case accepted, that does not mean those sites are deliverable, and that a five year supply is present.
- 3.67 The LPA's assertion that this need can be fully met relies heavily on assumptions about deliverability that are not robustly evidenced. The 58 pitches the LPA rely upon is dependent upon sites that are in private control (barring one site). They are all already in occupation, and have residents thereon. There is no evidence provided by the LPA that any of those sites are deliverable, and the Inspector is being asked to determine a five year supply exists solely on the basis of ORS' PDA that suggests unmet need can be met.
- 3.68 It is an aspiration, not a supply of deliverable sites.
- 3.69 Deliverability under the Planning Policy for Traveller Sites requires that sites be available now, suitable, and achievable with a realistic prospect of delivery within five years. Land owned by private individuals does not equate to availability to meet Borough-wide needs. This is because sites under private ownership, relied upon to provide more pitches, does not equate to sites being genuinely available to meet the needs of households who have no family connections in the Borough, or have no ownership connections. The approach adopted by ORS and the LPA

is in fact contrary to national policy that requires Local Authorities plan *positively* for the needs of the travelling community¹.

3.70 Paragraph 4 of the PPTS December 2024 sets out what the Governments aims in respect of Traveller sites are. Of note, within the list provided, are the following points:

1. to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites.
2. to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites.
3. that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective.
4. for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies.
5. to reduce tensions between settled and traveller communities in plan-making and planning decisions

3.71 The appellants would submit that the LPA's approach directly contradicts these aims.

1. The LPA have made no effort to work collaboratively, or develop a fair and effective strategy to meet the substantial scale of unmet need they now face. Rather than help households secure sites they already own, and improve them if possible, such that they are achieved, they want to have them displaced from those sites and the communities they have established, all on the aspiration that if they take enforcement action and follow through on sites occupied in breach, there will be alternative locations. They have no mechanism to secure those sites as genuinely meeting unmet need and contributing towards supply

¹ PPTS Policy A is titled "*Using evidence to plan positively and manage development*"

in the immediate future. They can provide no assurance to the Inspector that those very sites will be available for the appellants in these appeals.

2. There is one Local Authority site in the Borough the LPA propose to intensify. The intensification proposes solely caters for those families occupying that site. It does not provide for the appellants in these appeals, who may, were the appeals unsuccessful, find that they are the exact people that a public site would need to be able to accommodate, as the investment of the life savings into the appeal sites would have culminated in naught but failure. The LPA either presume sites exist, or that it is easy for these people to start again as if it cost nothing in the first instance.
3. The approach of the LPA does not reduce unauthorised encampments. There are many parts of the travelling community, and the approach of the LPA assumes that this is not the case. It presumes that a “traveller” is a person that can live on *any* caravan site, despite the very GTAA they rely upon agreeing the position of the appellants that not every family within the community can play “happy families” with one another when there are significant differences that cause incompatibility between the families. This is something recognised by Surrey CC in their management of the public sites within the County.
4. The PDA provided to the Inspector within this appeal is an aspirational solution to meeting the unmet need. It presumes families on sites want to intensify sites, as opposed to expand, or find and advance land in close proximity to allow independence. It advances sites as “supply” that have not been consulted on in any form, either with the travelling community, or the settled community. Furthermore, it suggests that one site is better than another, and provides no reasoning as to why. It is not a fair approach. It is not a realistic approach. It is not an inclusive approach.
5. Following on from the above, the LPA advance 24 pitches within proximity of the appeal sites. Alfold, Bramley, Dunsfold, and Hascombe Parish Council’s all oppose the four appeals before this Inspector. They are opposed on behalf of their communities, and the approach of the LPA to propose, and rely upon, intensification of sites where there is substantial difference between the two communities, as would seem to be the case here, without any consultation and

that that community would have to accept that, on the basis the Inspector considered a 5-year supply had been demonstrated, it would be inevitable that more sites would be approved, does not foster a positive relationship between the communities. It lacks transparency in its approach, that a local plan examination does not.

- 3.72 In summary, the LPA's asserted supply of sites is nothing but an aspiration. It is not convincingly evidenced that such a supply exists, and is a finely balanced uncertainty.
- 3.73 In contrast to this, the Inspector has before him four appeals for sites that would make **an immediate and certain contribution** toward meeting identified need.
- 3.74 Put plainly, the PDA does not allocate land and does not itself create additional supply. It is a tool that directs to a solution. That solution is, in the appellants view, unsuitable and unsatisfactory. Furthermore, it does not resolve the immediate needs that must be addressed *now*. There is no policy mechanism in place that ensures those sites are delivered, or required to be delivered. There is no evidence before the Inspector that establishes with any degree of certainty that the 58 pitches the LPA rely upon to meet their unmet need **will** be delivered in the next five years.
- 3.75 Furthermore, it has been the LPA's case that cumulative impact of more caravans at Lydia Park would be unacceptable in the Countryside and would together with nearby gypsy and traveller sites, dominate the settled community, being detrimental to all of the surrounding residents of Stovolds Hill whilst on the other hand Inspector Gilbert in her September 2022 decision considered that the perceived impact of planning permissions relating to the infilling of sites within the envelope of Lydia Park, would be minimal. I therefore invite the Inspector to conclude that the LPA's own evidence suggesting that further numbers could be delivered within the vicinity of Lydia Park puts paid to the argument over numbers in these appeals. It represents a clear contradiction in their approach and one which is untenable, and more notably wholly unreasonable. It is clear that, on the basis of this new evidence, the LPA have no qualms about additional households

living within the vicinity. The appellants therefore submit that the LPA should accept that this reason for refusal of planning permission is no longer relied on.

- 3.76 Of the 58 pitches advanced, 39 of them are subject to flood risk considerations, in one form or another. Either direct on site, or indirectly through access. There are a number of sites that provide clear conflict with Policy DM37, and have had no consideration of detail. The sites advanced have been insufficiently evidenced as suitable locations for the numbers advanced, beyond the obscure assertions of a third party contracted to provide a solution for the LPA's situation, that they are acceptable.
- 3.77 As 55 of the 58 pitches are on land that is privately owned, there is no evidence before the Inspector that demonstrates **any** of those 55 pitches are available. In respect of the 28 pitches relied upon, there is no evidence, and absolutely no confidence from the appellants, that any of those pitches will be made or become available to meet *their* needs.
- 3.78 There are no planning permissions for the 58 pitches the LPA rely upon which are before the Inspector, and therefore the appellants shall submit that there can be no presumption that the pitches set out are deliverable.
- 3.79 Additionally, the approach of providing "Pitches" taken by ORS appears to be one which focusses heavily on providing extra caravans only. A Pitch is quite different to an extra caravan. Traveller pitches do require space for turning circles, touring caravans, parking and, where sought by the occupants, a day room. Access for refuse lorries is another consideration. A touring caravan maybe regarded as a permitted development right associated with a traveller's pitch, but nonetheless is additional space which needs to be considered. Indeed, there is an accepted definition of a pitch and a recommended size for them within the Local Plan. Caravan site licensing requirements are not irrelevant either. As such, the Inspector is invited to scrutinize the available space and decide the matter according to standard pitch requirements, and more importantly, whether, based on the evidence he has been provided by the LPA in their submission on this matter, that he is satisfied it has been sufficiently demonstrated that those

additional pitches are achievable, and is not merely aspirational intensification of family sites.

- 3.80 I would add that, whilst the Borough is not overly constrained by Green Belt, it is not free of this designation. As all parties to this appeal will be aware, the NPPF December 2024 provides a permissive approach to Green Belt development where specific criteria are met. It is not the case in this Borough that there are *no* sites within the Green Belt. Those sites, as I have noted from others in the community, may have refrained from seeking permission for further development to meet their own families needs, including family on the roadside, because of the presumption against development that was applied by the policies. That position has changed, and the approach adopted by the LPA would preclude such development being found acceptable, when in reality it may be wholly compliant with Green Belt policy, and should not therefore be opposed on such grounds. Put plainly, the approach is wrong and is contrived such as to preclude any engagement of the positive policies for decision-making.
- 3.81 For all of these reasons set out, the appellants shall invite the Inspector to dismiss the LPA's claims of a five year supply of deliverable pitches having been demonstrated.

4.0 THE NPPF CONSULTATION – DIRECTION OF TRAVEL

- 4.1 The appellants shall highlight that, within the NPPF December 2025 that is under consultation, it is clear that a direction of travel has been set by central government.
- 4.2 Policy HO3 of the Consultation NPPF sets out that Local plans should identify a sufficient supply and mix of sites to meet or exceed the housing requirement figure and pitch and plot requirements for their areas over the plan period, drawing on the land availability assessment in accordance with policy PM9.

- 4.3 The Consultation NPPF defines Deliverable as:

“To be considered deliverable, sites for housing or other pitches and plots should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that homes will be delivered on the site within five years. In particular:

- a. **sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).**
- b. **where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that homes will be delivered on site within five years.** (Emphasis added)

- 4.4 The direction of travel is clear in the appellants view, and it is reasonably submitted that unless the entire consultation document is abandoned, the definition of deliverable as set out is unlikely to be changed. It consolidates the definition to be what was reasonably understood to be the case for Traveller sites until ORS began

producing the Pitch Deliverability Assessments as a means to assist Local Authorities in combatting appeals and applications, as opposed to planning positively to meet the unprecedented scale of unmet need across the country that has arisen by virtue of breaking down the systemic prejudice against the community that was introduced in the March 2015 PPTS.

- 4.5 Whilst the consultation remains ongoing, and the NPPF as issued may be subject to further changes, I do consider weight should be afforded to the definition of deliverable defined within that document, which is in my view unlikely to change.
- 4.6 In any event, I would invite that the Inspector directs comments on any such changes that may be issued be advanced by the parties, should those changes be confirmed prior to the making of any decision, particularly given that, if the definition of deliverable remains as per its current draft, then it would be highly material to the appeals, in particular the position of the appellants themselves and the application of the tilted balance.

5.0 RELEVANT APPEAL DECISIONS

5.1 The appellants provide for the Inspector a number of appeal decisions. Several of these decisions regard areas where the Local Authority adopted a similar approach to the LPA here, whereby they instructed ORS to produce a new GTAA alongside a Pitch Deliverability Assessment. The decisions are advanced on the basis of the conclusions of the Inspector's therein.

5.2 **Wakefield Council – Land at Castle Gate:** I provide this decision at **Appendix 4**, and draw reference to Paragraph 59,

“59. *The LPA intends to identify traveller sites in the emerging Local Plan, and the Publication Draft refers to provision for 95 pitches. Discounting pitches on existing authorised sites (49) leaves additional provision of 46 pitches to set against the need for accommodation. An exercise assessing the capacity of existing sites suggests that between 24 and 30 pitches could be available from this source, and a further 9 pitches may be put forward as modifications to the Local Plan. Potential supply amounts to between 79 and 85 pitches, but none are available now to meet the existing need or contribute to a five years’ supply. Moreover, in advance of the Local Plan hearings, the proposed allocations carry little weight, and, as the LPA acknowledges that additional capacity from existing sites would be dependent on the support of existing owners, there is uncertainty as to the number of pitches which may come forward from this source.” (Emphasis added)*

I note that this is a decision determined by the Inspector in these appeals. Suffice to say, when a similar approach was taken, the same concerns that are raised in these appeals were acknowledged, and led to the determination that there was a substantial need for gypsy and traveller accommodation in Wakefield.

5.3 For completeness, it is noted that, within that LPA's evidence (**Appendix 5**) they did accept that they did not currently have a 5 year supply of authorised pitches. However, they identified a shortfall, and determined that that shortfall could be met through their emerging Local Plan, which sought to deal with the overall assessed

need and formalise the status of existing sites, and the potential additional capacity within those sites, along with a new site, all through allocation of them as Traveller sites in the emerging plan, and removing them from the Green Belt where necessary. That, in the Local Authority's view, enabled all those sites to be recognised as legitimate supply offering the prospect of permanent use by Travellers. This is, broadly, the same approach being offered in these appeals, with the exception that **none** of those sites advanced are allocated for the development numbers proposed. None of these sites have planning permission for those development numbers proposed, and there is little, if any, evidence to suggest that they will come forward, will be found acceptable and granted permission, and will be available for the appellant groups, who have an immediate need *now*.

- 5.4 **Tandridge DC – Land adj. Alwyn, Green Lane:** I provide at **Appendix 6** a copy of Inspector King's decision regarding APP/M3645/C/24/3349392 & APP/M3645/C/24/3349393. I draw reference to Paragraph's 21 to 34. In this case, the Tandridge DC produced a new GTAA dated January 2025, in April 2025, which was accompanied by a Pitch Deliverability Assessment. The LPA also produced an "Interim Planning Policy Statement". The reasons for both was that, after over a decade of asserting that there was no unmet need, the assessment produced, whilst stated to have been against the December 2024 definition, despite its baseline being prior to the policy changes, identified a threefold increase (at least) in unmet need. The District, comprising 96% Green Belt was thus vulnerable to speculative development under the terms of Paragraph 155 of the NPPF. In my view, the PDA and the associated IPPS were tools designed to combat that reality. Instead of enabling the travelling community, long failed by the Local Plan's policies, obtain and secure the accommodation required, the approach adopted by the LPA was to prevent development anywhere but on existing sites, many of which were previously opposed by the authority. The approach was one of intensification and expansion as a solution to meeting unmet needs. The local authority also relied upon an allegation of non-traveller occupation on 12 pitches within the District to provide to meet other unmet need. Of note, some of the sites recorded in that PDA were subject to the risk of flooding. Following my own

criticisms, the LPA withdrew those sites from being “deliverable supply” whilst seeking to maintain a supply was demonstrable. Suffice to say, the changes were made on a whim, without engagement with the community, because it was possible to do so. Because neither document is a local plan document. They are development management tools which should aid delivery of development, not stifle delivery. They can be changed and adapted as required, with no certainty that any site contained therein is ever actually delivered. On the basis of all the criticisms provided, Inspector King rightly concluded that the asserted supply was aspirational.

- 5.5 Inspector King was preceded by Inspector Hand (**Appendix 6 – Para’s 20-22**), who concluded likewise for the District, and that the PDA and IPPS did not demonstrate a deliverable supply of sites. Inspector King determined in another case (**Appendix 7 – Para’s 22-33**), whilst dismissing the appeal, the same conclusions.
- 5.6 ***Stafford BC - Land to the northeast side of Hilderstone Road, Spot Acre ST15 8RP***: In this case, Inspector Ware considered a number of points. The LPA relied upon turnover as a component of supply, and made the poignant point that he did not regard such as positive planning to meet an acknowledged need. In that case, the Local Authority accepted that reliance on turnover does not equate to deliverability in terms of national policy. He also considered pitch size and overall capacity, but noted there was nothing before him to be able to assess likely capacity, as is the case here. The Inspector is being asked to consider OS overviews of sites, with arbitrary measurements of those same sites, and pre-determine the suitability of expansion or intensification of those sites. He also noted that there were no interviews with members of the community in conventional housing, and determined that could be a potential issue with the robustness of the case. As is present here, Surrey CC do not allow such persons on their waiting list, so the same question marks would arise. He also recorded concern regarding inwards and outwards migration. More importantly however, he set out that sites for which details were withheld and which do not have planning permission, he gave no weight. He also recorded that the Local Authority in that case accepted that windfall sites cannot be considered deliverable in terms of

national policy. The decision is attached at **Appendix 8**, and I draw reference to Para's 20-27.

- 5.7 ***Cherwell DC – Manor Park:*** In a contrasting approach, for an appeal I was involved in, Inspector Allen determined that the LPA did have a deliverable five year supply. However, the difference in the circumstances here was that, whilst the GTAA was relatively fresh, the LPA had kept an up-to-date record of permissions that had been granted. Whilst I challenged the supply of sites based on the terms of the permissions granted, I did accept the supply of sites, on the basis that there was a combination of vacant pitches (i.e. developed but not occupied or vacated) and a number of planning permissions that had been granted (73 pitches). I did however dispute the identified need figures on which the supply was based. I provide the decision at **Appendix 9**.
- 5.8 ***Mole Valley DC – Cidermill Hatch:*** I attach this decision at **Appendix 10** and draw reference to para's 25-36. In this case Inspector Willows considered Footnote 4. He also noted that of the 19 pitches approved 3 pitches were occupied by non-travellers, and, as there was nothing before the Inspector to indicate that situation would change, it was not available to Travellers, and was not part of the supply of Traveller sites. He also noted that the remainder of the Local Authorities supply comprised 15 pitches from site allocations. However, there was no specific evidence regarding the prospect of any of these sites coming forward. It was not sufficiently robust in his view that they were merely allocated. The LPA also sought to rely upon 35 pitches under consideration within pending planning applications, and noted that the Local Authority suggested windfalls have produced an average of 3 pitches per year to date, suggesting that 15 might come forward over the next 5 years. Consequently, Inspector Willows was not persuaded that either of these matters show that sites are *'available now, offer a suitable location for development, and [will] be achievable with a realistic prospect that development will be delivered on the site within five years'*. He concluded that the Council could not demonstrate an up to date 5-year supply of deliverable sites.
- 5.9 ***Dover DC - Land South of Ash Road, Sandwich:*** In this case, Inspector Carpenter made reference to a decision from March 2025. I attach the decision at

Appendix 11 and draw reference to 30-34. Inspector Carpenter was not convinced circumstances had changed since that decision and that the sites recorded as deliverable now failed the test of the PPTS within Footnote 4. However, Inspector Carpenter did note that the needs assessment was dated, and given the change in definition, need would likely be greater. There was also evidence to suggest overcrowding of sites. In that case, the Council suggested several alternative sites for the appellant. However, there is no definitive evidence these sites are currently available, or that they would be suitable for the appellant by accommodating his extended family in one place. I am also mindful cultural factors can affect the practicality of site sharing between different Traveller communities, and I understand this to be a significant consideration for the appellant in relation to some of the sites suggested. The same conclusions are applicable here. Importantly, that District relied upon planning permissions and allocations. Not a theoretical delivery of sites through expansion and intensification.

- 5.10 ***Buckinghamshire CC - Land South Of Preston Road And South West Of Game Farm, Gawcott:*** I attach at **Appendix 12** Inspector Edwards' decision, and draw reference to Para's 29-34. In this case, Inspector Edwards noted conclusions of an earlier Inspector, in respect of Sunset Park Homes, and that the GTAA had significantly underestimated the need for pitches within Aylesbury Vale. He adopted that conclusion. He also considered that footnote 4 supported the appellants position, the same presented here, that that the purpose of PPTS paragraph 10(b) is to ensure a front-loaded supply of sites to address needs **before or as they arise**. He noted that most of the sites identified as contributing towards supply in the Need Statement have already been granted planning permission and have been delivered. He also noted that those identified as future supply do not benefit from planning permission and in any case, they are already occupied. The evidence indicated none of those sites were currently available. He also noted that the Council's representatives at the hearing were unable to identify any vacant sites with planning permission or allocated for Gypsy and Traveller accommodation use. The same is largely true in this case, although vacant pitches and allocated sites within the Borough would not address the substantive need required to be met.

5.11 **Wyre Forest DC - Land at Drakelow Lane, Wolverley, Worcestershire:** I attach at **Appendix 13** Inspector Willows decision, and draw reference to Para's 28-38. In this case, the Local Authority relied upon planning permissions and allocations. They also considered potential sources of additional pitches. Overall, a need was still identified, and a lack of five year supply. The Inspector did importantly note however that he could not be certain as to whether or when an allocated site would come forward. Thus, concluded it was not a deliverable site, and set out that it was not part of the current supply of available sites. He also referred to another decision from within the District, provided at **Appendix 14**. I draw reference to Paragraph 17 of that decision letter,

"17. On the supply side, again there is an over reliance upon turnover and use of existing sites via expansion without clear explanation as to how or which sites are to be expanded. LP Policy SP.14 sets out a list of sites which are safeguarded to meet the needs of gypsies and travellers over the plan period and the vast majority are already in use." (Emphasis added)

5.12 **The Havering Examination:** Having been opposite Mr. Jarman in several cases recently where this same approach has been advanced (Alwyn) and in some cases which remain pending, I note that he may draw reference to the examination of Havering's Local Plan as having "set the precedent" for the Pitch Deliverability Assessment. I provide Inspector Heywood's report on the Local Plan (**Appendix 15**), and draw reference to Paragraph 126. The Inspector did not set a precedent for a Pitch Deliverability Assessment to carry greater weight than a Local Plan Allocation. The issue with deliverability of sites was explored at Para 114, where the key issue of **ownership** arose.

5.13 The simple point to be made is that Footnote 4 has been within the PPTS since it was first published in March 2015. No Inspector has ever determined that, solely on the basis of an aspirational list of sites which *could* meet unmet need, that unmet need *would* be met. Indeed, in every appeal I have been involved in, when a determination has been made that a Local Planning Authority have a deliverable five year supply, it has been on the basis that planning permissions have been granted, or allocations have been made by way of an adopted Local Plan and for

which planning applications are pending determination. Even in some of those cases, Inspector's have still been dissatisfied with the level of information before them in respect of allocated sites and their delivery. The approach is not a positive, nor a fair, one, and one which would suggest it is correct of any local authority nationwide to simply say *"This site here with 50 pitches can be sub-divided to provide 100 pitches in total. That is our deliverable supply, and thus the permissive application of planning policies must be disapplied"*.

- 5.14 The principle of the approach would suggest that the same can be applied to conventional housing, and that simply because *"as this land at [Location] has no planning objections in principle, it can deliver 1000 homes, thus providing a deliverable supply"*. It allows for no consideration of ownership issues or stakeholder interests, or timescales of any development. It simply does not demonstrate supply. As such, why should the same approach be used to demonstrate a deliverable supply for the Travelling community.

6.0 CONCLUSIONS

- 6.1 In conclusion, the appellants submit that the LPA's evidence is insufficiently clear to detail how and why sites have been selected. There are no provisions to secure delivery of those sites in the immediate future, such that they would meet the immediate needs that have been identified.
- 6.2 The approach lacks transparency, with no consultation having been undertaken with community (settled or travelling) regarding the intensification and expansion of any sites within the Borough.
- 6.3 There are no planning permissions in place to demonstrate the sites are definitively achievable, or that they could be delivered within five years.
- 6.4 There are no allocations of these sites, as the PDA is not a Development Plan Document. It is a document that has not been subject to **any public consultation**, and a document that has not been subject to any **independent examination**. There is no evidence that the proposals within the PDA will **ever** be subject to consultation or examination. The PDA has no weight as a Development Plan Document. It is evidence that would underpin a new local plan. Since it is clearly not a proper policy passed in the normal way and a document that has not been subject to either consultation or scrutiny such as at a local examination and is likely to be subject to further change or revocation, the appellant submits that very little, if any, weight can be given to it or its conclusions.
- 6.5 What has been established within these appeals for the Inspector's determination is that **there is an unmet need**. The delivery of these pitches will serve to meet that immediate unmet need, in addition to meeting the individual appellants needs for accommodation.
- 6.6 The sites listed in the PDA would not meet the immediate needs. They cannot be lawfully developed at this point in time. Some may never obtain planning permission, for varying reasons. Some may, and be subject to challenge. Some may be permitted, and not developed in five years. The LPA provide nothing to assure the Inspector that any of those sites listed **will** be delivered, or **can** be delivered, nor that even were they delivered, **that they would be available**. The sites all therefore fail the Footnote 4 tests.

- 6.7 The appellants have an immediate need for pitches. The presence of other families on existing sites means that those additional pitches would not be available to the appellants. There is an evidential dispute arising out of the inferences to be drawn from what is recorded at para 9.23 on page 54 eg “we have space to meet our needs”. This is not evidence that the appellant could get three pitches on the site, and is in fact the same summary remarks asserted to have been made by site owners where ORS have undertaken PDA’s elsewhere. The evidence before the Inspector does nothing to confirm that those households would provide accommodation to the appellants.
- 6.8 The reliance of the LPA on the 28 pitches occupied by non-travellers, or vacant, also does nothing to demonstrate the unmet needs identified **can** be met. Beyond the LPA pursuing compulsory purchase, there is nothing that requires sites occupied by non-travellers to be returned to providing for the community, nor anything that requires they be provided to meet the needs of the community that have been identified, in particular the 10 pitches required for those unauthorised sites, which include the appellants sites, and those other two sites in the vicinity (but excluding Weeping Willow and Hop Meadows which are listed within the PDA).
- 6.9 There are also the 32 pitches the LPA advance within the Lydia Park site and its environs. As set out, these sites, on the basis the LPA’s position was correct in respect of flood risk, would all be undeliverable. It is the Appellant’s primary case that flood risk is not a reason for dismissing these appeals. However, the LPA cannot consistently maintain that objection, if there is no similar planning objection to the additional caravans subject of this new evidence. The Inspector is therefore invited to reject the LPA’s case that the appellants additional pitches would be unsafe due to flood risk at the junction with the main road.
- 6.10 The simple fact therefore remains that were the Inspector to accept the LPA’s evidence, and dismiss the appeals, the appellants would still have no alternative site available for them to reside upon. They would remain an unmet need required to be met, displaced to a roadside existence, whereby they would be reliant upon doubling up (overcrowding) and unauthorised encampments, contrary to the objectives of the PPTS.

- 6.11 As such, the approach of the LPA is wholly inconsistent with National policy, not fair, not inclusive, and ultimately, not a positive approach.
- 6.12 The appellant shall therefore submit for the wide number of reasons set out, that the Inspector should dismiss the LPA's assertions as nothing but aspirational, and conclude that there is a lack of a five year supply of deliverable Gypsy/Traveller pitches that are **available now, offer a suitable location** for development, and be **achievable** with a **realistic prospect** that development will be **delivered** on the site **within five years**.
- 6.13 It is not disputed that the LPA are working to address this situation, but it is plainly not enough, and not the correct approach in how it is seeking to be addressed, given there are significant real life consequences to choosing displacement and *"meeting the need in time"* as opposed to *"meeting the need now, and working to address it in the future as well"*. This could be done through temporary consents, as Inspector King did within Tandridge DC.

7.0 APPENDICES

Appendix 1	3370693 - Mendlesham Road LDC Decision
Appendix 2	SCC Waiting List – Allocation Criteria
Appendix 3	3181382 - Land at Ada’s Farm, Hardwick Lane
Appendix 4	3192150 - Land at Castle Gate, Stanley
Appendix 5	Castle Gate, Stanley – LA Need Evidence
Appendix 6	3349392 - Land adjoining Alwyn to the west of Green Lane
Appendix 7	3357967 - Plots E and F, Land South of Plough Road
Appendix 8	3349803 - Land to the north of Farfield, Green Lane
Appendix 9	3119166 - Land northeast side of Hilderstone Rd
Appendix 10	3352105 - Land at Manor View, Hampton Poyle
Appendix 11	3347934 - Land adj. to Cidermill Hatch, Partridge Lane
Appendix 12	3364988 - Land South of Ash Road, Sandwich
Appendix 13	3334857 - Land South Of Preston Road, Gawcott
Appendix 14	3358562 - Land at Drakelow Lane, Wolverley
Appendix 15	3287457 - The Beeches, Curslow Lane, Shenstone
Appendix 16	Havering LP Inspectors Report

APPEALS BY MR. T. DOHERTY, MR. S. DOHERTY, M. M. DOHERTY, AND MR. & MRS. DOHERTY

NEED & SUPPLY REBUTTAL

at Land at Stovolds Hill, Cranleigh, GU6 8UX

April 2026

PINS Ref:

APP/R3650/W/22/3313865 &
APP/R3650/W/23/3314447 &
APP/R3650/W/23/3322400 &
APP/R3650/W/23/3323108

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APPENDIX 1



Appeal Decision

Inquiry held on 16 and 22 December 2025

Site visit made on 16 December 2025

by **Diane Lewis** BA(Hons) MCD MA LL M RTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2026

Appeal Ref: APP/W3520/X/25/3370693

Land at The Caravan Park, Mendlesham Road, Wetheringsett-cum-Brockford, Suffolk, IP14 5NU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr William Bond against the decision of Mid Suffolk District Council.
 - The application ref DC/24/03350, dated 26 July 2024, was refused by notice dated 18 June 2025.
 - The application was made under section 191(1)(c) of the Town and Country Planning Act 1990 (as amended).
 - The failure to comply with any condition or limitation for which a certificate of lawful use or development is sought is: The use of the land as a residential caravan park (21 caravans and bungalow) without complying with Condition No 1 of planning permission 121/85 issued on 24 April 1985.
 - The site address on the application form indicates the caravan park is on Mendlesham Road, as stated above. On the plans and aerial photographs showing the site, the land lies adjacent to and has access onto Brockford Road
-

DECISION

1. The appeal is dismissed.

REASONS

Main Issue

2. The LDC application concerns a failure to comply with a planning condition imposed on planning permission 121/85, not the lawfulness of a use of land or operational development. The main issue is whether the Council's refusal to issue a certificate is well founded.
3. In accordance with section 191(3) of the 1990 Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if (a) the time for taking enforcement action in respect of the failure has then expired; and (b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.
4. The relevant time limit for taking enforcement action is a period of ten years beginning with the date of the breach (section 171B(3)). If during the ten year period the breach ceases and there is compliance with the condition a subsequent breach results in the ten year period starting again. The onus is on the appellant to prove their case on the balance of probability.

5. In terms of 191(3)(b), the appellant and the Council agreed the enforcement notice issued on 7 July 2025 has no effect on the outcome of the current LDC appeal. My determination will focus on whether any failure to comply with condition 1 has become immune from enforcement action due to the passage of time.

The 1985 permission

6. By a notice dated 24 April 1985 Mid Suffolk District Council granted planning permission for “Retention of caravan site to accommodate 21 residential caravans and retention of prefabricated bungalow”, subject to eight conditions.
7. Condition 1 states: “The occupation of the site, including the bungalow, shall be limited to gypsies as defined in Section 16 of the Caravan Sites Act 1968 (see Note 1 below).” Note 1 states: “In relation to Condition 1 the Caravan Sites Act 1968 defines ‘Gypsies’ as meaning “persons of nomadic habit of life, whatever their race or origin, but does not include members of an organised group of travelling showmen, or of persons engaged in travelling circuses, travelling together as such.”
8. The reason for the condition 1 is “The development hereby permitted is contrary to the general policy of the Local Planning Authority and is granted solely in recognition of the situation and circumstances of the applicant and his family and to avoid hardship.” The condition imposes a continuing requirement regarding occupation of the site, including the bungalow.
9. The permission was not time limited at all. Conditions 2 to 7 related to landscaping, preclusion of commercial use and access and turning arrangements. Condition 8 limits the number of residential caravans on the site at any one time to a total of 21, providing that small touring caravans not used residentially on the site and the caravans of genuinely short stay visitors shall not be included in the total.
10. The site shown by hatching on the 1985 location plan is a roughly rectangular shaped area of land, including the bungalow at the northern end of the site. An additional adjacent area to the south, outside the defined site but edged in black, probably was in the same ownership.
11. Over the forty year period to the present day the conditions attached to the 1985 permission have not been varied or removed at all. The planning history shows an application to remove condition 1 was refused in November 2021.

The appeal site and adjacent land

12. The LDC application plan (ref 1647-0001-01) identifies a smaller area than the site approved in 1985. The bungalow and adjacent parcel of land are excluded.
13. On the appeal site visit the land of the 1985 permission was occupied by two rows of static caravans separated by a central access area and served by a gated access onto the public highway. The caravans extended south onto the adjacent land parcel in the appellant’s ownership. The northern boundary of the caravan park was marked by close boarded fencing but access was possible into an enclosed area used for storing containers. To the north the bungalow was on a separate plot with its own access and parking area to the front.

14. At the inquiry the appellant confirmed the area of land ownership was correctly shown on the Land Registry plan and was equivalent to the extended area shown on the 1985 plan.
15. The appellant bought the land in July 2017 from the Gaskin family. He described the site as being in a fairly run down state. There was one other mobile home on the site, together with a small caravan and pick-up trailer. A few members of the Gaskin family were living there but within three months they had moved to another caravan site nearby. In addition, there were two non-travellers: MJ lived in a caravan by the site entrance and moved away in September 2017, and SM who still lives there.

Condition 1: continuing effect

16. The first consideration put forward by the appellant is that condition 1 has no continuing effect following the repeal of section 16 of the Caravan Sites Act 1968.
17. A long established principle is that planning permission usually runs with the land and it is rarely appropriate to provide otherwise. The Planning Practice Guidance on use of conditions continues to recognise that there may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. An example is a condition limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, or a caravan site for gypsies and travellers.
18. The purpose of condition 1 was to control who occupied the caravan site, including the bungalow. The reason for the condition indicates the caravan site, which was already developed, was granted permission in a countryside location because of the circumstances of the then occupiers. The approach followed at the time was to limit the benefit of the permission to a particular class of people, Gypsies as defined, rather than to make the condition personal to named individuals in an extended family group and related occupiers. Expressed in a different way, the use of the land as a caravan site would not have been acceptable without planning control on who could reside there.
19. On the evidence available, the condition met the three legal tests – it was imposed for a planning purpose, was fairly and reasonably related to the development permitted, and not so unreasonable that no reasonable planning authority could have imposed it. Condition 1 also met the six policy tests and was necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. In summary, Condition 1 was a valid condition in 1985. The condition has not been removed, or the wording varied, through the statutory powers available in the 1990 Act and continues to be an integral element of the 1985 permission. The focus on this appeal under section 195 is on lawfulness and whatever the outcome condition 1 will not be removed from the 1985 permission.
20. When the 1985 permission was granted the statutory definition of ‘gypsies’ was set out in section 16 (Interpretation) of the Caravan Sites Act 1968, linked to the statutory duty placed on county councils by section 6 [of the 1968 Act] to provide sites for gypsies as defined.

21. In November 1994 the Criminal Justice and Public Order Act 1994 (section 80) repealed Part II of the Caravan Sites Act 1968 (duty of local authorities to provide sites for gypsies and control of unauthorised encampments), which includes section 6, together with the definition of gypsies in section 16. In conjunction with this, an amendment was made to the Caravan Sites and Control of Development Act 1960 by introducing in section 24(8) a definition of gypsies as an identical replacement for the definition in the 1968 Act. The 1994 Act in section 80(4) states the repeal by subsection (1) of the definition of “gypsies” in section 16 of the said Act of 1968 “shall not affect the interpretation of that word in any document embodying the terms of any planning permission granted under the Town and Country Planning Act 1990 before the commencement of this section”.
22. Neither the appellant nor the Council referred to section 80(4) of the 1994 Act in their legal submissions. Nevertheless, the provision appears to me to be decisive and condition 1 continues to have legal effect. This conclusion is also supported by section 16(1)(b) and (c) of the Interpretation Act 1978 cited by the Council, which in summary states where an Act repeals an enactment the repeal does not affect the previous operation of the enactment repealed or any right or obligation derived under that enactment. Furthermore, the definition did not disappear but was retained with exactly the same wording through the amendment to the 1960 Act. The appellant’s submissions on the statutory context, with reference to case law, do not alter my conclusion.
23. The use of Note 1 as an informative in the 1985 permission to set out the meaning of gypsies is helpful to the understanding of the document and does not weaken the interpretation or application of condition 1.

Condition 1: meaning of ‘gypsies’

24. The meaning or definition of gypsies and travellers in policy guidance has evolved over the years, often in response to court judgements and statutory obligations and duties. This appeal is concerned only with the wording used in the 1985 permission.
25. At the time of granting permission, the local planning authority decided, by relying specifically on section 16 of the 1968 Act, to restrict occupation of the caravans and bungalow on the site to “persons of nomadic habit of life, whatever their race or origin, but does not include members of an organised group of travelling showmen or persons engaged in travelling circuses, travelling together as such.”
26. There is no debate to be had over the exclusion of travelling showpeople and the main interest is in understanding the term ‘persons of nomadic habit of life’ and who may comply with this description. The appellant, with reference to the reason for condition 1, submitted that the 1985 permission provided for the needs of the traditional travelling community, the traditional and cultural gypsies who had limited accommodation options and were a highly disadvantaged section of society. The permission was not for the benefit of people who had a nomadic habit of life because they travelled away from home to work and needed low cost accommodation, such as workers on construction sites.
27. Case law provides assistance in respect of the definition as worded in condition 1. Whether a person is of nomadic way of life is a functional test to be applied to their way of life at the time of the determination. The travelling or nomadism must be a habit of life, implying travelling is a custom, a lifestyle. The travelling may follow a

pattern and rhythm. Whether a person comes from a traditional gypsy background and has travelled in the past may be relevant circumstances. A recurring theme is that there must be a connection between the travelling and the seeking and making a livelihood. The essential connection between wandering and working indicates the definition does not embrace people who travel to pre-arranged work. A gypsy may have no fixed abode and no fixed employment and so lives in a caravan. However, the definition does not require a person to live in a caravan. Whether a person does so is capable of being a relevant factor but is not essential. It has been accepted that a gypsy within the definition given by the statute may have a permanent base from which they go out and to which they return. In the event travelling ceases permanently, the person no longer has a nomadic habit of life.

28. In summary, determining whether a person has a nomadic way of life is fact sensitive and requires a matter of fact and degree judgement taking full account of the principles established by the courts and all the facts of the case.
29. The appellant placed emphasis on condition 1 applying only to 'traditional and cultural gypsies' because of the circumstances of the applicant in 1985 and the need to avoid hardship, as referred to in the reason for the condition. However, the wording of the definition is very clear that it applies to persons of nomadic habit of life, whatever their race or origin. The primary purpose was to provide land and accommodation for those who were nomadic. In the 1980's probably in practice persons of nomadic habit of life were mostly 'traditional' gypsies, whose characteristic lifestyle debarred them from access to conventional sources of housing provision. The task in this appeal is to consider the individual circumstances of the occupiers over the relevant time period and not to conclude on broad groups or categories of workers who may or may not be eligible to occupy the site.
30. For the appellant, reference was made to the English Household Survey to provide information on the average length of time people lived in their home, to illustrate the meaning of nomadic, nomad and nomadic way of life. I place little weight on this exercise and prefer to concentrate on the considerations arising from case law.

The evidence

31. Planning Practice Guidance confirms the applicant is responsible for providing sufficient information to support an application for a LDC. Where a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability. All oral evidence at the inquiry was given under solemn affirmation.
32. The ten year period identified by the appellant to establish immunity from enforcement action is the period between 26 July 2014 and 26 July 2024 (the relevant period). The appellant relies on the evidence of six people to establish there has been a continuous breach of condition 1 for a period in excess of ten years prior to the LDC application. Their evidence was in the form of statements of truth (not statutory declarations) and they did not appear as witnesses at the inquiry. I shall refer to these people by their initials: TP, ND, JH, SB, MJ and SM.

33. TP's statement dated 26 October 2021 sets out his work as a groundworker takes him all over the country. He lived in a static caravan at the Caravan Park for several months around 1989/90, returning on average for two to three weeks, three or four times a year. Most recently TP moved back to the site on 19 October 2021. There is no information on such matters as whether he returned every year since 1989/90 or if there were some years he did not stay at the caravan park, whether he occupied the same unit, whether he was there during the period of refurbishment, if he travelled in a caravan looking for work at any time or how he secured his periods of employment.
34. ND stated on 20 October 2021 he moved back to the caravan park in June 2014 and stayed there for 2 years to 2016. Most of his working life was in insurance. There is no information on where he resided on the caravan park or what prompted the move back in June 2014.
35. On 18 February 2022 JH stated she lived in a caravan opposite the site entrance just to the left when working as a painter and decorator in the area between July 2012 and May 2017.
36. In a statement dated 24 October 2021 SB stated he first lived in a static caravan at the Caravan Park between July 2007 and October 2011. He returned for two months between May and July 2017 when he was lorry driving for a living.
37. MJ in a statement dated 31 July 2025 explained he moved to the site after a change in domestic circumstances in January 2017. While there, he worked as a casual labourer and stayed in the same caravan until he moved away in September 2017. The month of leaving is consistent with the appellant's oral evidence. A statement of truth from his employer confirmed MJ resided at the site in 2017, MJ worked for him 5 or 6 months from May 2017 and then stopped working for him when he moved away.
38. SM stated he first lived on the site in the early 1990's and moved back to the caravan park in June 2017 (which ties in with the appellant's oral evidence). He continued to live there until 23 February 2021, the date of the statement, in static caravan no. 13.
39. In addition to these statements of truth, the evidence of the appellant's two witnesses of fact at the inquiry (JOC and GG) primarily concerned their knowledge of the caravan site from the early 1980's to 2017. Their evidence provided little support for a breach of condition 1 over the relevant period.
40. A statement by WC dated 12 March 2021 briefly indicates his occupation of the site and employment from the late 1980s. He moved back to the caravan park in March 2020 residing in a static caravan no. 20.
41. The evidence of all witnesses raises areas of concern in relation to precision and ambiguity regarding site identification, definition of gypsies, reliability of the statements of truth, consistency, continuity in the breach and the site layout.
42. There are no plans of 'the site' attached to the statements of truth. This omission results in uncertainty over whether 'the site' people refer to is the site identified on the LDC plan or the larger site granted permission in 1985. This was highlighted at the inquiry when the appellant stated he had not seen the LDC plan before and in

his mind the site was equivalent to his company's land ownership shown on the Land Registry plan.

43. All statements of truth comment on occupation of the site and whether they and other residents were gypsies or travellers. The appellant's planning consultant (RB) described the process of obtaining the witness statements and considered the witnesses are the best placed to make a judgment on whether or not they comply with the condition 1 definition of gypsies and travellers. However, the statements of truth all refer to the definition in 'Annexe 1 of Planning policy for traveller sites'. In cross examination RB confirmed none of the witnesses were provided with a copy of the document or informed of its contents. There was nothing to indicate the witnesses were informed of the wording of the condition 1 definition, the factors to take into account when considering a nomadic habit of life or that the definition specifically includes people 'whatever their race or origin'.
44. The significance of these points was demonstrated through the oral evidence of the appellant and his witnesses of fact at the inquiry. The appellant stated he had not read Annexe 1 or had it explained to him. All three witnesses based their assessments of gypsy status on instinct, cultural background and heritage, which was understandable given their own family background. They probably were unaware of the extensive related case law. The matter was not remedied through the evidence of RB, who did not explore it in detail with any the witnesses to come to a reasoned judgement for each of the occupiers in respect of the condition 1 definition.
45. The standard of proof is the balance of probability, not beyond reasonable doubt, but facts are thin, accuracy questionable and conclusions on occupancy cannot be based on assumptions. The Census data for 2021 does not assist for various reasons, including the note to the data on disclosure of personal information, the transient population on the LDC site and the recording of ethnicity rather than being based on a nomadic habit of life.
46. The evidence on which the appellant relies for the continuity over the relevant period is in the form of statements of truth. Even though the statements refer to the Statutory Declarations Act 1835 they were not witnessed by and signed in the presence of a solicitor, commissioner for oaths or notary public. The description of the process of obtaining the statements does not indicate the witnesses were advised of the importance of precision in dates and related factual information. The statements of truth have not been tested through questioning. Significantly, matters such as Annexe 1 and the site plan came to light at the inquiry through cross examination and questions. We also learnt the appellant lived on the site during the period of refurbishment, probably outside the LDC site in a caravan near the bungalow and in the bungalow when it became vacant. Such factors raise doubt over the reliability of the detail of the statements and hence reduces the weight that may be attached to their content.
47. A number of inconsistencies occur in the information related to occupation. The Council issued a Planning Contravention Notice (PCN) in September 2021 and in May 2024. In the response to the PCN of September 2021, TP is not included in the lists of occupiers for previous years, and June 2018 is the date given for when SM moved back (not June 2017). The dates in MJ's statement are not entirely consistent with the statement of his employer. According to the witness statements the LDC caravan site could have been occupied by two people (MJ and SM) in

August 2017. The photographs dated 4 August 2017 indicated only one caravan on the main caravan park and the ground surface was unkempt. The appellant stated caravans were moved around the site during the two year period of refurbishment but this is not reflected in the statement of SM. The contractor who carried out refurbishment of the site in the summer of 2017 stated¹ work took around a week to complete. During the work at least two caravans had to be moved to spread the road planings. They returned to do some drainage works to occupied caravans in October 2017. These inconsistencies detract from the reliability of the statements.

48. The importance of accuracy in dates is very relevant to the issue of continuity in non-compliance during the change in ownership. A table of occupancy throughout 2017 was based on the evidence of three witnesses: JH to cover January to May, SB for May to July, and SM for June to December². However, the witnesses were not specific in the timescales. To illustrate, JH resided on the caravan park until May 2017, which could have been the beginning or the end of the month. Three months May, June and July are blocked out for SB. However, SB stated two months between May and July 2017, which could be May and June or June and July. SM stated he arrived in June 2017, which could have been at the beginning or the end of the month. Provided the months were correctly remembered the site could have been unoccupied in May 2017 and into June 2017.
49. In considering the test to show non-compliance the appellant has emphasised condition 1 applies to the whole site as opposed to individual plots found in the case of *Royale Parks*³. The site is said not to have had dedicated bases and each individual caravan is not marked out on anything resembling a pitch. The aerial photographs over the periods December 1999 to September 2017 and May 2020 and May 2024 indicate a different picture.
50. In the earlier period the layout on the northern part of the 1985 site appeared relatively constant, with the fixed position of the bungalow and a similar siting of caravans. An additional caravan possibly was introduced near the access after December 2007. On the remainder of the 1985 approved site, a basic layout was identifiable, with the main access to the highway and caravans and bases each side of a central accessway. The position of caravans appeared to have been very similar over time in three areas - near the southern end, more centrally and near the division to the area by the bungalow. Areas between the caravans were mainly vacant. By September 2017 caravans were limited primarily to the northern area round the bungalow and adjacent to the southern side of the main site access. By May 2020 the site had been refurbished. The new hard surfacing and the regimented layout of caravans each side of the accessway is clearly visible. Two distinct enclosed areas occupy the northern end of the site. An extension of the caravan park to the south took place sometime between March 2022 and May 2024.
51. Witness statements and the PCN responses also lend support to an organised layout even before the site was refurbished. JH identified a specific plot where she resided throughout her stay of nearly five years. SM referred particularly to residing in a static caravan number 13 after returning in June 2017. In the

¹ Statement of truth dated 31 July 2025 at Appendix 15 to RB's proof

² RB Proof of Evidence paragraph 4.28 and Table 2

³ *Royale Parks Ltd v Secretary of State for Housing, Communities and Local Government* [2021] EWCA Civ 1101

response to the PCN dated 8 September 2021 the caravans are numbered in the information related to 2015, 2018, 2019, 2020 and 2021.

Conclusions

52. The Council did not submit factual evidence to contradict or make the appellant's evidence less than probable. However, the appellant's evidence must be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.
53. The procedure for obtaining the statements of truth did not follow best practice and when examined, the factual evidence lacks detail and displays many inconsistencies. Statements have limited weight for the purposes of establishing lawfulness. The reliance on residents' assessment of whether people were gypsies, as defined by condition 1, was not sufficiently rigorous. In terms of a particular area of concern previously highlighted by the Council, the continuity of non-compliance has not been demonstrated adequately during 2017. The oral evidence of witnesses of fact, given genuinely, is of little assistance in understanding the detail of occupation over the relevant period.
54. The appellant submitted, with reference to case law, that it is the use of the land that is controlled by condition 1, not the use of individual caravans. Any breach applies across the whole of the land, not just an individual caravan. The reasoning behind this conclusion has not been fully supported by the evidence on the physical layout of the LDC site over the relevant period and residents' identification of their homes. Even adopting the appellant's approach, the evidence is not sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

Conclusion

55. For the reasons given above I conclude on the evidence available that the Council's refusal to grant a certificate of lawful use or development in respect of the use of the land as a residential caravan park (21 caravans and bungalow) without complying with Condition No 1 of planning permission 121/85 issued on 24 April 1985 is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Diane Lewis

Inspector

APPEARANCES

FOR THE APPELLANT:

Michael Rudd	Barrister instructed by RPS Group Limited
He called	
John O'Connor	
Gary Gaskin	
William Bond	The Appellant
Richard Boother	Associate Director, Tetrattech RPS
BSc(Hons) Dip TP MRTPI	

FOR THE LOCAL PLANNING AUTHORITY:

Robin Green	Barrister instructed by the solicitor to the Council
He called	
Jon Gerrish	Planning and Public Protection Officer, Mid Suffolk District Council

DOCUMENTS submitted at the inquiry

- 1 Opening submissions on behalf of the appellant
- 2 Mid Suffolk District Council's opening statement.

APPENDIX 2



Plot allocation scheme and criteria for Gypsy and Traveller sites

Page contents

- Introduction
- Plot allocation
- The Gypsy sites waiting list
- Assessment of applications – allocation criteria
- Supporting evidence
- Compatibility
- Transfers
- Provision of information
- Reviews
- Repeat applications
- Monitoring

Introduction

Surrey County Council is committed to the continued provision of plots on the **permanent sites** it manages within the county, to enable Gypsy and Traveller families to live in caravans/mobile homes.

We understand and give proper regard to the provisions of Human Rights Act 1998 (HRA), which prohibits discrimination, and the Equality Act 2010, which recognises both English/Romany Gypsies and Irish Travellers as ethnic minorities; against whom discrimination is unlawful.

The Council also recognizes and gives regard to all relevant published government guidance, in particular in relation to supporting the Gypsy/Traveller way of life.

The purpose of this Allocation Scheme is to ensure we operate a fair and transparent process:

- for all applicants wishing to join the council's Site Waiting List; and
- for assessing applicants for allocation of vacant plots when these arise.

Plot allocation

We delegate responsibility for granting licenses on our land, including Gypsy sites, to Delivery and Estates Managers within the Property Services department. They will act upon the Gypsy Site Manager's allocation recommendation and any further report (e.g. on compatibility).

Vacant plots will be allocated to Gypsies and Travellers on our Site Waiting List, in accordance with the allocation criteria, based on need, links to the area and personal and other relevant circumstances. The Council recognises, however, because of the particular circumstances of the Gypsy community it is necessary to operate a flexible scheme.

The Gypsy sites waiting list

Applicants can apply to join our Site Waiting List by completing a Gypsy Sites Application Form. These are available to collect from:

Surrey County Council, (GRT site managers), Woodhatch Place, 11 Cockshot Hill, Reigate, Surrey RH2 8EF.

The Applicant can express a preference for a particular Site or Sites but will in any event be placed on our general Site Waiting List.

Applicants can also contact the Gypsy Sites Manager who can discuss access to this form if a postal/email address is not available. Please contact the team via the Property helpdesk by telephone on 020 8541 9000 (option 6 or option 4 when "out of hours") or by email: property.estatesteam@surreycc.gov.uk.

Applicants are expected to maintain at least annual contact with the council, or be available to respond to requests from us, with the purpose of obtaining updated information on their circumstances.

Contact from us will be made via any contact details provided by applicants in their application form (i.e. a postal address and/or email address and/or telephone number). It is also, therefore, the responsibility of the applicant to ensure that it keeps the Council notified of any changes.

If we are unable to contact and confirm updated information for a period of 18 months, then we reserve the right to either suspend (pending further enquiries) or remove the applicant from the Site Waiting List. Such removal will not prevent a fresh application being made by an applicant at a future date, but this will count as a new application and will not act to revive the earlier application.

Assessment of applications – allocation criteria

All vacant council plots will be subject to this Allocation Scheme and process, even if they subsequently become occupied for any reason before the allocation has taken place. This is to ensure that the widest field of applicants are considered for plots when they become available.

In general, we will consider up to eight applicants for a vacant plot, but may consider a fewer or greater number where the circumstances justify this. If applicants have expressed a preference for a plot on the particular site where the vacancy has arisen, we will generally endeavour to consider all these applicants.

Applications will be assessed using the following criteria. Each application is scored (between 1 to 10) against the criteria.

- 20% weight: Related / close family connection to existing resident(s)
- 20% weight: Residing in, or previously resided / resorted to Surrey, and specific area where the Site is located
- 15% weight: Family make-up (such as children and so on)
- 10% weight: Years on waiting list
- 20% weight: Present circumstances (including health and welfare issues)

- 10% weight: Relevant history (including known to Gypsy Site Manager)
- 5% weight: In receipt of Income, Housing Benefit and ability to pay

The score is then multiplied by the applicable percentage weighting.

Relevant issues, such as compatibility with existing residents and impact on site order and effective management, may also be taken into account, see further below.

No points will be given (and no entry onto the site waiting list) to applicants who:

- are not registered on Surrey County Council's Gypsy Sites Waiting List, or any register maintained by the District / Borough in which the Site is located;
- have a license to occupy a pitch elsewhere;
- have existing accommodation (house, plot or interest in another property);
- age or immigration status prevents the grant of a license; or
- have behaved, or have a history of behaving, in such an unacceptable way that this would have entitled the Council to take legal action had they been a licensee.

Examples (not exhaustive) of unacceptable behaviour include:

- Significant rent arrears or breach of site licence conditions.
- Serious nuisance or annoyance to neighbours, or the local community, including Anti-Social Behaviour.
- Any conviction for violence, or threats of violence, including domestic violence or for using or allowing plot to be used for immoral or illegal purposes, such as drug dealing.
- Any conviction for theft, fraud or dishonesty.
- Any attempts to transfer or buy/sell a plot on a Council Site from a resident outside the Council's Allocation Scheme.
- Damage or neglect of a property.
- Persistently keeping animals that are incompatible for housing on a residential Gypsy/Traveller site.
- Breeding animals for sale and unlawful fighting.

These examples are not exhaustive and we expressly reserve the right to consider any issues of conduct that we reasonably consider relevant to allocation.

50% reduction in points will be applied to applicants who:

- Have planning consent to build on land they own, unless they can demonstrate that they cannot afford to carry out the necessary work to make it habitable;
- Have applied to our Site Waiting List or a Local Authority Housing register and have declined an offer of a plot or an offer of traditional housing accommodation within a 12 month period;
- Have moved on to a vacant council plot without securing the appropriate advance consent / permission from us and have refused to vacate the plot on request, whether pending an allocation exercise/decision or otherwise.

Supporting evidence

Our Allocation Scheme will take account of applicants' links to the specific site and/or prioritise allocation to applicants who are already resident and/or with links to the Surrey area. Accordingly, evidence is required to demonstrate that applicants are residing in, or have previously resided / resorted to Surrey, and the specific area where the Site is located. Evidence is also required to demonstrate receipt of any benefits and access to any local services (for example schools):

As many as possible of the following documents should be provided:

- Electoral Register
- Council Tax
- Housing Benefit / Income Support / Working Family Tax Credit / Child Benefit
- Utility Bills
- VAT or Income Tax returns
- School attendance letters

Letters from doctors or hospitals may be submitted to provide information on any relevant health / welfare issues that applicants wish to be taken into account but will not be accepted to demonstrate residence, since experience has shown that patients (not just Gypsies and Travellers) often stay with the same doctor even when they change their address.

It is the responsibility of applicants to provide any/all documentation to support their application. Other than in exceptional circumstances we will not be responsible for an applicant's failure to provide such documentation, or if an allocation decision proceeds without information an applicant considers should have been taken into account but was not made available to us at the time.

Compatibility

Due to the very nature of Gypsy sites and the close proximity of plots, the compatibility of a new licensee with existing licensees is of paramount importance. With this close proximity, any incompatibility can give rise to very serious problems for other site residents, for the management of the site and for the local community and for other public partner organisations and services, such as the Local Council, the Police and schools.

Incompatibility can occur for a variety of reasons, religious practices, ethnicity, life style and personality. The Council takes no position or judgment, and will remain impartial to all parties but recognises that it is unreasonable to expect two families on Gypsy/Traveller sites who are incompatible to live in close proximity without creating serious problems for themselves, the Council or the surrounding community.

Gypsy site manager report

We may be aware of reasons why an applicant would be incompatible for allocation of a plot on a particular site. This information will be included in a Gypsy Sites Manager's Report and taken into account at the time an application is assessed.

Also, where one or more persons have scored equally against the criteria, the Gypsy Site Manager will make further enquires with the relevant site residents and then refer their report to the Delivery / Estates

Manager for a final decision to be taken, taking into account compatibility and any other relevant circumstances.

Transfers

Notionally, a Transfer Waiting List is held in a similar format to the Gypsy Sites Waiting List. If a plot vacancy arises, the Gypsy Sites Manager may support an existing licensee's application for a transfer and then letting the resulting plot vacancy to a new applicant.

Any purported transfers or sale of plots which take place between site residents without our permission are expressly forbidden, however, and will be treated as "unacceptable behaviour" within the terms of this Allocation Scheme.

Provision of information

Every applicant is entitled:

- to request general information that will enable them to assess how their application will be treated;
- to be informed of any decision about the facts of their case which have been, or are likely to be, taken into account in considering whether to allocate a plot to them;
- to be informed of any decision that they have been found unsuitable to be allocated a plot.

Reviews

Applicants have a right to ask for a review of a decision by the Delivery / Estates Manager in the following circumstances:

- Where their entry to the Gypsy Sites Waiting List has been refused because of:
 - immigration status; or
 - unacceptable behaviour exclusion;
- Where their points have been reduced because they have applied to the Council Waiting List or a Local Authority Housing register and have declined an offer of a plot or traditional housing accommodation
- Where their points have been reduced because they had moved onto a vacant plot without obtaining our permission and refused to leave when requested
- Where their application has been cancelled for lack of contact / updating information.

The Review will be carried out by the Head of Property Services and may, at the discretion of the Head of Property Services, take account of any new information that the applicant may wish to have considered. The decision of the Property Services is final and binding.

Repeat applications

Unless there are any significant changes of circumstances, any application which has been rejected (either for entry onto the Waiting List or for a particular vacant plot), will not be reconsidered within any 12 month period.

Monitoring

The allocation criteria are kept under review to ensure they take account of changes in legislation / guidance. They will also be reviewed periodically to take account of experience of applying the criteria, or the views of site residents / applicants.

The Head of Property Services may make minor changes to the allocation scheme / criteria as a result of such monitoring. However, these changes should not significantly affect the majority of applicants. Any significant changes will be more widely consulted upon before any change is implemented.

Reviewed: 02 Jun 2025



APPENDIX 3



Appeal Decisions

Inquiry opened on 2 July 2018

Site visit made on 3 July 2018

by Paul Dignan MSc PhD

an Inspector appointed by the Secretary of State

Decision date: 9 May 2019

Appeal A: APP/Q3630/C/17/3181382

Land at Ada's Farm, Hardwick Lane, Lyne, Chertsey, Surrey, KT16 0BH.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Nino Lee against an enforcement notice issued by Runnymede Borough Council.
 - The enforcement notice, numbered RU.17/1917, was issued on 30 June 2017.
 - The breach of planning control as alleged in the notice is the unauthorised change of use of the land from woodland to a residential gypsy caravan site and the operational development of the laying out a residential gypsy caravan site comprising: The formation of hardstanding, internal access roads/tracks on the Land; The installation of septic tanks and associated pipes, laying and running of service media including but not limited to drains, pipes, wires on the Land; The erection of buildings and structures and associated concrete bases on the Land; and The erection of fencing to demarcate the residential plots and gates at the entrance to the site fronting Hardwick Lane, (for the avoidance of doubt this does not include the fencing along the perimeter of the site).
 - The requirements of the notice are: 5.1 Cease the use of the Land edged red on the attached Plan for use as a residential gypsy caravan site; 5.2 Break up and remove from the Land the internal access roads/tracks, hardstanding and resultant debris; 5.3 Remove from the Land any service media including but not limited to all drains, pipes, wires, and septic tanks, fencing demarcating the residential plots, entrance gates fronting Hardwick Lane and demolish and remove all buildings, structures, associated concrete and wooden bases and remove all vehicles and caravans; 5.4 Remove from the Land edged red on the attached Plan all unused material including but not limited to gravel, road scalplings, timber sheeting, and mixed hardcore; 5.5 Restore the land back to exposed soil to a level which matches that of the surrounding Land.
 - The period for compliance with the requirements is 14 days for requirement 5.1 and 3 months for requirements 5.2 to 5.5.
 - The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
-

Appeal B: APP/Q3630/W/18/3200398

Land at Ada's Farm, Hardwick Lane, Lyne, Chertsey, Surrey, KT16 0BH.

- 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 Nino Lee against the decision of Runnymede Borough Council.
 - The application Ref. RU.17/1104, dated 1 May 2017 and amended 10 July 2017, was refused by notice dated 28 March 2018.
 - The development proposed is Material change of use of land to use as a residential caravan site, comprising 13 plots accommodating a total of no more than 23 gypsy households, together with construction of access driveway and laying of hardstanding.
-

Decisions

Appeal A

1. I direct that the enforcement notice be corrected by the replacement of the plan attached to the notice with the plan attached to this decision, and varied by the substitution of 6 months as the period for compliance. Subject to this correction and variation the appeal is dismissed and the enforcement notice is upheld.

Appeal B

2. The appeal is dismissed.

Background and preliminary matters

3. Both appeals concern the same piece of land, an area of about 1.5 ha¹ on the south-western side of Hardwick Lane a short distance from the M25. The land is within the Metropolitan Green Belt. Aerial imagery from 2015 shows the land as predominantly wooded, with a grassed clearing in the northern part. The site was almost entirely cleared and developed and occupied as a 13 pitch gypsy/traveller caravan site over a few days in April/May 2017, the pitches laid out either side of a central spine access road off Hardwick Lane. Most of the site area was laid to hardstanding of one form or other, and a number of timber framed buildings on concrete bases were erected or commenced. The development of the site and its use were brought to an end by court order and the site was vacated on 23rd June 2017.
4. The planning application was first made shortly after the development commenced. It differs from the development enforced against in that land is set aside as a buffer along the boundaries of existing residential properties to the north-west (Almners Road properties), north-east (Field Cottage) and south-east (The Caduceus), and no buildings are proposed. This buffer land is indicated on the application plans as being laid to grass, but it is available for landscaping generally. Each pitch would have a mobile home and between 1 and 5 touring caravans.
5. Among the reasons for issuing the notice and for refusing planning permission was the risk to highway safety due to inadequate visibility at the site access to Hardwick Lane. The Highway Authority withdrew its objection following the provision by the appellant of a report on this matter which satisfied it that satisfactory highway visibility was available. A statement of common ground setting out the matters agreed between the appellant and the Highway authority was provided to the Inquiry.
6. Another reason for issuing the notice and refusing planning permission was the failure to agree that satisfactorily provision could be made to avoid adverse effect on the Thames Basin Heaths Special Protection Area (TBHSPA), a European Site whose integrity is at risk from disturbance linked to recreational use. When the application was being considered there was a general mechanism to mitigate such harm, but the current interpretation of legislation covering the impact of development on European Sites requires the decision maker to carry out an Appropriate Assessment of the effect of the specific development before planning permission can be granted. I am satisfied that

¹ The Council's estimate is 1.79 ha and the appellant's 1.3 ha.

sufficient information has been provided to enable me to carry out that assessment should I decide that planning permission should be granted. The Council's position on this matter, and indeed the advice of Natural England, is that if the measures considered as mitigation considered at the application stage, namely a contribution to SAMM (strategic access management and monitoring) through a s106 undertaking and an appropriate means of securing a contribution to the provision of SANG (suitable alternative natural green space), were secured, and I considered that that would avoid harm to European Sites, then their objections on this basis would be overcome. An appropriate s106 undertaking has been provided and I have taken this into account.

Appeal A

7. This appeal against the issuing of the enforcement notice is made solely on ground (g), that the time for compliance is too short. The basis of the appeal on this ground is that a period of 6 months would be reasonable given the amount of materials that would need to be removed from the site, that it may take some time to organise the proper disposal of these materials, and that extending the period would enable work to be done in reasonably clement weather, thereby avoiding the possibility of long-term damage to the underlying soil.
8. That seems entirely reasonable to me, and I shall allow the appeal to that limited extent. I do need to address one matter however, and that is the extent of the land affected by the notice. It is now agreed that the plan attached to the notice as issued covered land that had not been sold to the prospective occupiers and over which there was no allegation of a change of use. In my decision I have replaced that plan. The notice is otherwise upheld.

Appeal B

Main issues

9. The site is in the Metropolitan Green Belt. It is common ground that the development is inappropriate development in the Green Belt. Based on the reasons for the refusal of planning permission and for the issuing of the enforcement notice, the main issues in the planning application appeal are:
 - the impact on the openness of the Green Belt and the purposes of including land within the Green Belt;
 - whether the development is likely to harm the living conditions of neighbours, particularly in terms of noise and disturbance; and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal, on either a permanent or temporary basis.

Development Plan Policy

10. The development plan for the borough includes the saved policies of the Runnymede Borough Local Plan Second Alteration 2001 (LP), which includes Policy GB1, relating to development in the Green Belt, and Policy HO9 which sets general planning expectations for new housing development. The LP is

dated but the relevant policies are broadly consistent with current national planning policy. There are no specific Local Plan policies for gypsy and traveller sites, but the Council's approach to such provision will be the subject of a specific planning policy in its next Local Plan. The emerging Local Plan was submitted to the Secretary of State in July 2018 and is undergoing examination in public. Policy SL22 quantifies the number of pitches to be provided for gypsies, travellers and travelling showpeople to 2030, drawing on a relatively recent Gypsy and Traveller Accommodation. It also identifies the criteria to inform the location of sites for allocation through the Local Plan and criteria against which to assess application that come forward otherwise. There are subsidiary policies allocating specific sites. The emerging Local Plan has yet to complete the public examination process and therefore its policies cannot be accorded the weight of a development plan policy. However, it is the most up to date Council statement available on gypsy site provision and therefore a significant material consideration.

11. National planning policy as set out in the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) are important material considerations.

Green belt issues

12. The appeal proposal, as noted above, is different to what has taken place. I have taken the submitted layout plans as indicative, but the underlying principle of the development layout, as expressed at the Inquiry, is that residential areas would be set in about 5-6m from the site boundaries, the intervening land to be restored by removing the unauthorised buildings and hardstanding, fenced off and planted with trees and shrubs. Nonetheless, the number of caravans required would be the same and it is difficult to see how they would be accommodated on the site without the provision of considerable areas of hardstanding. Although no utility buildings are proposed at present, the needs of some of the prospective occupants would require, and justify, some provision of this kind in the future. However, even if no permanent buildings were erected to support the proposed use, the extent of development on the site, including the stationing of the caravans and the inevitable presence of domestic paraphernalia and vehicle parking, would be considerable and amount to a substantial loss of openness in what is already a fragmented part of the Green Belt.
13. Because the site is largely surrounded by housing, public views of the site would be restricted, limiting visual impact. It was argued that the harm to openness was thus less, but while openness can have a visual dimension it does not follow that loss of openness should be afforded less weight if a development has no visual impact because it is screened from public view. In this case, in addition to the loss of Green Belt openness it is relevant that the appeal development also conflicts with one of the purposes the Green Belt serves, which is to safeguard the countryside from encroachment. That involves preservation of the quality of openness of aspect rather than the more clearly visual dimensions of some of the other purposes.
14. It is also the case that other gypsy site provision, such as that proposed by allocation through the Local Plan process, would almost certainly also be in the Green Belt at the point of identification, given the extent of Green Belt in the borough. However, the development plan process for releasing Green Belt land

has an initial strategic focus that must have regard to the intended permanence of Green Belt boundaries, and exceptional circumstances must exist whereby the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. That process has safeguards that are not easily applied to the piecemeal development of available land, but in any case the Council's approach to Green Belt land release of smaller parcels is focussed on sites that can form a logical extension to the borough's existing urban areas, which would exclude the appeal site. This is not a matter that I consider adds significant weight in favour of the appeal.

Impact on the living conditions of neighbours

15. Unsurprisingly, the circumstances in which the site was first developed clearly caused significant concern and apprehension among the occupiers of the neighbouring residential properties. Along with the loss of woodland which contributed to the amenity and character of the area, buildings were erected close to property boundaries, land levels were raised in places and there was noise and disturbance due to site development activities and items such as generators and high level lighting associated with the residential use. The scheme as now proposed seeks to avoid any harm to the living conditions of neighbours by increasing separation of the residential areas, providing intervening tree planting and reducing the likelihood of inter-visibility through the control of land levels. Mains electricity is readily available, but the use of generators can be precluded by condition and site lighting can be controlled to avoid spread outside of the site itself. There remains some concern that the density of development will result in day-to-day noise generation through ordinary residential use that might be perceived to be uncharacteristic and discordant in a low density semi-rural area. However, given the reasonable separation of the residential areas now proposed, intervening close boarded fencing, what appears to me to be significant boundary planting in the neighbouring properties, and the proposed establishment of substantial planting between the site and its neighbours, I consider that the proposed development is very unlikely to cause material harm to the living conditions of neighbours in terms of noise and disturbance.

Other considerations

The need for, and provision of, gypsy/traveller sites

16. PPTS requires local planning authorities to make their own assessment of need for the purposes of planning, to set pitch targets for travellers which address the likely needs, and to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets.
17. The most up-to-date assessment of current need was carried out for the Council by Opinion Research Services (ONS). The Final Report of the *Gypsy and Traveller Accommodation Assessment* (GTAA) was published in January 2018, using a baseline date of November 2017. The assessment included interviews with 12 households that had been residing on the appeal site.
18. The GTAA estimated a total Gypsy/Traveller pitch need for the period 2017 to 2035 of 205 additional pitches, 123 pitches arising from households who have been determined to meet the PPTS definition of travellers and the remainder being for pitches for members of the travelling community who have been

- considered, on the basis of interviews, not to meet the PPTS definition (50 pitches) or gypsy/travellers whose PPTS status has not been determined because they were not interviewed, for whatever reason (32). The estimated need for the 5-year period 2017/18 to 2021/22 was for 96 pitches, an immediate need arising from unauthorised pitches (32), concealed or doubled up households or adults (23) and from households currently living in houses (4), the remainder being that expected to arise over the period from current teenagers, new household formation, in-migration and from households living on sites with temporary planning permission.
19. The need for dedicated gypsy/traveller pitches for those ethnic gypsy/travellers households whose PPTS definition status was not determined was estimated using a national average of 10% (10% of the approximately 2500 gypsy/traveller households interviewed by ORS were considered to meet the PPTS definition). That would result in an immediate need for 2 (rounded up) pitches and 3² pitches over the 5 year period 2017-2022. Since the publication of the GTAA ORS has revised its national average of interviewed households who meet the PPTS definition to approximately 25%, which would equate to an immediate need for 5 (rounded up) pitches and 8 to 2022. However, if the locally derived proportion of interviewed households that meet the PPTS definition (44%) was applied, the immediate need would be for 8 additional pitches and 12 to 2022. The GTAA advised that the PPTS need from non-interviewed households would need to be addressed through the Local Plan alongside the need from households that meet the definition.
 20. The GTAA estimation of need was criticised on a number of points, the central argument being that it significantly underestimated need. A frequent criticism of the methodology is that the determination of who does or does not fall within the PPTS definition lacks transparency, but I have not seen evidence of any inherent bias around that component that may have resulted in an underestimation of need. Nonetheless, restricting the base population for household formation purposes to those assessed as meeting the PPTS definition runs the risk of failing to account for the needs of any children of those who have ceased travelling if they themselves wish to lead a nomadic way of life upon reaching adulthood. This is a legitimate criticism in my view, but I understand it would make little difference in this borough since, according to Mr Jarman, most of those who had ceased travelling had done so because of old age, the inference being that there were few if any minors among their dependants.
 21. There is also a possibility of those considered to have settled and therefore lost their PPTS status returning to a nomadic way of life to ensure that they can continue to reside on a conditioned gypsy/traveller site. This has happened in the past, and it is a matter that the Council will have to take into account if they seek to rely on compliance to meet need, to which I return below. At present however it is too early to say that such an effect should be factored into the GTAA need estimation.
 22. The matter with the greatest potential to affect both the accuracy of the estimate of need and the supply position concerns two sites adjacent to each other on the northern side of Almnors Road, not far from the appeal site. Little Almnors Caravan Site (LA) has planning permission for the stationing of 20

² ORS applies a 1.75% household formation rate for gypsy/traveller households known to meet the PPTS definition and 1.5% otherwise.

- caravans, while Walnut Tree Farm (WTF) has planning permission for 28 gypsy/traveller pitches, each pitch accommodating 2 caravans, only one of which could be a mobile home, and a utility building. Both planning permissions were granted on appeal, LA in 2000 and WTF in 2013. The sites were visited by ORS who concluded that the caravans present on the sites were not being occupied by gypsies or travellers. ORS interviewees on another site corroborated that view, but Mr Brown subsequently visited the sites and spoke to the owner who claimed that 37 ethnic Romany Gypsies or Irish Traveller households were living there. The site owner is an Irish Traveller, as is his daughter who is site manager, and both apparently live there as do a number of other members of the extended family and at least one Romany Gypsy who was identified as a resident by ORS. Hence there is some evidence that ORS's characterisation of the site as having no gypsies or travellers was incorrect.
23. The occupancy situation at LA/WTF is therefore unclear, but for practical purposes it is unlikely to add to immediate unmet need, though there remains a possible contribution to future need from new household formation arising from existing households resident on the site. In the circumstances however I am satisfied that the GTAA assessed need provides a reasonable practical basis for planning purposes, albeit with a recognition that significantly greater need than estimated is likely to arise from households that were not interviewed and whose PPTS status was not therefore determined. These form a significant proportion of the gypsies and travellers residing in the borough.
 24. At the conclusion of this Inquiry the need arising from those considered by ORS to meet the PPTS definition had fallen by 5 due to the granting of certificates of lawfulness for the use of 2 of the unauthorised sites occupied at the time the report was prepared. That left a GTAA identified need over the plan period of 118 in the unlikely event that none of those not interviewed turned out to meet the PPTS definition, or 150 if all did. The equivalent immediate or unmet need is for 53 or 85 pitches respectively. No doubt the true figure falls somewhere in between, but that nonetheless represents a consider level of need.
 25. The Council has formulated an approach to meet need, set out in Policy SL22 of the emerging plan, though the need addressed is somewhat less than that identified in the GTAA. It has taken the view that the former occupiers of the appeal site do not form part of the borough's need. The explanation given for this is that it is not satisfied that any can demonstrate that they have a local connection to Runnymede or that they have previously resided in the borough, but this seems to ignore much of the evidence given at this Inquiry.
 26. There are nonetheless other problems with the proposed approach. Discounting the former site occupants³, the Council has told the Inspector examining the emerging Local Plan that it considers the true remaining level of need up to 2023/24 to be 71 pitches and 83 to 2030. No allowance has been made whatsoever for need arising from those who ORS was unable to, or did not, interview. As noted above, this is a significant proportion of the Borough's gypsy/traveller population, and the Council has not explained why it appears to be ignored⁴.

³ The Council reduced the GTAA identified need arising from those interviewed and considered to meet the PPTS definition by 24 pitches, but the GTAA need arising from the former site occupants was for 12 pitches with an additional 5 pitches for teenagers who will need a pitch of their own in the next 5 years.

⁴ The Council's emerging Local Plan submissions set out how it intends to meet the need of those considered to meet the PPTS definition and of those who do not, but there does not appear to be a strategy for meeting the needs of those whose PPTS status has not been determined.

27. Another potentially significant problem is that the Council has relied on the provision of 48 pitches at LA/WTF as a major component of supply in the period to 2023/24. It plans first to seek compliance with the terms of the planning permissions through enforcement action, and if that does not work the Council intends to compulsorily purchase the 2 sites, which it says might actually deliver 63 pitches. A very simple and obvious problem with this strategy is that LA does not have 20 pitches, it has planning permission for the stationing of 20 caravans, which it was accepted as common ground early on in this Inquiry should equate to 10 pitches at most. It is surprising then to see, many months after this was clarified, that it is still being claimed as a 20 pitch site for the purposes of future supply. As for the proposition that the Council has identified breaches of planning control at the site, in reality this statement is based on the conclusion of the GTAA and anecdotal evidence. By the close of this Inquiry, with the Local Plan examination well advanced, no concrete steps had been taken to affirmatively establish the situation on either site, and no enforcement case had been opened.
28. If indeed it does turn out that all of the pitches on both sites are being occupied in breach of the occupancy condition, and can be enforced against, the private site owner will not have to bring them back into their authorised use, though it can reasonably be inferred that he would. But of course it is more likely than not in my view that there are travellers living there, if only the owner's extended family, some of whom may meet the PPTS definition in any case. The compulsory purchase route is also fraught with difficulties. Overall, while it may turn out that LA/WTF makes some contribution to supply eventually, in view of the very limited engagement that the Council has actually had with the sites I cannot be confident that they will make the crucial contribution that the Council has relied upon, certainly within the relatively short time-frame envisaged.
29. The Council also proposes to allocate sites through the Local Plan process which, on the most recent projection, would provide 32-42 permanent pitches by 2023/24. However, at this stage of the process it would not be prudent to consider the pitches as deliverable for the purposes of footnote 4 of PPTS. I note the Council's assertion that it expects, through its allocations and action at LA/WTF, to exceed the level of identified need by 2023/24. That seems unlikely, but I consider in any case, on the evidence before me, that the Council cannot at present identify a supply of specific deliverable sites sufficient to provide 5 years worth of sites against their locally set targets.
30. Although some of the former occupants have lawful sites elsewhere, at present no suitable available gypsy/traveller site in the borough has been identified for the group as a whole, or pitches for any of the individual households who seek to occupy the site.
31. Along with the undisputed national and regional need for gypsy/traveller pitches, the significant level of current unmet need for gypsy/traveller pitches in the borough, the lack of alternative sites for those who have no lawful site, the absence of a 5 years supply of sites and the uncertainty about the Council's strategy to address need all weigh in favour of the appeal. Further, the Council's poor record of bringing forward sites through the development plan process, only 1 permanent planning permission having been granted by them since the current Local Plan was adopted in 2001 despite the high level of

identified need, indicates a failure of policy, which also weighs in favour of the appeal.

Personal considerations

32. The 13 pitches on the appeal site would accommodate 23 households, in total 44 adults and 42 children, 26 of whom are of school age. A number of the families are close relatives, and these are all related to the former owner of the land, who still owns the adjoining land where he lives. The prospective occupants all have links to the Light and Life Evangelical Church. I am satisfied on the basis of the evidence submitted and that given under affirmation at the Inquiry that all of the prospective occupiers are gypsies or travellers for the purposes of PPTS and hence their individual circumstances are material considerations.
33. I shall not detail the individual personal circumstances of any of the occupiers, but I have had regard to the substantial personal information submitted in the course of the appeal. The prospective occupiers moved to the site from different situations, some had lawful sites that they considered unsuitable for reasons of overcrowding or fear of crime, and others had insecure accommodation, some doubling up, some on unauthorised sites and some on authorised sites but without what they consider to be reasonable security of tenure. At present those of the proposed site occupants who gave evidence have either returned to the sites they lived at previously or were reluctant to say where they were living, but all have a need for a site that meets their aspirations to live on a safe and secure site within a trusted and supportive environment.
34. A number of the prospective occupants have significant health problems, but while it has not always been the case, many now seem to have reasonable access to medical and support services. Nonetheless there are some families who would benefit considerably from the stability and security that the appeal development would provide. Some of the children require stable long term access to specialist facilities which would only realistically be available from a settled base which their families do not appear to benefit from currently. The high level of care required in some cases means that the trust and family connections between proposed occupants would be particularly valuable. Having a lawful, well planned and reasonably spacious and safe site from which they could access health services and have a stable education would also undoubtedly be in the best interests of all of the children involved.
35. These are all matters that weigh in favour of a grant of planning permission.

Intentional unauthorised development

36. It is government planning policy that intentional unauthorised development is a material consideration that should be weighed in the determination of planning applications and appeals. The written ministerial statement announcing this policy expressed concern that where the development of land has been undertaken in advance of obtaining planning permission there is no opportunity to appropriately limit or mitigate the harm that may have been caused. Particular concern was expressed about the harm that is caused by intentional unauthorised development in the Green Belt.

37. Aside from the harm due to inappropriate development in the Green Belt and the loss of openness, the works that have taken place in advance of the planning application have prevented assessment of the proposal against relevant local plan policies aimed at protecting local character and the amenity of established residential areas. For example, the requirement of saved LP Policy HO9 for new development to be sensitively designed and, among other things, to allow for the retention of appropriate trees has been largely pre-empted. The circumstances of the initial development of the site has also undermined one of the aspirations of PPTS to promote peaceful and integrated co-existence between the site and the local community.
38. The prospective occupiers accept that the initial development was unauthorised but justify that approach because they believed that there was little point in seeking planning permission prospectively, having regard to what they saw as the Council's failure to make adequate provision for the accommodation needs of gypsies and travellers historically. I heard little evidence that the group were actively seeking sites in Runnymede beforehand, and it seemed to me that the combination of the availability of the site and the familial connections with the owner led to its selection rather than the wider issues of pitch provision in the borough, but I can appreciate that there is a perception among gypsies and travellers that occupying a site in advance of seeking planning permission improves the chances of eventually gaining permission. However, that is undoubtedly one of the matters that the intentional unauthorised development policy seeks to address. As it happens little in the way of advantage eventuated in this case, but the actions clearly prevented the proper application of planning policies concerned with the quality of development and caused friction with the local community. In the circumstances therefore I consider that the nature and extent of the initial development, including the way it was carried out, justifies significant adverse weight.

Planning balance

39. By definition, inappropriate development is harmful to the Green Belt, and further harm arises through the loss of openness and encroachment on the countryside, the more so given the considerable size of the development. Each of these must be accorded substantial weight, and I have also found that the intentional nature of the unauthorised development should be accorded significant weight.
40. The sum of this harm must be balanced against the factors in favour of the proposal. At present, the borough has a significant level of unmet need for traveller sites, as is the case regionally and nationally, and this carries significant weight. The Council has a poor record of bringing forward sites through the development plan process, there is not a 5-year supply of sites and I am far less confident than the Council that its current approach to future provision is likely to see the shortfall overcome within the next 5 years. These are also matters to which I attribute significant weight.
41. The lack of an alternative site is a matter that would normally also add significant weight in favour of an appeal, but the circumstances of the prospective occupiers are not all the same, so I have had to consider whether less weight should be accorded to this matter in this case. To be a realistic alternative, accommodation has to be suitable, available, affordable and acceptable. In this case many of the households who occupied the site and who

remain prospective occupiers have got alternative lawful sites to live on. They consider them to be unsuitable or unacceptable for reasons of overcrowding, fear of crime or insecurity of tenure, but neither the overcrowding point nor that of fear of crime stood up well to scrutiny, and on the sites where security of tenure was an issue the households concerned had long connections with those sites and appeared able to return to them when required. For those who would not reveal where they were living, I could not conclude with any certainty that they did not have access to alternative accommodation, although I have no reason to doubt their oral evidence that wherever they are currently staying is unauthorised.

42. Notwithstanding, however, that some prospective occupants have access to alternative accommodation, there are qualitative aspects to traveller site provision that are often overlooked in quantitatively oriented accommodation assessments. I have formed the view that the impetus for moving onto the site was a combination, in roughly equal parts, of a genuine need for an affordable pitch by, primarily, close relatives of the then landowner, and the aspiration, on the part of those who already had alternative pitches, to live on a better site with like-minded people. In this context the personal need for a site is clearly more pressing for some of the prospective occupiers than others, but the group as a whole still have what I see as a legitimate aspiration of being able to live in the safe, secure and mutually supportive community that they had planned for the appeal development, and for which no alternative site has been identified. In these circumstances I consider that this matter can be accorded significant weight, particularly as the opportunity for the households to live together for mutual support is characteristic of the traveller way of life. The proposal would therefore be consistent with the Government's aim of facilitating the traditional and nomadic way of life of travellers.
43. Similarly, the personal circumstances of the prospective occupants, so far as they are material planning considerations, vary significantly, but I consider that they are worthy of very significant weight. I heard compelling evidence that the particular environment of the appeal development would be of considerable assistance in the management of the severe conditions affecting some of the children, and having a settled base would ensure that the many children who would live at the site had the stable access to education and health services that was, in most cases, denied their parents. The families of the children with the most pressing needs have been able to access appropriate specialist services in the area despite not living at the appeal site, but these might be at risk if they are unable to find suitable stable accommodation in the wider area at least. It would undoubtedly be in the best interests of those children who do not currently benefit from a stable base to have one from which to access education and health services. This also adds significant weight in favour of the appeal.
44. In balancing these opposing considerations and their respective weight, however, I consider that the Green Belt harm supplemented by the weight arising from the intentional unauthorised nature of the development is not clearly outweighed by the weight of the other considerations. It follows that the very special circumstances necessary to justify a grant of planning permission for the development in the Green Belt do not exist. The development therefore conflicts with LP Policy GB1 and the development plan read as a whole, and with national planning policy.

45. I have also considered whether a temporary permission would be justified, given that the Green Belt harm would be reduced. The principle justification for a temporary permission in a case such as this is that at the end of it there would be a realistic likelihood of the occupants being able to move to suitable alternative accommodation. Taking the group as a whole, and the Council's current position on future provision, I consider it very unlikely that such a site would become available by the end of the four year period suggested by the appellant, and I consider it quite unlikely that all or even most of the 23 individual households would, individually, have suitable accommodation to move to after that period. Further, given the substantial nature of the development, which has now been in place for over 2 years, I consider that reduction in Green Belt harm due to time-limiting would still not reduce the overall harm to a level where it would be clearly outweighed by the considerations in favour of the appeal.
46. It has been submitted that planning permission, or even temporary planning permission, could be granted for some plots only, on the basis of according different weights to the prospective occupiers' circumstances and carrying out the balancing exercise on a per plot basis. I do not believe that that would be an appropriate approach in a case such as this where the application is for the development as a whole, much of the infrastructure would still be required and it concerns land that was previously entirely undeveloped, but I consider in any case that such an approach would not alter the respective weights so much as to indicate a different outcome.
47. That being so, it follows that very special circumstances do not exist to justify planning permission for the development, or any part of it, on either a temporary or permanent basis. I have reached this conclusion having borne in mind my public sector equality duty throughout.

Human rights

48. Dismissal of the appeal would not make any of the prospective occupiers immediately homeless, but it would deprive the prospective occupants of the possibility of establishing a home on the appeal site, and of living in the family or community environment that they aspire to. Bearing in mind also that it is likely that many of the prospective occupiers do not have a lawful home at present, I accept that dismissal would represent an interference with their rights under Article 8 of the First Protocol of the European Convention on Human Rights.
49. However, the protection of Green Belts is an important aim of local and national planning policies. The protection of the Green Belt is therefore a legitimate objective in the public interest, and has a clear basis in the relevant planning legislation. In these circumstances, some interference with Article 8 rights is permissible, and I consider that the protection of the public interest cannot be achieved by means which are less interfering with the prospective occupiers' rights. They are proportionate and necessary and hence would not result in a violation of rights under Article 8.

Overall conclusion

50. For the reasons set out above, I conclude that the appeal development, which was intentional unauthorised development, would cause unacceptable harm to the Green Belt. That harm is not outweighed by any of the other

considerations, including the need for more gypsy or traveller sites in the area, or the prospective occupiers' personal circumstances, on either a temporary or permanent basis. I have taken account of all the other matters raised, but none changes these conclusions. The appeal is therefore dismissed. In these circumstances it is not necessary to carry out an appropriate assessment of the likelihood of harm to a European Site.

Paul Dignan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Marc Willers QC

He called	
John (Jacky) Boyd	
Michaela Stevenson	
Callum Wooding	
Anthony Smith	
Caleb Eastwood	
Steven Davies	Prospective
Jim Wilson	occupiers
Tyrone Stevenson	
Hughie Sykes	
Barney Coyle	
Charmaine Lee	
Margaret Gentle	
Philip Brown	Planning consultant

FOR RUNNYMEDE BOROUGH COUNCIL:

Caroline Bolton	Of Counsel
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She called	
Georgina Pacey	Local Plans, RBC
Paul Nunn	Enforcement, RBC
Steve Jarman	Opinion Research Services (ORS)
Justin Williams	Planning, RBC

FOR GOLDCREST LAND AND LYNE RESIDENTS ASSOCIATION (RULE 6 PARTY):

Matt Lewin	Of Counsel
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He called	
Peggy Hui	Planning Consultant
Don Whyte	Lyne Residents Association

DOCUMENTS SUBMITTED AT INQUIRY

- 1 Council's letter of notification
- 2 Proposed conditions
- 3 Opening submissions - RBC
- 4 John Boyd addendum
- 5 SEN communication from Surrey CC
- 6 Opening submissions - Rule 6 party
- 7 Lee – additional documents
- 8 Exceptional Circumstances addendum - RBC
- 10 ORS data from prospective occupiers' interviews
- 11 Appeal site photos dated January 2017 – appellant
- 12 Saved Policy NE11, Landscape Problem Area map, and Aircraft Noise Location Map - Hui
- 13 Appeal site photo from Document 4
- 14 Appeal site photos - RBC
- 15 Planning application for Slough BC caravan site - RBC
- 16 Aerial imagery of Slough BC caravan site - RBC
- 17 Copy of Slough BC caravan site plot lease - RBC
- 18 Court Order dated 31 August 2017 (requiring disclosure) - RBC
- 19 Web page – LMS roofing UK - RBC
- 20 Land Registry Entry – Plot 4 - RBC
- 21 Land Registry Entry – Clayton Road Chessington - RBC
- 22 Aerial Imagery of Clayton Road Chessington dated 7 May 2018 - RBC
- 23 Minutes of meeting with RBC CEO (24 July 2017) - RBC
- 24 Web page – Reviews of Southern Roofing - RBC
- 25 Web page – Stoke Poges crime reports - RBC
- 26 Updated B Coyle statement
- 27 Court case transcripts for appellant's closing submissions
- 28 Enforcement record sheet for Green Lane Chertsey - RBC
- 29 Application plans Green Lane Chertsey - RBC
- 30 Connect Roofing dormant accounts statement - RBC
- 31 Crime reports – Enderby and Lyne area - RBC
- 32 Neighbourhood Committee Report re Clayton Road November 2011 - RBC
- 33 EHC needs assessment - appellant
- 34 Extract from The Law of Mobile Homes and Caravans (Clayden) - appellant
- 35 Aerial imagery – Bedmond Road caravan site - RBC
- 36 RBC response to LP Inspector questions plus emails - RBC
- 37 Court of Appeal transcript [2016] EWCA Civ 466 - RBC
- 38 Decision APP/Q3630/W/18/3195463 - RBC
- 39 List of Gypsy/Traveller applications since 2000 - RBC
- 40 Decision APP/K0235/W/18/3195889 - RBC
- 41 Decision APP/X0360/C/16/3153193 - appellant
- 42 Closing submissions - RBC
- 43 Closing submissions - Rule 6 party
- 44 Closing submissions - appellant
- 45 Unilateral Undertaking – appellant

APPENDIX 4



Appeal Decisions

Inquiry opened on 27 November 2018

Site visits made on 7 July 2021

by Richard Clegg BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2021

Appeal A: APP/X4725/W/17/3192150

Land at Castle Gate, Stanley, Wakefield, LS26 8HH

- 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 T Spaven against the decision of Wakefield Council.
 - The application Ref 16/01608/FUL, dated 30 June 2016, was refused by notice dated 27 June 2017.
 - The development proposed is described as 'change of use to six traveller pitches and associated works including six mobile homes, six day-rooms, six touring caravans, a stable block and hardstanding'.
-

Appeal B: APP/X4725/W/20/3253311

Land at Castle Gate, Stanley, Wakefield, LS26 8HH

- 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 T & Mrs E Spaven against the decision of Wakefield Council.
 - The application Ref 19/01952/FUL, dated 29 August 2019, was refused by notice dated 16 January 2020.
 - The development proposed is described as 'the use of land for the stationing of caravans for residential purposes for six gypsy pitches, together with the formation of hardstanding and utility/ day-rooms ancillary to that use'.
-

Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for the change of use to six traveller pitches and associated works including six day-rooms, and hardstanding on land at Castle Gate, Stanley, Wakefield, LS26 8HH, in accordance with the terms of the application, Ref 16/01608/FUL, dated 30 June 2016, subject to the conditions in schedule 1.

Appeal B

2. The appeal is allowed and planning permission is granted for the use of land for the stationing of caravans for residential purposes for six gypsy pitches, together with the formation of hardstanding and six utility/ day-rooms ancillary to that use on land at Castle Gate, Stanley, Wakefield, LS26 8HH, in accordance with the terms of the application, Ref 19/01952/FUL, dated 29 August 2019, subject to the conditions in schedule 3.

Application for costs

3. At the Inquiry an application for costs was made by Wakefield Council against Mr T Spaven in respect of appeal A. This application is the subject of a separate Decision.

Procedural matters

4. The inquiry sat for seven days; 27 November 2018, and 29 June – 2 July and 6 & 7 July 2021.
5. The scheme subject to appeal A does not include a stable block, and caravans which would be stationed on the site are not associated works. The main parties agreed that this proposal should be described as *the change of use to six traveller pitches and associated works including six day-rooms, and hardstanding*. They also agreed that the number of day-rooms should be specified in the description of development for appeal B, thus: *the use of land for the stationing of caravans for residential purposes for six gypsy pitches, together with the formation of hardstanding and six utility/ day-rooms ancillary to that use*. I have considered the appeals accordingly.
6. The inquiry opened on 27 November 2018, and at that stage solely concerned appeal A. Planning permission had been refused by the Local Planning Authority (LPA) for the scheme shown on the proposed site plan reference TDA.2116.02 revision H. That scheme included a 1.8m high acoustic fence on the northern side of the appeal site, close to the boundary with the M62 motorway, and 1.2m high post and rail fences on the west and east sides of the site. Subsequently, revised plans were submitted (site plan reference TDA.2116.02 revision I), which showed a 1.8m acoustic fence erected on a 1m high bund along the western, northern and eastern boundaries of the site, and other detailed changes.
7. The Appellant requested that the revision I scheme be considered, but given the extent of the proposed changes I ruled that the inquiry should not proceed then on that basis. Neither of the main parties wished to return to scheme H, and the inquiry was adjourned, before any evidence was heard, to enable consultation to take place on the scheme in revision I. For various reasons, including the covid-19 pandemic, it was not possible to resume the inquiry until June this year.
8. In August 2019, a planning application for an alternative scheme for six gypsy pitches on the site was submitted. The refusal of planning permission led to appeal B which has been linked to the original appeal.
9. The plans for appeals A and B which were considered at the inquiry are set out in schedules 2 and 4 respectively. Insofar as appeal A is concerned, further revisions had been submitted. A revised site plan (Green Planning Studio ref 19_1011_003 revision J) involved the replacement of the bunds and the acoustic fencing on top, by acoustic fencing of similar height on the western, northern and eastern sides of the site, and details of the fencing were also submitted. The LPA had no objection to the amendment on the northern boundary, and these plans have been the subject of consultation. Subsequently revision K was submitted, which simply correctly shows some existing fencing, and to which the LPA had no objection. I am satisfied that no

prejudice would be caused to any party by consideration of appeal A on the basis of the scheme shown in revision K.

10. For appeal B, the plans which relate to the refusal of planning permission have been considered, together with an indicative landscape plan. That plan is consistent with the proposed site layout: the LPA had advised that it was in a position to address the landscape plan and Stanley Residents Group (SRG) was aware of this document. I am satisfied that no prejudice would be caused to any party by taking the indicative landscape plan into account in considering appeal B.
11. The main parties agreed that, for each appeal, the pitches should be identified by numbering them 1-6 from west to east.
12. At the second case management conference, held on 14 April 2021, it was agreed with the main parties that the statement of common ground previously submitted in respect of appeal A would be superseded by two new statements of common ground in respect of noise and other matters, each covering both appeals. It was also agreed that the proofs of evidence which had been prepared for appeal A would be superseded by fresh proofs covering both appeals. The appended lists of inquiry documents include those fresh proofs of evidence and their supporting material, together with documents submitted at the inquiry.
13. A revised version of the National Planning Policy Framework (NPPF) was published on 20 July 2021. The main parties and Stanley Residents Group have been given the opportunity to submit comments on the implications of the revised NPPF for their respective cases.

Main Issues

14. Having regard to the representations made, I consider that the main issues in these appeals are:
 - (i) The effect of the proposed developments on the openness of the Green Belt.
 - (ii) Whether the proposed developments would involve encroachment into the countryside.
 - (iii) The effect of noise on the living conditions of future occupiers of the appeal site.
 - (iv) Whether the harm to the Green Belt, by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the developments.

Background

15. The appeal site is part of a larger parcel of land within the Appellants' ownership, which lies between Castle Gate to the south and the M62 to the north. The site is in the Green Belt, which extends to the west and east within

Wakefield, and to the north within Leeds¹. It contains a small stable building, but most of the site is open and at the time of the inquiry in 2021 it appeared to be used for the keeping of horses and ponies. There are patches of hardstanding on the western part of the site. On the opposite side of Castle Gate are commercial premises at Premier Park, with a large warehouse building facing the site. There are small clusters of housing along Castle Gate to the east and to the west at Lee Moor Lane.

16. In 2014, an appeal concerning ten gypsy pitches on part of the Appellants' land immediately to the west of the present site was dismissed by the Secretary of State². The decision referred to harm to the Green Belt and noise disturbance from the motorway as reasons for dismissing the appeal.

Policies and guidance

17. The Development Plan for the area includes the Local Development Framework (LDF) Core Strategy, the LDF Development Policies Document (DPD), and the LDF Site Specific Policies Local Plan (SSPLP).
18. Policy CS 1 of the Core Strategy sets out a broad spatial framework for the location and scale of development. In the Green Belt, development is expected to conform to national, regional and LDF policies relating to the Green Belt. Criteria for assessing proposals for gypsy and traveller sites are set out in Policy CS 7, and include a requirement that proposals should help to meet an identified shortfall in the supply of sites. Amongst other matters, new development should minimise the risk from all forms of pollution for existing and future occupants (Policy CS 10).
19. In the DPD, Policy D 20 is concerned with pollution control. Proposals which are likely to be exposed to potential sources of pollution are only to be permitted if measures can be implemented to minimise emissions to a satisfactory level which would protect health, environmental quality and amenity. Development within the countryside should contribute towards the protection, maintenance and enhancement of the landscape (Policy D 8), and all new development should make a positive contribution to the environment and amenity of its locality (Policy D 9).
20. Policy MSA 6 of the SSP identifies the limit of the shallow coal resources which include the appeal site. The policy notes that the limits of the resources do not necessarily identify economically viable deposits.
21. The LPA is preparing the Wakefield District Local Plan 2036 (the emerging Local Plan), which was submitted for examination in May of this year. Policy WSP 8 refers to land being allocated for gypsy and traveller accommodation for the five years up to 2023. The policy also sets out criteria for assessing proposals on unallocated sites, which reflect those in Policy CS 7 of the Core Strategy.
22. Reference has been made in the representations to a number of documents which provide guidance in respect of the effect of noise. The World Health Organization (WHO) *Guidelines for Community Noise* and its *Environmental Noise Guidelines for the European Region*, *Professional Practice Guidance on*

¹ The extent of the Green Belt in the vicinity of the site within Wakefield is shown on the Policies Map 2012 for the Western Area (Document O13), and within Leeds on the Leeds Local Plan Policies Map, Map 29a (Document O15).

² The Secretary of State's decision and the Inspector's report are at appendix A2 of Document A3.

Planning & Noise – New Residential Development (ProPG), and *British Standard BS 8233:2014 Guidance on sound insulation and noise reduction for buildings* all provide guidance on noise levels in relation to residential development. *British Standard 3632:2015* which sets out specifications for residential park homes, the *Acoustics Ventilation and Overheating Residential Design Guide*, and *Planning Policy for Traveller Sites (PPTS)* are also of relevance in these appeals.

Reasons

Openness of the Green Belt

23. Policy E of PPTS makes clear that traveller sites are inappropriate development in the Green Belt, and, as set out in paragraph 147 of the NPPF, inappropriate development is harmful to the Green Belt.
24. There is a modest stable building opposite to the site access, with a container nearby, and a vehicle and some timber and other material positioned close to the access. However, the site is predominantly open land, on which there is grass cover. Both of the appeal proposals would involve the construction of two double and two single day-rooms. Each of the six pitches would accommodate a mobile home, a touring caravan and parking space for two vehicles. Mobile homes would be permanent features of the site. Touring caravans would be absent when occupants are away, but bearing in mind the evidence given on travelling, I anticipate that it is likely that they would be present for significant parts of the year. Both proposals would result in the loss of the existing paddocks, with buildings and caravans extending across the site, apart from the play area proposed at the eastern end. The presence of development on the site would be apparent from Castle Gate, and to a lesser extent from public footpaths to the west of the junction with Lee Moor Lane and to the north of the M62.
25. I conclude that both appeal proposals would result in a marked loss of openness within the Green Belt. Paragraph 137 of the NPPF explains that openness is an essential characteristic of the Green Belt, and accordingly the loss of openness involves conflict with Policy CS 1 of the CS. In accordance with paragraph 148 of the NPPF, both the definitional harm and the loss of openness arising from the appeal proposals carry substantial weight.

Encroachment into the countryside

26. The appeal site forms part of a strip of land between the M62 and Castle Gate. There is commercial development to the south and clusters of residential development to the west and east, but there are also extensive areas of farmland on the other side of Castle Gate. Open fields also extend to the north of the motorway which runs at a lower level relative to the appeal site. The site is within a predominantly open landscape, outside any settlement.
27. Development of either of the appeal proposals would fundamentally change the nature of the site. The presence of the day-rooms and caravans would consolidate development on Castle Gate, and sever the strip of open land on the north side of the road of which it forms part. I conclude that the appeals proposals would each involve encroachment into the countryside, contrary to one of the purposes of including land in the Green Belt. In this regard, the

proposals would conflict with paragraph 138 of the NPPF and, in consequence, Policy CS 1 of the CS. This harm to the Green Belt carries substantial weight.

Noise

28. The appeal site is positioned alongside the M62 motorway. It is at a higher level than the motorway, with the northern boundary running at the top of the vegetated bank which slopes down to the carriageways. The M62 is a busy road, and traffic noise is clearly apparent on the appeal site.
29. The LPA drew attention to the Government's Noise Action Plan for Roads. The Plan identifies Noise Important Areas where the 1% of the population affected by the highest noise levels from major roads are located: in these locations people are at the greatest risk of experiencing a significant adverse impact to their health and quality of life due to exposure to road traffic noise. I note that an extract from the Plan shows Noise Important Areas at the clusters of residential development to the west and east of the appeal site³, and, given its similar proximity to the motorway, a residential use on the site could potentially also be identified in this way.
30. The LPA did not dispute the evidence of the Appellants' noise witness that noise maps are not based on measurements and indicate the situation at a height of 4m, which does not reflect a single storey structure or a person in a standing position. I acknowledge that, at a strategic level, noise maps have benefit in identifying areas which may suffer from a noisy environment, but it is measurements of noise levels which are more important for the assessment of specific proposals.
31. The noise measurements from the survey undertaken on behalf of the Appellants in respect of scheme B were used in respect of both appeals⁴. No sound survey had been undertaken by the LPA, and the noise measurements recorded by the Appellants were not disputed.
32. The Appellants' survey recorded noise levels of 70.1dB_{L_{Aeq}} during daytime hours (0700-2300) and 66.9dB_{L_{Aeq}} during night-time hours (2300-0700) on the position of pitch 1⁵. A 0.6dB increase was applied to this figure to take account of the position of the mobile home. Noise levels decrease somewhat across the site to the east, with a predicted level of 67dB_{L_{Aeq16h}} in the position of the play area⁶. However an equivalent noise levels to that at pitch 1 was recorded in the position of pitch 3, and the level in the position of pitch 2 was only slightly lower at 69.8dB. SRG pointed out that higher noise levels were recorded on days with wet weather than on the day selected for providing figures for assessment. I note that, whereas there were two days with higher noise levels due to the wet road surface, there were on the other hand lower levels of noise at the weekend, and the day selected can be taken as providing representative conditions.
33. In assessing the noise levels, the Appellants' noise consultant refers in the first instance to ProPG, whereas the LPA places reliance on BS8233. ProPG

³ Document L3, paras 3.10 & 3.11 and figure 3.

⁴ A noise survey had been undertaken by separate consultants in respect of appeal A, but the report (appendix A in Document A6) was considered to contain a number of uncertainties.

⁵ Tables 4.2 & 4.3 in Appendix D of Document A6.

⁶ Table 4.1 in Appendix D of Document A6.

advocates an initial noise risk assessment followed by a more detailed full assessment. The guidelines recommended in ProPG reflect those contained in BS8233, and it is common ground between the main parties that these documents, together with the Acoustics Ventilation and Overheating – Residential Design Guide (which also reflects the internal noise levels from BS8233) provide appropriate standards and methodologies for assessing the impact of noise on new residential development⁷.

34. BS8233 gives recommended upper guideline values for internal noise of 35dB_{L_{Aeq},16hour} within living rooms and bedrooms and 40dB_{L_{Aeq},16hour} within dining rooms during the daytime. In bedrooms at night an upper value of 30dB_{L_{Aeq},8hour} is recommended⁸. In external areas which are used as amenity space, BS8233 states that it is desirable that the external noise level does not exceed 50dB_{L_{Aeq},T}, with an upper guideline value of 55dB_{L_{Aeq},T} which would be acceptable in noisier environments. ProPG suggests in addition that individual noise events should not normally exceed 45dB_{L_{Amax}F} more than 10 times during the night.
35. Noise levels at the site clearly exceed the guideline values for residential development. The NPPF (at paragraph 185(a)) makes it clear that planning decisions should avoid noise giving rise to significant adverse impacts on health and the quality of life. Above 30dB_{L_{Aeq},8hour} at night, the WHO Guidelines for Community Noise refer to problems of sleep disturbance, and of speech intelligibility and moderate annoyance when levels exceed 35dB_{L_{Aeq},16hour} inside dwellings during the daytime⁹. In outdoor living areas, moderate annoyance may be expected when noise levels exceed 50dB_{L_{Aeq},16hour}, and serious annoyance above 55dB_{L_{Aeq},16hour}.
36. Both proposals include acoustic fencing to mitigate the effect of noise on occupants of the pitches. In scheme A, a 2.8m acoustic fence is proposed close to the western, northern and eastern boundaries. Scheme B also involves acoustic fencing, but at a lower height of 1.8m and positioned around pitches and the play area. The main parties differ in their assessment of the effect of the acoustic fencing in respect of both appeals¹⁰.
37. For appeal A, the Appellant's noise witness calculated that the 2.8m barrier would provide attenuation of 14.1dB on pitch 1 giving an external daytime noise level of 56.6dB, whereas the LPA's witness put forward a lower figure of 12.4dB for attenuation with an external level of 58.3dB. The LPA argued that the level of attenuation in the Appellants' figures was overstated due to the receiver height of 1.3m used in the calculations, and its predicted figure refers to a receiver height of 1.8m. I note, however, that the receiver height of 1.3m is judged to give a good approximation of the impact of noise at different heights, and at the inquiry the LPA acknowledged that the Appellant's assessment had taken into account noise levels at other heights. Moreover the figure of 58.3dB is included in the range of noise levels taken into account in assessing the effect of the barrier¹¹. I am satisfied that the approach taken by

⁷ Document O5, paragraph 3.

⁸ BS 8233:2014, table 4.

⁹ WHO Guidelines for Community Noise, table 4.1.

¹⁰ Tables setting out the positions of the Appellants and the LPA on internal and external noise levels taking account of mitigation are at Documents A32 and L17.

¹¹ The table in paragraph 7 of Appendix M in Document A6.

the Appellant's noise consultant is an appropriate means of calculating the attenuation which would be provided by acoustic fencing.

38. On pitch 1 the external daytime noise level would exceed the upper point of the range recommended in ProPG and BS 8233 by 1.6dB. Although none of the other pitches are expected to experience higher noise from the M62, I note that predicted noise levels without attenuation on pitches 2 and 3 are similar to that on pitch 1 (above, para 32). It is likely, therefore, that attenuated noise levels would also be similar on these pitches. In the lee of the mobile home, it is the Appellant's evidence that the noise level would fall to 55.6dB¹², which remains above the 55dB upper value in ProPG. The Appellant's noise witness suggested that there would be sections of amenity space where the shadowing effect of the mobile home and day-room would reduce noise levels by a greater amount than that predicted excess of 0.6dB, but such areas have not been clearly identified. The site plan shows that the mobile homes on pitches 1-3 would be positioned perpendicular to the motorway, thereby providing only a narrow shadowing effect, and given the limited depth of the pitches to the south of the mobile homes and day rooms, I consider that it would be unlikely that the recommended noise level for external space could be achieved on these pitches.
39. Turning to appeal B, the 1.8m acoustic fencing is predicted to provide attenuation of 12.9dB by the Appellants, bringing external noise levels on the northern side of the mobile home on pitch 1 down to 57.9dB¹³, whereas the LPA argues that a lower reduction of 7.2dB should apply¹⁴. For the reasons given above (para 37), I am satisfied that, insofar as receiver height is concerned, the approach of the Appellant's noise consultant is appropriate. Lower noise levels of between 42dB and 49.9dB are predicted on the leeward side of the mobile home on pitch 1¹⁵. Whilst similar levels may be expected on pitches 2 and 3, the site plan indicates that there would be little space available for outdoor living in the lee of the day-room and mobile home on pitch 2, and the narrow strip on pitch 3 would not be adequate for this purpose. I am concerned that noise levels in significant parts of the open areas on pitches 1-3 would be clearly above the upper guideline value of 55dB in BS8233 and ProPG.
40. Moreover, the proposed acoustic fencing is not continuous around any of the pitches. A gate is proposed at pitch 1, but there is no indication of its height, and at pitches 2-6 there would be gaps in the fencing on the northern side to allow for vehicle access. On each pitch the mobile home would be positioned behind acoustic fencing, and the Appellants' witness suggested that the extent of fencing shown would ensure that the reduction in noise forecast would be achieved. Whilst the fencing would be positioned to the north of the mobile homes, the gaps would reduce the distance for noise to travel around the barrier, a factor which reinforces my concern that noise in significant parts of pitches 1-3 would be at levels which ProPG does not regard as desirable in the first instance.

¹² Document A5, paragraph 7.7.2.

¹³ Document A6, paragraph 5.4.1 in Appendix D.

¹⁴ Document L17, page 1.

¹⁵ The predicted external noise levels are set out in Document A32.

41. In the case of both appeals, I consider that there would be a significant adverse impact due to noise within external amenity spaces at pitches on the western part of the site. ProPG explains that significant adverse noise impacts on private external amenity space may be partially offset by alternative opportunities for amenity space. One of the possible alternatives mentioned is a relatively quiet, protected, nearby external amenity space for sole use by mentioned is a limited group of residents, and both proposals include a play area.
42. At the play area, at the eastern end of the site, there is agreement between the main parties that, with the mitigation afforded by the acoustic fencing, a maximum noise level of 53.2dB would be achieved in scheme A¹⁶, which is below the upper guideline value of 55dB for external amenity space. A slightly higher noise level of 53.6dB is expected here in appeal B by the Appellants¹⁷, but this would still be below the upper guideline value in ProPG and BS8322. The LPA argued that the lower height of the fence in appeal B would be less effective and put forward a noise level of 59dB in the play area¹⁸. Reference is made to the Appellants' barrier calculations in this regard, but I am satisfied that these represent an appropriate approach. Although there is a gap in the western side of the barrier, acoustic fencing would extend beyond this point in front of pitch 6, and I do not have concerns about the likelihood of the predicted noise level being exceeded. However, although noise at the play area would be below the 55dB threshold, I do not consider that it would be a relatively quiet location, as sought by Pro PG, given that noise levels would fall within the upper range of acceptability of 50-55dB.
43. The Appellants also referred to several areas of open space in the surrounding area. With the exception of the land in Mr Spaven's ownership, the sites identified are beyond the five minutes walking distance suggested as suitable in ProPG. The land owned by Mr Spaven is a field at the western end of Castle Gate. It is close to an elevated section of the M62, and does not offer a relatively quiet alternative to amenity space on the appeal site. I do not consider that any of the areas of off-site open space provide support for the appeal proposals.
44. I turn now to consider internal noise levels. In addition to the acoustic fencing, the structure of the mobile homes would provide a second barrier to noise transmission. It is intended that the mobile homes would comply with the specification in BS3632:2015, and be fitted with acoustic ventilators, air-conditioning and double glazing. The main parties take a different approach to the effect of the fencing, which I have addressed above (para 37). With windows remaining closed, the Appellants have calculated facade attenuation of 28dB in both schemes¹⁹, giving internal noise levels below maximum guidelines for both day and night. For its part, the LPA has applied a 13dB facade reduction which allows for windows being partially open²⁰. Even on the LPA's approach to the attenuation provided by the acoustic fences, if windows remain closed the internal levels would be satisfactory in most scenarios, and the LPA's noise witness referred to the opening of windows as a key consideration.

¹⁶ Document A5, paragraph 7.8.1, and Document L17, page 3.

¹⁷ Document A5, paragraph 8.9.1.

¹⁸ Document L17, page 4.

¹⁹ Document A5, paragraphs 7.2.1 & 8.2.1.

²⁰ Document L17, pages 1 & 2.

45. The LPA does not accept that it would be acceptable for windows on the north facade of the mobile homes to remain closed, and for ventilation to be provided through windows on other sides. I note that ProPG comments that most residents value the ability to open windows and that local planning authorities should normally request that internal guidelines are achieved in noise-sensitive areas with windows open. The guidance continues to advise that where there is a justification for target noise levels to be achieved with windows closed, such as on sites adjacent to transportation noise sources, special care should be taken to provide good standards of acoustics, ventilation and thermal comfort. Concerns about adequate ventilation and overheating are capable of being addressed by the installation of acoustic ventilators and air-conditioning in the mobile homes, and these are matters which could be secured by conditions. I have also given consideration to the possibility of conditions requiring windows on the north facades to be non-opening. I do not consider this to be necessary. The facades, with windows closed, would provide adequate noise attenuation, but, on occasions, occupiers may wish to take the opportunity to open windows for purge ventilation.
46. Conditions would be required to secure the acoustic fencing, and to ensure that any mobile home stationed on the site has double-glazing fitted and complies with the specification set out in BS3632:2015 in order that their structure provides an adequate external skin. As mobile homes may be changed over time, any such caravans stationed on the site must meet requirements concerning their construction, ventilation and air-conditioning to ensure satisfactory living conditions. To this end it would be necessary for the LPA to be notified when a mobile home is to be stationed on the site, and for a register identifying each mobile home to be available for inspection.
47. Pitches on traveller sites generally accommodate a mobile home and a touring caravan, and the proposed layouts are consistent with this arrangement. It is not uncommon for touring caravans to be used as additional living accommodation, but I heard that they would not be expected to provide adequate sound attenuation. The Appellants had no objection to a condition preventing the use of touring caravans for habitation, and that safeguard would address concern about the effect of noise in those caravans.
48. With the safeguard of conditions to secure mitigation, satisfactory internal noise levels would be achieved in the mobile homes in both appeal schemes. Noise levels would, however, exceed guidelines for external amenity space on the western side of the site in both appeal proposals. I am mindful that BS8233 advises that in higher noise areas the guideline values for external amenity space may not be achievable in all circumstances where development may be desirable, and that, in such a situation development should be designed to achieve the lowest practicable noise levels in external amenity space but should not be prohibited. Element 3(iii) of ProPG contains similar advice about achieving the lowest practicable noise levels. However the appeal site is in the Green Belt, a location where most forms of development are restricted rather than being desirable, and where traveller sites are inappropriate development.
49. In both appeals, pitches on the western side of the site would be likely to experience noise levels in significant areas of external amenity space above the upper guideline value of 55dB. Although the Appellants suggest that the excess is not great, BS 8233 makes it clear that in the first instance it is

desirable that external noise levels do not exceed 50dB. Element 3(i) of ProPG advises that where external amenity spaces are an integral part of the overall design, the acoustic environment of those spaces should be considered so that they can be enjoyed as intended. I am concerned that the noise levels predicted would prevent the enjoyment and full use of that outdoor space, for example for just sitting outside, which should be an integral part of a satisfactory living environment. Those alternative opportunities for amenity space which would be nearby would not offer relatively quiet outdoor space, and, in any event, ProPG makes clear that such alternatives would only partially offset noise impacts.

50. I conclude that noise would have a significant observed adverse effect on external amenity space on the proposed traveller site, resulting in unacceptable living conditions on some pitches. The proposals would therefore conflict with Policy CS 10 of the Core Strategy, Policy D 20 of the DPD, and paragraph 185(a) of the NPPF.

Other considerations

Locational sustainability

51. The appeal site is situated in a countryside location, but it is not far from settlements. The centre of Stanley is only about 1.9km to the south, and to the north Ouzlewell Green and Carlton are about 0.9km and 2km respectively from the land on Castle Gate. Policy H of PPTS makes clear that sites should be very strictly limited in open countryside that is away from existing settlements or outside areas allocated in the development plan. This part of the open countryside is not away from existing settlements, and as yet there are no allocations for traveller sites in the Development Plan. The provision of a traveller site in this location would not conflict with paragraph 25 of PPTS.
52. There are a variety of facilities and services in the surrounding area. Stanley contains a post office, several shops, a health centre and a primary school. Other primary schools are at Outwood (about 2km away) and Carlton, and the nearest secondary school, Royds Academy, is about 2km to the north. The Appellants argued that 2km is an acceptable walking distance to reach local facilities. That will depend on circumstances: trips with young children to school, carrying shopping, or involving people in poor health are unlikely to be made on foot. However bus services providing access to nearby settlements and the larger centres of Wakefield and Leeds, are available from Lee Moor Lane which is about 0.4km from the site, and local facilities and services are within cycling distance. I am satisfied that the appeal site is accessible to shops, schools and health facilities by public transport, on foot or by cycle, thereby complying with criterion (b) in Policy CS 7 of the Core Strategy
53. Even if most journeys to reach facilities and services are made by car, these would not be unduly long, and I am mindful that paragraph 105 of the NPPF explains that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. There is no specific evidence before me to indicate that the proposals would cause traffic problems or reduce highway safety, and I consider that the proposals would be reasonably accessible to services without causing congestion or safety problems, as required by criterion (c) of Policy CS 7.
54. I find that the appeal site is a sustainable location for a traveller site.

Character and appearance

55. There are a variety of uses and structures in the vicinity, including conventional housing and warehouses, and the additional presence of a six pitch caravan site would not in itself be out of keeping with the form of development found along Castle Gate.
56. Due to tree cover alongside the motorway and on adjacent land, views of the site are restricted. Additional planting is proposed in both schemes, which would assist in assimilating the pitches into their surroundings and further limit views. From Castle Gate there would be a view of limited extent into the site at the access, and the upper parts of day-rooms and mobile homes would be seen in filtered views above boundary fencing. Neither aspect would be harmful. From the public footpaths near Lee Moor Lane and to the north of the M62, the presence of development on the appeal site would be apparent, but the proposed planting around the site would reduce its impact. The principal feature in these views is the large warehouse to the south of the site, and the development on the appeal site would not in itself appear as a discordant addition to the locality in this context. There would be no conflict with Policy D 9 of the DPD which is concerned with the design of new development.
57. Whilst I find no harm from the form of development proposed in appeals A and B, the loss of the open nature of the site, which contributes to the extent of open land in the area around Castle Gate would be harmful. Development would interrupt the continuity of the fields and paddocks between the road and the motorway, and the loss of openness would be apparent from Castle Gate and nearby footpaths. In consequence, I consider that the proposed developments would cause moderate harm to the character and appearance of the area and conflict with criterion (a) in Policy D 8 of the DPD.

The general need for traveller accommodation

58. It is common ground between the main parties that there is not a five years' supply of sites for traveller accommodation in Wakefield²¹. The Gypsy and Traveller and Travelling Showperson Accommodation Assessment Update 2018 (GTTSAA, Document L7), which provides evidence for the emerging Local Plan, is considered to be a robust assessment by the Appellants. It identifies a need for an additional 63 pitches in the initial five year up to 2022/23, and a need for a further 52 pitches by 2036²². It was agreed by the main parties that a minor adjustment should be made to ensure internal consistency within table 7.1 of the GTTSAA, and that in consequence, the figures for additional provision should be 64 pitches during 2021/18 – 2022/23, and 116 pitches in total by 2036. It was further agreed that the current five years' requirement figure should be the number outstanding from the initial five years period (64) together with a figure representing the number of pitches expected to be required in the next three years up to 2025/26 (13)²³. That amounts to a total of 77 pitches.

²¹ Document O11, para 21.

²² Document L7, tables 7.1 & 7.2.

²³ Table 7.2 of Document L7 gives the number of pitches required for the five years period 2023/24 – 2027/28 as 21. The annualised figure is 4.2, giving a requirement of 13 pitches (rounded) for an additional three years.

59. The LPA intends to identify traveller sites in the emerging Local Plan, and the Publication Draft refers to provision for 95 pitches²⁴. Discounting pitches on existing authorised sites (49) leaves additional provision of 46 pitches to set against the need for accommodation. An exercise assessing the capacity of existing sites suggests that between 24 and 30 pitches could be available from this source, and a further 9 pitches may be put forward as modifications to the Local Plan²⁵. Potential supply amounts to between 79 and 85 pitches, but none are available now to meet the existing need or contribute to a five years' supply. Moreover, in advance of the Local Plan hearings, the proposed allocations carry little weight, and, as the LPA acknowledges that additional capacity from existing sites would be dependent on the support of existing owners, there is uncertainty as to the number of pitches which may come forward from this source.
60. There is a substantial need for gypsy and traveller accommodation in Wakefield, and, whilst the LPA is working to address this situation, there are no sites currently available to meet the outstanding need and to contribute to a five years' supply. The appeal proposals would comply with Policy CS 7 (a) of the Core Strategy in helping to meet an identified shortfall in the supply of sites, and I give significant weight to the unmet need for traveller accommodation.

Policies for traveller sites

61. Paragraph 7.13 of the SSP sets out a commitment to identifying gypsy and traveller sites on Council owned land, and refers to giving further consideration to accommodation needs in a review of the Document. Sixteen sites have been identified in the emerging Local Plan. That was submitted for examination in May this year, and the LPA anticipates adoption towards the end of 2022. Policy CS 7 of the Core Strategy sets out matters to take into account in assessing applications for gypsy sites, and is of assistance in considering proposals which come forward. Currently, though, there is no policy in the Development Plan which allocates sites for gypsy and traveller pitches. Given the extent of the general need for accommodation, this circumstance adds some further weight in support of the appeal proposals.

The likely location of traveller sites

62. Many traveller sites are located outside settlements, and much of the land in Wakefield beyond the built-up areas is within the Green Belt. I note that several of the proposed allocations of traveller sites in the emerging Local Plan include land which is currently in the Green Belt, and the Green Belt Review Technical Paper explains that the provision of gypsy, traveller and travelling showperson sites to meet identified needs and local requirements is one of the exceptional circumstances for making changes to the Green Belt boundary²⁶. The likelihood of land to make provision for traveller sites being found within the existing Green Belt lends some additional support to the appeal proposals.

Personal need

²⁴ Para 6.28 of the emerging Local Plan refers to the provision of 95 pitches, and paragraph 6.25 refers to the existing 49 permanent pitches: appendix A26 in Document A22.

²⁵ Document L4, paragraph 6.1 and note on new sites.

²⁶ Document A29 includes a schedule of proposed changes to the Green Belt, paragraph 3.1 refers to the reasons for the proposed changes.

63. It is intended that, in both schemes, the six pitches at the appeal site would be occupied by the following households:

- Tom Spaven (the Appellant in appeal A and Joint Appellant in appeal B) and Elizabeth Spaven (Joint Appellant in appeal B), their adult son Thomas, and two children.
- Noeleen Buxton, and her daughters, Martina and Lily May. Martina is an adult, and Lily May was 17 when the inquiry sat in 2021.
- Mary Gaskin and her four children.
- Melita Peart, her partner Terrace Lee, her four children, and her sister Lorna Peart.
- Sarah Price and her adult daughter Nicole.
- Maisie Spaven (daughter of the Appellants), who was expecting a baby when the inquiry sat in 2021.

64. The Appellants had no objection to a condition restricting occupation of the appeal site to persons complying with the definition of gypsies and travellers in Annex 1 of PPTS. Details of their occupation and travelling were provided in a series of written statements, and in oral evidence at the inquiry. Both Mr Spaven and Mr Lee travel extensively seeking work: Mr Spaven is sometimes accompanied by his family, including Maisie, and Mr Lee and Ms Peart always travel together with their family. No-one from the other three households appeared at the inquiry to provide first-hand details about their lifestyle, with evidence on their behalf given by Ms Rogers of Leeds Gypsy and Traveller Exchange. All have previously travelled for economic purposes with their families, and although that has stopped at present due to health and caring responsibilities, I heard that all hope to resume that lifestyle in the future. The LPA does not dispute traveller status, and, on the evidence before me, I consider that the intended occupants of the appeal site are persons of a nomadic habit of life who comply with the definition of gypsies and travellers in PPTS.

65. The Appellants and their daughter, Maisie, currently live in caravans on land in Leeds owned by Mrs Spaven's mother. Planning permission for a mobile home in this location has expired (Document A27). I note that neither the Appellants nor their daughter were included as prospective occupants of the site when appeal A was submitted, and that they have kept a mobile home at Mrs Spaven's mother's property since about 2006/07. Nevertheless they do not have a lawful place to station their caravans.

66. Ms Peart and Mr Lee have no current base, lawful or otherwise. They have a roadside existence, pulling up where the opportunity arises.

67. The other three households do all have permanent accommodation. Both Ms Buxton and Mrs Price have a pitch on the Cottingley Springs site in Leeds. There is evidence of anti-social behaviour associated with the site and instances of crime in the locality, and I appreciate that the families feel vulnerable in this location. Ms Gaskin and her family live in a house in Leeds. She moved into the house in the absence of any other accommodation, and I appreciate that she has a cultural aversion to living in bricks and mortar accommodation.

68. I give substantial weight to the personal need of the Appellants and their family, Ms Spaven, and Ms Peart and Mr Lee and their family for accommodation as they have no lawful settled base. I also give substantial weight to the personal need of Ms Gaskin and her family as the house which they occupy does not provide culturally appropriate accommodation. Ms Buxton and Mrs Price and their households do have accommodation in the form of pitches on a traveller site. As this accommodation is not suitable for them, I give significant weight to their expressed need for pitches on the appeal site.

Personal circumstances

69. Three households (the Appellants, Ms Peart, Ms Gaskin) have children of school age: of these ten children, three currently attend school, and the other seven are home-schooled. School attendance provides no additional support for a pitch on the appeal site in respect of Ms Gaskin's household as she has permanent accommodation from which two of her children can attend school and which facilitates home education for the other two. However, the ability to attend school and to be home-educated from a permanent base carries additional weight in support of the proposal in respect of the other two households, and there are several schools which can readily be reached from the appeal site (above, para 52).

70. Specific health problems have been mentioned in respect of members of five of the six households, and medical care is also important for Ms Spaven due to her pregnancy. Ms Gaskin has explained in her statement that living in a house has worsened her mental health, which need to be managed with medication. Otherwise I do not consider that health conditions provide support for the three households who already have permanent accommodation. However, the provision of a settled base is of importance for those individuals with healthcare needs in the other three households, to assist with the continuity of treatment, and it would also facilitate access to healthcare facilities for the other members of those families.

Previously developed land

71. The appeal site contains a small stable building, with some patches of hardstanding on the western part of the site. A fence separates the stables and the areas where hardstanding is visible from the eastern part of the site. I heard that the fence is moved within the site, but it does not seem to me that the curtilage of the stables is coterminous with the appeal site, nor that the whole of the appeal site is previously developed land.

72. Previously developed land is not uncommon in the Green Belt, and in this case the stable building is a modest structure, and the hardstanding has to an extent blended into the landscape. Paragraph 142 of the NPFF supports first consideration being given to previously developed land when it is necessary to release land when reviewing Green Belt boundaries. That exercise is being undertaken separately as part of the preparation of the emerging Local Plan, and I consider that the presence of previously developed land at the site gives negligible weight to the appeal proposals.

Site security and animal welfare

73. The Appellants refer to incidents of vandalism and arson at the site, and the risk that this poses to the horses kept there. Both schemes involve the

removal of the stables, and neither shows any of the site retained for the keeping of horse and ponies. Site security and animal welfare carry no weight in support of the appeal proposals.

The previous appeal decision

74. The 2014 appeal decision also concerned a traveller site in the same part of the Green Belt and adjacent to the M62. Although adjacent to the appeal site, this land slopes down to the west where it is closer to the level of the motorway carriageway, and more exposed to traffic noise. Whilst the effect of noise was an important consideration in that case, there is no reference in the decision or report to detailed technical evidence as has been submitted in respect of the appeals which are before me. Furthermore the previous proposal was for a markedly larger development of 10 pitches, and I note that, as future occupiers had not been specifically identified, the personal circumstances of individual families were not considered to be of particular relevance. There are a number of clear differences between the previous scheme and appeal proposals A and B, and I must determine these appeals on their own merits.

Air quality

75. SRG and local residents expressed concern about the effect of air quality on residents of the appeal site. The site lies within the M62 Air Quality Management Area. The Council's Air Quality Officer has advised that since the declaration of the Air Quality Management Area, monitoring at Castle Gate Farm has shown levels of nitrogen dioxide declining to the point that they are comfortably below the limit for this emission set out in the national air quality objectives²⁷. No objection on this ground has been made by the LPA, and there is no specific evidence to indicate that air quality is a significant consideration in these cases. I note that, in dismissing the previous appeal, the Secretary of State commented that air pollution was not, in itself, a significant reason for resisting the development, and I do not consider that it weighs against the appeal proposals.

Conditions

76. I have already referred to conditions concerning the erection of acoustic fencing, requirements for all mobile homes to be constructed in accordance with the specification of BS 3623:2015, and to have double-glazing, acoustic ventilation and air-conditioning installed, for a register of mobile homes to be maintained, for the LPA to be notified when a new mobile home is brought onto the site, and to prevent touring caravans being used as living accommodation. All of these conditions would be necessary for the developments to proceed.
77. As the site is in the Green Belt where development is restricted, it would be necessary to limit occupancy to gypsies and travellers. To safeguard the character and appearance of the area, the number and type of caravans should be specified, and no commercial activities should take place on the land. For the same reason landscaping details, any external lighting scheme and material samples for the day-rooms should be submitted for approval. However, given that the site plans show fencing around and within the site, I do not consider

²⁷ Consultation response reported in the committee report on the planning application which led to appeal B.

that a condition restricting permitted development in respect of means of enclosure would be necessary.

78. To ensure that the site would be satisfactorily drained, surface and foul water drainage schemes should be submitted for approval, and in the interest of highway safety, the site access should be provided and arrangements made to clean vehicles during the construction period. The play area is an integral part of both proposals, and a condition would be required to ensure its provision. Finally, conditions specifying the relevant drawings would be important as this provides certainty. I address time-limited and personal conditions in my overall conclusions.
79. Conditions concerning landscaping, drainage, cleaning vehicles during the construction period and erection of acoustic fencing should be pre-commencement conditions since the matters with which they are concerned need to be resolved before development works take place. The Appellants have agreed to these conditions²⁸.

Conclusions

80. Both of the appeal proposals would comply with the relevant criteria in Policy CS 7 of the Core Strategy concerning proposals for traveller sites. They would help to meet a shortfall in supply of sites, be accessible to services and facilities by means of transport other than the car without causing traffic congestion or safety problems, and there is no evidence that on-site services could not be provided. The proposals would, though, be inappropriate development in the Green Belt, and would thereby fail to comply with Policy CS 1. Due to the effect of noise on living conditions there would be conflict with Policy CS 10 and with Policy D 20 of the DPD, and, although there would be no conflict with Policy D 9 of the DPD which is concerned with the design of new development, the loss of the open nature of the site would have an adverse effect on the character and appearance of the area, contrary to Policy D 8. The site is within the limit of the shallow coal resources. Policy MSA 6 of the SSP seeks to safeguard economically viable deposits of coal, but the site is part of a narrow strip of land where reserves could be difficult to extract and there is no objection from the LPA on this ground. Taking these considerations together, I conclude that the proposed development would fail to comply with the Development Plan considered as a whole.
81. The appeal proposals would contribute to meeting the need for gypsy and traveller accommodation in Wakefield, a benefit to which I give significant weight. I give substantial weight to the personal need of the households of the Appellants, Ms Spaven, and Ms Peart and Mr Lee, as they have no lawful settled base, and I also give substantial weight to the personal need of Ms Gaskin and her family as they do not have culturally appropriate accommodation. The traveller site on which Ms Buxton and Ms Price and their households live is not suitable for them, and their personal needs merit significant weight. Health and education needs provide important additional support for members of those households who do not have a permanent base. Some further weight in support of both appeals is provided by the policy

²⁸ The Regulation 2(4) notice is at Document O19, and the Appellant's agreement to the imposition of pre-commencement conditions is at Document A36.

position in respect of gypsy and traveller accommodation in Wakefield and the likelihood of sites being found within the Green Belt.

82. The harms which would be caused to the Green Belt, including definitional harm, the loss of openness and encroachment into the countryside, carry substantial weight. In addition, noise would have a significant observed adverse effect on external amenity space on the proposed traveller site, resulting in unacceptable living conditions on some pitches, and the proposals would cause moderate harm to the character and appearance of the area. Policy E of PPTS explains that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. There were children within three of the six households at the time of the inquiry in 2021, and a baby was expected in a fourth household. It is clearly in the best interests of children to have the security of a settled base on which to live. However the children in Ms Gaskin's household do have a permanent base, albeit in the form of a house, and I am concerned that the adverse effect of noise on outdoor living space would make the site unsuitable as a permanent place for children to live and grow up.
83. I have also considered the public sector equality duty. The public sector equality duty requires, amongst other matters, that a public authority must have due regard to the need to eliminate discrimination, and to advance equality of opportunity between persons who share a protected characteristic and those who do not share it. Race is a protected characteristic, and the courts have recognised Romany Gypsies and Irish Travellers as distinct racial groups. Their personal need for accommodation and the lack of any alternative sites on which caravans could be stationed mean that the outcome of these appeals is of great importance for the prospective occupants, particularly those without access to a lawful pitch. I recognise that dismissing the appeals would not advance equality of opportunity insofar as being able to access a suitable place to live is concerned, but I am concerned that, due to the impact of noise, favourable decisions would not bring forward accommodation with satisfactory living conditions on all of the pitches. Moreover, the harms to the Green Belt are weighty considerations to set against the personal need for culturally appropriate accommodation.
84. I conclude that the harms to the Green Belt caused by the establishment of a permanent gypsy site in this location and the other harms which I have identified would not be clearly outweighed by the various considerations which provide support for the appeal proposals. That is not the end of the matter. I turn next to consider the possibility of temporary planning permissions. The main parties agreed that a period of five years would be appropriate to enable other sites to become available, and I share this view. Given a fixed period, less harm would be caused to the Green Belt and to the character and appearance of the area, and the adverse impact of noise on living conditions would be of limited duration. In this situation, I conclude that the harms identified would be clearly outweighed by other considerations, notably the personal need of the intended occupants for accommodation. Accordingly it is necessary to attach a condition restricting occupancy on a personal basis to temporary permissions.
85. Should a temporary permission result in the eventual loss of their home, this would represent an interference with the human rights of the occupants of the

appeal site. However I do not consider that this interference would be disproportionate, having regard to the legitimate aim of protecting the Green Belt

86. For the reasons given above, and having regard to all matters raised, I conclude that the appeals should be allowed for a temporary period of five years.

Richard Clegg

INSPECTOR

Schedule 1 – Conditions in respect of appeal A

- 1) The development hereby permitted shall be carried out in accordance with the plans in Schedule 2.
- 2) At the end of the period of five years from the date of this decision, or when the land ceases to be occupied by those named in condition No 2 should this occur earlier, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto the land in connection with the use, shall be removed. Within 3 months of that time the land shall be restored in accordance with a scheme previously submitted to and approved in writing by the local planning authority.
- 3) The occupation of the site hereby permitted shall be carried on only by the following persons:
 - Tom Spaven, Elizabeth Spaven, their resident dependants, and Thomas Spaven.
 - Noeleen Buxton, Martina Buxton and Lily May Buxton.
 - Mary Gaskin and her resident dependants.
 - Terrace Lee, Melita Peart, their resident dependants, and Lorna Peart.
 - Sarah Price and Nicole Price.
 - Maisie Spaven and her resident dependants.
- 4) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the Planning policy for traveller sites.
- 5) There shall be no more than six pitches on the site, and no more than two caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than one shall be a static caravan or mobile home) shall be stationed on each pitch at any time.
- 6) No commercial activities shall take place on the site, including the storage of materials.
- 7) The development hereby permitted shall not commence until a scheme of landscaping works has been submitted to, and approved in writing by, the local planning authority. The scheme shall include details of existing trees and hedgerows on and adjacent to the site and measures for the protection of those to be retained, proposals for tree and shrub planting, details of retaining walls and fencing, other than those shown on plans refs 19_1011_006 and TDA.2116.07 revision A, and a programme for implementation. The landscaping shall be carried out in accordance with the approved scheme and programme, and it shall be maintained thereafter for the duration of the planning permission. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species.
- 8) No external lighting shall be installed on the site, other than in accordance with a scheme which has been submitted to and approved in writing by the local planning authority.
- 9) No development involving the erection of the day rooms shall take place until samples of the materials to be used in the construction of the external surfaces of the day rooms have been submitted to and approved

- in writing by the local planning authority. The development shall be carried out in accordance with the approved samples.
- 10) No development shall take place until a scheme for surface water drainage has been submitted to and approved in writing by the local planning authority. No part of the development shall be brought into use until the surface water drainage works have been completed.
 - 11) No development shall take place until a scheme for foul water drainage has been submitted to and approved in writing by the local planning authority. No part of the development shall be brought into use until the foul water drainage works have been completed.
 - 12) No development shall take place until equipment for cleaning the wheels and undersides of vehicles has been provided on site to prevent mud and debris being deposited onto the highway. The cleaning equipment shall be used to clean all vehicles throughout the construction period. Any mud or debris from the site which is deposited on to the highway during this period of works shall be removed immediately.
 - 13) The site shall not be occupied until all areas to be used by vehicles, including the site access, have been laid out in accordance with the proposed site plan ref 19_1011_003 revision K.
 - 14) No development shall take place until a scheme showing acoustic fencing along the northern side of the site and detailing the extent of acoustic fencing on the western and eastern sides of the site has been submitted to, and approved in writing by, the local planning authority. Notwithstanding condition No 1, none of the pitches shall be occupied until the acoustic fencing has been erected in accordance with the approved scheme and the fencing details on plan ref 19_1011_006. The acoustic fencing shall be retained and maintained thereafter.
 - 15) All mobile homes stationed on the site shall be constructed in accordance with British Standard BS3632:2015.
 - 16) None of the touring caravans stationed on the site shall be used as living accommodation.
 - 17) A register shall be maintained of all mobile homes stationed on the site. The register shall be made available for inspection on request by the local planning authority.
 - 18) The local planning authority shall be notified within 28 days of the stationing of any mobile home on the site. The mobile home shall be made available for inspection on request by the local planning authority.
 - 19) No mobile home shall be occupied until it has been fitted with double glazing, air-conditioning and acoustic ventilators in accordance with a specification which had been submitted to, and approved in writing by, the local planning authority.
 - 20) The site shall not be occupied until the play area has been provided in accordance with the proposed site plan ref 19_1011_003 revision K.

Schedule 2 – Plans for appeal A

- 1 Location plan ref TDA.2116.01 revision B.
- 2 Proposed site plan ref 19_1011_003 revision K.
- 3 Double day rooms floor plan and elevations ref TDA.2116.03 revision A.
- 4 Single day room floor plan and elevations ref TDA.2116.05.
- 5 Acoustic close boarded timber fence details ref 19_1011_006.
- 6 Post and rail fence and knee rail details on plan ref TDA.2116.07 revision A.

Schedule 3 – Conditions in respect of appeal B

- 1) The development hereby permitted shall be carried out in accordance with the plans and other details in Schedule 4.
- 2) At the end of the period of five years from the date of this decision, or when the land ceases to be occupied by those named in condition No 2 should this occur earlier, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto the land in connection with the use, shall be removed. Within 3 months of that time the land shall be restored in accordance with a scheme previously submitted to and approved in writing by the local planning authority.
- 3) The occupation of the site hereby permitted shall be carried on only by the following persons:
 - Tom Spaven, Elizabeth Spaven, their resident dependants, and Thomas Spaven.
 - Noeleen Buxton, Martina Buxton and Lily May Buxton.
 - Mary Gaskin and her resident dependants.
 - Terrace Lee, Melita Peart, their resident dependants, and Lorna Peart.
 - Sarah Price and Nicole Price.
 - Maisie Spaven and her resident dependants.
- 4) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the Planning policy for traveller sites.
- 5) There shall be no more than six pitches on the site, and no more than two caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than one shall be a static caravan or mobile home) shall be stationed on each pitch at any time.
- 6) No commercial activities shall take place on the site, including the storage of materials.
- 7) The development hereby permitted shall not commence until a scheme of landscaping works has been submitted to, and approved in writing by, the local planning authority. The scheme shall include details of existing trees and hedgerows on and adjacent to the site and measures for the protection of those to be retained, proposals for tree and shrub planting, details of the post and rail fencing, and a programme for implementation. The landscaping shall be carried out in accordance with the approved scheme and programme, and it shall be maintained thereafter for the duration of the planning permission. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species.
- 8) No external lighting shall be installed on the site, other than in accordance with a scheme which has been submitted to and approved in writing by the local planning authority.
- 9) No development involving the erection of the day rooms shall take place until samples of the materials to be used in the construction of the external surfaces of the day rooms have been submitted to and approved

- in writing by the local planning authority. The development shall be carried out in accordance with the approved samples.
- 10) No development shall take place until a scheme for surface water drainage has been submitted to and approved in writing by the local planning authority. No part of the development shall be brought into use until the surface water drainage works have been completed.
 - 11) No development shall take place until a scheme for foul water drainage has been submitted to and approved in writing by the local planning authority. No part of the development shall be brought into use until the foul water drainage works have been completed.
 - 12) No development shall take place until equipment for cleaning the wheels and undersides of vehicles has been provided on site to prevent mud and debris being deposited onto the highway. The cleaning equipment shall be used to clean all vehicles throughout the construction period. Any mud or debris from the site which is deposited on to the highway during this period of works shall be removed immediately.
 - 13) The site shall not be occupied until all areas to be used by vehicles, including the site access, have been laid out in accordance with the proposed site plan ref 19_1011A_003C revision C.
 - 14) No development shall take place until details of the acoustic fencing have been submitted to, and approved in writing by, the local planning authority. None of the pitches shall be occupied until the acoustic fencing has been erected in accordance with the approved details in the positions shown on plan ref 19_1011A_003C revision C. The acoustic fencing shall be retained and maintained thereafter.
 - 15) All mobile homes stationed on the site shall be constructed in accordance with British Standard BS3632:2015.
 - 16) None of the touring caravans stationed on the site shall be used as living accommodation.
 - 17) A register shall be maintained of all mobile homes stationed on the site. The register shall be made available for inspection on request by the local planning authority.
 - 18) The local planning authority shall be notified within 28 days of the stationing of any mobile home on the site. The mobile home shall be made available for inspection on request by the local planning authority.
 - 19) No mobile home shall be occupied until it has been fitted with double glazing, air-conditioning and acoustic ventilators in accordance with a specification which has been submitted to, and approved in writing by, the local planning authority.
 - 20) The site shall not be occupied until the play area has been provided in accordance with the proposed site plan ref 19_1011A_003C revision C.

Schedule 4 – Plans for appeal B

- 1 Location plan ref 19_1011A_001.
- 2 Existing site plan ref 19_1011A_002.
- 3 Proposed site plan ref 19_1011A_003C revision C.
- 4 Double day rooms floor plan and elevations ref 19_1011A_005.
- 5 Single day room floor plan and elevations ref 19_1011A_006.
- 6 Indicative landscape plan ref 19_1011A_010.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss R Stockley of Counsel	Instructed by Mr K Winter, Solicitor to the Council.
She called	
Mr G Blenkinsop BSc	Service Director – Environment, Streetscene & Climate Change, Wakefield Council.
DipANC MCIEH	
Mr N Ford BA(Hons)	Service Director – Planning & Transportation Policy, Wakefield Council.
DMS MRTPI	
Dr M Bullock BSc(Hons)	Managing Director, arc4 Ltd.
PhD MMRS MCIH	
Mr R Wood BTCP(Hons)	Director, Richard Wood Associates Ltd.
BPI MRTPI	
Mrs R Thackray ²⁹	Team Leader, Planning Services – Development Management, Wakefield Council.

FOR THE APPELLANTS:

Mr S Cottle of Counsel	Instructed by Green Planning Studio Ltd.
He called	
Mr T Green MSc MIPS	Director, TGSacoustics Ltd.
Ms H Jones	Former Chief Executive Officer, Leeds Gypsy & Traveller Exchange.
Mr T Spaven	Appellant in respect of appeal A, and Joint Appellant in respect of appeal B.
Mrs E Spaven	Joint Appellant in respect of appeal B.
Ms E Rogers	Chief Executive Officer, Leeds Gypsy & Traveller Exchange; and for Ms Gaskin, Ms Buxton & Mrs Price, all prospective occupants of the appeal site.
Ms M Peart	Prospective occupant of the appeal site.
Ms M Spaven	Prospective occupant of the appeal site.
Mr M Green BA	Director, Green Planning Studio Ltd.

INTERESTED PERSONS:

Mrs J Ineson	Stanley Residents Group.
Mrs V Stansfield	Stanley Residents Group.
Ms A Storey RN BSc MSc	Stanley Residents Group.

THE LPA'S DOCUMENTS

- L1 Statement of case for appeal B.
- L2 Appendices to Document L1.
- L3 Mr Blenkinsop's proof of evidence – 2021.
- L4 Mr Ford's proof of evidence – 2021.
- L5 Appendices to Document L3.

²⁹ Mrs Thackray was not called to give evidence in support of the LPA's case, but contributed to the session on possible conditions.

- L6 Dr Bullock's proof of evidence - 2021.
- L7 Wakefield District – Gypsy and Traveller and Travelling Showperson Accommodation Assessment Update 2018 – Final Report.
- L8 Mr Wood's proof of evidence – 2021.
- L9 Miss Stockley's costs application on behalf of the LPA.
- L10 Miss Stockley's opening statement on behalf of the LPA.
- L11 Acoustics Ventilation and Overheating – Residential Design Guide, Association of Noise Consultants and Institute of Acoustics, 2020.
- L12 Calculation of Road Traffic Noise, Department of Transport and Welsh Office, 1988.
- L13 Environmental Noise Guidelines for the European Region; World Health Organization; 2018.
- L14 ProPG: Planning and Noise; Association of Noise Consultants, Institute of Acoustics & Chartered Institute of Environmental Health; 2017.
- L15 Supplementary note to Document L4.
- L16 Appendix to Document L15.
- L17 The LPA's noise level table.
- L18 Miss Stockley's closing submissions on behalf of the LPA.
- L19 Email dated 4 August 2021 from Mrs Thackray concerning the revised NPPF.

THE APPELLANTS' DOCUMENTS

- A1 Bundle of authorities.
- A2 Statement of case for appeal B.
- A3 Appendices A1-A14 to Document A2.
- A4 Appendices B1-B22 to Document A2.
- A5 Mr T Green's proof of evidence (also in appendix A23 to Document A).
- A6 Appendices to Document A5 (also in appendix A23 to Document A22).
- A7 Ms Jones's statement.
- A8 Mr Spaven's statement.
- A9 Appendices to Mr Spaven's statement.
- A10 Mrs Spaven's statement.
- A11 Appendices to Document A10.
- A12 Ms Rogers's statement.
- A13 Ms Gaskin's statement.
- A14 Appendices to Document A13.
- A15 Ms Buxton's statement.
- A16 Appendices to Ms Buxton's statement.
- A17 Mrs Price's statement (also in appendix A23 to Document A22).
- A18 Ms Peart's statement.
- A19 Appendices to Document A18.
- A20 Ms Spaven's statement.
- A21 Mr M Green's proof of evidence.
- A22 Appendices A15-A36 to Document A21.
- A23 Appendices B23-B27 to Document A21.
- A24 Mr M Green's rebuttal proof of evidence.
- A25 Appendix A37 to Document A24.

- A26 Mr Cottle's opening statement on behalf of the Appellants.
- A27 Planning permission for mobile home at Urn Farm, Leeds.
- A28 Schedule of gypsy and traveller sites – need and potential provision.
- A29 Local Plan 2036, Publication Draft Plan, Green Belt Review Technical Paper.
- A30 Local Plan 2036, Publication Draft Plan, Green Belt Assessment Methodology and Findings.
- A31 Judgement in Doncaster MBC v Secretary of State for Communities & Local Government and AB.
- A32 The Appellants' noise level tables.
- A33 Response to Document L9 on behalf of the Appellant in appeal A.
- A34 Mr Cottle's closing submissions on behalf of the Appellants.
- A35 Extracts from Common Ground, CRE report.
- A36 Response to Document O19.
- A37 Email dated 2 August 2021 from Green Planning Studio Ltd concerning the revised NPPF.

OTHER INQUIRY DOCUMENTS

- O1 Bundle of policies.
- O2 Mrs Stansfield's supplementary documents.
- O3 SRG's statement of 1 February 2021.
- O4 SRG's statements of 26 May 2021.
- O5 Noise statement of common ground³⁰.
- O6 Extracts from the Core Strategy.
- O7 Extracts from the Development Policies Document.
- O8 Extract from the Site Specific Policies Local Plan.
- O9 Local Plan 2036: Publication Draft Policies Map 2020 – Western Area.
- O10 Bundle of documents. Submitted by SRG.
- O11 Planning statement of common ground.
- O12 Mrs Stansfield's statement on behalf of SRG.
- O13 Policies Map 2012: Western Area.
- O14 Ms Storey's speaking notes on behalf of SRG.
- O15 Leeds Local Plan Policies Map, Map 29a, and larger scale extract of area to the north of the appeal site.
- O16 Mrs Ineson's statement on behalf of SRG.
- O17 Schedule concerning possible conditions (excluding noise). Submitted by the main parties.
- O18 Schedule concerning possible noise conditions. Submitted by the main parties.
- O19 Regulation 2(4) notice.

³⁰ Although the statement of common ground is marked draft, the main parties advised that Document O5 is the agreed position on noise.

APPENDIX 5

TOWN AND COUNTRY PLANNING ACT 1990

PLANNING APPLICATION APPEALS BY MR TOM SPAVEN

LAND AT CASTLE GATE, STANLEY, WAKEFIELD LS26 8HH

SUPPLEMENTARY NOTE PROOF OF EVIDENCE OF:

Neville Ford

Service Manager Planning and Transportation Policy

Wakefield Council

1 JULY 2021

**COUNCIL REFERENCES: 16/01608/FUL (APPEAL A)
19/01952/FUL (APPEAL B)**

**INSPECTORATE REFERENCES: APP/X4725/W/17/3192150) (A)
APP/X4725/W/20/3253311) (B)**

1. Introduction

1.1 This note was been prepared in response questions raised in relation to the original proof of evidence discussed at the Inquiry on 30 June. In particular, it provides supplementary information and explanation relating to figures included in paragraphs 8.1 and 9.1 of the proof of evidence. It also clarifies the Council's position in relation a 5 year supply of pitches to meet identified need. It is accompanied by a new appendix; Appendix 3 (Council Traveller Site Summary), to avoid confusion with Appendix 1 (Traveller Site Capacity Assessment 2020) and Appendix 2 (Traveller Provision in Publication Draft Local Plan), associated with the proof of evidence. It has been prepared by Neville Ford BA (Hons) in Town and Country Planning, Post Graduate Diploma in Management Studies.

2. Current Provision of Traveller Accommodation 2021 (May)* Update

2.1 The re-affirmed current provision of Traveller accommodation in the district set out in paragraph 8.1 of the proof is outlined below:

- 21 sites with provision for 83 permanent pitches (53 permanent; 4 temporary; 26 no permission. ***This is evidenced in rows 2-22 in Appendix 3, which is compiled from Council records.***
- ***Appendix 3 Column C shows GTAA pitch numbers Table 4.1; Column D shows GTAA household numbers Table 4.1; Column E shows pitch numbers in PDLP; and Column F shows pitch numbers May 2021; Other columns show related information;***
- New Heath Site 23 pitches (net increase 20 permanent pitches (-3+23) and 6 transit pitches. ***This is evidenced in Appendix 2 and row 23 in Appendix 3;***
- Assessed additional capacity of 24 pitches. ***This is evidenced in Appendix 1;***
- Overall 22 sites with potential provision for 127 permanent pitches and 6 transit pitches. ***This is the sum of bullet points 1 – 3 (83 + 20 + 24).***

2.2 It should be noted the different figures included in Appendix 3, for the two sites at Heath, differs to the figures included in Appendices 1 and 2. This reflects the fact the figures Appendices 1 and 2 were not updated to correspond to the figures in the Publication Draft Local Plan. This was discussed at the Inquiry on 30 June and understood.

3. Five Year Supply

3.1 The Council has used the evidence in the Gypsy Traveller Accommodation Assessment 2018 as the basis for making provision in the Publication Draft Local Plan, published October 2020.

3.2 Effectively, overall Traveller accommodation need (provided for and not provided for) can only be established through a Traveller Accommodation Assessment. It is not realistic to prepare such an assessment on an annual basis. The Council would expect to refresh the current evidence in 2023.

- 3.3 Any estimation of current need is fraught with difficulty: has some of the identified need been met by changes in available pitches in the district; have these changes met new (unidentified in 2018) need; has some of the identified need in 2018 been met outside the district?
- 3.4 Little more weight could be attached to such an estimation, even using annualised rates, than as Dr Bullock recommended yesterday than assuming the 5 year need assessed in 2018 is a close proxy for need now. To establish a more accurate need would involve detailed analysis of the changes since then, including trying to understand the complexities set out in paragraph 4.3 above and engage with Travellers. The Council acknowledges such work has not been undertaken and cannot present evidence to the inquiry.
- 3.5 The Council's evidence shows there is potential to meet overall need for the 5 year period assessed in 2018, in the sites to be allocated in the emerging local plan, currently incorporated in the Publication Draft Local Plan.
- 3.6 The situation with known Traveller sites in the district has changed since the Publication Draft Local plan was published, with a number of sites that might be incorporated into the draft plan through the modification process.
- 3.7 Given the location of most of the Traveller sites within the Green Belt, the Publication Draft Local Plan deals with the overall assessed need and formalises the status of existing sites, and potential additional capacity within these sites, along with a new site by allocating them as Traveller sites in the plan, removing them from the Green Belt where necessary. This enables all these sites to be recognised as legitimate supply offering the prospect of permanent use by Travellers.
- 3.8 It is common ground the Council does not currently have a 5 year supply of authorised pitches.
- 3.9 The Council's view is that the five year shortfall is 64, based on Gypsy Traveller Accommodation Assessment Table 7.1 and accepting the 1 pitch change in the shortfall.

4. Summary

- 4.1 In re-affirming the summary set out in paragraph 9.1 in the proof of evidence, the Council is able to demonstrate:
- Provision is available and being made to meet the assessed five year Traveller accommodation needs, including the needs of Travellers associated with the Travellers occupying sites in the district through additional potential capacity within the 16 allocated sites. ***This is based on the total need for pitches 2018/19 to 2022/23 set out in Table 7.1 Accommodation Assessment 2018;***
 - Need identified in 2018 Accommodation Assessment 129 permanent pitches (~~66~~ 49 + 63) – potential provision ~~127~~ 112, ***Note correction evidenced in Table 7.1 Accommodation Assessment 2018;***
 - Need identified in 2018 Accommodation Assessment 10 transit pitches – provision 6 transit pitches (intended to be large pitches, potentially smaller pitches).

- 4.2 Dr Bullock's proof of evidence indicates Mr Green confirms the Wakefield 2018 Gypsy and Traveller Accommodation Assessment 2018 is robust, subject to minor points of clarification. It is recognised a minor amendment to the Council's assessment of need will be required to increase net need by 1 pitch. Check. *Figures to not reflect this minor change.*
- 4.3 In conclusion the Council considers existing and planned Traveller accommodation will address the overall need for pitches set out in the Gypsy Traveller Accommodation Assessment for the initial 5 year period.

Appendix 3 – Council Summary May 2021

Details of provision made to meet Traveller accommodation needs.



2021 Council
Traveller Site Summa

APPENDIX 3 - Council Traveller Site Summary

Council Summary May 2021	Council Category Number May 2021	GTAA 2018 Pitch Numbers Table 4.5	GTAA 2018 Household Numbers Table 4.5	PDLP Pitch Numbers	May 2021 Potential Pitch Numbers	Council Category May 2021	Source Ref Number	Settlement Name	Settlement Hierarchy	Planning Application	Description	Site Area Hectares	Pitches May 2021	LP2036 Potential Pitches - Modifications	LP_Source_Data	PDLP October 2020 Status
Yes	1	38	38	35	38	Historic PP LA Site	LP822	Wakefield	Urban Area	86/99/16718/G	Heath Caravan Site Doncaster Road Wakefield	1.6	38	35	86/99/16718/G Planning Permission 20/10/1986	Accept
Yes	2a	1	0	1	1	Permanent PP Private Post 2012 GTAA	LP823	Castleford	Urban Area	11/02137/FUL	Stafford Street (1) Castleford	0.07	1	1	11/02137/FUL Planning Permission 02/08/2012	Accept
Yes	2a	1	1	1	1	Permanent PP Private Post 2012 GTAA	LP825	Castleford	Urban Area	14/01390/FUL	Stafford Street (3) Castleford	0.05	1	1	14/01390/FUL Planning Permission 24/02/2015	Accept
Yes	2a	1	1	1	1	Permanent PP Private Post 2012 GTAA	LP829	Castleford	Urban Area	13/00273/FUL	Stafford Street (2) Castleford	0.03	1	1	13/00273/FUL Planning Permission 21/01/2014	Accept
Yes	2a	3	3	3	3	Permanent PP Private Post 2012 GTAA	LP831	Ryhill/Havercroft	Local Service Centre	12/01321/FUL. 20/02065/FUL	99 Brier Lane Havercroft	0.26	3	3	12/01321/FUL Planning Permission 06/02/2014, 20/02065/FUL includes land adj renewal Pending 29/3/2021 Permission allows occupation by 6 households IG statement	Accept
Yes	2a and b	3	3	5	5	Permanent PP Private Post 2012 and 2016 GTAA	LP832	Other	Other	12/00905/FUL 17/03033/FUL	Boundary Lane Normanton	0.2	5	5	17/03033/FUL Planning Permission 21/02/2019	Accept
Yes	2b	4	4	4	4	Permanent PP Private Post 2016 GTAA	LP827	Wakefield	Urban Area	13/00390/FUL	Ivy Cottage adj Heath Caravan Site Doncaster Road Wakefield	0.58	4	4	13/00390/FUL Planning Permission Permanent 06/10/2017	Accept
Yes	3b	1	1	1	1	Temporary PP Private Post 2016 GTAA	LP830	Other	Other	16/03005/FUL	Oakenshaw Lane Walton	0.18	1	1	16/03005/FUL Refused 31/01/2017 Appeal Allowed 22/03/2018 Temporary (4yr) to 22/03/2022	Accept
Yes	3b	2	0	2	2	Temporary PP Private Post 2016 GTAA	LP850	Other	Other	18/01932/FULL	Land at Victoria Meadow Wakefield Road Featherstone	0.94	2	2	18/01932/FULL PP granted 18.12.18 Temporary (5yr) to 31/05/2023	Accept
Yes	3b	1	1	1	1	Temporary PP Private Post 2016 GTAA	LP824	South Hiendley	Village	15/03020/FUL	Rear of 34 George Street South Hiendley	0.07	1	1	15/03020/FUL Planning Permission 22/06/2017 Temporary (5yr) to 22/06/2022	Accept
Yes	4			3	2	Applications Pending PP	LP1441	Stanley/Outwood	Urban Area	19/02857/FUL	55 Lawns Lane Carr Gate	0.18	2	2	New Site 1019. 19/02857/FUL Retrospective app invalid pending further information	Accept
Yes	4	2	1	3	3	Applications Pending PP	LP821	Other	Other	20/02638/FUL	Pineapple Farm Marshall Hill Warmfield Lane Warmfield	0.11	3	3	12/00977/FUL Planning Permission Temporary (5yr) to 22/09/2020 Expired now unauthorised. 20/02638/FUL received 301120	Accept
Yes	4	1	0	5	5	Applications Pending PP	LP826	Other	Other	20/02311/FUL	Church Lane Ellis Laithes Havercroft	0.19	5	5	13/01647/FUL Refused. Restro app pending 2020	Accept
Yes	4	1	1	1	1	Applications Pending PP	LP828	Other	Other	20/02452/FUL	Whoops a Daisy Pontefract Road Purston	0.06	1	1	13/02168/FUL Planning Permission 12/02/2015 Temporary (5yr) to 12/02/2020	Accept
Yes	4	6	4	6	6	Applications Pending PP	LP833	Other	Other	12/00613/FUL	101 Brier Lane Havercroft	0.8	6	6	12/00613/FUL Refused 08/11/2012 Appeal Allowed 11/04/2016 Temporary (5yr) to 11/04/2021	Accept
Yes	4				1	Applications Pending PP		Other	Other	20/01811/FUL	Land south of 106 Knottingley Road Pontefract	0.16	1	1	New Site - Not Assessed	
Yes	6	1	1	1	1	Enforcement Reported	LP851	Wakefield	Urban Area		Land adj 242 Doncaster Road Wakefield	0.06	1	1	Reinstate Site (re-occupied)	Reject
Yes	6				1	Unauthorised Sites/Breaches		Castleford	Urban Area		Land opposite 122-128 Wheldon Road Castleford	0.04	1	1	Enforcement unauthorised 02/21 New Site - Not Assessed	
Yes	6				2	Unauthorised Sites/Breaches		Other	Other		Land at Hemsworth Bypass south of Royd Moor Lane Hemsworth	1.1	2	2	Enforcement unauthorised 01/21 New Site - Not Assessed	
Yes	6				3	Unauthorised Sites/Breaches		Other	Other		Land at Station Road South Elmsall	0.24	3	3	Enforcement unauthorised 03/21 New Site - Not Assessed	
Yes	6				1	Unauthorised Sites/Breaches		Stanley/Outwood	Urban Area		1 Trevor Terrace Carr Gate	0.24	1	1	IG/ENF/ planapp 19/02842/FUL pending 09/4/21 New Site - Not Assessed	
No	7			23	20	WMDC Additional Allocated Gypsy Sites	LP853	Wakefield	Urban Area		Land adj Ivy Cottage and Heath Caravan Site Doncaster Road Wakefield	1.26	0	23	New Site for LP* Excluded from Council Summary	Accept
		66	59	95	103											
Remove	3c					Temporary PP Private Post 2018 GTAA	LP1442	South Elmsall/South Kirkby	Urban Area		Rear of 68 Mill Lane South Kirkby*	0.1			19/01169/F Approved 21.2.20 for dwelling.* To be removed from Council Summary	Excluded
Yes	5					S78 Planning Appeals Pending	LP834	Other	Other	16/01608/FUL	Land at Castle Gate Stanley	0.39	6	6	16/01608/FUL Refused 27/06/2017 Appeal Lodged 19/01/2018* Not Occupied	Reject

APPENDIX 6



Appeal Decision

Hearing held on 10 April and 27 May 2025

Site visit made on 10 April 2025

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2025

Appeal Refs: APP/M3645/C/24/3349392 & APP/M3645/C/24/3349393
Land adjoining Alwyn to the west of Green Lane, Shipley Bridge,
Horley RH6 9TJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Ms Elizabeth Connors and Mr Jonh Harty against an enforcement notice issued by Tandridge District Council.
- The enforcement notice was issued on 8 July 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the following unauthorised development:
 - a) Without planning permission, the making of a material change of use of the Land to a residential caravan site;
 - b) The parking and/or storage of vehicles, plant and machinery on the Land ancillary to its use as a residential caravan site;
 - c) An outbuilding in association with the unauthorised residential caravan site;
 - d) The placing and storage of construction materials on the Land ancillary to its use as a residential caravan site; and
 - e) Without planning permission, operational development consisting of the importation of hardcore, rubble and other construction materials, laying of surfacing materials and installation of septic tanks and associated pipework, installation of water supply pipes and electrical cabling, and erection of close boarded fencing, all associated with the unauthorised use of the Land as a residential caravan site.
- The requirements of the notice are to:
 - i) Cease the use of the Land for the stationing of caravans for residential purposes within 1 month;
 - ii) Remove all caravans from the Land within 1 month;
 - iii) Cease the parking and/or storage of vehicles, plant and machinery on the Land ancillary to its use as a residential caravan site within 1 month;
 - iv) Remove from the Land all associated miscellaneous items associated with the unauthorised residential use of the Land within 1 month;
 - v) Demolish the outbuilding located in the approximate location shown coloured blue on the site location plan within 1 month;
 - vi) Cease the placing and storage of construction materials on the Land ancillary to its use as a residential caravan site within 1 week;
 - vii) Cease all operational development consisting of the use of construction materials, laying of water supply pipes and electrical cabling and surfacing materials, and installation of septic tanks and associated pipework, and all close boarded fencing associated with the use of the Land for the stationing of caravans for residential purposes within 2 months;
 - viii) Dig up or dismantle and remove from the Land to a licensed waste management facility all hardcore, rubble and other construction materials brought on to the Land, all water supply sites and electrical cabling, septic tanks and associated pipework,

- and all close boarded fencing associated with the use of the Land for the stationing of caravans for residential purposes within 2 months;
- ix) Following compliance with steps i) to viii) above, level then scarify the surface of the Land and seed with a grass and wildflower seed mixture during the next period of the year that includes the months of April to September immediately following compliance with iii) to ix) above.
- The period for compliance for steps i), ii), iii), iv), v) and vii) is within one month from the date this notice takes effect, step vi) within one week from the date this notice takes effect, and step viii) within two months from the date this notice takes effect,.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fee has been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
-

Formal Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land and buildings as a residential caravan site, and also the laying of hardcore at land adjoining Alwyn to the west of Green Lane, Shipley Bridge, Horley RH6 9TJ, as shown on the plan attached to the notice, subject to the conditions set out in the Schedule of Conditions attached.

Application for Costs

2. An application for Costs was made by Ms Elizabeth Connor and Mr John Harty against Tandridge District Council. This application is the subject of a separate decision.

Preliminary Matters

3. Given the latest updates in national advice with new iterations of the government's National Planning Policy Framework, December 2024 (the Framework) and also its Planning Policy for Traveller Sites, December 2024 (PPTS) regard has been had to the updated guidance.
4. In June 2024, around the time that the appellants moved on to the site, a planning application was submitted to the Council proposing the change of use of the land to a residential caravan site for the purposes of gypsy accommodation, involving three pitches, comprising one static caravan/mobile home and one touring caravan. At the time of the Hearing the application (ref TA/2024/645) remained undetermined and I understand that there had been no appeal lodged against its non-determination.
5. One of the reasons for the Council issuing the enforcement notice was that that the development represented inappropriate development within the Metropolitan Green Belt. However, subsequently, in view of the government's recent change in policy with the introduction of the conceptual term of 'Grey Belt' by way of the Framework, and the subsequent findings of Inspectors on appeals relating to sites in the locality, the Council now considers that the development of the appeal site would not fundamentally undermine the purposes, taken together, of the remaining Green Belt in the Tandridge District area. Accordingly, upon the Hearing reconvening, the Council made the decision to offer no objection to the development on the above point. From my

observations and also with reference to relevant public documents, I agree with this approach.

6. In an attempt to provide appropriate evidence to adequately plan for the delivery of gypsy and traveller development and to support a replacement Local Plan, which has been significantly delayed due to issues of soundness, the Council recently commissioned a new Gypsy and Traveller Assessment (GTAA). Undertaken by Opinion Research Services (ORS), a response rate of 97% was said to have been achieved, and the exercise was completed in March 2025.
7. The aim of the GTAA is to provide a robust assessment of current and future need of land for gypsy and traveller purposes, and covers a 20 year period from 2025 to 2044, Steve Jarman of ORS appeared at the Hearing to give evidence and explain the study's findings, which are disputed by the appellants. He indicated that deliverability should be afforded more weight than actual site allocations.
8. The research identified a need for 138 pitches emerging from the 109 households that met the 2024 PPTS definition. This 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 dependents' 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...'

Background

9. The site, which lies outside the District's development boundaries, has been cleared following its sale was, until recently, an undeveloped field, previously used for agricultural purposes, which also contained many mature trees and shrubs. A number of interested parties spoke at the Hearing to describe the loss of these features and the visual change that has taken place. As mentioned, it falls within the Metropolitan Green Belt, and has been identified by the Council as a locally designated Biodiversity Opportunity Area.
10. The immediate area has a semi-rural character, with the appeal site lying close to the junction with the B2037 which crosses the M23, nearby. Green Lane itself is rather narrow but serves as the access to a number of scattered residential properties set back from the lane. Further down the lane, off its east side, are other caravan sites which appear to be well established.
11. At my site visit I noted there were two mobile homes present on the appeal land, one touring caravan, and a timber outbuilding. The site is surrounded by relatively high close-boarded timber fencing, and the land has been levelled with hardcore scalplings. The mobile homes were situated within the site, off its western boundary.

Matters concerning the enforcement notice

12. The alleged breaches of planning control include the storage of plant and machinery and the placing and storage of construction materials. I observed that these, if previously present, had now been removed from the land.

13. Normally, it is sufficient for the final requirement of an enforcement notice to stipulate that, following compliance with the other steps, the land should be restored to its condition prior to the development taking place. However, in this particular instance, having witnessed the drastic changes brought about by the use now taking place, the removal of vegetation and alteration of the land's surface, I am satisfied that the enforcement notice can require the land to be seeded to promote the growth of vegetation and restore its natural state.

The appeal on ground (b)

14. An appeal under ground (b) involves the claim that the alleged breach has not occurred as a matter of fact.
15. The appellants say that the timber structure referred to by the Council as an outbuilding is not a building. Instead, they consider it as 'a stable on skids'.
16. The courts have held that the key elements in deciding whether something is a building or not are size, permanence and physical attachment to the land. Indeed, this approach is at one with that taken by the court in a rating case, *Cardiff Rating Authority v Guest Keen Baldwin Iron and Steel Co Ltd* [1949] 1 KB 385, cited by the Council in its representations on the current appeal.
17. The relevance of permanence as a factor to be considered can be seen in the more recent judgement of *Skerritts of Nottingham Ltd v SSETR* [2000] JPL 1025. The case concerned a large marquee, where the Inspector had concluded as a matter of fact and degree, it was a building owing to its dimensions, its permanence (rather than its fleeting nature), and the secure nature of its anchorage. The Court of Appeal found that the marquee's annual removal did not deprive it of the quality of permanence.
18. In the current appeal, whether or not the said timber structure is moveable, I am satisfied that it has acquired a sufficient degree of permanence, and I have therefore concluded that the alleged breach in this respect has occurred.
19. Accordingly, the appeal on ground (b) does not succeed.

The appeal on ground (a) and the deemed planning application (DPA)

Main Issues

20. In view of the Council now considering that the land can be termed Grey Belt this reduces the main issues to the following:
- 1) The need and provision of gypsy and traveller sites within the Medway area; and
 - 2) the effect of the development on the character and appearance of the surrounding area, both in terms of its location and also it being within a locally designated Biodiversity Opportunity Area

Reasons

Need and provision

21. Policy CSP 9 of the Council's Core Strategy (CS), adopted in 2008, is the starting point for assessing the merits and impacts of developing land for gypsy and traveller purposes. The policy says that the Council will make provision through a Site Allocations Development Plan Document (SADPD). However,

crucially, the SADPD never materialised and, therefore, in the absence of any allocated sites planning applications are assessed on a case by case basis. Accordingly, the Council has been reliant on windfall sites in this regard.

22. The GTAA has identified a need for 81 new gypsy pitches over the period 2025 to 2029.
23. Due to the level of need identified in the GTAA and the lack of supply of available pitches a Pitch Delivery Assessment (PDA) was carried out in an attempt to meet the need. This aims to identify and assess potential sites for pitches and focusses on determining the suitability, availability, and achievability of existing sites and the scope for intensification or expansion of existing sites. The PDA suggests that 43% of all need for the plan period to 2044 could potentially be met. When discounting travelling show-people, this rises to 64% for gypsies and travellers, specifically.
24. The PDA resulted in an overall total residual need of 120 pitches/plots for persons meeting the 2024 definition over the plan period, reduced to 17 when accounting for gypsy and traveller households.
25. Accordingly, from the above, the Council acknowledges that it cannot currently meet the identified 5 year need solely through intensification of existing sites considered within the PDA, but it does say that, of the 81 pitches needed, 63 will come from this approach and 12 from 3 pitches that should be occupied by gypsies, but are not. Apparently, enforcement action has been started to evict the non-gypsy occupiers.
26. To this end, therefore, policy CSP 9 has failed to achieve its purpose. That said, though, the Council takes the view that the PDA findings along with planning permissions granted for related development suggest that a supply of deliverable pitches in excess of 5 years can be demonstrated. However, the PPTS says that for pitches to be considered deliverable they should be available now, have a suitable location, and there should be a reasonable prospect that development can be delivered within the 5 year period.
27. In the circumstances the Council has drawn up an interim policy position statement (IPPS) to assist in the determination of gypsy and traveller development proposals which, it is said, should be used alongside the PPTS, the Framework and policy CSP 9.
28. The purpose of the IPPS is to establish a consistent approach for the determination of planning applications for temporary and permanent pitches for gypsy and traveller accommodation purposes throughout the Tandridge District Council area. Its requirements are standard which, amongst other things, refer to harm to the character and appearance of the local area, an over-concentration of sites in any particular area, and the number of pitches being appropriate to site size and availability of infrastructure and services.
29. The appellants' agent considers that the GTAA has identified a demonstrable unmet need and said that the GTAA failed to take into account 93 unauthorised pitches, but Mr Jarman disagrees saying that the GTAA assessment of future need is comprehensive and robust. The main parties are also at odds as to whether or not the IPPS is consistent with the Framework, and the appellants consider that the Statement should only be given limited weight.

30. The agent takes issue with the methodology process used in compiling the GTAA saying that ORS discounted numerous bricks and mortar households without successfully interviewing them., and that more households should have been treated as meeting the PPTS definition. They also dispute the said response rate of 97%, and make the point that neither the GTAA nor the IPPS was subject to a formal public consultation exercise.
31. Moreover, the agent says that the IPPS fails to provide any clear evidence that the sites identified in the PDA are deliverable whereas the Council takes the view that the evidence base to support the delivery of pitches is up to date, and is of the view that a 5 year land supply exists, and that this should be afforded considerable weight. As mentioned, Mr Jarman considers that deliverability should have more weight than actual site allocations.
32. Taking all the evidence into account on this matter I consider that the expected deliverability to achieve a five year land supply is an aspiration which the Council is hoping can be met by placing much less reliance on policy CSP 9 which has become increasingly ineffectual and it has been necessary to bring in the IPPS because the circumstances when the Core Strategy was adopted in 2008 are now very different with contemporary guidance set out in the Framework and the PPTS.
33. The GTAA was commissioned as an update to inform the emerging replacement Local Plan, which was aborted. As a result the Plan is being newly compiled, yet the Council's latest Local Development Scheme indicates that adoption is not expected until at least July 2028. This date might be ambitious but at least by then the effectiveness of the IPPS in terms of the deliverability of land for gypsy and traveller purposes will have been monitored and measured from the empirical evidence arising.
34. Currently, I am not fully convinced as to whether the level of deliverability expected by the Council will fully bear fruit. The evidence is not yet there and the hoped for success is arguable. Accordingly, my findings on this main issue will be weighed in the planning balance.

Character and appearance

35. Following my site visit I noted two caravan parks further down Green Lane which appeared from the lane to have orderly site arrangements. If these sites are used by gypsies and travellers then, given the sporadic residential development set back from the lane, combined with the semi-rural character, it means the immediate area can be termed to be one of a mixture of residential type uses. However, I am unaware of their planning status or the demographic of the occupiers. I am also mindful of the PPTS's aim to integrate the travelling and settled communities.
36. A requirement in CS policy CSP 9 is that the development would not significantly harm the visual amenities and character of the area. In this regard I sympathise with the various residents who made representations objecting to the development and those who spoke, at times emotively, at the Hearing. This illustrated the substantial visual changes that have taken place since the appellants moved onto the land. Compared to what was described as an attractive landscape they see this as a deleterious development. Change can sometimes be unavoidable but, although I am unfamiliar with the immediate area, I was surprised as to the site's spartan, even sterile,

appearance which has clearly had a significant impact, both visually and in terms of biodiversity.

37. In the above connection I note that both policy CSP 9 and the IPPS say that development should not significantly harm the appearance and character of the local area, and policy DP19 of the Local Plan Part 2 Detailed Policies (LP) says that nature conservation should be protected. This common proviso has clearly been violated with such a substantial amount of vegetation having been lost.
38. The visual element aside, the appeal site is reasonably substantial in size and, in terms of design and the safeguarding of local residential amenities such as privacy, I am not of the view that the living conditions of neighbouring occupiers have been unduly harmed by the development. As such, for the main part, the objectives of LP policy DP7 have not been significantly affected.
39. As a result of a Written Ministerial Statement Intentional unauthorised development (IUD) is a material consideration that should be weighed in the determination of planning applications and appeals. The change of use was clearly done in the knowledge that planning permission was required; in fact, an application for the change of use of the land had been made, yet the development proceeded without permission having been granted.
40. In the circumstances, I attach some significant weight to the IUD undertaken which, given its extent and the degree of land clearance undertaken to facilitate the use, was little short of an act of environmental vandalism.
41. Paragraph 187(a) of the Framework highlights the importance of protecting and enhancing landscapes in a manner commensurate with their statutory status or identified quality in the development plan, whilst CS policy CSP 17 states that development proposals should provide for the enhancement of biodiversity. This is consistent with the Framework which states that planning decisions should provide net gains for biodiversity.
42. The Council is actively working on Biodiversity Net Gain (BNG) as part of its planning and development processes to enhance biodiversity within its area. Biodiversity Opportunity Areas (BOAs) are relevant to this strategy, although they are not a statutory designation or a constraint upon activities. Instead, they indicate areas where there are substantial opportunities to make positive changes for biodiversity. This site is a case point. Accordingly, BOAs and BNG are integral to the planning process and the assessment of proposals.
43. It is usually required that developers demonstrate how they would achieve a 10% BNG, yet I have not been provided with any detailed information to this end. Indeed, it is a legally binding requirement that can be enforced if not met.
44. At the Hearing, I took issue with the assertion, in the appellants' grounds of appeal, that the development results in a 130.78% net gain in hedgerow. BNG obviously has much wider considerations and the appellants have not addressed this matter. Harm to diversity and appropriate mitigation is also mentioned in the IPPS. However, although retrospective, the matter can be dealt with by way of a condition imposed on a grant of planning permission; at least insofar as some redress is possible.

45. As it stands, though, the development conflicts particularly with the aims and requirements of CS policies CSP 9 and CSP 17 and also the IPPS, and LP policy DP19, along with the said advice within the Framework.

Planning Balance

46. I have concluded that the Council has not, at this point, satisfactorily demonstrated that the degree of deliverability of sites for gypsy and traveller purposes is such as to amount to the availability of a five year supply. I must attach significant weight to this.
47. The situation, though, may change over time, especially with the preparation of the replacement local plan and site allocations being earmarked for such accommodation. I am, therefore, making my decision with regard to all material considerations including advice within paragraph 28 of the PPTS and paragraph 11d) of the Framework, where the Council cannot demonstrate a requisite five year supply for this use.
48. The Council has accepted the land is grey belt, and paragraph 155 of the Framework refers to forms of development which are not inappropriate in the green belt. These include where the development would utilise grey belt land, it would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan, and there is a demonstrable unmet need for the type of development proposed.
49. I am also aware that there are young children of school age residing at the site, and am conscious that they require stability for their welfare rather than be subjected to a possible roadside existence.
50. Turning then to the Council's objections to the development, this is now limited to its visual impact on the surrounding area and the harm to biodiversity. As I mentioned, there are other caravan sites further along Green Lane which, I noted, are set back into their respective sites. In this regard a local resident mentioned at the Hearing that there are now seven travellers' sites in the immediate area, with three pending planning applications for such. One of these, though, might be the application pending for the appeal site itself.
51. In any event I have not been provided with firm details as to the other sites' planning status, in terms of whether they benefit from planning permission or are immune from enforcement action due to the passage of time. I have noted, though, that the IPPS mentions that there should be no over-concentration of gypsy and traveller sites in any one area. This might prove to be the case in the future and it should fall to the Council to make an assessment on this taking proper account of the wider planning position.
52. The considerations in favour of the appeal are sufficient to outweigh the harm on a time limited basis. Taking account of the site occupiers' personal needs, and the apparent current lack of any suitable alternative sites it is necessary to allow occupation of the site to continue for a sufficient time to allow the provision of alternative sites to be considered.
53. Weighing up the above points, along with the fact that measures of mitigation need to be taken to provide some redress to the IUD undertaken, and to soften and improve the appearance of the land by way of planting and landscaping - which can be achieved through addressing the requirements of a planning

condition - I have concluded that, given the circumstances, a temporary permission would be the most appropriate outcome here.

54. Taking into account the future adoption of a replacement development plan, and on the basis that the expected timeline of July 2028 is probably a little optimistic, I consider that a time limitation condition for four years should be imposed whereupon the appropriateness of the use of the land for gypsy and traveller purposes can be reassessed, should this prove necessary.
55. A wider and more complete picture as to deliverability will have been gained by July 2029, and the circumstances as a whole will have changed. I therefore find that granting a full planning permission at the current time would not be appropriate. Such an approach is consistent with advice contained within the government's planning practice guidance (PPG).

Conclusion and Conditions

56. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeals on grounds (f) and (g) do not therefore need to be considered.
57. Turning to conditions, I have considered those put forward and agreed by the main parties in accordance with the PPG. Twelve such conditions were agreed, but I have consolidated these, where necessary, and have discounted the suggested condition relating to the replacement of trees planted which have died or been damaged. This is not necessary given the current condition of the site and the fact that the planning permission being granted here is temporary.
58. I am imposing conditions which I consider to be both necessary and reasonable, and in accordance with the development plan as a whole. A time limitation condition is imposed for the reasons mentioned. It does not, of course, preclude the appellants from reapplying for planning permission prior to the expiry period.
59. Granting both a temporary and personal permission is in accordance with the law and pursues legitimate aims of protecting the environment and is proportionate to the situation, as is requiring for the use to cease and all buildings, structures and materials removed from the land when the premises cease to be occupied by those persons named or at the end of the temporary period granted.
60. Details of planting and landscaping should be submitted to the Council for assessment and written approval, as shall a Biodiversity Net Gain Plan to mitigate the impact of the site having been cleared of its features and vegetation, noting that the site lies within a designated BOA, and as an attempt to achieve a satisfactory standard of development. The relevant conditions' requirements are not onerous, given the above circumstances. Indeed, such an approach would be another material consideration if progress has been made here, should a new application be made at a future point for a continuation of the use prior to the expiry date.
61. In the interests of protecting the character and appearance of the surrounding area it is appropriate to limit the number of caravans on the site, provide details of a satisfactory site layout, prevent commercial activities, limit external

lighting, bin storage, surface water and foul drainage, and also the erection of further fencing gates or walls. In this connection, though, should the appellants wish to erect replacement fencing to that already erected, details of this should be provided to the Council.

Timothy C King

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Alan Masters of Counsel
Brian Woods – Director, WS Planning & Architecture
Peter Brownjohn – Senior Planner, WS Planning & Architecture
John Harty - Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mark O'Brien – O'Reilly of Counsel
Clifford Thurlow – Tandridge District Council
Steve Jarman – Head of Traveller Assessment, Opinion Research Services Ltd

INTERESTED PARTIES

Jeannie Ryan
Jenny Thornton
Rachel Farrow
Chris Nickalls
Sarah Clements

SCHEDULE of CONDITIONS

1. The development hereby permitted shall be carried on only by Mr John Joseph Harty and Ms Elizabeth Connors and their resident dependents, and shall be for a limited period of 4 years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.
2. When the premises cease to be occupied those named on condition 1 above, or at the end of 4 years, whichever shall first occur, the use hereby permitted shall cease, and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use, shall be removed.
3. The use hereby permitted shall be limited to 1 pitch. No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on that pitch of which only 1 caravan shall be a static caravan.
4. No vehicle over 3.5 tonnes and no other caravans than those permitted under condition 3 above shall be stationed, parked or stored on this site.
5. No commercial activities shall take place on the land, including the storage of materials, plant or equipment.
6. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of that use shall be removed within 3 months of the date of failure to meet any of the requirements set out in (i) to (iv) below:
 - i) Within 3 months of the date of this decision, or such other period as the Local Planning Authority may agree in writing, a scheme shall be submitted in writing to the Local Planning Authority for its written approval. The scheme shall include details of the following:
 - the internal layout of the site including the siting of static caravans, sheds;
 - areas of hardstanding;
 - vehicle parking and any charging points;
 - the means of foul and surface and surface water drainage of the site;
 - provision for the storage of waste and recyclables; and
 - a timetable for the implementation and retention of each element of the scheme.
 - any external lighting.
 - ii) Within 12 months of the date of this decision, the scheme referred to above shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuses to approve the scheme or fails to

- give a decision within the prescribed period, an appeal shall have been made to, and accepted 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 finally approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable and the approved scheme shall thereafter apply.
7. Within 3 months of the date of this decision:
- i) a scheme of hard and soft landscaping of the site shall be submitted for the approval of the Local Planning Authority in writing. The scheme shall include details setting out:
- Means of enclosure, being fencing, walls and gates;
 - Hedgerow planting;
 - The species, number and spacing of trees and shrubs;
 - Any earthworks and grassed areas;
 - A timetable for undertaking all of the proposed works of hard and soft landscaping.
- Details of soft landscaping works shall include all retained or proposed trees, hedges and shrubs; ground preparation, planting specifications and ongoing maintenance, together with details of areas to be grass seeded or turfed. Planting specifications shall include details of species, plant sizes and proposed numbers/densities.
- All new hard and soft landscaping shall be undertaken in accordance with the approved scheme and timetable that forms part of the details required to be submitted and approved.
- ii) Within 12 months of the date of this decision, the scheme referred to above shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuses to approve the scheme or fails to give a decision within the prescribed period, an appeal shall have been made to, and accepted 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 finally approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable and the approved scheme shall thereafter apply.
8. Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure shall be erected within the site without the grant of further specific planning permission from the Local Planning Authority or the details of means of enclosure approved under Condition 8 of this permission.

9. Within 6 months of the date of this decision a Biodiversity Net Gain Plan that details how an overall biodiversity net gain will be achieved shall be submitted to the Local Planning Authority for approval: The Biodiversity Net Gain Plan shall include the following;
- a) An assessment of the pre-development biodiversity value of the onsite habitat at the point development was commenced;
 - b) Details of the retention and creation of wildlife habitats on the site including steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat,
 - c) Details of the location and design of species-specific enhancement measures and the purpose and conservation objectives for any measures;
 - d) The management and maintenance of the retained and created habitats for a period of 30 years from the date they are completed;
 - e) Monitoring of the retained and created habitats for a period of 30 years, including details of the frequency of monitoring;
 - f) The persons responsible for implementing, monitoring and maintaining the on-site Biodiversity Net Gain Plan; and
 - g) A timetable for implementation.

In the event it is reasonably demonstrated that a Biodiversity Net Gain cannot be achieved on site with the approved development in situ, then a scheme of offsite enhancement measures to provide biodiversity net gain shall be included in the Plan and secured. This may include:

- any registered offsite biodiversity gain allocated to the development and the biodiversity value of that gain in relation to the development, and any biodiversity credits purchased for the development. The Biodiversity Net Gain Plan shall then be implemented in accordance with the details approved.

APPENDIX 7



Appeal Decisions

Hearing held on 29 April 2025

Site visit made on 29 April 2025

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 20th May 2025

Appeal A Ref: APP/M3645/C/24/3357967

Plots E and F, Land South of Plough Road, Smallfield Horley, Surrey, RH6 9SD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr John Fury against an enforcement notice issued by Tandridge District Council.
 - The notice was issued on 22 November 2024.
 - The breach of planning control as alleged in the notice is i) Without planning permission, the making of material change of use of the Land comprising of residential, and intensification of a caravan site for residential purposes by virtue of the stationing of caravans and static mobile homes; ii) Without planning permission operational development consisting of the regrading of land and the subsequent laying of hard surfacing materials which constitutes an engineering operation, the construction of an access with associated hardsurfacing, the installation of septic tank and drainage to the mobile homes brought onto the site and erection of boundary fencing and internal fencing to facilitate the unauthorised use of the land.
 - The requirements of the notice are i. Permanently cease the unauthorised residential use of the Land as a caravan site. ii. Permanently remove from the Land all caravans (including mobile homes), vehicles and all associated utility connections, bases, skirts and screens and other domestic paraphernalia from the Land. iii. Dig up the hardcore, rubble and other material to create the hardstanding area located within the red-lined area on the attached plan. iv. Dig up the hardcore, rubble and other material to create the access to the land marked blue on the attached plan. vi. Remove from the highway drainage ditch all material used to create the new access and restore the ditch to its condition and profile before the unauthorised works on the land commenced. vii. Reinststate the section of hedge that was removed to form the unauthorised access, marked in blue on the attached plan, as per the Schedule attached to this Notice as Annexure 1. viii. Remove all resultant materials generated from compliance with Steps iii and iv above.
 - The periods for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (e) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B Ref: APP/M3645/C/24/3357971

Plot H, Dowlands Lane, Smallfield , RH6 9SD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Joe Doran against an enforcement notice issued by Tandridge District Council.
- The notice was issued on 22 November 2024.
- The breach of planning control as alleged in the notice is i) Without planning permission, the making of material change of use of the Land comprising of residential, and intensification of a caravan site for residential purposes by virtue of the stationing of caravans and static mobile homes.
- The requirements of the notice are i. permanently remove and caravan or mobile home from the land. ii. Permanently remove from the Land all miscellaneous items associated with storage of any caravan or mobile home from the Land.
- The period for compliance with the requirements is: 3 months.

- The appeal is proceeding on the ground[s] set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal C Ref: APP/M3645/C/24/3357972

Plot I (north), Land South of Plough Road, Smallfield Horley, Surrey, RH6 9SD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mrs Becky McGandy against an enforcement notice issued by Tandridge District Council.
 - The notice was issued on 22 November 2024.
 - The breach of planning control as alleged in the notice is i) Without planning permission, the making of material change of use of the Land comprising of residential, and intensification of a caravan site for residential purposes by virtue of the stationing of caravans and static mobile homes; ii) Without planning permission operational development consisting of the regrading of land and the subsequent laying of hard surfacing materials which constitutes an engineering operation, the construction of an access with associated hardsurfacing, the installation of septic tank and drainage to the mobile homes brought onto the site and erection of boundary fencing and internal fencing to facilitate the unauthorised use of the land.
 - The requirements of the notice are i. Permanently cease the unauthorised residential use of the Land as a caravan site. ii. Permanently remove from the Land all caravans (including mobile homes), vehicles and all associated utility connections, bases, skirts and screens and other domestic paraphernalia from the Land. iii. Dig up the hardcore, rubble and other material to create the hardstanding area located within the red-lined area on the attached plan. iv. Dig up the hardcore, rubble and other material to create the access to the land marked blue on the attached plan. v. Remove from the highway drainage ditch all material used to create the new access and restore the ditch to its condition and profile before the unauthorised works on the land commenced. vi. Reinststate the section of hedge that was removed to form the unauthorised access, marked in blue on the attached plan, as per the Schedule attached to this Notice as Annexure 1. vii. Remove all resultant materials generated from compliance with Steps iii and iv above.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (e), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Appeal D Ref: APP/M3645/C/24/3357973

Plot I (south), Land South of Plough Road, Horley, RH6 9SD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Tom Connors against an enforcement notice issued by Tandridge District Council.
- The notice was issued on 22 November 2024.
- The breach of planning control as alleged in the notice is i) Without planning permission, the making of material change of use of the Land comprising of residential, and intensification of a caravan site for residential purposes by virtue of the stationing of caravans and static mobile homes; ii) Without planning permission operational development consisting of the regrading of land and the subsequent laying of hard surfacing materials which constitutes an engineering operation, the installation of septic tank and drainage to the mobile home brought onto the site and erection of boundary fencing and internal fencing to facilitate the unauthorised use of the land..
- The requirements of the notice are i. Permanently cease the unauthorised residential use of the Land as a caravan site. ii. Permanently remove from the Land all caravans (including mobile homes), vehicles and all associated utility connections, bases, skirts and screens and other domestic paraphernalia from the Land. iii. Dig up the hardcore, rubble and other material to create the hardstanding area located within the red-lined area on the attached plan. iv. Dig up the hardcore, rubble and other material to create the access to the land marked blue on the attached plan. v. Remove from the highway drainage ditch all material used to create the new access and restore the ditch to its condition and profile before the unauthorised works on the land commenced. vi. Reinststate the section of hedge that was removed to form the unauthorised access, marked in blue on the attached plan, as per the Schedule attached to this Notice as Annexure 1. vii. Remove all resultant materials generated from compliance with Steps iii and iv above.

- The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (e) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Decisions

Appeal A

1. It is directed that the enforcement notice is corrected by the substitution of the plan annexed to this decision (labelled Plan for Appeal A – plots E and F) for the plan attached to the enforcement notice. Subject to this correction Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the making of a material change of use of the Land comprising of residential, and intensification of a caravan site for residential purposes by virtue of the stationing of caravans and static mobile homes; at Plots E and F on Land south of Plough Road, Smallfield, RH6 9SD as shown on the substitute plan attached to the notice and subject to the conditions in the attached annex.

Appeal B

2. It is directed that the enforcement notice is corrected by the substitution of the plan annexed to this decision (labelled Plan for Appeal B – Plot H) for the plan attached to the enforcement notice. Subject to this correction Appeal B is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the making of a material change of use of the Land comprising of residential, and intensification of a caravan site for residential purposes by virtue of the stationing of caravans and static mobile homes; at Plot H on Land south of Plough Road, Smallfield, RH6 9SD as shown on the substitute plan attached to the notice and subject to the conditions in the attached annex.

Appeal C

3. It is directed that the enforcement notice is corrected by the deletion of requirements (iv), (v) and (vi); and the substitution of the plan labelled Plan for Appeals C & D Plot I) annexed to this decision for the plan attached to the enforcement notice.
4. Subject to the corrections, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the making of material change of use of the Land comprising of residential, and intensification of a caravan site for residential purposes by virtue of the stationing of caravans and static mobile homes at Plot I (north) on Land south of Plough Road, Smallfield, RH6 9SD as shown on the substitute plan attached to the notice and subject to the conditions in the attached annex.

Appeal D

5. It is directed that the enforcement notice is corrected by the substitution of the plan annexed to this decision (labelled Plan for Appeals C & D Plot I) for the plan attached to the enforcement notice. Subject to this correction Appeal D is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the making of a material change of use of the Land comprising of residential, and intensification of a caravan site for residential purposes by virtue of the stationing of caravans and static mobile homes; at Plot I (south) on Land south of Plough Road, Smallfield, RH6 9SD as shown on the substitute plan attached to the notice and subject to the conditions in the attached annex.

Preliminary Matters

6. The appeals on grounds (e) and (f) were helpfully resolved before the Hearing opened. The Council accepted the red line on the plans attached to the notices in all four appeals were not quite accurate. Agreed plans were provided by the appellant during the hearing and I shall correct the notices to attach these.
7. It was also agreed that the requirements in appeal C relating to the access (requirements (iv), (v) and (vi)) all fell within the area of appeal D so the appellant in C was not responsible for them. I shall correct the notice to remove those requirements.
8. All four of the appeals rely on ground (a) and (g) and I shall deal with (a) for all four below. It was agreed at the Hearing that while all the families are friends there are no overriding family connections or reasons why they need to stay together and each appeal could therefore be dealt with on its own merits.
9. For ease of reference I have divided Plot I into two as it contains 2 pitches. Plot I (north) refers to the land subject to Appeal C and Plot I (south) refers to the land subject to appeal D.

The Appeals on Ground (a)

10. The main issues in all four appeals are whether the sites lie within an area of green belt that would qualify as 'grey belt'. The impact on the setting of the nearby listed building. Whether the Council can provide a 5 year supply of gypsy sites. Is the site sustainably located. The impact of the development on the countryside and residential amenity? The impact on ecology and whether the accesses can be made acceptable in highway safety terms.
11. In the past, gypsy sites in the green belt were considered to be inappropriate development. However, now government policy has changed to introduce the idea of grey belt. If the sites lie in the grey belt then they are not considered to be inappropriate development and green belt issues can be set aside. For land to be considered grey belt it must pass a series of tests. Firstly it must be land that does not "*strongly contribute*"¹ to purposes (a), (b) or (d) in paragraph 143 of the NPPF, the five purposes of including land in the green belt. Secondly, is it land affected by footnote 7 of the NPPF and if so does that "*provide a strong reason for*

¹ Quoted from the glossary definition of 'grey belt' in the NPPF

refusing...development"²? Finally does it meet the tests of paragraph 155 of the NPPF, in this case they are whether the development would "*fundamentally undermine the purposes (taken together) of the remaining green belt across the area of the plan*"; is there a demonstrable unmet need for the development and is it a sustainable location? The fourth test concerning the 'golden rules' does not apply to gypsy sites.

12. Purposes (a), (b) and (d) are to check the unrestricted sprawl of large built-up areas, prevent neighbouring towns merging with each other and preserve the setting of historic towns.
13. The site lies in the countryside on the south side of Plough Road and west side of Downlands Lane to the east of the village of Smallfield. That village extends up to the M23 and beyond that is Gatwick Airport and the town of Horley. The wider environs of the sites are open countryside with a scattering of hamlets, farms and houses, but more immediately, they occupy part of a large paddock which is bounded on all four sides by a scattering of houses, including the listed Smallfield Place to the north. The PPG makes it clear that when assessing purpose (a) this "*relates to the sprawl of large built up areas. Villages should not be considered large built up areas*"³. Beyond the paddock and its surrounding buildings, there are swathes of open countryside and the site lies some way from the nearest "large built-up area, which would be Gatwick and Horley, from which it is separated by the M25.
14. For purpose (b) the PPG again makes it clear this "*relates to the merging of towns, not villages*"⁴. There is no suggestion any towns would be merged by the development. Nor indeed would any villages. Purpose (d) relates to historic towns and there are no historic towns nearby. The site, therefore, does not contribute strongly to any of those three purposes. Some incredulity was expressed at the Hearing that no protection or consideration is given to villages within the green belt, but that is how the policy is worded.
15. Next is the question of footnote 7. This footnote describes the policies within the NPPF that would lead to the tilted balance not being applied and in this case the relevant policies concerns designated heritage assets. Smallfield House is listed II* and lies across Plough Road to the north. It stands in its own grounds with an access to Cogmans Lane, running north from appeal sites. Both parties provided heritage assessments and both relied on a recent appeal decision⁵ concerning the development of the appeal sites and wider paddock for 88 houses.
16. The Inspector in that appeal considered in detail the impact on Smallfield Place. He noted it had originally been surrounded by open fields, which reinforced the prominence of the imposing manor house. But, those fields had been enclosed, mostly by trees and hedging, and that relationship had been disrupted. He concluded that his appeal site was not particularly important to the historic understanding of the listed building. Nevertheless, he accepted the setting of Smallfield Place is defined by its rural nature and goes on to conclude the dense,

² Quoted from glossary – see above

³ PPG Paragraph: 004 Reference ID: 64-004-20250225

⁴ Same ref

⁵ Appeal Ref: APP/M3645/W/19/3243231

formal urban development proposed would harmfully affect the setting, especially when seen in close views from the street and from Smallfield Place⁶ itself.

17. From the historic maps provided it is clear that Smallfield Place was always surrounded by fields but that now a scattering of dwellings has grown up and there is a dense and tall screening hedge round the southern perimeter of the manor which hides it entirely from the appeal site. Indeed a pedestrian would be entirely ignorant of the existence of the building until they saw it down the drive from Cogmans Lane. There is thus, now no visual link between the manor and the land to the south. I can understand that despite this a large housing estate would not site comfortably so close to the listed building and I can understand the Inspector's less than substantial harm finding. But in this case the scattered caravans have little or no impact on the listed building at all. Most of the field remains open paddock and the gypsy sites themselves are already partly obscured by hedging and this due to be strengthened. In my view the setting of Smallfield Place is not harmed by the development.
18. Even had I decided otherwise, the harm would have been very much at the lower end of less than substantial harm. The Barnwell judgement was discussed at the Hearing. This reinforced the need to give considerable weight to the desirability of preserving or enhancing the setting of a listed building. However, I do not think this means that any less than substantial harm automatically means there is a '*strong reason*' for refusing planning permission. There is a difference between giving considerable weight to the legal test enshrined in the Act, and a finding, when all the balancing has been carried out that there is a strong reason for refusal in NPPF terms. They are two separate processes. The grey belt test requires an analysis of the proposal in terms of the policies set out in the NPPF alone. Thus the less than substantial harm to the heritage asset would need to be balanced against the public benefits accruing from the proposal. The very small amount of harm would only require a small benefit and as will become clear this would include providing a home for these gypsy families who would otherwise be homeless. Either way therefore, footnote 7 would not come into play, and even if it did and there were no public benefits, the amount of harm would still not provide a '*strong reason*' to refuse. I do not agree this would be double counting the benefit, it would just be counting it in a different place than usual and that conclusion would be carried forward to the final balance.
19. Finally I need to consider the paragraph 155 tests. Clearly the loss of this small area of a larger field would not fundamentally undermine the purposes when taken together of the remaining green belt within Tandridge, which is extensive. There would be a small amount of encroachment into the countryside, but not enough to be fundamental and this will be considered in the final balancing exercise.
20. A more important question is whether there is an unmet need for the development. Up until very recently Tandridge did not have a 5 year supply of gypsy sites nor did it have any proposals to remedy that situation. However, during the course of this appeal matters have moved on. Work has begun on a local plan and this is hoped to go for examination in 2027/8. A new GTAA has been produced which identified a need for 81 new gypsy pitches over the next 5 years (2025-2029). The GTAA achieved a high level of involvement and these new pitches essentially come from

⁶ The decision letter refers to 2 listed buildings, Smallfield Place and Crullings, but I was informed that Crullings was the same as Smallfield Place and this seems to be the case when the listing entry is read in the light of this knowledge.

demand identified within the existing pitches in Tandridge. The Council argue that of those 81, 63 will come from extending existing pitches and 12 from three pitches that should be occupied by gypsies but are not. Enforcement action has been started to evict the non-gypsy occupiers. That will leave 6 pitches short which can easily be provided from windfall sites over the 5 years.

21. The PPTS says that to be considered deliverable pitches should be available now, have a suitable location and there should be a reasonable prospect that development can be delivered within the 5 year period. It is not clear that the 63 pitches on existing sites meet this definition. They would rely on the owners of the sites wanting to expand and so applying for planning permission to do so. Some may well have growing families that need more space but others may not. I have no evidence that those identified by the GTAA with a desire to expand are the same as those identified by the Council as suitable to expand. Apart from a handful, where there are already permissions or temporary permissions that will be made permanent, the rest are all essentially windfall sites. We also do not know whether the enforcement action against the 12 pitches occupied by non-gypsies will be successful as none of us know what the situation of those residents is. It is obviously promising that something is being done and the Council may well have a large number of pitches to help it balance the books, but at the moment that is far from clear. So I do not think the Council can demonstrate a 5 year supply of pitches.
22. Secondly, most of the 63 are on private sites already controlled by existing families. They would not be likely to be available on the open market for incomers, such as the appellants. They confirmed at the Hearing that prior to arriving here, they had either been on overcrowded family sites where they had to move due to expansionist needs of their own families, or travelling on the road from temporary site to site. The one possibility was 10 windfall pitches on Downlands Road. These comprised 2 existing sites with 1 pitch on each, both of which had planning permission for 5 more pitches on each. While the owner was resident on one site the other was apparently completely vacant as it was owned by a gypsy who lived on the south coast. However, I have no information as to who could use the sites. Whether the appellants, who I understood to be Irish travellers, would be welcome there, or even whether the Council had a waiting list for its own site⁷ and whether these people might use the windfall sites? In other words I have no evidence that there is not a demonstrable unmet need for this type of development.
23. Thirdly, there is the question of locational sustainability. The NPPF says in the case of gypsy sites "*particular reference should be made to PPTS paragraph 13*". This is not the same as saying only paragraph 13 is relevant, which makes sense as paragraph 13 does not directly mention locational sustainability. All the children on site of the relevant ages attend the local primary school in Smallfield, which it was accepted had a good range of local facilities. The village is only a short walk along Plough Road. The problem with Plough Road is that while it is a minor road it is quite busy with traffic and does not have any footpaths or lighting. There is a wide verge in front of Smallfield Place, and further along pedestrians can cut across the local playing field into the village, but between the two is a stretch of several hundred yards where walking would not necessarily be pleasant, although it is possible. Given the sites meet all the criteria of paragraph 13 of PPTS and are

⁷ The Council's site is actually owned and managed by Surrey County Council

close to a village then in the context of a gypsy site (which are almost inevitably rural based) I consider that these are in a sustainable location.

24. Taking all this together, I do consider the appeal sites lie within the grey belt and so are not inappropriate development.
25. Moving away from the green belt, the issues remaining are the countryside, residential amenity, ecology and highway safety. I have already concluded there is no harm to the setting of the listed building so there is no need to consider the statutory test. There is, however, clearly a harmful impact on the countryside. A once large open paddock has been partly subdivided and 5 pitches created with a number of touring vans and mobile homes. If established it will be difficult to resist at least some form of amenity buildings, as well as all the usual storage and domestic paraphernalia associated with the gypsy's travelling lifestyle. This represents a significant intrusion into the rural character of the area which would be contrary to the Core Strategy policy CSP18 on design and CSP9 which deals with gypsy sites and requires that development should not significantly harm the character of the area.
26. The Council accept there is no impact on residential amenity. I note the proposed new access to site H would be opposite Smallfield Cottage in Dowlands Lane. There is already a new access to site I nearby so there would be an impact on the residents of that cottage with vehicles coming to and fro using the accesses. However, whilst a change, it is unlikely to be significant. Similarly the outlook from various cottages will change. It would be better to look at a field rather than a caravan site, but in planning terms there is no right to a view and the relatively small sites would not be so visually intrusive as to amount to harm.
27. The appellants provided a preliminary ecological assessment which identified the main issue as being great crested newts. In particular a pond to the south west which was not separated from the sites by a road may well support newts. The sites also needs to deliver a 10% bio-diversity net gain. The sites also fall within an Impact Risk Zone of Blindley Heath SSSI, although due to the distance from the SSSI and low impact nature of the development consultation with Natural England is not required. Of greater relevance is that they lie within a Red Impact Risk Zone for great crested newts according to Natural England's district level licensing scheme.
28. The upshot of this is that most of the ecological issues can be dealt with by replacing the newly planted laurel hedges with native hedgerows, controlling lighting and providing bird and bat boxes at suitable locations. The newt issue can be dealt with by securing a licence from NE, which would involve paying compensation to a fund enabling the Council to support new or improved newt habitats. There was some discussion about an eDNA survey of the nearby pond which was on privately owned land. The appellants explained this was not necessary. Its purpose would be to ascertain whether any great crested newts did live in the pond or not, but they accepted, for the purposes of the licence and compensation, they were likely to be there so further investigation was not necessary. I conclude therefore that the ecology issues can be dealt with by suitable conditions. A newt condition was suggested by the appellant and with suitable alteration to ensure it includes the NE licence will satisfy the newt issue.

29. The field originally had a single access on the corner of the crossroads junction where Plough Road meets Cogmans Lane to the north and Dowlands Lane to the south. That provides access to the rest of the field and currently to plot H. It seems the Donavons on H did not realise this access still belongs to the owner of the rest of the field, hence the need for a new access to H off Dowlands Lane. The Council have no problem, in terms of highway safety with the proposed access or the existing access off Dowlands Lane to plots H and I. Their concern was with the new access to plots E and H off Plough Road. However, it was agreed the required site lines could be provided, and as I saw on site, the hedgerow was thick enough to survive if partly cut back to accommodate these site lines. Further planting could be secured by way of the proposed landscaping plan. Consequently the only loss of hedgerow is the actual entrances themselves and this is more than compensated for by additional planting on the site.
30. I also need to consider the sites against policy CSP9 which is the gypsy site policy from the core strategy. Parts of this policy are now out of date due to the grey belt issue but criterion (b) refers to visual amenities and character and appearance, (d) to safe access to the highway and (f) to non-car modes of transport. Criteria (b) and (d) are dealt with above and (f) is also largely considered above. I would add also that it only requires '*preference*' to be given to sites that have non-car modes of transport. In this appeal I do not think the development is contrary to this policy. Criterion (c) is about pitch sizes which are acceptable and (e) ancillary business space which is not required. Apart from (b) therefore, the sites are in accord with CSP9.

Conclusions

31. I conclude that the sites in question are on land that forms part of the grey belt. There is no harm to the setting of Smallfield Place, no harm to residential amenity and acceptable accesses to the highway can be secured by condition as can bio-diversity net gain and protection of newts. The Council cannot, at the moment, show a 5 year supply of sites and the appellants have no alternative sites available. Nevertheless, the site is intrusive in the countryside and causes significant harm to the character and appearance of the area. It is thus, not suitable as an unrestricted gypsy site.
32. However, I have also taken into account the personal circumstances of the appellants and their families. On plot E are Jerry Fury with his partner and two young children, one at school. On F are two families, Mr and Mrs Fury senior and John Fury, his partner and 3 young children, one who is at school. On H are Joe Donavon, his partner and 3 older children, two of whom are of school age; whilst on the northern half of I are Becky McGandy, her partner and 5 children, 3 of whom are at school and on the southern half Tom Connors, his partner and 1 baby. These would all benefit from a stable base, particularly for the education of their children. When the best interests of the children are also taken into account, these factors outweigh the harm to the character and appearance of the countryside and a personal permission is acceptable.
33. I have no need therefore to consider whether less pitches would be appropriate or to consider the ground (g) appeal.

Conditions

34. The site should be restricted to named gypsy families as discussed above. Otherwise the number caravans should be restricted to 2 per pitch of which only 1 should be a mobile home except on Plot F where Mr Fury senior lives with John Fury jr. No vehicles over 3.5 tons are allowed on site and no commercial activities carried out. These are all to protect local character and residential amenity. Finally two existing use conditions are required, one for bio-diversity and newts and one for a site management plan which should include external lighting, drainage, day room provision, parking and turning areas, landscaping and access site lines.

Simon Hand

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Simon McKay – agent

John Fury -

Jerry Fury - appellants

Mike McGandy -

FOR THE LOCAL PLANNING AUTHORITY:

Ryno van der Hoven – planning officer

Chris Reynolds – listed buildings

Cliff Thurlow – planning advisor

INTERESTED PARTIES:

Jeannie Ryan – Parish Council

Matthew Brooksbank – Nexus Planning

Nick Smith – Nexus Planning

DOCUMENTS

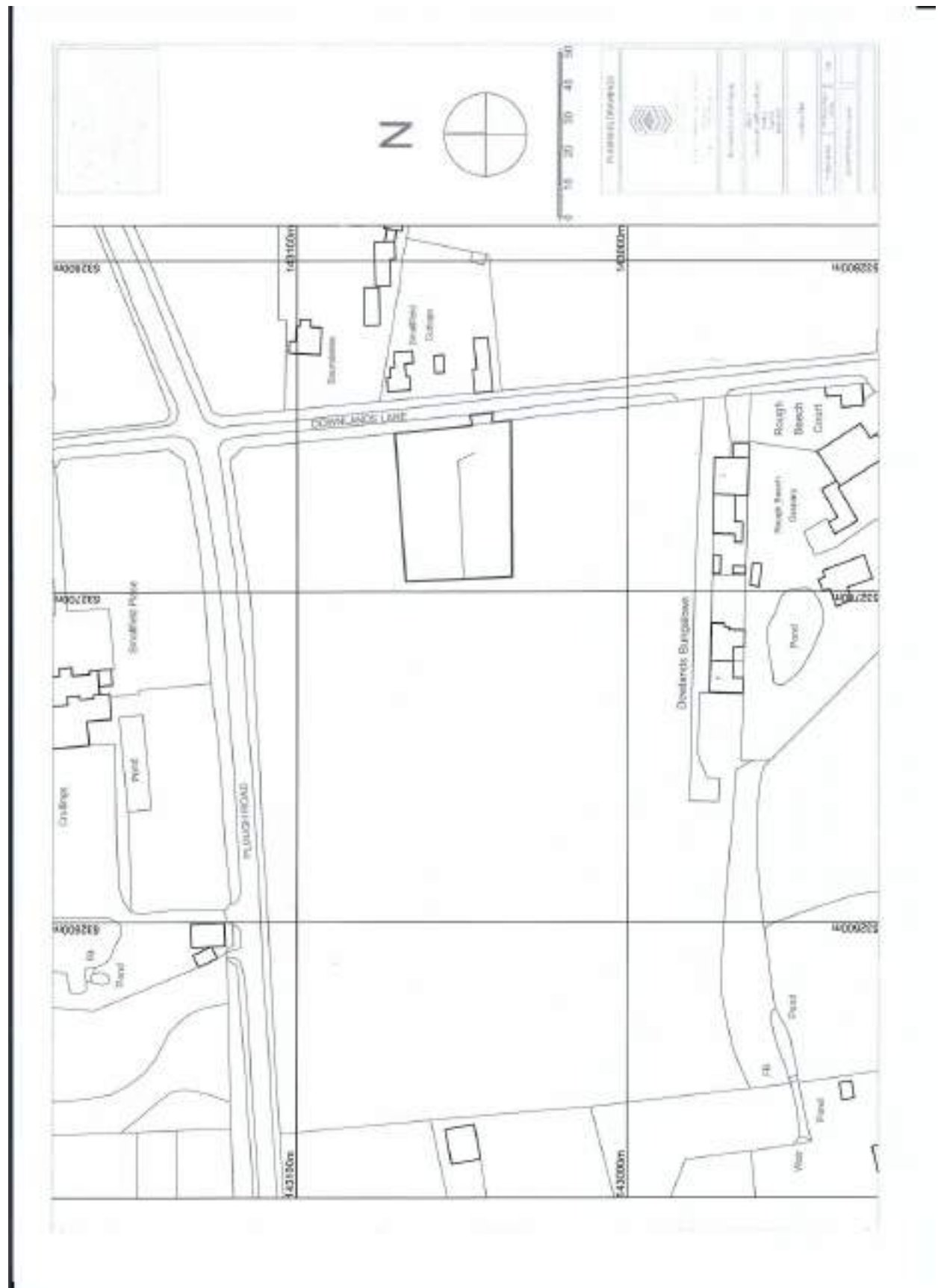
1. Historic maps of Smallfield Place

Plan for Appeal A – Plots E and F





Plan for Appeals C & D – Plot I



Conditions Annex

Conditions for all appeals A, B, C and D

- 1) The sites shall not be occupied by any persons other than Gypsies and Travellers, defined as 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, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- 2) Other than for Plot F, 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) shall be stationed on each pitch at any time. That is 2 caravans on Plot E, 2 caravans on Plot H, 2 caravans on Plot I (north) and 2 caravans on Plot I (south). On Plot F no more than 4 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 2 shall be a static caravans) shall be stationed on the plot.
- 3) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the sites.
- 4) No commercial activities shall take place on the sites, including the external storage of materials.
- 5) 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 14 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 4 months of the date of this decision a scheme (a) for the means of foul and surface water drainage of the site; (b) for proposed and existing external lighting on the boundary of and within the site; (c) for improved visibility splays at the site access; (d) for the internal layout of the site, including the siting of caravans, plots, hardstanding, access roads, parking and amenity areas; (e) for tree, hedge and shrub planting around the boundary of the site, including details of species, plant sizes and proposed numbers and densities; (f) for the restoration of the site to its condition before the development took place when the site ceases to be occupied by those permitted to do so, (g) showing details of proposed amenity buildings, (h) showing details of a fast charge electricity socket, (7Kw Mode3 with a Type 2 Connector 230V/AC 32 Amp single phase dedicated supply) for each pitch, (i) showing details of the facilities for storage and collection of refuse and waste, (j) to achieve measurable biodiversity net gain of at least 10% and mitigation including a timetable for implementation, monitoring and management and, (k) for a precautionary great crested newt method statement, including securing a licence from Natural England and any mitigation if necessary, (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.

ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme, any part of 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.

Upon implementation of the approved site development scheme specified in this condition, that scheme shall thereafter remain in use. In particular, other than those elements that are agreed in the site development scheme by the Local Planning Authority, there shall be no external lighting, no hardstanding and no amenity or other buildings constructed on 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.

For Appeal A - Plots E & F only

- 6) The occupation of the site hereby permitted shall be carried on only by Jerry Fury & Teresa Nolan and their resident dependants, John Fury Jr and Mary-Anne Fury and their resident dependants and Mr and Mrs Fury senior.

For Appeal B – Plot H only

- 7) The occupation of the site hereby permitted shall be carried on only by Joe and Mrs Donavon and their resident dependants.

For Appeal C – Plot I (north) only

- 8) The occupation of the site hereby permitted shall be carried on only by Becky and Mike McGandy, their resident dependants and Becky McGandy's mother Pauline.

For Appeal D – Plot I (south) only

- 9) The occupation of the site hereby permitted shall be carried on only by Tom and Mary Connors and their resident dependants.

APPENDIX 8



Appeal Decisions

Hearing held on 4 September 2025

Site visit made on 4 September 2025

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2025

Appeal A: APP/M3645/C/24/3349803

Land to the north of Farfield, Green Lane, Shipley Bridge, Surrey RH6 9TJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Edward Connors Jnr against an enforcement notice issued by Tandridge District Council.
- The enforcement notice was issued on 16 July 2024.
- The breach of planning control as alleged in the notice is: Without planning permission or Tree Preservation Order consent:
 - a) The clearance of trees and other vegetation from the Land, including trees covered by Tree Preservation Order No.3 (2024), preparatory to the making of a material change of use of the Land to a residential caravan site;
 - b) Operational development consisting of the importation of materials for the raising of the Land and laying of surfacing materials all associated with the use of the Land as a residential caravan site;
 - c) The making of a material change of use of the Land to a residential caravan site;
 - d) The parking and/or storage of vehicles, plant and machinery on the Land associated with the use of the Land as a residential caravan site;
 - e) The storage of construction materials on the Land associated with the use of the Land as a residential caravan site; and
 - f) Operational development on the Land consisting of the installation of septic tanks and pipework, installation of water supply pipes and electrical cabling, construction of a brick wall fronting Green Lane and installation of an entrance gate, and erection of close boarded fencing on other boundaries of the Land, all associated with the unauthorised use of the Land as a residential caravan site.
- The requirements of the notice are to:
 - i) Cease the clearance of trees and other vegetation from the Land, including trees covered by Tree Preservation Order No.3 (2024), preparatory to the making of a material change of use of the Land to a residential caravan site within 1 day;
 - ii) Cease the importation of materials and the raising of the Land within 1 day;
 - iii) Cease the residential use of the caravans stationed on the Land within 1 month;
 - iv) Cease the use of the Land for the stationing of caravans for residential purposes within 1 month;
 - v) Remove all residential caravans (with associated gas cylinders, skirtings and steps) and all touring caravans from the Land within 1 month;
 - vi) Remove all domestic paraphernalia from the Land;
 - vii) Cease the use of the Land for the storage of hardcore, bricks, plastic pipes and other construction materials placed there for the purpose of the use of the Land for the stationing of caravans for residential occupation, and remove all such stored materials from the Land within 1 month;
 - viii) Cease the parking or storage of vehicles, plant and machinery on the Land that are there for the purpose of the use of the Land for the stationing of caravans for residential purposes, and remove all such vehicles, plant and machinery from the Land within 1 month;

- ix) Remove all brick walls, entrance gates, and close-boarded fencing from the Land within 3 months;
- x) Remove from the land to a licensed waste management facility accumulated debris or rubbish arising from the use of the Land for the stationing of caravans for residential purposes and compliance with the requirements of this Notice within 3 months;
- xi) Using the Environment Agency's LIDAR data to determine the levels of the Land before it was raised, dig up and otherwise remove from the Land to a licensed waste management facility all materials brought onto the Land for the purposes of raising the land and the use of the Land for the stationing of caravans for residential purposes within 3 months;
- xii) Following compliance with steps i) to xi) above, level then scarify the surface of those parts of the Land that have been the subject of the unauthorised development and seed with a grass and wildflower seed mixture during the next period of the year that includes the months of April to September immediately following compliance with steps i) to xi) above.
- xiii) Following compliance with steps i) to xii) above, plant 19 trees as detailed within Table 1 set out in the enforcement notice, and in the locations indicated within the area edged blue on the attached tree planting and remediation Plan 2 in compliance with the following requirements:
 - a. The trees must be planted following complete removal of the imported aggregates and waste, and subsequent decompaction of the soil throughout the area edged blue on the attached tree planting and remediation plan.
 - b. Decompaction and remediation of the soil must be achieved by deep soil aeration and tree fertiliser injection by the use of a VOGT Geoinjector to a minimum depth of 1 metre and to achieve a soil bulk density of less than 1.5 g cubic cms.
 - c. Each tree should be supplied, planted, watered, and maintained in the positions shown on the attached planting plan and remediation Plan 2 for a period of 5 years following the date of planting – in full accordance with the specifications contained within British Standard 8545:2014 Trees: from nursery to independence within the landscape.
 - d. Tree planting to be undertaken during the next period of the year that includes the months of October to March immediately following compliance with steps i) to xii) above.
- The period for compliance for steps i) and ii) is within one day, steps iii), iv), v), vii) and viii) within one month and steps ix), x) and xi) within three months. No compliance period is given for step vi).
- The appeal is proceeding on the grounds set out in section 174(2) (a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fee has been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.

Appeal B: APP/M3645/W/24/3345628

Land to the north of Farfield, Green Lane, Shipley Bridge, Surrey RH6 9TJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against the Council's decision to refuse planning permission.
- The appeal is made by Mr Edward Connors Jnr against the decision of Tandridge District Council.
- The application Ref TA/2023/451, dated 8 April 2023, was refused by notice dated 30 April 2024.
- The development proposed is described as '*Change of use of land to create 3no plots for residential use by gypsy/traveller family including 3no permanent site mobile homes, 3no tourers, cesspit, hardstanding, fencing, new access and conversion of existing building to dayroom/stables (Part Retrospective)*'.

Formal Decisions

Appeal A

1. The enforcement notice is corrected by:
 - The deletion of requirement (xiii);
 - Required steps (i, ii, iii, iv, v, vii, viii, ix, x, and xi) are amended with the additional wording ‘...of the date the notice takes effect’;
 - Required step (vi) is deleted and replaced with the wording ‘Remove all domestic paraphernalia within 1 month of the date the notice takes effect.’
2. Subject to the above corrections the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act, as amended.

Appeal B

3. The appeal is dismissed.

Application for Costs

4. An application for Costs was made by Mr Edward Connors Jnr against Tandridge District Council. This application is the subject of a separate decision.

Background

5. In April 2023, around the time that the appellants moved on to the site, a planning application was submitted to the Council proposing the change of use of the land to a residential caravan site for the purposes of gypsy accommodation, involving three pitches, comprising one static caravan/mobile home and one touring caravan.
6. Following the land being cleared for caravans to be moved onto the site its occupation then commenced constituting, in the absence of the necessary planning permission, an unauthorised material change of use. The planning application was subsequently refused in April 2024 and the enforcement notice was issued some three months later. These are the subjects of the current appeals.

Preliminary Matters

7. Turning to the provision of land for gypsy and traveller purposes in Tandridge District, in an attempt to provide appropriate evidence to adequately plan for the delivery of such and to support a replacement Local Plan, which has been significantly delayed due to issues of soundness, the Council recently commissioned a new Gypsy and Traveller Assessment (GTAA). Undertaken by Opinion Research Services (ORS), a response rate of 97% was said to have been achieved, and the exercise was completed in March 2025.
8. The aim of the GTAA is to provide a robust assessment of current and future need of land for gypsy and traveller purposes, and covers a 20 year period from 2025 to 2044.

9. The research identified a need for 138 pitches emerging from the 109 households that met the 2024 Planning Policy for Traveller Sites (PPTS) definition of gypsies and travellers. This 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 dependents' 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...'

Matters concerning the enforcement notice

10. The alleged breaches of planning control are wordy and extensive, and could have perhaps been consolidated to make the document more easily readable. However, as no appeal under ground (b) was lodged the appellant is accepting that the various alleged breaches have occurred, as a matter of fact. Although there was little, if any, open storage of plant and machinery evident at the time of my site visit that is not to say, of course, there was no such storage at the time the enforcement notice was issued.
11. At the Hearing I asked the Council witness whether the Council had issued a Tree Replacement Notice (TRN) in addition to addressing the unauthorised felling of trees, subject to Tree Preservation Order (TPO) no 3, 2024, as a breach of planning control specified in the enforcement notice. I was told that this was not the case as a Tree Planting Schedule had been included within the enforcement notice.
12. Section 207 of the 1990 Act empowers the local planning authority to issue a Tree Replacement Notice if the duty to replace a felled TPO tree is not met. This duty arises automatically when a tree subject to a TPO is removed. The legal power to enforce tree replacement is specifically and exclusively provided for under s207, not the general planning enforcement provisions. Accordingly, on this matter, the Council would need to issue a separate TRN to secure the replacement planting, and this has to be served within four years of the unlawful works being carried out.
13. Accordingly, I shall correct the enforcement notice with the deletion of Requirement (xiii).
14. The various compliance periods, specified in the Requirements section of the enforcement notice do not include the standard wording 'within...of the date the notice takes effect'. As it is clear, though, to the recipient what the notice requires for and when – this omission was not raised by the appellant – the parties would not be prejudiced by the enforcement notice being amended with the insertion of this wording in order to clarify matters.
15. Also, requirement (vi) which refers to the removal of all domestic paraphernalia from the land does not stipulate any time period. However, given that this breach is sandwiched between other remedial steps where the compliance period is specified as one month I shall further amend the notice, accordingly.

The appeal on ground (c)

16. An appeal under ground (c) is that the appellant is of the view that the benefit of planning permission is not required for the specified breach of control, or elements thereof. Here, the appellant makes the point that any brick walls,

entrance gates and close boarded fencing under 2m in height would be permitted by way of the Town and Country Planning (General Permitted Development) (England) (Order) 2015, as amended (GPDO).

17. Class A, Part 2 of Schedule 2 to the GPDO permits the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure subject to certain limitations. Paragraph A1 thereof states that such development is not permitted by Class A if the height of the enclosure adjacent to a highway used by vehicular traffic would, after carrying out the development, exceed one metre above ground level.
18. The question to be asked is whether the brick wall, entrance gates and close boarded fencing referred to are adjacent to Green Lane, the highway. There is no definition of the word 'adjacent' within the GPDO but it is defined in the dictionary as 'sharing a boundary' or touching each other physically, or continuous. However, case law shows that the meaning of 'adjacent' in the context of the GPDO does not equate to 'contiguous' or 'abutting'. Relevant case law is by way of the judgement in *Simmons v SSE and Rochdale* [1981] which considered that gates and their associated structures can be set back from a highway but still be adjacent to it.
19. The assessment of what constitutes 'adjacent' must therefore amount to a question of fact and degree, and falls to be assessed in relation to the particular circumstances involved.
20. Accordingly, the appeal on ground (c) succeeds, but only insofar as any boundary enclosure which exceeds one metre in height can be reasonably considered as not adjacent to the highway. If so, as mentioned, the enclosure can extend to a maximum height of two metres.

Appeal A - the appeal on ground (a), the deemed planning application (DPA) and Appeal B

Main Issues

21. The main issues arising from the DPA are:

- 1) the need for, and provision of, gypsy and traveller sites within the Tandridge District Council area;
- 2) whether the occupants can be considered as gypsies and travellers, by way of the December 2024 PPTS definition;
- 3) whether the site can be considered as 'Grey Belt' within the Green Belt and, if not, the effect of the development on the openness of the Green Belt;
- 4) the effect of the development on the character and appearance of the surrounding area, along with biodiversity; and
- 5) the effect of the development on local flood risk.

Need and provision

22. Policy CSP 9 of the Council's Core Strategy (CS), adopted in 2008, is the starting point for assessing the merits and impacts of developing land for gypsy and traveller purposes. The policy says that the Council will make provision through a Site Allocations Development Plan Document (SADPD). However,

crucially, the SADPD never materialised and, therefore, in the absence of any allocated sites planning applications are assessed on a case by case basis. Accordingly, the Council has been reliant on windfall sites in this regard.

23. The recent GTAA identified a need for 81 new gypsy pitches over the period 2025 to 2029. Due to the level of need identified and the lack of supply of available pitches a Pitch Delivery Assessment (PDA) was also then carried out in an attempt to meet the need. This aims to identify and assess potential sites for pitches and focusses on determining the suitability, availability, and achievability of existing sites and the scope for intensification or expansion of existing sites. The PDA suggests that 43% of all need for the plan period to 2044 could potentially be met. When discounting travelling show-people, this rises to 64% for gypsies and travellers, specifically.
24. The PDA resulted in an overall total residual need of 120 pitches/plots for persons meeting the 2024 definition over the plan period, but is reduced when accounting for gypsy and traveller households.
25. Nonetheless, policy CSP 9 has failed to achieve its purpose. That said, though, the Council takes the view that the PDA findings along with planning permissions granted for related development suggest that a supply of deliverable pitches in excess of 5 years can be demonstrated. However, the PPTS says that for pitches to be considered deliverable they should be available now, have a suitable location, and there should be a reasonable prospect that development can be delivered within the 5 year period.
26. In the circumstances the Council has drawn up an interim policy position statement (IPPS) to assist in the determination of gypsy and traveller development proposals which, it is said, should be used alongside the PPTS, the Framework and policy CSP 9.
27. The purpose of the IPPS is to establish a consistent approach for the determination of planning applications for temporary and permanent pitches for gypsy and traveller accommodation purposes throughout the Tandridge District Council area. Its requirements are standard which, amongst other things, refer to harm to the character and appearance of the local area, an over-concentration of sites in any particular area, and the number of pitches being appropriate to site size and availability of infrastructure and services.
28. ORS, who carried out the GTAA has identified an adjusted 5 year supply target of 80 pitches to 2029/30 for gypsies and travellers that meet the 2024 PPTS definition, places an emphasis on deliverability rather than site allocations. This is made up of some 53 pitches identified through the PDA, 18 pitches by way of new planning applications made since the baseline date of the GTAA, and 11 pitches with planning permission on a public site, which the Council says are currently 'mothballed', and also from 12 pitches currently occupied which, although permitted, are in breach of planning conditions imposed.
29. The Council also drew my attention to sites within the Tandridge District area where planning permission has recently been granted for gypsy and traveller purposes, but the evidence does not necessarily give certainty to the Council's view that it can currently demonstrate the availability of land in excess of a 5 year supply of pitches deliverable within the Tandridge District area.

30. Taking all the evidence into account on this matter I consider that the expected deliverability to achieve a five year land supply is an aspiration which the Council is hoping can be met by placing much less reliance on policy CSP 9 which has become increasingly ineffectual. It has been necessary to bring in the IPPS because the circumstances when the Core Strategy was adopted in 2008 are now very different with contemporary guidance set out in the Framework and the PPTS.
31. The GTAA was also commissioned as an update to inform the emerging replacement Local Plan, which was aborted. As a result the new Local Plan is being compiled, yet the Council's latest Local Development Scheme indicates that adoption is not expected until at least July 2028. This date might be ambitious but at least by then the effectiveness of the IPPS in terms of the deliverability of land for gypsy and traveller purposes will have been monitored and measured from the empirical evidence arising.
32. In summary, there has been a failure of policy in that CS policy CSP 9 has not achieved its purpose and there has been a clear unmet need in this regard. With a new Local Plan now being prepared, albeit at an early stage, the Council is now attempting to take measures to reverse this position. Currently, though I am not fully convinced as to whether the level of deliverability expected by the Council will fully bear fruit. Sites must be both suitable and deliverable, and the evidence for such is not yet there.
33. My findings on this main issue will be weighed in the planning balance with the other substantive issues and material considerations that have to be factored in.

Occupation of site

34. At the time of my site visit there were three caravans/mobile homes on the land and it had been indicated to me at the Hearing that one caravan had recently been removed. That said, the appellant's agent had referred to four separate plots within the site, two of which would have included family accommodation for gypsies/travellers, with dependent children present. Such a level of occupation, though, exceeds that applied for under the unsuccessful planning application ref. TA/2023/451; the subject of the current s78 appeal.
35. Notwithstanding this, there is also some confusion as to who has been occupying the site, and whether they have gypsy/traveller status, due to an advertisement having been placed on Facebook in May 2025 indicating the availability of three caravans for rent at the site.
36. At my site visit I was only able to inspect two of the three caravans on the land. It was not possible to access the largest due to a problem with the lock, and the others did not appear to be currently occupied.
37. No Statutory Declarations or independent evidence to corroborate the appellant's claims as to who has, or who is, intended to occupy the site have been produced and, in view of this, there is uncertainty as to the appellant's claims in this regard.
38. Accordingly, I do not find the appellant's evidence on this main issue particularly compelling.

Green Belt or Grey Belt

39. The site lies within the Green Belt. For the purposes of the Framework inappropriate development, such as the use of land for residential purposes in the Green Belt is, by definition, harmful thereto, and should not be permitted unless 'very special circumstances' (VSC) exist to outweigh the harm caused. Accordingly, paragraph 153 of the Framework indicates that, when considering planning applications, substantial weight should be given to any harm to the Green Belt.
40. The Framework advises at Paragraph 154 that development in the Green Belt is inappropriate unless one of the specified exceptions applies. None of the exceptions listed apply in this case. However, Paragraph 155 goes on to set out instances where development in the Green Belt should not be regarded as inappropriate; in particular, and in certain circumstances, utilising Grey Belt land – a recent concept. Where this applies, there must also be a demonstrable unmet need for the type of development proposed – the development here being a case in point - and must be in a sustainable location.
41. Grey belt is defined in the glossary to the Framework as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes in paragraph 143. *'Grey belt excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development'*.
42. The appellant argues that this is a Grey Belt site, whilst the Council takes a contrary view.
43. Although it is understood that, most recently, the land was used as a paddock, the Council witness mentioned that, previous to this, the land had been used as residential garden. As the Council considers the site to lie within the open countryside, and with regard to the judgement of *Dartford BC v SSCLG* [2017] EWCA Civ 141, it would likely be categorised as previously developed land (PDL) unlike residential gardens within built-up areas.
44. Should a site, therefore, not be of high environmental value, if it were inconsistent with local character, and would make effective and efficient use of land, the proposal might be considered as Grey Belt, and not inappropriate development within the Green Belt.
45. However, Grey Belt does not include land that benefits from strong environmental protections or planning restrictions, where national policies provide a clear reason for restricting development. This includes areas that are subject to a high probability of flooding, including land falling within Flood Risk Zones 2 or 3. Such a designation would override possible Grey Belt status, meaning that even if land meets the Grey Belt definition in terms of its contribution to Green Belt purposes, it cannot be considered suitable for development due to an overriding national planning constraint such as this.
46. Flood risk is a separate environmental consideration, and is an obstacle to development. A flood-prone area would still be considered as Green Belt land, but flood risk – one of the considerations that could prevent or restrict development - would likely prevent it from being classified as Grey Belt or make any development proposals there difficult to get approved.

47. At the Hearing it was agreed that that approximately 41% of the appeal site is situated within Flood Risk Zone 2, with the remainder within Flood Risk Zone 1. Paragraph 170 of the National Planning Policy Framework (the Framework) indicates that, in areas at high risk of flooding, inappropriate development should be avoided as this should, instead, be directed away from such areas but, where development is necessary, it should be made safe without increasing flood risk elsewhere.
48. It appears that no meaningful site specific Flood Risk Assessment (FRA) exercise was undertaken and, therefore, given the factors involved, I must agree with the Council that the appeal site cannot be considered as Grey Belt, and the development at issue must, instead, be considered as inappropriate within the Green Belt.
49. Notwithstanding my findings on this issue the key question is not whether some large, previously defined Green Belt area fits the new Grey Belt definition. Accordingly, the focus will not be on the broader area within which the site sits, but will be on the specific site at issue. Even if I had considered the land as Grey Belt, although this might remove some traditional barriers to development, it does not, of course, guarantee planning permission. Each proposal must be assessed individually and with regard to the planning merits and impacts arising.
50. For instance, in terms of material considerations, all Grey Belt development should be in a sustainable location, and must preserve local character and biodiversity. Although certain interested parties have raised the matter of sustainability the Council has not put forward any objections to the development on this issue. However, the development's effects on local character and biodiversity are pronounced and are discussed below.

Openness of Green Belt land

51. Openness in terms of the Green Belt, which is recognised as relating to the absence of built form, can have a spatial as well as a visual aspect, although the Supreme Court has held that a consideration of openness is essentially a matter for the decision maker on a case by case basis.
52. To illustrate, in the judgement of *John Turner v Secretary of State for Communities and Local Government*, heard in the Court of Appeal, it was said that the word 'openness' is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if development occurs and also factors relevant to the visual impact on the aspect of openness which the Green Belt presents. A 2020 judgement (*Samuel Smith Old Brewery and others v North Yorkshire CC*) concluded that matters relevant to openness in any particular case are a matter of planning assessment, so whilst visual impact can be relevant to openness it is not necessarily relevant in all cases.
53. The site previously had a number of trees, some subject to a Tree Preservation Order. This changed considerably when the appellant arranged for the land to be cleared with a number of trees then being felled. A pond at the site was also filled in and a significant amount of hardstanding was then laid. As a consequence, the land was raised, and then mobile homes were brought onto the land. The site has openness now, but this is due to it being bereft of its

vegetation and features, and it now has taken on a spartan feel. This sterile appearance is completely at odds with its former rural character.

54. Further, the land has been developed, both in terms of its use and also the placing of permanent buildings on the land, in addition to the caravans. This, along with domestic paraphernalia and vehicular movements, means that the openness of the Green Belt has been severely compromised.
55. I must therefore conclude that, in both spatial and visual terms, the development has adversely impacted on the Green Belt's openness, contrary to relevant advice within the Framework and policy DP10 of the Tandridge Local Plan: Part 2 – Detailed Policies (LP).

Character and appearance, plus Biodiversity

56. The site lies outside the District's development boundaries. As mentioned, following its sale in 2023 it was then largely cleared of its natural features and vegetation to ostensibly prepare the land to be used by gypsies and travellers. Interested parties spoke at the Hearing to describe the loss of these features and the visual change that has taken place.
57. The immediate area has a semi-rural character, with the appeal site lying close to the junction with the B2037 which crosses the M23, nearby. Green Lane itself is rather narrow but serves as the access to a number of scattered residential properties set back from the lane, such as Farfield. Further down the lane, off its east side, are also other caravan sites which appear to be well established.
58. Paragraph 26 of the PPTS says that gypsy and traveller sites in rural areas should respect the scale of, and should not dominate, the nearest settled community, and avoid placing an undue pressure on local infrastructure.
59. In this regard, Documents 1 and 2, produced at the Hearing by a local resident, and labelled so, show a proliferation of such occupation along Green Lane, which would appear disproportionate to the number of local dwellings. Accompanying aerial photographs illustrate the incidence of such. This evidence was not challenged by the appellant and, to me, it is indicative of increasing cumulative impact.
60. A requirement in both CS policy CSP 9 and the IPPS is that the development would not significantly harm the visual amenities and character of the area. LP policy DP19 also says that nature conservation should be protected. This common proviso has clearly been violated with such a substantial amount of vegetation having been lost. In this regard I sympathise with the residents who made representations objecting to the development, both in writing and at the Hearing. This illustrated the substantial visual changes that have taken place since the appellants moved onto the land. Compared to what was described as an attractive landscape they see this as a deleterious development.
61. At my site I visited Farfield and, accompanied by its owner and representatives of both main parties, walked around its garden. The raising of the appeal site land and the significant loss of trees put the appeal site in context and clearly demonstrated that the unauthorised works have had a serious detrimental effect on both local character and appearance. Moreover, it seems obvious, both from the photographs produced and my site visit, that the expansive area

- of hardstanding laid has given rise to surface water drainage problems. Indeed, the owner indicated that this has necessitated the regular operation of an electric flood pump.
62. This appears to be at odds with the documents provided in relation to Appeal B whereby, at the time the application was made, it was said that, with the use of permeable gravel paving, surface water drainage will be reduced significantly.
63. As a result of a Written Ministerial Statement Intentional unauthorised development (IUD) is a material consideration that should be weighed in the determination of planning applications and appeals. The development was obviously done in the knowledge that planning permission was required; in fact, an application for the change of use of the land had been made some two weeks before the clearance works began, yet the development proceeded regardless, and is clearly illustrated in photographs produced at the Hearing.
64. In the circumstances, I attach some significant weight to the IUD undertaken which, given its extent and I must consider the degree of land clearance undertaken to facilitate the use, was an act of environmental vandalism.
65. CS policy CSP 17 and DP policy DP19 require that development proposals should provide for the enhancement of biodiversity. This is consistent with the Framework which states that planning decisions should provide net gains for biodiversity. The Council says that it is currently actively working on Biodiversity Net Gain (BNG) as part of its planning and development processes to enhance biodiversity within its area; BNG being integral to the planning process and the assessment of proposals.
66. The Council says that a Preliminary Ecological Survey was made which, prior to the site's clearance, showed the site comprising tussocky grassland, scrub, hedgerows and scattered mature trees. Robert Hutchinson of the Surrey Wildlife Trust spoke at the Hearing and made the point that the habitat value recorded at the time of the survey did not provide an accurate baseline given his understanding that the site was, until the time it was cleared, inhabited by protected species, including great crested newts.
67. In this particular instance, due to the removal of their habitat and the current condition of the land, I must question the effectiveness of any planning condition that could be imposed on the necessary planning permission. Although the appellant is of the view that the site could benefit from biodiversity gain by way of a wide-ranging condition I would disagree as, to my mind, it is a case of after the horse has bolted.
68. In the circumstances I conclude that the development is harmful to both the character and appearance of the area and also local biodiversity, and it materially conflicts with the aims and requirements of CS policy CSP 17 and LP policies DP7 and DP19, along with relevant advice from the Framework.

Flood Risk

69. As mentioned, it was agreed at the Hearing that, although some 59% of the appeal site lies within Flood Risk Zone 1; the remainder falls within Flood Risk Zone 2, and the Council comments that this is part of a more extensive area of Flood Risk in the locality.

70. LP policy DP21 advises that proposals should seek to secure opportunities to reduce both the cause and impact of flooding. Accordingly, the policy goes on to say that development proposed within either Flood Risk Zones 2 and 3 will only be permitted where, amongst other things, the standard sequential test and, where appropriate, the exception test have been applied and demonstrated as being appropriate through a FRA. As mentioned, no site specific FRA of any real substance has seemingly been carried out in this instance.
71. Further, in terms of surface water drainage, despite the problems now suffered on neighbouring land in this connection, the appellant, in his representations, makes a rather sweeping and unsubstantiated statement that, due to the topography of the site, there will be no risk of flooding from groundwater.
72. By way of the evidence I must conclude that, in the absence of a FRA prepared by specialist consultants, the development cannot be properly assessed and is thereby contrary to both LP policy DP21 and paragraph 170 of the Framework, not least due to the adverse effect on the neighbouring land.

Other Considerations

Public Sector Equality Duty (PSED), Human Rights and the Best Interests of the Child

73. In instances where unauthorised gypsy and traveller accommodation is at issue and targeted by planning enforcement action I am required to have regard to persons with protected characteristics when applying the duties under s49 of the Equality Act 2010. There is also a positive duty by virtue of Article 8 of the Human Rights Act to facilitate the traditional and nomadic way of life of travellers. However, in considering the proportionality of a requirement to leave one's home it is relevant to assess whether or not the home was established unlawfully.
74. Article 8 of the European Convention on Human Rights provides that there should be respect for private and family life, home and correspondence. In this regard there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and necessary, amongst other things, for the protection of the rights and freedoms of others.
75. Accordingly, if Article 8 is engaged, then interference with those rights can be justified by the Council if it is for a legitimate aim, in accordance with the law and necessary in the public interest. In this particular instance I am firmly of the view – and I have illustrated why – the Council's remedial actions serve a clear and justifiable planning purpose.
76. Article 3(1) of the United Nations Conventions on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children. Obviously, a roadside existence should be avoided but, although the appellant says that children would be accommodated at the site, I was not provided with any convincing evidence or detailed and independent confirmation of such.
77. Accordingly, on the basis of the evidence adduced, and its obvious limitations there is nothing compelling to suggest that the above criteria directly apply in this instance.

Planning Balance

78. Whilst I attach substantial weight to the absence of a five year land supply for gypsy and traveller purposes in the Tandridge area there are also other factors which must be considered here. Firstly, it is not certain – and no compelling information was put forward by the appellant, nor statutory declarations sworn by persons involved – that the occupiers, or intended occupiers, hold gypsy and traveller status, or that their respective dependents reside here.
79. Given my findings I have concluded that the development represents inappropriate development within the Green Belt for the purposes of the Framework and, from my assessment of the various other main issues and material considerations, no VSC have been demonstrated. The visual impact on the character and appearance of the surrounding area, including the harm to biodiversity and flood risk, weigh heavily against the development.
80. Notwithstanding the above, even if I was considering allowing the appeal, granting planning permission subject to conditions, whereby retrospectively worded planning conditions might be considered for imposition, raises severe doubts as to the effectiveness of such given the clear lack of regard for the natural features and character of the surroundings due to the substantial degree of IUD carried out.
81. A key test for any planning condition is that it must be enforceable and reasonable in all aspects. Imposing conditions that are likely to be ignored or cannot reasonably be enforced – a potential cat and mouse situation would be less than satisfactory – damages public confidence in the planning system. Notwithstanding this, though, given the decimated state of the land now compared to that of its previous verdant appearance, the landscaping measures offered by the appellant, including boundary hedgerows, planting a wildflower mix, log piles and nest boxes would hardly mitigate the damage already done.
82. Further, in terms of the flood risk issue it could not be assumed that a condition requiring a FRA could work because it could not overcome the possibility that any FRA showing the risk could be abated and thereafter implemented.
83. Accordingly, notwithstanding the above, taking all factors into account, I must conclude that the adverse effects of granting planning permission significantly and demonstrably outweigh the benefits. In this regard, I acknowledge that a temporary planning permission for gypsy and traveller accommodation was allowed on appeal (*APP/M3645/C/24/3349392*) at a nearby site off Green Lane, earlier this year. However, the circumstances there were somewhat different in that the Council had accepted that the site could be termed as Grey Belt land and there was no flood risk issue consequent upon the development.
84. In contrast, given the issues arising from the current appeal, I am not of the view that a temporary permission, by way of a time limitation condition, is appropriate here. Also, as it is not clear in this instance who any planning permission would realistically provide on-site benefits for, and why, any permission made personal to the appellant is similarly not a justifiable option.
85. Although I find that policy CSP 9 of the Tandridge District Core Strategy (CS) has been less than effective in enabling the Council to be able to demonstrate a

5 year land supply of sites for gypsy and traveller purposes, the development is in particular conflict with policies DP10, DP21, DP19 and DP7 of the Tandridge Local Plan Part 2 – Detailed Policies (LP) and policy CSP 17 of and, moreover, the development plan as a whole.

86. I have had regard to previous appeal decision letters produced by both main parties but, as each development is site sensitive and subject to particular and individual circumstances, direct parallels are not easily drawn. Accordingly, these have not affected my conclusions. Whilst the visual material and oral contributions made by interested parties similarly did not alter my conclusions, they did, though, reinforce my findings gained from the evidence as a whole and my site visit observations.
87. In summary, there is little to convince me that there are any clear material considerations which could reasonably override the resultant harm and fundamental policy objections I have identified.
88. For the reasons given above I conclude that both Appeals A and B should be dismissed.

Appeal A (other grounds)

The appeal on ground (f)

89. An appeal under ground (f) is that the required steps in the enforcement notice go beyond what is necessary to remedy the degree of harm caused by the development. The appellant's appeal on this ground was that it was unreasonable to require for the removal of all caravans from the site. However, at the Hearing the appellant withdrew the appeal on this ground.

The appeal on ground (g)

90. An appeal on ground (g) is that the periods for compliance set out in the enforcement notice are unreasonably short. The appellant, in citing the need to find alternative sites, to re-plant trees and carry out relevant surveys, requests a minimum period of 18 months. However, given my doubts as to the actual intention to use the land for gypsy and traveller purposes, and that the tree planting schedule no longer forms part of the enforcement notice, I am satisfied that the various compliance periods stipulated are proportionate and reasonable in the circumstances.
91. Accordingly, the appeal under ground (g) does not succeed.

Timothy C King

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Stephen Whale of Counsel (instructed by Philip Rowe)

Philip Rowe (agent for the appellant)

FOR THE LOCAL PLANNING AUTHORITY:

Mark O'Brien O'Reilly of Counsel (instructed by Tandridge District Council)

Cliff Thurlow (Planning Officer)

Robert Hutchinson, of Surrey Wildlife Trust

INTERESTED PARTIES

Philip Cator

Jeannie Ryan

Cllr Catherine Sayer

APPENDIX 9



Appeal Decision

Inquiry held on 1 – 2 and 21 November 2022

Site visit made on 3 November 2022

by Phillip J G Ware BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2023

Appeal Ref: APP/Y3425/W/3119166

Land to the northeast side of Hilderstone Road, Spot Acre ST15 8RP

- 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 George Clee against the decision of Stafford Borough Council.
 - The application Ref 19/31299/FUL, dated 9 October 2019, was refused by notice dated 4 December 2019.
 - The development proposed is the removal of conditions 1 and 2 of planning permission reference APP/Y3425/W/15/3119166 granted on appeal (15th November 2016) to facilitate the change of use for the stationing of caravans for five gypsy pitches, with utility/day rooms, access road and areas of hardstanding ancillary to that use.
-

Procedural matters

1. The description of the development varied between the planning application form, the Council's decision notice, and the appeal form.
2. Several Case Management Conferences were held to discuss procedural matters and the description in the banner heading above was agreed by all parties as being accurate. I am satisfied that this fairly describes the proposal and that no prejudice would be caused by dealing with the appeal on that basis.

Decision

3. The appeal is allowed and planning permission is granted for the removal of conditions 1 and 2 of planning permission reference APP/Y3425/W/15/3119166 granted on appeal (15th November 2016) to facilitate the change of use for the stationing of caravans for five gypsy pitches, with utility/day rooms, access road and areas of hardstanding ancillary to that use on land to the northeast side of Hilderstone Road, Spot Acre ST15 8RP in accordance with the terms of the application, Ref 19/31299/FUL, dated 9 October 2019, subject to the conditions set out in the Annex to this decision.

Application for costs

4. At the Inquiry an application for partial costs was made by Mr George Clee against Stafford Borough Council. This application is the subject of a separate Decision.

Main issues

5. The parties agree that the proposal is inappropriate development in the Green Belt, and that harm to the Green Belt should be afforded substantial weight. On that basis, the issues in dispute are:
- The effect of the development on the openness of the Green Belt and the purposes of including land within it.
 - The weight to be attached to matters argued in favour of the proposal:
 - The provision of and need for gypsy sites within the area.
 - The alleged failure of policy.
 - The accommodation needs and personal circumstances of the site occupants.
 - Human Rights, Public Sector Equality Duty and the Best Interests of the Child.
 - Whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

The site and relevant planning history

6. The appeal site is located in an area of generally undeveloped countryside around 370 metres northwest of Spot Acre, 650 metres west of Crossgate and 2.7km southeast of Meir Heath. There are agricultural fields to the north, with woodland immediately to the south, dense woodland to the east, and Hilderstone Road to the west – from which access is gained. There is some sporadic residential development in the area.
7. The site has been used as a gypsy caravan site since early 2005, and there are a number of relevant planning decisions since that time. These are set out in the General Statement of Common Ground.
8. In particular an appeal decision in 2009 allowed the use of the site for the stationing of caravans for 5 gypsy pitches and related facilities.¹ This was a five year limited period permission and was made personal to a number of named individuals.
9. In 2016 planning and enforcement decisions dealing with two appeals were issued.² These allowed the continuation of the use on a personal basis for a three year period.
10. The purpose of this appeal is to remove the personal and temporary conditions imposed in 2016 and to allow permanent occupation of the site by anyone who is a Gypsy or Traveller. Personal circumstances related to the existing occupiers of the site were also put forward.

¹ APP/Y3425/A/09/2099291

² APP/Y3425/W/15/3119166 and APP/Y3425/C/15/3133219-3133223

The development plan

11. The development plan includes The Plan for Stafford Borough 2011-2031 (adopted 2014). The most important policies are SP7 and C6.
12. Policy SP3 directs the majority of new development to service centres. SP7 deals with land outside service centres and settlement boundaries and provides that, in such areas (including the appeal site), development will only be supported if, amongst other matters, it is in line with national policy (this specifically is stated to apply to development in the Green Belt).
13. Policy C6 states that provision will be made for the delivery of sufficient good quality, appropriately located residential pitches to satisfy local need as set out in the Gypsy and Traveller Accommodation Needs Assessment. It provides that specific sites will be identified through a Site Allocations SPD. This has not in fact happened. The policy also provides a number of criteria for considering proposals.
14. It is useful to note that, in closing submissions, it was accepted for the Council that the policy framework is now very similar to the position at the time of the 2016 appeal decision.

Green Belt

15. As referenced above, the parties accept that, in line with national policy, the proposal is inappropriate development in the Green Belt, and it is clear that such development should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt – and this includes ‘definitional harm.’
16. The parties agree that the proposal would have an effect on the openness of the Green Belt, although they differ as to the extent of the effect. The Council’s position is that there would be a significant adverse effect whereas the appellant refers to the extent of screening which is said to greatly reduce any effect.
17. Clearly the use of the site has a modest spatial effect on openness, and this is not contested by the appellant. In relation to the visual dimension, I note that Hilderstone Road is well treed and from most locations the effect on the openness of the area is very limited indeed. However at the entrance the extent of the development is clear and the upper parts of the caravans and structures can be seen. The effect on openness is limited due to the relatively small scale of the development and the extent of natural screening.
18. In terms of safeguarding the countryside from encroachment, it is clear that the use has had and would have a limited effect on this purpose of the Green Belt.
19. Overall, the definitional harm to the Green Belt, to which must be added the limited harm to openness and to one of the purposes of including land in the Green Belt, is a matter to which I give substantial weight. It would conflict with policy SP3 summarised above.

The need for and provision of gypsy sites

20. The situation regarding the general need for and supply of sites for gypsies and travellers is materially different to the position which existed at the time of the

2016 appeal. Unlike the position at that time the Council now accepts that it cannot demonstrate a 5 year supply of land for gypsy and traveller sites.

21. I will return to personal needs later, but as an example of the general position the parties agree that there are no alternatives for the current occupiers of the site. This is the same position as at the 2016 appeal. The parties also agree that any sites which could be considered must be available, affordable, acceptable and suitable.
22. The Gypsy and Traveller Accommodation Assessment (GTAA) (2022), which will be part of the evidence base for the draft Local Plan, sets out the current position. However there are a number of issues raised which leads to the appellant's conclusion that the assessment seriously underestimates the problem.
23. Any alleged deficiencies in the GTAA will doubtless be considered at a future Local Plan examination, but they are of some importance as evidence in this appeal in order to consider the robustness of the Council's position. The key issues raised by the appellant related to the Council's position are:
 - Whether turnover can reasonably be included as a component of supply. I appreciate that the last Inspector considered it reasonable to make some allowance for turnover in the particular circumstances of that appeal. I do not know what evidence was put before him, but in the case of the current appeal there is nothing to guide me as to likely turnover rates and, in the absence of any such evidence, I do not regard this as positive planning to meet an acknowledged need. The Council accepted at the Inquiry that reliance on turnover does not equate to deliverability in terms of national policy.
 - The pitch size and overall capacity of the Council's Glover Street site was discussed. But again I have nothing before me to be able to assess the likely capacity of that site. (What was agreed was that it is not suitable for the current occupiers of the appeal site.)
 - It was stated that there have been no interviews as part of the GTAA process with those in conventional housing. If that is the case, it does seem that this could be a potential issue with the robustness of the figures.
 - It was put that the GTAA allows for outward migration but not inward migration. This reason for this approach was not persuasively explained at the Inquiry, and it does seem an odd approach to adopt.
 - There was a dispute as to whether sites for which details are withheld and which do not have planning permission can be considered as part of potential future supply. At the Inquiry it was stated for the Council that there are two specific sites in this category, but I was told that no details could be given. On that basis, I give them no weight nor do I give any other similar confidential sites any weight.
 - The reliance on windfall sites was argued not to represent positive planning in line with national policy. Whilst it is reasonable to assume that there may be an element of windfall, I do not see how this equates

with the positive approach in national policy – nor with the Council’s own development plan policy. The Council accepted at the Inquiry that windfall sites cannot be considered deliverable in terms of national policy.

24. Overall, the Council’s approach as explained at the Inquiry is, to say the least, optimistic.
25. But even ignoring these matters, which may arguably result in an underestimation, there is a 31 pitch shortfall from 2026/27 to 2039/40. In addition it is unclear if these figures will increase as a result of the judgement in the Smith v SSLUHC decision³.
26. In considering this matter I am aware that the Council’s position is that the need will be addressed by the draft Local Plan – said to be due for adoption in 2024. However, despite previous commitments, there are still no allocations nor evidence of any allocations process underway.
27. The last Inspector, based on the evidence before him, preferred the GTAA approach rather than the appellant’s position, but still found a significant unmet local need, which was an important material consideration in his conclusion. In the current absence of a 5 year supply, I give this matter very great weight. The proposal complies with policy C6 to the limited extent that it bites on proposals for private sites rather than public provision. I obviously appreciate that the site is within the Green Belt, and am aware of the position as set out in Planning Policy for Traveller Sites, but this does not mean that unmet need can or should be ignored.

Policy failure

28. The failure of policy is a matter raised by the appellants in this case.
29. For this to be an issue in its own right, attracting weight, it must be more than an existing unmet need or inability to provide a five year supply of pitches. There must be evidence of a persistent failure of the authority to put policies or other measures in place to meet the accommodation needs of Gypsies and Travellers and of a corresponding long-standing unmet need for sites.
30. The appellant’s position is that the Council has expressed the intention to address the assessment of need and provide for that need since 2009. But it is submitted that this has not happened.
31. In the 2009 appeal decision the Inspector considered that provision would be made through an Allocations DPD which was, at that time, anticipated to be adopted in 2012. But no allocation was forthcoming.
32. In 2014 the Plan for Stafford Borough provided that specific sites would be provided through a site allocations DPD. However this has not happened.
33. In the 2016 appeal decision the Inspector noted that there was a strong expectation that alternative accommodation (for the site occupiers) would be available within 2-3 years. The Inspector at that time noted the failure of policy but considered that in view of the Council’s progress towards meeting the identified need, the failure of policy did not have serious consequences and

³ Smith v SSLUHC & Ors [2022] EWCA

- warranted only moderate weight. There is still no alternative accommodation available.
34. It is also noteworthy that in 2016 the Council stated that it was able to demonstrate a 5 year supply of sites. The position now is worse and the Council accepts that there is no 5 year supply.
35. The Council's position in submissions is that it is not tenable to assess success or failure when half of the plan period remains, and that the position should only be considered at the end of the period. Frankly this flies in the face of common sense – there would be no point in considering the success of a policy or plan only at the end of the period – when nothing could be done about any failure. Logically the progress of a plan must be assessed throughout its lifetime and, if necessary, action taken.
36. Nor do I consider that reliance on windfall sites – which have in any case had little impact on the position – amounts to positive planning. I have seen no evidence of the constructive and proactive efforts referenced by the Council. Since 2009, and perhaps before, there have been no allocations and nothing to indicate that the Council is attempting to address the acknowledged need.
37. With this background I am unsurprised to note the Council's evidence that "...there has been a failure of policy to fully meet the needs of gypsies and travellers through the current development plan, with the LPA not demonstrating positive planning by relying on windfall sites to meet an identified need." Whilst accepting this position in general, I do not agree with the Council's use of the word "full". The Council's evidence continued that the progress which was stated to be in hand to meet the need reduces the weight to moderate. As explained, I am not aware of any significant progress and the 5 year supply position is in fact getting worse.
38. The Council's failure to deliver sites to meet the acknowledged general need means there is also a failure by the Council to have due regard to its duty under the Public Sector Equality Duty (PSED) set out in s149 of the Equality Act 2010. This is because the Council is required to consider how it could positively contribute to the advancement of equality and good relations, with s149 placing an onus on public authorities not only to avoid discrimination, but also be proactive in promoting equality.
39. Consequently, the persistent and prolonged failure of planning policy to provide sites to meet the immediate and pressing need of the gypsy and traveller community weighs substantially in favour of allowing the appeal.

Other matters and planning balance

40. Various other matters were raised in evidence by the Council, which I will address briefly.
41. The Council, in evidence though not in the reason for refusal or Statement of Case, stated that the site is locationally unsustainable. The discussion focussed on the policy in Planning Policy for Traveller Sites is that new traveller sites should be very strictly limited in "...open countryside that is away from existing settlements..".
42. In this context although some settlements have a relatively dispersed form, I do not agree with the appellant that this site falls within a non-nucleated

- settlement, but rather that it is set in the open countryside that is away from existing settlements. However there was little evidence of the potential consequences of that location in sustainability terms, and this is not a matter which is central to my decision.
43. There was also a suggestion in evidence that the proposal would harm the character and appearance of the area. However that was not a reason for refusal and was accepted by the Council as to be 'so immaterial as to be neutral'. I agree.
44. There was also a suggestion in evidence, though not in the reason for refusal, that the proposal comprised intentional unauthorised development. The appellant made submissions on that suggestion, but it was not pursued further by the Council and is not a matter I need to consider.
45. In overall summary I have given substantial weight to the harm caused by inappropriate development in the Green Belt, including the effect on openness and related to encroachment. However set against that is the very great weight I have given to the need/supply position in the context of the lack of a 5 year supply, with additional substantial weight as a result of the failure of policy.
46. Overall, very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations. I note that Policy E of the Planning Policy For Traveller Sites (PPTS) provides that that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh the harm to the Green Belt and any other harm so as to establish very special circumstances (my underlining).
47. However, in this case, there is a considerable scale of need, which may be even greater having regard to a recent judgement and the issues related to the GTAA. There is no 5 year supply of sites and a failure to comply with PPTS in relation to site provision. There is a persistent and prolonged failure of the Council's planning policy, and a failure to meet PSED.
48. I therefore conclude that the harm to the Green Belt by reason of inappropriateness, and other harms, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
49. Personal circumstances have been put before me, however, it has not been necessary to examine these in any great detail as I have already concluded that the balance is in favour of allowing the appeal. The site clearly meets the occupiers' needs but no personal condition is necessary, as consideration of personal circumstances could only add to arguments in favour of permission.
50. I have had regard to the human rights of the families in question and the best interests of the children. As I intend to allow the appeal and grant permission there would be no interference with their rights or interests.

Conclusion

51. For the reasons given above I conclude that the appeal should be allowed.

P. J. G. Ware

Inspector

Annex

Conditions

1. There shall be no more than five pitches on the site and on each of the five pitches hereby approved no more than two caravans shall be stationed at any time, of which only one caravan shall be a static caravan or mobile home.
Reason: In the interests of controlling the scale of the development in terms of the character of the area.
2. No sheds or utility/day buildings, other than those hereby permitted, shall be erected on the site unless details of their size, materials and location have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
Reason: In the interests of controlling the scale of the development in terms of the character of the area.
3. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site
Reason: In the interests of the amenity of occupiers of the development and nearby residents.

APPEARANCES**FOR MR GEORGE CLEE**

Mr Michael Rudd of Counsel, instructed by the Mr Matthew Green	
He called:	
Mr Matthew Green BA(Hons)	Director, Green Planning Studio
(The witness statements listed below were taken as read and not called of cross-examined)	

FOR DORSET COUNCIL

Mr Timothy Leader of Counsel, instructed by Mr John Holmes	
He called:	
Mr David Pickford BSc(Hons) MSc MRTPI	Associate Planner, Pegasus Group

INQUIRY DOCUMENTS

Doc 1	Appellant's opening submissions
Doc 2	Council's opening submissions
Doc 3	Council's letter of notification of the Inquiry
Doc 4	Adult site occupants (2/11/22)
Doc 5	Third Witness statement of Jim Smith junior
Doc 6	Third Witness statement of George Clee
Doc 7	Third Witness statement of William Varey
Doc 8	Third Witness statement of John Varey
Doc 9	Third Witness statement of Jim Smith senior
Doc 10	Council's closing submissions
Doc 11	Appellant's closing submissions
Doc 12	Costs application by the appellant
Doc 13	Council's response to the appellant's costs application
Doc 14	Appellant's response to the Council's costs response



Costs Decision

Inquiry held on 1 – 2 and 21 November 2022

Site visit made on 3 November 2022

by Phillip J G Ware BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2023

Costs application in relation to Appeal Ref: APP/Y3425/W/3119166 Land to the northeast side of Hilderstone Road, Spot Acre ST15 8RP

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr George Clee for a partial award of costs against Stafford Borough Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for the removal of conditions 1 and 2 of planning permission reference APP/Y3425/W/15/3119166 granted on appeal (15th November 2016) to facilitate the change of use for the stationing of caravans for five gypsy pitches, with utility/day rooms, access road and areas of hardstanding ancillary to that use.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Mr George Clee

2. The Council raised three matters for the first time in the proof of evidence. These had not been referenced in the reason for refusal, as they were required to be, nor in the Council's Statement of Case. The unreasonable introduction of this material at such a late stage required the production of a rebuttal statement to ensure that the appellant's case was fully before the Inquiry. The cost of the production of this rebuttal evidence was unnecessary.
3. The first new matter was the allegation of harm to the character and appearance of the countryside. The Council's Statement of Case expressly dealt with openness in the context of the Green Belt. It did not address the impact on the character and appearance of the countryside.
4. The Council's statement in an email in August 2022 that the impact on character and appearance could be given "neutral weight" is not relevant. The Council did not withdraw the evidence.
5. The second new matter was the site's alleged isolated location in the open countryside. Again, this was not mentioned until the proof of evidence, and the fact that a previous Inspector had dealt with the matter did not imply that it was part of the Council's case to be considered at the Inquiry.
6. The third matter was the allegation of intentional unauthorised development. As before, this was not raised until the proof of evidence and the fact that the Council subsequently did not pursue the matter is not relevant. As with the

other matters, it was an unexpected complaint against the appeal which the appellant had to deal with.

The response by Stafford Borough Council

7. In relation to the effect on the character and appearance of the countryside, the Council's Statement of Case referred to the effect of development on the visual qualities of the land. The effect of the scheme on the appearance and character of the site and the surrounding area of the Green Belt is synonymous with the effect on its visual qualities.
8. In any event the Council's witness, following the final Case Management Conference, confirmed that the issue of character and appearance should be attributed "neutral weight". That could only sensibly be interpreted as meaning that it was not relied on as a reason for refusal.
9. The site's isolated location in open countryside was a matter dealt with by a previous Inspector, and it was clear that this would also be an issue in this appeal.
10. Intentional unauthorised development and the related Written Ministerial Statement was capable of being a material consideration at the start of the Inquiry. The status of the site's occupants was far from clear until almost the close of the Inquiry. When this became clear the Council stated that it would not submit that this matter was material to the decision.

Reasons

11. Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
12. The claim for partial costs relates solely to the appellant's rebuttal evidence which, it is alleged, was necessitated by the Council's evidence going beyond the reasons for refusal and the Statement of Case. Before turning to the specific areas of complaint, I will deal with the principle.
13. As a matter of law and procedural fairness, it is important that the parties to an appeal should know the case they have to face. The days of surprise evidence being produced at a late stage have long gone. Although inevitably the evidence becomes more detailed after the Council's reasons for refusal, up to and including the Inquiry itself, the principle of the issues should be clear from a very early stage.
14. In particular it is a requirement that where planning permission is refused, the refusal notice should state clearly and precisely the full reasons for the refusal, specifying all policies and proposals in the development plan that are relevant to the decision. If that is not done, and the position of the authority departs from the reasons for refusal, that could well be unreasonable behaviour.
15. I will now turn to the particular complaints raised by the appellant.
16. Firstly the impact on the character and appearance of the countryside was not raised as a reason for refusal. The Council's position was confusing on this matter. In the Council's planning proof it was stated that a number of matters

were “..pertinent to this appeal..”. These matters included character and appearance, and seven relatively lengthy paragraphs were devoted to that topic, with the conclusion that modest weight should be given to that harm. The Council suggested that it flowed from the reason for refusal. But it did not do so as the effect on character and appearance is not the same as Green Belt issues (which were raised in the reason for refusal).

17. The reference by the authority to the Council’s Statement of Case is disingenuous as paragraph 22 of that document is clearly referring to the Green Belt and not the effect on character and appearance.
18. In an email in August 2022 the Council stated that this matter should be given “..neutral weight..”. However the relevant parts of the evidence were not withdrawn and remained before me for consideration.
19. Secondly the site’s isolated location in the open countryside. Again, this was not mentioned in the reason for refusal of elsewhere, but was included in the proof of evidence. This took the form of three relatively substantial paragraphs, concluding that there was a conflict with the development plan and stating that this harm should be given significant weight.
20. Finally the matter of intentional unauthorised development (referring to the Written Ministerial Statement). Again, there was no reference in the reason for refusal or subsequently but was a matter raised in the proof of evidence. Six paragraphs in the proof concluded with the this should be given significant weight. The Council at the Inquiry did not pursue this matter.
21. All three matters were raised by the Council at a very late stage, all went well beyond the reason for refusal and the Statement of Case. The fact that they were pursued to a limited and variable extent at the Inquiry is not relevant as the claim for costs relates to the clear need for the appellant to produce rebuttal evidence to address this new material. The emergence of these issues at a late stage was clearly unreasonable and put the appellant to the unnecessary expense of producing evidence in response.
22. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

COSTS ORDER

23. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED Stafford Borough Council shall pay to Mr George Clee, the costs of the appeal proceedings described in the heading of this decision, related solely to the production of the appellant’s rebuttal evidence; such costs to be assessed in the Senior Courts Costs Office if not agreed.
24. The applicant is now invited to submit to Stafford Borough Council details of those costs with a view to reaching agreement as to the amount.

P. J. G. Ware
Inspector

APPENDIX 10



Appeal Decision

Hearing and site visit held on 4 March 2025

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 April 2025

Appeal Ref: APP/C3105/W/24/3352105

Land at Manor View, Hampton Poyle, Kidlington OX5 2PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Michael McDonough against the decision of Cherwell District Council.
 - The application Ref is 22/01293/F.
 - The development proposed is the change of use of land for the creation of 2 Gypsy/Traveller pitches, comprising the siting of 1 mobile home, 1 touring caravan, and the erection of 1 dayroom per pitch.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of land for the creation of 2 Gypsy/Traveller pitches, comprising the siting of 1 mobile home, 1 touring caravan, and the erection of 1 dayroom per pitch at Land at Manor View, Hampton Poyle, Kidlington OX5 2PW in accordance with the terms of the application, Ref 22/01293/F, subject to the conditions in the attached Schedule.

Preliminary Matters

2. At the hearing, the appellant submitted a note addressing revisions to the National Planning Policy Framework (the Framework) as well as the Council's latest information in respect of the need and supply of sites. The Council were given the opportunity to respond to this note, in writing, following the hearing.

Background and Main Issues

3. Within the submitted statement of case the appellant accepted that the scheme would comprise inappropriate development in the Green Belt. However, at the hearing, and following the revisions to the Framework the appellant rescinded this acceptance and contended that the revisions in respect of grey belt land resulted in the proposal not being inappropriate development.
4. In light of the above, the main issues to be considered are:
 - Whether or not the proposal is inappropriate development in the Green Belt, and this turns on whether there exists a demonstrable need for the development,
 - The effect on the openness of the Green Belt,
 - The effect on the character and appearance of the area, and
 - If the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other

considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether or not inappropriate development

5. Paragraph 155 of the Framework explains that the development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate where:
- It would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
 - There is a demonstrable unmet need for the type of development proposed; and
 - The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework.

The appellant argues that the development accords with paragraph 155, while the Council take an opposing view.

6. Grey belt is defined within the glossary to the Framework as, *“land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. ‘Grey belt’ excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.”*
7. Thus, the question to be asked is whether or not the site strongly contributes to any of purposes (a), (b), or (d) in paragraph 143, and these are:
- a) to check the unrestricted sprawl of large built-up areas;
 - b) to prevent neighbouring towns merging into one another; and
 - d) to preserve the setting and special character of historic towns.
8. From the submissions of the appellant at the hearing, and those of the Council which were made in writing following the hearing, there is now an agreement between these two parties that the appeal site falls within the definition of grey belt. Moreover, both parties also agree that the development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. The Council also raised no objection to the development on the grounds of it being at an unsustainable location, a position that has been re-affirmed in further written submission. Based on the information that I have seen I find no reason to find differently on these matters. Accordingly, the only matter that is in dispute between the parties is whether or not there exists a demonstrable need for the type of development proposed, and the Framework clarifies that in the case of traveller sites this requires there to be a lack of a five-year supply of deliverable traveller sites, assessed in line with Planning Policy for Traveller sites (the PPTS).

9. The Council relies on the Cherwell, Oxford City, South Oxfordshire, Vale of White Horse and West Oxfordshire - Gypsy and Traveller, Travelling Showperson and Boat Dweller Accommodation Assessment 2024 (December 2024) (the GTAA) as its most recent assessment of need in the district. This sets out that currently the Council has an 8.23-year supply of deliverable gypsy traveller pitches.
10. The appellant has sought to challenge this by criticising the contents of the GTAA on a number of issues. One of these criticisms' centres on the matter of the assessment pre-dating the change to the definition of gypsy travellers as set out in the latest publication of the PPTS. However, Appendix B: Glossary of Terms to the GTAA sets out the definition that was used when considering the contents and methodology of the GTAA and this reflects that which is stated in the latest version of the PPTS. As such, I find that there is no deficiency in this respect.
11. The appellant also raises concerns in respect of the manner in which the GTAA addresses the matter of households that are currently living in bricks and mortar accommodation. It is identified that in Cherwell district there are 43 households currently living in bricks and mortar. The GTAA makes an assumption, which is based on national survey evidence experienced by the author of the assessment that 5.3% of households in such accommodation would prefer to move to a culturally traditional pitch, rather than remain in bricks and mortar. This would result in two pitches contributing to the identified need.
12. The current PPTS definition of gypsies and travellers means:

"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".

In the appellant's view, the reference to "*all other persons with a cultural tradition of nomadism or of living in a caravan*" results in the need to account for all those households currently in bricks and mortar accommodation within the figure for the need for pitches (whereas the GTAA includes a figure of two pitches within the identified need in this respect).

13. However, I find nothing in the PPTS that would justify such an approach. The definition as set out is for the purposes of establishing eligibility for the policy in the PPTS. It does not establish the specifics of how need is to be assessed. While there may be households currently in bricks and mortar accommodation that may wish to move to a pitch, this cannot be assumed for all such households. It is acknowledged that some gypsy travellers have a genuine aversion to living in such housing, but equally there are those that are willing to live in bricks and mortar. The GTAA sets out the approach taken, and the appellant has not provided any substantive evidence to demonstrate that this is incorrect or unreliable. As such, there is nothing to lead me to conclude, on the evidence that is before me, that the estimation of need in respect of movement from bricks and mortar accommodation is incorrect.
14. The appellant has also sought to challenge the information that has been provided in respect of the existing supply that is detailed in the list of existing sites (as of

September 2024). This has variously asserted that a number of pitches included are not subject to any restriction on occupancy, that a condition in respect of a site development scheme has not been discharged thereby rendering that scheme unlawful, that one included pitch is personally restricted, as well as that a number of sites have more units on them than is identified in the list.

15. Addressing these matters the Council highlighted that the pitches stated to not be subject of an occupancy restriction are separate from the identified pitches and thus this does not affect the authorised part of the site, which is that which is referred to. Where the site development scheme has not been discharged, a breach of condition notice has been served to address this. The identification that there are more pitches on some sites than is included in the assessment of existing sites is, in the appellant's view, indicative of a need that is not being addressed. When I asked about how the additional pitches were identified, it was stated that this was done through aerial photographs only. As such, there is no assessment as to whether these comprise part of separate households and genuinely result in any additional need. Moreover, the appellant conceded that the number of these may be overestimated in the note that was provided.
16. The level of the information that has been put before me by the appellant in respect of these matters is insufficiently robust to counter the information within the GTAA, and a more detailed assessment of these matters would be required to do so.
17. There is a further contention that the GTAA fails to correctly identify that there are a number of pending/refused applications and appeals, one of which is the appeal that I am considering. However, even if that were the case, there is very little information in respect of the specifics of these and whether or not they would be reflective of any increase in need.
18. In light of the above, I find that there is insufficient information to cast necessary doubt on the findings of the GTAA. I am also conscious that the GTAA has not been subject to an Examination in Public as of yet and this is the appropriate forum for a full and detailed analysis of its methodology and findings. Furthermore, given that the Council states that it can demonstrate an 8.23-year supply, there would need to be a significant reduction in the supply figure to result in the deliverable supply of sites falling below the 5-year level. Therefore, the Council is able to demonstrate a minimum of a five-year supply of deliverable traveller sites, assessed in line with the PPTS and thus there is no demonstrable need for the type of development that is proposed.
19. Accordingly, there is conflict with paragraph 155 of the Framework and the development comprises inappropriate development in the Green Belt. The scheme also therefore conflicts with policies PSD1, ESD14 and BSC6 of the Cherwell Local Plan 2011-2031 (adopted July 2015) (the Local Plan). Together, and amongst other things, these policies seek to ensure that development accords with the policies of the Framework, in particular in respect of development in the Green Belt, and to resist the development of gypsy traveller sites in the Green Belt.
20. The Council's reason for refusal refers to policy ESD1, however the Delegated Report states that the scheme complies with this policy. I have therefore found no conflict with this policy.

Effect on openness

21. In terms of the effect on openness, the scheme would result in the stationing of both static and touring caravans within the site, as well as the construction of dayrooms and areas of parking. This would inevitably lead to a loss of openness in spatial terms. However, owing to the small scale of the development, together with its limited physical extent, this would be minimal. In addition to the spatial consideration of openness, there is also a visual element. In this case, the site is well screened from all directions. The only public view possible would be very limited glimpses from the adjacent road, and longer distance views. Consequently, in my view, the loss of openness in this case would be very limited.

Character and appearance

22. The appeal site comprises a currently open field located adjacent to an existing gypsy traveller site. It is enclosed along all boundaries by hedging of varying heights and density. The proposed development would be located to the southwest corner of the field with an access off the existing access road serving the adjacent development. There are limited views into the site from vantage points within the immediate vicinity, principally due to the presence of mature vegetation and trees positioned around the vehicular access. As such, close-up direct views into the site are only generally available when passing this access point.
23. The Council contend that the principal views of the development would be longer distance views, possibly available from footpaths within the area but it accepted that there are limited public rights of way in the locality, as well as limited viewpoints in the public domain, from which the development would be visible. It was accepted by the Council at the hearing that the development would be visible to, and affect, a "small/middle" number of people. In any event, the Council also accepted that the development would result in limited visual harm.
24. I am conscious that the PPTS accepts, in principle, the location of sites within the countryside and as such there will be some inevitable visual effect of this. The location is near to an existing site, and the development is limited in its extent. Moreover, I observed there to be very limited views into the site from the surrounding area and these were heavily filtered by existing vegetation. I therefore find that while there would be some limited visual effect arising from the development, this would be within the bounds of what is acceptable, given the in-principle acceptance of sites in rural areas, together with that additional landscaping can be secured to aid in assimilating the development into the landscape.
25. Accordingly, the scheme would have no unacceptable effect on the character and appearance of the area. Thus, it would accord with policies ESD13 and ESD15 of the Local Plan, insofar as they seek to ensure that development should respect landscape character by not causing undue visual intrusion and complement the existing character of an area.
26. The Council refers to saved policy C8 of the Cherwell Local Plan - November 1996 which seeks to resist sporadic development in the countryside. However, given the location of the appeal site adjacent to an existing gypsy traveller site, I do not consider the development to be sporadic and thus this policy is of little relevance.

Other considerations

Personal circumstances

27. I heard at the hearing about the personal circumstances of the prospective occupiers of both of the proposed pitches. I note the Council's comment that little information was provided in this regard at application stage. However, I note that a Statement of Personal Circumstances was submitted. While this may have been explored in further detail at the hearing, it is a matter that has been put before the Council previously.
28. It was detailed that the prospective occupiers of the site do not currently benefit from any settled base or permanent residence, and current arrangements include staying in hotels as well as pulling up at the roadside.

Lack of alternative sites

29. At the hearing, there was some discussion in respect of whether there were any alternative sites that the proposed occupiers could move to in the alternative to the appeal site. Various options were put before me, including moving to a pitch on the adjacent Manor Park gypsy traveller site. However, there was nothing persuasive to show that this was a viable option or that either of the households could realistically occupy this site. I also heard that part of this site, as well as others in the district were occupied by individuals who did not comply with the definition of gypsy travellers and that the Council was taking action to remove such occupants from the sites. This was however ongoing, and I am not aware of any immediate prospect of pitches becoming available as a result of this.
30. I specifically asked the Council at the hearing whether it was able to draw my attention to any available, alternative site that could be occupied at this time by the intended occupiers, and it was unable to do so. As such, I find that there is no suitable, alternative site at this time that could serve the needs of the prospective occupiers.

Best Interests of the Children

31. It is clear that it is intended that children will occupy the proposed pitches as part of family groups. As a consequence, the best interests of the children intending to live at the site are a primary consideration in the determination of this appeal and I have kept these best interests at the forefront of my mind.
32. Currently these children are exposed to unsatisfactory living arrangements, in that they are in temporary or unstable accommodations. The ability to occupy a settled base would bring clear benefits to these children, including access to stable education and health facilities. This would be particularly important given the health conditions of some occupants that have been set out. I also heard that there was a wish for these children to live according to their culture and I consider this to be a significant benefit of the development also.

Likely location of sites within the Green Belt

33. The appellant contended at statement stage that 25% of the district was located within the Green Belt, and as a result it was inevitable that sites will be within this designation. However, the Council has since clarified that less than 14% actually lies within the Green Belt. As such, I find that it is likely that there may be sites

outside the Green Belt. The appellant has not sought to undertake an assessment of any other locations.

Failure of Policy

34. The Council's development plan contains no site allocation policy for gypsy traveller sites. There is only a criteria-based policy, against which individual sites that come forward are assessed. I was told that an allocation policy was to be drafted as Part 2 of the development plan, but this was never produced. While the current level of need is not excessive, there is still a need with the Council accepting at the hearing that the criteria-based policy could have performed better. Within this context, I find that there has been an ongoing failure of policy to address the full accommodation needs of gypsy travellers within the area.

Other matters

35. I have found above that the Council can demonstrate a five-year supply of deliverable sites going forward, notwithstanding that there are currently none that are available for occupation. It was also put to me that a general compliance with policy, as well as the lack of any longstanding harm from the development, should be accorded positive weight. However, I find these matters to be neutral factors.
36. The appellant contends that a matter weighing in favour of the development is compliance with paragraph 27 of the Framework, which advocates the use of untidy or derelict land. This is principally due to there having been instances of fly-tipping on the site previously. However, given that the appeal site comprises an open field which has not been subject to any previous lawful development, I find that it is not derelict in its appearance. Moreover, the fly-tipping has had little effect in making the site untidy. In any case, it is the owner's responsibility to ensure that such occurrences do not occur. Nonetheless, the site could ensure adequate landscaping and play areas for children. Thus, there is some accord with this paragraph.

Planning Balance

37. The Framework requires that substantial weight be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
38. The scheme is inappropriate development in the Green Belt, which is by definition harmful. There would also be a small loss of openness. This harm is accorded substantial weight.
39. There are however benefits that would result from the scheme, and these must be balanced against this harm. There are currently no available, alternative sites in the district and there has been a failure of policy. These matters carry moderate weight in favour of the proposal.
40. I am mindful of the personal circumstances of the families that are intended to occupy the site, including the health circumstances that were discussed. In addition to this, I am also particularly conscious of the best interests of the children that will occupy the site. In my view, collectively, these matters carry considerable and decisive weight, and comprise very special circumstances sufficient to outweigh the harm to the Green Belt.

41. I am aware that the Council is currently preparing an emerging development plan. This document will be required to assess and provide for the needs of gypsy travellers within the district. In addition, I am conscious that the Council is taking action to remove non-gypsy travellers from existing pitches. As such, I consider there to be a reasonable likelihood that within the foreseeable future, circumstances will change and that the provision of more sites, in more suitable locations, will come forward, as well as that more pitches will become available. In such circumstances, I find that it would be appropriate to grant a temporary planning permission, for a period of two years.
42. Should a temporary permission result in the eventual loss of their home, this would represent an interference with the human rights of the occupants of the appeal site. However, I do not consider that this interference would be disproportionate, having regard to the legitimate aim of protecting the Green Belt.

Conditions

43. I have imposed the standard time limit for commencement and in the interests of clarity, a plans condition.
44. I have found that the personal circumstances of the intended site occupiers are a justification for granting planning permission. In such situations, a personal condition is necessary. I have also found that a temporary permission is justified and have imposed a condition in this respect.
45. In order to safeguard the character and appearance of the area, I have included conditions in respect of the number of caravans permitted on the site, as well as preventing commercial activities taking place and the size of vehicles that can be parked on site. In the interests of preventing clutter within the site, I have removed permitted development rights for the erection of further means of enclosure and in the interests of visual amenity, a condition requiring details of lighting to be agreed.
46. To ensure the site remains safe from any flooding, I have imposed a condition in respect of finished floor levels. So that the development does not have an adverse effect on matters of ecological importance, I have imposed a condition requiring details of ecological and environmental mitigation to be submitted. In addition, to ensure that the development has a satisfactory appearance, I have imposed a condition in respect of landscaping.
47. A condition had been recommended to require any clearance works to avoid the bird nesting season, however as this is covered by separate legislation such a condition is not necessary. The Council also suggested a condition in respect of noise levels, however agreed at the hearing that this was not necessary.

Conclusion

48. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should succeed, and that temporary planning permission should be granted.

Martin Allen

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Brian Woods	Managing Director, WSP Planning
Mr Maughan	Prospective Site Occupier
Miss McDonaugh	Prospective Site Occupier

FOR THE LOCAL PLANNING AUTHORITY:

Maria Dopazo	Principal Planning Policy Officer
Rebecca Morgan	Principal Planning Officer
Amy Sedman	Principal Planning Enforcement Officer
Olga Thomas	Health, Protection and Compliance Team

DOCUMENTS

Submitted at Hearing

Note provided by appellant on Green Belt and Need matters

Submitted following Hearing

Response from Council to appellant's note

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following plans:
Drawing number J004070-DD-01 – Site Location Plan
Drawing number J004070-DD-02 – As Existing Block Plan
Drawing number J004070-DD-03 – As Existing Site Plan
Drawing number J004070-DD-04A - As Proposed Site Block Plan
Drawing number J004070-DD-05B – As Proposed Site Plan
Drawing number J004070-DD-06 – As Proposed Plans and Elevations
- 3) The occupation of the site hereby permitted shall be carried on only by:
Pitch One
Michael Maughan and Martina Maughan, and their resident dependants.
Pitch Two
Marie McDonagh and her resident dependants.
- 4) When the site ceases to be occupied by those named in condition 3 or at the end of two years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use, shall be removed and the land restored to its condition before the development took place.
- 5) No more than 4 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 2 shall be static caravans, shall be stationed on the land at any time.
- 6) No commercial activities shall take place on the land, including the storage of materials.
- 7) No vehicle over 3.5 tonnes shall be stationed, parked, or stored on the site.
- 8) Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order), no gate, fence, wall or other means of enclosure, other than those that have been approved as part of the application shall be erected, constructed or placed on the site.
- 9) Prior to its installation, details of the external lighting/security lighting/floodlighting including the design, position, orientation, and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.
- 10) Prior to its installation, details of a scheme for the provision and implementation of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be constructed and completed in accordance with the approved plans before the first occupation of any of the buildings or structures hereby approved and shall be maintained as such thereafter.

- 11) Finished Floor levels shall be set above the 1% annual exceedance probability (AEP) plus an appropriate allowance for climate change flood level, in accordance with details that have been submitted to and approved in writing by the local planning authority, prior to the first occupation of the site.
- 12) Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance:

- an ecological mitigation strategy, which shall include timing of works, and all proposed mitigation measures, and
- a Landscape and Ecology Management Plan (LEMP)

shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall at all times be carried out in accordance with the approved details.

- 13) Prior to the commencement of any works above slab level, a scheme for landscaping the site shall be submitted to and approved in writing by the Local Planning Authority, which shall include:
- details of the proposed tree and shrub planting including their species, number, sizes, and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch, etc.),
 - details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - details of the hard landscaping including hard surface areas, pavements, pedestrian areas, and steps,
 - details of the enclosures along the boundaries of the site, and
 - a scheme for the maintenance and management of the landscaping for the life of the development.

All planting, seeding, or turfing included in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the site. Any trees and/or shrubs which within the lifetime of the development, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The approved hard landscaping and boundary treatments shall be completed prior to the first occupation of the development and shall be retained as such thereafter.

End of Schedule

APPENDIX 11

Appeal Decisions

Hearing held on 15 January 2025

Site visit made on 15 January 2025

by Peter Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2025

Appeal A: APP/C3620/C/24/3347934

Land adjacent to Cidermill Hatch, Partridge Lane, Newdigate, Dorking, Surrey RH5 5BP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Margaret Meloney against an enforcement notice issued by Mole Valley District Council.
 - The notice was issued on 19 June 2024.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of the land to use for the stationing of residential caravans and touring caravans for residential purposes and all the associated development facilitating the material change of use which includes;
 - a) The formation of areas of hardstanding
 - b) The formation of upstands and supporting structures beneath the static caravans
 - c) Installation of drainage pipes and soakaways
 - d) Installation of a sewage treatment system.
 - The requirements of the notice are:
 - i. Cease the use of the land for the stationing of caravans for residential occupation.
 - ii. Remove the caravans from the Land.
 - iii. Remove from the land the upstands and supporting structures for each caravan.
 - iv. Remove the hard standing, drainage pipes, soakaway and sewage treatment system from the land.
 - v. Dig out and remove the sub-base for the hardstanding.
 - vi. Following compliance with steps 5(i) to (v) above, remove all resultant debris and unused materials from the Land, level the land and reseed the land to grass (native grass mix).
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Appeal B: APP/C3620/W/24/3346512

Land south of Cidermill Hatch, Partridge Lane, Newdigate, Dorking, Surrey RH5 5BP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Margaret Meloney against the decision of Mole Valley District Council.
 - The application Ref is MO/2024/0514/PLA.
 - The development proposed is a two pitch settled gypsy accommodation site including widening of existing access.
-

Decisions

Appeal A

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use of the land to use for the stationing of residential caravans and touring caravans for residential purposes and all the associated development facilitating the material change of use, which includes: the formation of areas of hardstanding; the formation of upstands and supporting structures beneath the static caravans; installation of drainage pipes and soakaways; and installation of a sewage treatment system at Land adjacent to Cidermill Hatch, Partridge Lane, Newdigate, Dorking, Surrey RH5 5BP as shown on the plan attached to the notice and subject to the conditions in the attached schedule.

Appeal B

2. The appeal is allowed and planning permission is granted for a two pitch settled gypsy accommodation site including widening of existing access at Land south of Cidermill Hatch, Partridge Lane, Dorking, Surrey RH5 5BP in accordance with the terms of the application Ref MO/2024/0514/PLA, subject to the conditions in the attached schedule.

Preliminary Matters

3. Appeal A initially included the grounds set out under s174(2)(e) and (f) of the Act, but these were subsequently withdrawn.
4. Although there are some differences between the two appeal proposals, including the layout proposed and the reference to widening the access in Appeal B, the parties agree, as do I, that the two proposals are fundamentally similar and should stand or fall together. Accordingly, I consider them together below. Although there is a site layout plan to support Appeal B, this does not reflect what has been carried out at the site and both parties consider that various matters relating to the layout should be controlled by conditions, rather than being based on the layout shown on the plan, a view I share.
5. The Mole Valley Local Plan 2020-2039 was adopted in October 2024, subsequent to the issuing of the enforcement notice and the Council's decision on Appeal B. The policies of the old local plan, referred to in those documents, no longer apply.

Appeal A, Ground (a) and Appeal B

Main Issues

6. The main issues are:
 1. Whether the development is inappropriate within the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies;
 2. The effect of the development on the openness of the Green Belt and its purposes;

3. Whether the development accords with local and national policies concerning the location of gypsy and traveller accommodation¹;
4. The effect of the development on the character and appearance of the area;
5. Whether the site is suitably located in terms of access to necessary services, facilities and public transport; and
6. If the development is inappropriate, whether any harm to the Green Belt, and any other harm, is clearly outweighed by other considerations, including any need for the development and the personal circumstances of those living at the site, so as to amount to the very special circumstances necessary to justify the development.

The Green Belt

7. The site lies within the Green Belt. Policy EN1 of the local plan sets out the general approach to development in the Green Belt, while Policy H5 deals with Gypsy and Traveller accommodation. However, national policy on Green Belts, as set out in the Framework, has changed significantly since these policies were adopted. Thus, while H5 states that the development of new Gypsy and Traveller sites in the Green Belt is inappropriate development, I have considered the question of inappropriateness and related Green Belt matters with particular regard to the approach set out in the Framework.
8. The Framework advises at Paragraph 154 that development in the Green Belt is inappropriate unless one of the specified exceptions applies. None of the exceptions listed apply in this case. However, Paragraph 155 goes on to set out circumstances where development on 'grey belt' land is 'not inappropriate'. The appellant argues that this is a grey belt site, while the Council take the contrary view.
9. Grey belt is defined at the glossary to the Framework as, *land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.*
10. This site is not previously developed land, so the first question is whether the appeal site strongly contributes to any of purposes (a), (b), or (d) in paragraph 143 of the Framework. Those purposes are:
 - a) to check the unrestricted sprawl of large built-up areas;*
 - b) to prevent neighbouring towns merging into one another;*
 - d) to preserve the setting and special character of historic towns.*
11. At the hearing, the Council sought to argue that the site was important in respect of purpose a). However, that was undermined by the officer's report relating to Appeal B, which specifically identified that the proposal ran counter to only one of the purposes of Green Belt, which was purpose c), which relates to encroachment. But in any event, the site does not perform any role relating to purpose a), being located between existing dwellings, well away from any

¹ This issue is addressed throughout the decision rather than in a discrete section of it

- large built-up area. When asked about this at the hearing, the Council referred to the settlements of Dorking, Reigate/Redhill and Crawley/Horley, but the appeal site is located some miles from any of those settlements. I cannot see either that the site is relevant in respect of purposes b) or d).
12. The grey belt definition excludes other land (other than Green Belt) identified at footnote 7 of the Framework, but none is relevant here. Accordingly, I conclude that the site is grey belt.
 13. Paragraph 155 of the Framework advises that development in the Green Belt should not be regarded as inappropriate where:
 - a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;*
 - b. There is a demonstrable unmet need for the type of development proposed;*
 - c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework²;*
 14. On criterion a), I have concluded that the site is grey belt and that three of the purposes of Green Belt are not compromised. As to the other two purposes, the effect in terms of encroachment of the countryside (purpose c) is minimal, given the small size of the site, and there can be no effect in respect of urban regeneration and the recycling of derelict land (purpose e), given the site's location remote from any urban area. Accordingly, the development does not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan.
 15. I consider later the questions of need and the sustainability of the location, and find that there is a need and that this is not an unsustainable location for the particular development proposed. Accordingly, I conclude that the requirements of Paragraph 155 are met and the development is not inappropriate.
 16. I have had regard to the matters raised regarding the effect of the development in terms of openness. However, openness is one of the essential characteristics of Green Belts and, as a matter of policy, the aim of preserving the openness of the Green Belt cannot be compromised by development that is 'not inappropriate'. Moreover, footnote 55 of the Framework establishes that substantial weight need not be given to any harm to openness on a grey belt site where the development is 'not inappropriate'.
 17. I conclude that the Green Belt is not harmed. While there is conflict with the approach to Green Belts set out in policies EN1 and H5, I attach little weight to that conflict given compliance with the approach set out in the Framework. My findings on the Green Belt mean that the question of very special circumstances does not need to be considered.

Character and appearance

18. The appeal site lies in a rural area, described as Open Weald Character Area in the Council's Landscape Supplementary Planning Document. The area is not

² A further requirement – 155 d) – is not relevant in this case

entirely devoid of development, including other mobile homes along Partridge Lane. The site fronts Partridge Lane and there are houses fairly nearby to either side. I understand that the site was previously grassed and undeveloped. Photographs provided by the Council show a site that blended well into its rural surroundings prior to development. The appeal scheme has seen a gravel surface installed across most of the site. A close-boarded fence has been erected around the site perimeter and two mobile homes have been sited on the land.

19. The overall effect of these works is that the rural character of the site has been fundamentally altered, creating a far more developed appearance. The change in character of the site is very obvious from the road and the mobile homes are easily seen through the site entrance. Thus, there is clear harm to the rural character and appearance of the site and the locality. The harm is limited to a degree by the hedgerow that has been retained along most of the site frontage, and this could be supplemented by further planting to reduce the impact of the development. Nevertheless, the harm I have found leads to conflict with the aims for character, design and the landscape in local plan policies EN4, EN8 and H5.

Services, facilities and public transport

20. Partridge Lane is a fairly narrow, unlit rural lane, with a grass verge but no footways, and is unlikely to be appealing for pedestrians or cyclists. There are no shops close to the appeal site. There are convenience stores in the villages of Charlwood and Newdigate, but these are some miles from the appeal site. Given the lack of local shops or services, the poor environment for pedestrians and cyclists and the very limited public transport available, occupiers of the site are likely to be highly dependent on private motorised vehicles. Paragraph 115 of the Framework requires that *'sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location'*.
21. However, while Policy H5 prefers sites within the boundaries of existing built-up areas and villages, it does not set out any specific requirements concerning accessibility to shops and services for Traveller sites. The supporting text notes that *'The provision of permanent sites is an important means of providing Gypsies and Travellers with a settled base, providing access to local services such as education, health and employment, as well as supporting good relationships between the travelling and settled communities'*.
22. The Government's Planning Policy for Traveller Sites (PPTS) adopts a similar approach, and advises at Paragraph 13 that local planning authorities should ensure that their policies *'reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability'*. While Paragraph 13 falls under the heading of 'Plan-making', I see no reason why some of the principles it contains should not be applied to development proposals. Indeed, Paragraph 155 and Footnote 57 of the Framework indicate that particular reference should be made to Paragraph 13 when determining whether Traveller sites in the Green Belt would be in a sustainable location. I do not see that any of the aims of Paragraph 13 are undermined by this development.

23. It is clear from the above that sustainability in this context needs to be considered in the round. While the site is poorly located in terms of access to services, there are sustainability benefits in providing a settled location for Travellers. Moreover, there is no information before me to show that the appeal site would perform unduly poorly compared to other non-allocated sites that may come forward. It was clear from the discussion at the hearing that a significant proportion of the potential sites identified by the Council were located in the Green Belt. Such sites are generally likely to perform less well than urban sites in terms of access to services. The Framework advises at paragraph 110 that *'opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making'*.
24. With the above points in mind, I do not regard this as an unsuitable location for the particular development proposed in terms of access to services, and find no conflict with Policy H5 as a result of this issue. This also means that I regard the location as *sustainable* for this development for the purposes of Paragraph 155 of the Framework. In reaching that view, I am mindful that in a previous appeal decision³ on a site very close by, the inspector concluded that the scheme would not be sustainable in environmental or social terms, or in terms of the Framework. However, that decision was made about 8 years ago, and the local plan, Framework and PPTS, which are key to my approach to this matter, have all changed since. Thus, while I doubt the fundamental characteristics of the area have changed significantly in the intervening period, that decision does not lead me to any different conclusion on the matter.

General need for and supply of pitches

25. The PPTS advises at paragraph 28 that *'If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply'*.
26. Paragraph 11d) states:
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.*
27. Thus, the question of whether the Council has a 5-year supply of deliverable sites/pitches is critical to the application of national policy. It is also a point the parties disagree on.

³ APP/C3620/W/15/3018611

28. The Council commissioned a *Gypsy and Traveller Accommodation Assessment* (GTAA), which was published in March 2021. The baseline for the study is July 2020, when the fieldwork commenced, and it considers the need for Gypsy and Traveller accommodation in the period to 2037. The study takes account of the 'planning definition' of Gypsies and Travellers in the 2015 version of the PPTS that applied at the time, which is more restrictive than the definition in the 2024 version of the PPTS. However, the GTAA also produced figures for households which did not meet that definition.
29. At the hearing, the Council provided me with its most recent assessment of the need/supply of Gypsy and Traveller sites. This shows need split into three 5-year periods and one 2-year period from 2020 to 2037. It indicates a need for 32 pitches over the whole of this period if the 2015 'planning definition' of Gypsies and Travellers is applied, and a need of 52 if a less restrictive definition is applied. The Council says that this figure of 52 is now the relevant figure and aligns with the 2024 PPTS definition. Rather than considering an actual 5-year period, the Council's evidence focuses in particular on the period from 2020 (the base year for the GTAA) to 2029 (5 years from the adoption of the current local plan in 2024). In order to compare the need and supply figures on a consistent basis, I have considered this period as well. The Council says that 36 pitches are needed for this period. I do not have specific evidence to cast doubt on that figure.
30. Turning to the question of supply, it is important to note that sites must be deliverable. Footnote 4 of the PPTS advises that *'To be considered deliverable, sites should be available now, offer a suitable location for development, and be achievable with a realistic prospect that development will be delivered on the site within five years. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within 5 years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans'*.
31. The Council claims a total of 69 pitches. However, more than half of this figure – 35 pitches – is made up of current planning applications. As the Council accepted at the hearing, it is unable to say if planning permission will be granted for these. Consequently, these sites do not meet the definition of 'deliverable' in footnote 4.
32. Of the 19 pitches approved since 2020, the appellant advised, and the Council did not dispute, that the site at Copse Farm (3 pitches) is occupied by non-Travellers. There is nothing before me to suggest that this will change. Consequently, regardless of the planning permission it has, it does not appear to be currently available to Travellers and is not, therefore, part of the current supply of Traveller sites.
33. The remainder of the supply is comprised of 15 pitches from site allocations. There is no specific evidence regarding the prospect of any of these sites coming forward, but the Council's figures indicate that 6 pitches at 2 sites will come forward within 5 years from adoption of the local plan in 2024. Given the lack of information as to when the remaining 9 pitches will come forward, I do not regard them as part of the supply for the period to 2029.
34. With these points in mind, even assuming that the site allocations are all capable of coming forward at some point in time, it appears to me that the

total supply of pitches for the period from 2020 to 2029 is actually comprised of 16 out of the 19 pitches approved since 2020, plus the 6 allocations above, giving a total of 22. This is plainly short of the need for 36 pitches the Council identifies for the same period.

35. The Council argues that some planning permissions are bound to come from the 35 pitches under consideration. I am also told that windfalls have produced an average of 3 pitches per year to date, suggesting that 15 might come forward over the next 5 years. However, there is minimal evidence to support any assumption about the likely outcome of the current applications or future windfalls. Consequently, I am not persuaded that either of these matters show that sites are '*available now, offer a suitable location for development, and [will] be achievable with a realistic prospect that development will be delivered on the site within five years*'.
36. For these reasons, I conclude that the Council cannot demonstrate an up to date 5-year supply of deliverable sites for Gypsy and Traveller accommodation. Consequently, the provisions in paragraph 11(d) of the National Planning Policy Framework apply.

Personal circumstances and need

37. Mr Meloney told me at the hearing that he lives at the appeal site with the appellant (his partner) and their 4 children, who are aged between 2 and 13. I was advised that they live there continuously and have no other accommodation available to them. I am told that the loss of their current home would lead to a roadside existence. I understand that some of the children are settled in school/playgroup. I am also told that some of the children have particular medical issues, are registered with the local GP, and need a settled base to allow continuity of treatment.
38. The Council state that, during a site visit to a site known as Pinewood Park, James, the husband of the appellant, was found to be residing here and not the appeal site. The Council has also provided a register of title showing that the Pinewood Park site is owned by Jimmy Moloney and Anna Moloney⁴. I am also told that Jimmy Maloney was named as the applicant on a planning application relating to the site in 2023.
39. At the hearing, Mr Meloney stated that Jimmy and Anna Moloney are his parents, who live on the Pinewood Park site. I have no reason to doubt this. He also advised that his own family had lived at Pinewood Park but had been unable to stay there due to a falling out between different Traveller groups. However, there is limited specific evidence on this matter. In any event, circumstances can change, and I cannot entirely rule out the possibility that the family would return to Pinewood Park in the event that the appeal site were no longer available to them.
40. At the hearing I asked what would happen to the family if the notice were upheld. I was told that there are no permanent sites available to them and they would consequently be forced into a roadside existence. I cannot be sure of that, particularly given the uncertainties regarding the Pinewood Park site, but I have to regard it as a possibility, given the wider shortfall of Traveller pitches within the borough.

⁴ The variations in the spelling of this surname reflect the evidence before me.

41. The evidence before me does not clearly demonstrate that there is a specific need for the children to be on this particular site in order to meet their educational or health needs. Moreover, no explanation is given for a personal need for more than a single pitch. I accept, however, the importance of the children having a settled home and, in that general sense, the best interests of the children lie in remaining at the appeal site, in accordance with the wishes of their parents.
42. Overall, while I attach some weight to the personal need claimed for the development, it is limited due to the factors discussed above.

Other considerations

43. This is clearly a case of intentional unauthorised development. In a Written Ministerial Statement made on 17 December 2015, the Government confirmed that this is a material consideration. While the appellant says that the family had no other option but to occupy this site, this nevertheless weighs against the granting of planning permission.

Planning Balance

44. I have found that this is not inappropriate development in the Green Belt, and so very special circumstances are not needed to justify the development. However, there is harm to the character and appearance of the area, and consequent conflict with local plan policies EN4, EN8 and H5. I attach significant weight to that conflict. The location of the site in the Green Belt leads to further conflict with EN1 and H5, but I attach only limited weight to that, given the updated Green Belt policy in the Framework and my finding that this is not inappropriate development. Nevertheless, looking at matters in the round, and given that H5 is a key policy concerning the location of Gypsy and Traveller accommodation, I conclude that there is conflict with the development plan as a whole. I am also mindful that this is a case of intentional unauthorised development.
45. However, the Council is unable to demonstrate a 5-year supply of pitches for Gypsy and Traveller accommodation. In accordance with local and national policy, this weighs in favour of the development. The need for a pitch at this site is reinforced, to a small extent, by the personal need of the appellant and her family. Although the site is not ideally located in terms of access to local services, the location is not unacceptable in sustainability terms, given the benefits of providing a settled base for Travellers.
46. Viewed as a whole, the adverse impacts of the development do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, as described in Paragraph 11d) of the Framework. Accordingly, the presumption in favour of sustainable development applies. This is a material consideration that leads me to conclude that, notwithstanding the conflict with the development plan, planning permission should be granted.

Conclusion and conditions

47. For the reasons set out above I conclude that the appeals should be allowed. I shall grant planning permission on the development as described in the enforcement notice (Appeal A) and the planning application (Appeal B). In these circumstances, Appeal A, ground (g) does not fall to be considered.

48. The conditions for both planning permissions are the same. Condition 1 limits the occupation of the site to Gypsies and Travellers, to ensure the site remains available to serve the particular need that has been identified. Since that need primarily arises from a general shortfall of sites within the borough rather than the personal circumstances of the appellant, it is not necessary to limit occupation specifically to the appellant and her family.
49. Conditions 2 and 3 are required to ensure that the site is appropriately laid out and not overdeveloped. Conditions 4, 5 and 6 restrict the size of vehicles at the site, commercial activities and external lighting to ensure that local character and amenity are not harmed. Condition 7 requires a fast-charging socket to be provided to comply with local plan policy INF1, which seeks to ensure that new developments include facilities to encourage the uptake of electric vehicles.
50. Condition 8 requires a site development scheme to ensure that the site is adequately laid out, serviced, landscaped and drained and has appropriate provision relating to the access and parking. I have included a requirement in this condition concerning the siting of the caravans, since it is clear that the siting shown in the submitted drawing is not what is actually intended. Condition 9 is necessary to ensure that the approved planting is maintained.
51. I am not persuaded that a condition removing permitted development rights is necessary, since it has not been shown that any potentially harmful permitted development rights would arise from the development. Nor am I persuaded that a condition relating to biodiversity net gain should be applied to this retrospective development, having considered the evidence before me, local and national policy and relevant legislation.

Peter Willows

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Stephen Whale (Counsel)

Phil Rowe – appellant’s agent

James Meloney

Eddie Connors

FOR THE LOCAL PLANNING AUTHORITY:

Donna Bulbeck – Case Officer

Aidan Gardner – Principal Planning Officer

Duncan Clarke – Planning Policy Manager

Fiona Lander – Planning Enforcement Officer

DOCUMENTS ACCEPTED AT THE HEARING

1. Statement of Common Ground
2. Local Plan Policies H10, EN9, INF1, INF2 and INF3
3. ‘ED71’ – summary of Gypsy and Traveller pitch need and supply
4. Gypsy and Traveller need and supply update 6 January 2025
5. Appeal decision – APP/C3620/W/24/3336607

CONDITIONS

- 1) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as 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.
- 2) No more than 4 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 2 shall be a static caravan) shall be stationed on the site at any time.
- 3) No caravans falling within the definition of a twin unit caravan set out in the Caravan Sites Act 1968 as amended shall be stationed on the site.
- 4) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 5) No commercial activities shall take place on the site, including the external storage of materials.
- 6) No external lighting shall be put in place or operated on the site at any time other than that which has been previously submitted to and approved in writing by the local planning authority.
- 7) Within six months of the date of this decision, each pitch shall be provided with a fast charge electricity socket, (7Kw Mode3 with a Type 2 Connector 230V/AC 32 Amp single phase dedicated supply), which shall be retained thereafter for the lifetime of the permitted use.
- 8) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought on to the site for the purposes of such use and the hardstanding, drainage, soakaway and sewage treatment system shall be removed, within 30 days of the date of failure to meet one of the requirements set out in (i) to (iv) below:
 - (i) Within 3 months of the date of this decision, a Site Development Scheme (SDS) shall have been submitted for the written approval of the local planning authority. Notwithstanding the details shown on the planning application site plan, the SDS shall include details of:
 - (a) the means of foul and surface water drainage of the site;
 - (b) facilities for the storage and collection of refuse and waste;
 - (c) the siting, scale and appearance of any day room or utility room;
 - (d) the areas of the site to be used for the parking and turning of vehicles;
 - (e) visibility splays at the site access to the public highway;
 - (f) external lighting;
 - (g) the siting of the caravans;
 - (h) a scheme for new planting, including details of species, plant sizes, proposed numbers and densities, including a

timetable for implementation, maintenance and management.

- (ii) If within 11 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 approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

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 the legal challenge has been finally determined.

- 9) Any trees, hedges or plants planted in accordance with the approved scheme which are removed, die or become diseased or seriously damaged within 10 years of completion of the approved scheme shall be replaced within the next planting season by trees, hedges or plants of a similar size and species to that originally approved.

APPENDIX 12



Appeal Decision

Hearing held on 19 August 2025

Site visit made on 20 August 2025

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2025

Appeal Ref: APP/X2220/W/25/3364988

Land South of Ash Road, Sandwich (Grid Ref Easting: 631509, Grid Ref Northing: 158554)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr A Gentle against the decision of Dover District Council.
 - The application Ref is 21/00658.
 - The development proposed is part retrospective change of use of the land to 8no pitch Gypsy & Traveller site with associated development including improved access, hardstanding, installation of package treatment plant and fencing.
-

Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Dover District Council against Mr A Gentle. This application is the subject of a separate decision.

Preliminary Matters

3. I observed that development has taken place on the appeal site and that the site is occupied. However, the plots have not been established as indicated on the submitted plans. I have considered the appeal accordingly.
4. The National Planning Policy Framework (the Framework) and Planning Policy for Traveller Sites (PPTS) were updated in December 2024. I invited the parties to consider whether the revised Framework and/or PPTS had relevance to this appeal and have taken account of their responses in my decision.

Main Issues

5. The main issues are:
 - whether the proposal represents an acceptable form of development having regard to its flood zone location; and
 - the effect of the development on the Thanet Coast and Sandwich Bay Special Protection Area (SPA).

Reasons

Flood zone location

6. The development comprises caravans and mobile homes intended for permanent residential use, which are classified as highly vulnerable to flood risk in Annex 3 of the Framework. I shall assume the 100-year lifetime for residential development noted in Planning Practice Guidance (PPG)¹, as no specific justification has been put to me for a different period.
7. The appellant's site-specific Flood Risk Assessment dated April 2022 (FRA) draws on Environment Agency (EA) flood risk modelling and mapping data available at that time. This identifies the appeal site within Flood Zone 3a, which means there is a high probability of flooding. The principal source of the risk is found to be tidal flooding, for which there is a 1:200 or greater annual probability. There is also a risk of surface water flooding, managed through drainage ditches that border the site.
8. The site is currently protected from tidal flooding by sea defences, but the FRA identifies a residual risk of inundation by up to 0.29m of floodwater at the present day if these defences are breached. Once the effects of climate change are factored in, the site could be inundated with up to 1.7m of floodwater in 2115 even with the current flood defences. There is no pertinent evidence of plans to upgrade flood defences in the area to mitigate these risks.
9. Recently updated EA flood risk maps for the appeal site were discussed at the hearing. These do not include the detailed modelling of potential flood water depths at the appeal site noted above. Nevertheless, the parties agreed the maps suggest no improvement in the level of flood risk affecting the site and, if anything, a worsening of impacts compared to those set out in the FRA. I see no reason to disagree with this assessment.
10. The Framework states a sequential risk-based approach should be taken to individual applications in areas known to be at risk now or in the future from any form of flooding, having regard to potential changes in flood risk and the effects of climate change. This involves applying the Sequential Test and then, if necessary, the Exception Test. Further advice is provided in PPG. This approach is reflected in Policy CC5 of the Dover District Local Plan 2024 (LP) and the Site-Specific Guidance for Managing Flood Risk referenced therein.
11. Given the risks identified above, a Sequential Test is required for the appeal scheme, whether or not the EA's comments about the application confirm this.
12. The appellant argues the Sequential Test is met based on the assessment of Potential Gypsy and Traveller Sites by arc⁴ dated March 2020 (PGTS), which was commissioned by the Council to support preparation of the LP. I find the borough-wide coverage of that study provides an appropriate area of search for the type of development proposed, bearing in mind LP Policy H4's borough-wide approach to windfall accommodation for Gypsies and Travellers. However, the PGTS is over five years old and there is little before me to demonstrate there are now no other reasonably available sites than those it identifies, or that the sites considered could accommodate 8 pitches. In addition, the PGTS states the site immediately adjacent

¹ Paragraph: 006 Reference ID: 7-006-20220825

to the appeal site on Ash Road ('Site D') avoids flood risk areas, which is not consistent with the evidence on flood risk before me.

13. Consequently, the PGTS does not provide a sufficiently comprehensive assessment of reasonably available sites appropriate for the proposed development, or a sufficiently up-to-date assessment of their level of flood risk, to satisfy me the Sequential Test has been passed.
14. Given this, the Exception Test should not be applied according to PPG². In addition, in its assessment of flood risk vulnerability and flood zone 'incompatibility', PPG states highly vulnerable development should not be permitted in Flood Zone 3a³. These factors alone are sufficient to preclude the development in this case from application of the Exception Test. Even if I were to apply it, I would need to be satisfied that the development would provide wider sustainability benefits to the community that outweigh flood risk; and that the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere.
15. There is no pertinent evidence in relation to the first requirement. In relation to the second, increased flood risk to neighbouring land would be mitigated via the proposed surface water drainage strategy, which could be secured by condition were I to allow the appeal. However, bearing in mind the assumed lifetime of the development and the level of flood water that could inundate it within that period, allowing for the effects of climate change, I find there would be a significant risk to life for site occupants. I note the EA made similar comments in April 2024.
16. I have considered the mitigation measures put forward in the FRA, but I am not persuaded these would practicably address up to 1.7m depth of water in a flood event or that they factor in the vulnerability of current site users, many of whom are children and/or have disabilities. Even 0.29m of flood water could be dangerous for the very young and disabled. I am also mindful that areas behind flood defences are at particular risk from rapid onset of fast-flowing and deep-water flooding, with little or no warning if defences are breached⁴. If the flood defences were overtopped due to exceedance of the flood defence level, the FRA describes the speed of onset of flood water in similar terms. Therefore, I do not find the appellant's suggestion that flood warning systems would give two days' notice to be realistic for all potential flood risk scenarios. Nor am I persuaded that warnings from neighbours would suffice, however good their relationship with the current occupants of the appeal site.
17. The appellant's regular payments to the Internal Drainage Board (IDB) support upkeep of the nearby drainage ditches and thereby help address current surface water flood risk at the site. However, there is no compelling evidence these ditches are sufficient to mitigate the risks from tidal flooding outlined above.
18. There is also no pertinent evidence that safe evacuation routes could be maintained or that vehicles could be safely moved in time, even in the present-day breach scenario. This and the other factors above lead me to find the Exception Test would not be passed, even if it were to be applied.

² Paragraph: 035 Reference ID: 7-035-20220825

³ Paragraph: 079 Reference ID: 7-079-20220825

⁴ PPG Paragraph: 042 Reference ID: 7_042-20220825

19. I recognise planning permission has recently been granted for a nearby caravan park also within Flood Zone 3a. Nonetheless, that site is intended for visitor accommodation rather than permanent residential use, so the considerations in relation to flood risk and scope to rely on emergency plans are different to those that apply in this case. It was also put to me that Gypsy and Traveller sites have been allocated and/or granted planning permission in Flood Zone 3a in other parts of the country, but no compelling evidence has been provided of such cases, or to demonstrate their circumstances are directly comparable to those before me. Consequently, these considerations do not outweigh the significant concerns about risk to life on the appeal site that I have identified.
20. For the above reasons, I conclude the proposal does not represent an acceptable form of development, having regard to its flood zone location. It conflicts with LP Policy H4, which does not permit Gypsy and Traveller accommodation in Flood Zone 3. It also conflicts with LP Policy CC5 and the Framework as set out above; and with PPTS paragraph 13, which states Traveller sites should not be located in areas at high risk of flooding, given the particular vulnerability of caravans.

Thanet Coast and Sandwich Bay SPA

21. The appeal site falls within the Zone of Influence (Zoi) of the Thanet Coast and Sandwich Bay SPA/Ramsar site (the SPA) as defined in Figure 11.1 of the LP. The appellant's agent questions the validity of this designation, based on alleged inconsistencies in digital 'shape files' used by different government agencies to define the SPA's boundary. He also raises concerns regarding information about the SPA in the Council's Local Land Charges (LLC) system; and with the preparation of/supporting evidence for the Council's Strategic Access Mitigation and Monitoring Strategy (SAMMS) for the part of the SPA that falls within its area.
22. I have considered the numerous supporting documents provided, which include *inter alia* various measurements for nature conservation sites in the area. There is little to explain the relative status of these materials and no conclusive evidence to substantiate the concerns raised about the roles and responsibilities of the various agencies involved. Answers to my questions at the hearing shed little meaningful light on the matter. Even if I were to accept that discrepancies around the area of the SPA exist, there is no sufficiently compelling evidence to persuade me this would inevitably undermine the validity of its designation in the LP. I am also unconvinced the Council's LLC system has a direct or material bearing on this.
23. On the evidence before me, the emerging LP was assessed under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations), which included the required consultation with Natural England (NE). The SAMMS, which was finalised in 2023, also refers to Habitat Regulations compliance. The appellant's agent has confirmed he did not raise his concerns when the LP was undergoing examination. I see no pertinent evidence the LP's examining Inspectors identified insurmountable problems with either the SPA or the SAMMS approach, and I find no convincing reason to reach a different conclusion in this appeal. Accordingly, I give full weight to the SPA designation, its Zoi and LP Policies SP13 and NE3. I shall also have regard to the SAMMS as a material consideration.
24. The conditions put forward by the appellant's agent around updating the Council's LLC and reviewing its taxation requirements are not directly relevant to the development because they concern Council-wide responsibilities well beyond the

scope of the appeal scheme. The broad extent and nature of the measures proposed also render the conditions practicably unenforceable. Consequently, they fail to satisfy the tests for use of planning conditions⁵ and my findings above are unaltered.

25. The SPA is a European site protected under the Habitats Regulations, which require an appropriate assessment in relation to the effect of the development on the integrity of the site. This responsibility falls to me as competent authority in the context of this appeal.
26. The SPA comprises a long, sweeping bay spanning the River Stour estuary, Pegwell Bay and Sandwich Bay. The beach is largely shingle backed by sand dunes, with sandy flats revealed at low tide. This provides overwintering habitat and food for internationally important populations of Turnstone and Golden Plover, and breeding habitat for Little Tern in the summer. The SPA's conservation objectives are to ensure its integrity, including the extent, distribution, structure, function and supporting processes of the habitats, and population and distribution within the site of each of the qualifying features, is maintained or restored.
27. According to the SAMMS, there is a threat to the SPA from increased recreational activities, such as walking and dog-walking, which disturb the birds' habitats and behaviour. It is likely occupants of the development visit the SPA, thereby increasing levels of recreational disturbance. Such an increase, alone or in combination with other plans and projects, is likely to have a significant effect on the integrity of the protected European site.
28. The SAMMS sets a tariff per new dwelling, to be paid towards a programme of strategic mitigation measures for recreational disturbance, such as information and monitoring. The appellant has said he is willing to pay the tariff in the event I give weight to the SPA and SAMMS. However, no mechanism to secure such a payment is before me, and there would therefore be little merit in my seeking the opinion of NE about the scope and effectiveness of the SAMMS.
29. For the above reasons, I conclude the development has had a significant adverse effect on the integrity of the Thanet Coast and Sandwich Bay SPA. This is contrary to LP Policies SP13 and NE3, which reflect the Habitats Regulations and set out the required mitigation approach. It is also contrary to paragraph 193 of the Framework, which states planning permission should be refused if significant harm to biodiversity resulting from a development cannot be adequately mitigated.

Other Considerations

Existing provision, the need for sites and alternatives available to the appellant

30. The Council's Gypsy and Traveller Needs Assessment 2018, as updated in 2020, (GTNA) identifies a need for 26 pitches between 2020 and 2040. This is included as a locally set target in the LP, which allocates existing sites with potential to provide additional pitches and includes windfall Policy H4. The Council's most recent Annual Monitoring Report states the identified need had been met in full by April 2023, taking account of additional pitches granted planning permission on windfall sites and the remaining potential for intensification of existing sites. On this

⁵ See Framework paragraph 57

basis, the Council says it can demonstrate a five-year supply of sites sufficient to meet its LP pitch target.

31. This position was accepted by an Inspector in March 2025⁶. There is little compelling evidence to persuade me circumstances have since changed, such that the sites listed by the Council now fail to meet the test of deliverability at PPTS footnote 4. Even if I were to find a five-year supply of sites cannot be demonstrated, policies in the Framework that protect areas at risk of flooding and habitat sites provide strong reasons for refusing the development. Accordingly, under Framework paragraph 11d) and footnote 7, the presumption in favour of sustainable development is not engaged.
32. That said, I understand the surveys underpinning the GTNA were undertaken in 2017 and early 2018. Whether or not those data include the appellant and his family, it is reasonable to assume circumstances affecting the need for pitches will have changed in the eight or so years since then. Another Inspector made a similar observation in May 2024⁷ (although other appeal decisions brought to my attention are older so are not directly comparable⁸). There is evidence before me suggesting a degree of overcrowding at some sites. In addition, whilst I accept cultural need was factored into the assessment, it has not been demonstrated to my satisfaction that all aspects of the most recent 2024 PPTS Gypsy and Traveller definition are included. Taking all this together, I find it likely there is a level of unmet need in the area, whether or not there is a five-year supply of pitches.
33. The Council has suggested several alternative sites for the appellant. However, there is no definitive evidence these sites are currently available, or that they would be suitable for the appellant by accommodating his extended family in one place. I am also mindful cultural factors can affect the practicality of site sharing between different Traveller communities, and I understand this to be a significant consideration for the appellant in relation to some of the sites suggested. This was acknowledged by the Council at the hearing. Thus, I do not find the suggested alternatives would currently provide a realistic long-term solution for the appellant's accommodation needs.
34. I give the likely unmet general need and lack of current alternatives for the appellant moderate weight in favour of the development.

Personal circumstances and the best interests of the children

35. The Traveller status of the appellant and his family is not disputed. As members of an ethnic minority, they have the protected characteristic of race under s149(7) of the Equality Act 2010. In addition, several family members have disabilities, which is also a protected characteristic. The public sector equality duty at s149(1) of the Equality Act requires me to have due regard to eliminating discrimination, advancing equality of opportunity and fostering good relations.
36. The appeal scheme supports the traditional way of life of, and facilitates the establishment of a settled base for, some thirty Travellers within an extended family, including about fourteen children. This allows cultural traditions to be balanced with the practicalities of modern living. It also enables family members

⁶ Appeal Ref APP/X2220/W/24/3354851

⁷ Appeal Ref: APP/X2220/W/23/3332801;

⁸ Appeal Refs: APP/X2220/W/23/3319129, APP/X2220/C/22/3313856, APP/X2220/W/22/3305480, APP/X2220/W/18/3196788, APP/X2220/C/21/3269950, APP/X2220/C/18/3199973, APP/X2220/W/18/3199968

with disabilities and health conditions to access local healthcare and be cared for by others within a close network of relatives. Further, the absence of suitable and available alternative sites indicates inequality in housing opportunities, which the development helps to offset in a modest way. Together, these factors advance equality of opportunity and add significant weight in support of the development.

37. Article 3 of the United Nations Convention on the Rights of the Child requires a child's best interests to be a primary consideration. The best interests of a child are not a determinative planning issue, but no consideration must initially be regarded as more important or, in advance of the subsequent assessment of the individual circumstances, be given greater weight. Accordingly, I need to consider whether children's best interests are relevant to the planning issues under consideration. In doing so, I need to ensure the approach is proportionate and be mindful that the best interests of children will not always outweigh other considerations including those that impact negatively on the environment or the wider community.
38. The appeal scheme provides a settled base for several children, some of whom are enrolled at local schools and nurseries. I understand the children are thriving and some take part in local extra-curricular activities. In addition, an enduring settled base enables continued access to healthcare and generally supports the children's welfare and development by, for example, making friends. Conversely, living an uncertain roadside existence would not support the children's welfare and development. I therefore accept the best interests of the children are served by a permanent and secure home and I give this significant weight.

Other

39. I note the reasons why the appellant purchased the site in 2021 and that he sought to regularise the situation through prompt submission of a planning application. I also recognise the appellant's efforts to enhance the appearance of the site and foster good community relations. The development does not dominate the nearest settled community, and I see no reason to find it places undue pressure on local infrastructure or jeopardises highway safety, subject to conditions were I to allow the appeal. However, an absence of harm in these regards is a neutral factor.

Planning Balance

40. The harms I have found arising from the risk to life from flooding and the effect of the development on the integrity of the SPA lead to a conflict with the development plan read as a whole, and with the Framework as set out above. I attach substantial weight to these harms.
41. I have identified several considerations above, which together add considerable weight in favour of the appeal scheme. However, the weight of these factors, alone or in combination, is not sufficient to outweigh the harms I have found.
42. I have considered the option of granting permission for a temporary period. This requires a balancing exercise taking into account the limited duration of any permission and any reasonable expectation of a change in planning circumstances by the end of that period.
43. The substantial harm to the SPA would still occur, albeit for a limited time. The risk from flooding would prevail for as long as the site is occupied. Even if the probability of a severe flood event is low, its effects could be sudden and

catastrophic for permanent caravan dwellers as I have outlined. As the FRA does not factor in the most up to date flood risk modelling, I cannot be sure how soon the effects of climate change will be felt at the site. There is also no clear prospect that local flood defences will be strengthened within the next few years.

44. A temporary permission would enable the children on the site to remain in local schools, but educational insecurity would recur after that period, which would not be in their best interests. There is also no suggestion the disabilities affecting some site occupants are likely to abate soon. As the Council has no immediate plans to undertake a new land availability assessment, there is no imminent prospect of an alternative authorised site becoming available. I have also had regard to the appellant's concern, expressed at the hearing, that a temporary consent would simply delay a permanent resolution to his family's accommodation needs.
45. Taking all this together, I find material considerations do not clearly outweigh the harm arising from a limited period of occupation such as to justify a temporary permission personal to the appellant and his family.
46. Dismissing the appeal would represent an interference with the homes of the appellant and his family such that Article 8 of the Human Rights Act is engaged. There is also a positive obligation imposed by Article 8 to facilitate the Gypsy way of life. The human rights interference associated with this conclusion is in accordance with the law and is necessary in a democratic society to protect environmental interests, which is a legitimate objective. The nature of the harms I have found is such that the public interest cannot be achieved by means that cause less interference with the appellant's rights. Therefore, dismissing the appeal is a proportionate response and a violation of rights under Article 8 would not occur.
47. In accordance with the public sector equality duty, I have also given due regard to minimising the disadvantage suffered by the occupiers of the site as persons without a permanent home and to meeting their needs insofar as they are different to those without relevant protected characteristics. Whilst ultimately the appeal is to be dismissed, these considerations have been at the forefront of the decision-making process. Nevertheless, the specific nature of the harms identified means the outcome is a proportionate one.

Conclusion

48. I have found the proposal conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal should be dismissed.

C Carpenter

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Stuart Carruthers	Planning agent
A Gentle	Appellant
Phien O'Phien	Traveller Coalition

FOR THE LOCAL PLANNING AUTHORITY:

Amber Tonkin	Senior Planning Officer
Karen Evans	Principal Planning Officer
Claire Dethier	Planning and Development Manager
Carly Pettit	Planning Policy Team Leader

ADDITIONAL DOCUMENTS ACCEPTED DURING AND AFTER THE HEARING

DOC1	Aerial photograph of the appeal site dated 17 April 2025
DOC2	Extracts from GOV.UK EA Flood Map for Planning dated August 2025, including maps showing flood risk scenarios affecting the appeal site
DOC3	Costs application by Dover District Council against Mr A Gentle
DOC4	Updated list of conditions dated 21 August 2025, with associated email exchange between the parties setting out those agreed and not agreed

APPENDIX 13



Appeal Decision

Hearing held on 28 August 2024

Site visit made on 28 August 2024

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2024

Appeal Ref: APP/J0405/W/23/3334857

Land South Of Preston Road And South West Of Game Farm, Gawcott, Buckingham MK18 4HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Fred Ball against the decision of Buckinghamshire Council.
 - The application Ref is 23/02597/APP.
 - The development proposed is change of use of land to use as residential caravan site for 4 Gypsy families, each with 2 caravans, together with laying of hardstanding, erection of 4 No. amenity buildings and construction of new access.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address in the header is taken from the application form. I have added the post code for completeness and precision reasons.
3. I saw on my visit a static home and touring caravans positioned on an area of stone hardstanding covering the front part of the appeal site. The appellant's representative confirmed at the hearing that the site is being used for residential purposes. As such, the development has commenced, although the number and layout of the caravans and the extent of the hardstanding that I saw is different to that as shown on the submitted site layout plan.
4. A revised National Planning Policy Framework (the Framework) has been published since the appeal was lodged. On the same day, the government issued an amendment to the national Planning Policy For Traveller Sites (PPTS) and the definition it contains for Gypsies and Travellers. I have had regard to these revised documents in my assessment.
5. More recently, the Secretary of State issued a written ministerial statement entitled "Building the homes we need" and the government published a consultation on proposed reforms to the Framework and the planning system. These contain no provisions or proposed revisions relevant to this appeal and so I have not sought specific comments from the parties on these documents.
6. At the hearing, verbal evidence was provided on the current and intended occupants of the development. I understand that all of the residents either currently live or previously resided at a Gypsy and Traveller site called Oakhaven Park, located close to the northern edge of Gawcott. In light of this evidence, the Council's representatives accepted at the hearing that the

occupants meet the definition of Gypsies and Travellers as set out in the PPTS. In any event, it is clear from the description that the development would provide accommodation for Gypsy families. My decision is made on this basis.

7. A Preliminary Ecological Appraisal (PEA), a Biodiversity Enhancement Strategy (BES), a Small Sites Biodiversity Metric (the Metric) and a Sustainable Drainage Assessment (SDA) have been provided with the appeal. None of these were with the Council at the time it made its decision. However, there has been an opportunity to submit written and verbal comments on the documents through the appeal process. The documents do not change the development and so I am satisfied that no injustice would be caused by taking them into account.
8. Also, I accepted at the hearing the submission of a transport and highways technical note (hereafter referred to as the Highways TN). The Council's Highway Development Management Officer had already seen the Highways TN and helpfully provided a written response to it (hereafter referred to as the Highways Officer's response). The appellant's highway consultant had an opportunity to provide verbal comments on the Highway Officer's response at the hearing. I am satisfied no injustice would be caused by taking these documents and comments into account.
9. A number of drawings were provided with the planning application leading to this appeal, including the aforementioned site layout plan. This shows the layout of the 4 proposed pitches with mobile homes, touring caravans and amenity buildings, as well as the extent of hardstanding and proposed hedgerows and trees. Importantly, it also shows the proposed access positioned centrally along the frontage of the site. It is clear that the Council's decision is based on this site layout plan.
10. At the hearing, the appellant's representative requested that I disregard the site layout plan, in particular the details of the proposed new access. This request follows on from the findings of the Highways TN, which indicate an access to serve the development would need to be positioned towards the western side of the site to maximise visibility of the road. It was also accepted by the appellant's representative at the hearing that such a revision in the position of the access would affect the layout of the pitches.
11. The appeal process should not be used to evolve a development and it is important that what I consider is essentially the same scheme considered by the Council and by interested parties. To grant permission without a planning condition that requires the development to be carried out in accordance with the submitted site layout plan could result in a fundamental change to the scheme. Moreover, any changes to the details as shown on the site layout plan would not have been subject to public consultation. This could be unfair and could cause prejudice to interested parties. Also, the appellant's submissions such as the SDA and the BES are based upon the details as shown on the submitted site layout plan. To consider the appeal without reference to this plan raises concerns over the validity of the appellant's case on issues such as surface water drainage and biodiversity. For these reasons, my assessment is based on the details as shown on the submitted site layout plan.

Main Issues

12. In light of the PEA, the Council no longer wishes to pursue its objections that relate to the effect of the development on protected species. I am also satisfied

the scheme would avoid harm or risk of harm in these regards. Consequently, the main issues are (i) the development's effect on highway safety, (ii) its effect on biodiversity, (iii) whether there is a need for the development, (iv) whether the development is in a suitable location in light of the policies of the Vale of Aylesbury Local Plan 2021 (the LP), the Framework, the PPTS and accessibility to services, and (v) drainage and flood matters.

13. If I find the development would be unacceptable in any of these regards, there is an additional issue as to whether the benefits of the scheme outweigh the harm caused so as to justify granting planning permission.

Reasons

Highways safety.

14. The proposed access would lead out onto Preston Road, a lightly trafficked, narrow rural lane. It would replace an existing opening near the western boundary, which the site layout plan indicates will be closed off with new hedgerow planting. The existing roadside hedgerow would be removed so as to provide visibility splays on either side of the access.
15. The application form indicates the site was used as grazing land prior to the commencement of the appeal development. Also, the appellant's representative explained that a stable building that previously existed on the site was used to keep horses. Even so, it is likely that this previous use would have generated a low level of traffic movement. In comparison, the appeal development would generate vehicular trips associated with 4 separate households. In the absence of any evidence to the contrary, it is fair to expect the scheme would increase traffic movements to and from the site.
16. The Highways Officer's response sets out required visibility splay lengths based on speed survey data and the provisions of Manual for Streets 2. I find no reason to disagree with the Highway Officer's comments that an acceptable visibility splay could be provided to the northeast of the proposed access. However, there is concern over the visibility splay that could be provided in the opposite direction.
17. The Highways Officer's response indicates that a visibility splay of 2.4m x 88m is required to the southwest of the access. This is less than the visibility splays suggested in the appellant's Highways TN, which states a splay of 2.4m x 110m is required when having regard to the provisions of the Design Manual for Roads and Bridges. However, the Highways TN does not indicate the length of visibility splays that could be secured from the proposed access as shown on the site layout plan. This plan itself shows a splay of 2.4m x 60m could be achieved to the southwest of the access when taking the splay to the centre of the road. As such, the visibility splay to the southwest would be significantly shorter than the required splay distances as suggested in either the Highway Officer's response or the Highways TN.
18. The access to the appeal site would be on the inside of a bend so that views of the highway to the southwest are significantly curtailed by hedges further along the road. Moreover, it is likely the development would lead to slow moving cars with caravans turning out of the site. Also, forward visibility when approaching the site from the southwest is restricted due to a nearby double bend in the road. Even when accounting for fairly modest speeds identified

under the appellant's surveys, drivers from the southwest are unlikely to see the proposed access and vehicles turning out onto the road until close to the appeal site. Through a combination of these factors, the development would potentially result in drivers unknowingly pulling out in front of on-coming traffic when leaving the site, leading to sudden braking and possible collision.

19. It is suggested in the appellant's submissions that the current entrance onto the site is in a worse position than the proposed access. However, the Highways TN seems to indicate that an access towards the west boundary of the site would provide longer visibility splays than the proposed access. In any event, any inadequacies of the existing entrance do not justify allowing the proposed unsafe access and a development that is likely to increase vehicle movements onto and off the site.
20. The scheme would generate a modest level of trips and Preston Road is likely to experience fairly low levels of traffic. Nonetheless, for the above reasons I conclude the development would have an unacceptable effect on highway safety. In these regards, it would conflict with criterion b of LP policy D11 and LP policies T1 and T5. Amongst other things, these look to improve the safety of road users and for Gypsy and Traveller sites to have safe vehicular access without causing adverse impacts on highway safety.

Effect on biodiversity.

21. LP policy NE1 looks for a net gain in biodiversity and resists development that results in significant harm. The policy states that if a proposal would result in a net loss of biodiversity as calculated using a suitable biodiversity impact assessment, mitigation and compensation will be sought so a net gain is achieved. Also, criterion d of LP policy D11 looks for new Gypsy and Traveller sites to not have a significant adverse effect on biodiversity.
22. The appellant's BES refers to proposed biodiversity enhancement measures in the form of new trees along the front of the site as well as native hedgerow around the proposed pitches. Also, it is proposed to provide a 50m strip of wildflower grassland on land beyond the southern boundary of the appeal site but also owned by the appellant. It is claimed that the submitted Metric demonstrates that such measures would lead to a gain of 0.96% in habitat units and 48.28% in hedgerow units.
23. However, I share the same concerns as expressed by the Council on the data entered into the Metric. It seems the information on habitat and hedgerow units relates not just to the appeal site but also to the adjoining land to the south in the appellant's ownership. Also, the Metric's figures indicate all of the existing hedgerow on the site is to be retained when the site layout plan indicates the line of trees and hedges on the roadside boundary would be removed to provide the new access. The loss of this established hedgerow does not appear to have been considered in the completion of the Metric and so I am unconvinced on its conclusion on achieving a gain in hedgerow units.
24. Furthermore, it is evident that in assessing the baseline biodiversity value, the BES and the Metric have used the current situation with hardstanding on most of the front part of the site. However, the appellant's ecological assessment dated 26 October 2021 shows most of the front part of the site as being mainly covered by dense scrub, poor semi-improved grassland and tall ruderal planting. It is unclear why the information provided in the ecology assessment

- has not been used to inform the baseline biodiversity value of the site. The stone hardstanding that currently exists forms part of the appeal development and the effect of this hardstanding on the biodiversity value of the site has not been considered in the Metric or the BES.
25. The proposed planting and provision of bat and bird boxes would in themselves be features that could contribute towards biodiversity. However, the creation of wildflower enriched grassland on narrow strips of land around each pitch is unrealistic as the same land is likely to be used by residents as garden or amenity land.
26. In summary, I find the assessment provided by the appellant under-estimates the baseline biodiversity value of the site and over-estimates the contribution the proposed planting would make towards biodiversity. Therefore, rather than achieving a minor gain to biodiversity I find the development has and would undermine the site's value in these regards.
27. I have considered whether the harm caused by the development could be addressed through the imposition of a planning condition. I note the Inspector for appeal reference APP/J0405/W/23/3332664 on a Gypsy and Traveller site in Edgcott found that a planning condition on biodiversity net gain would be appropriate. However, the situation with this appeal is different as the scope to include new planting as part of the development itself is limited given the extent of the development across most of the site. The adjoining land in the appellant's ownership would remain open and it would be reasonable to impose a planning condition that requires additional planting on this land. However, this area already has a biodiversity value and there is insufficient information before me to show that any achievable uplift in its value would fully mitigate for the loss of biodiversity as a result of the proposal.
28. Therefore, I conclude the development would have a harmful effect on biodiversity. In these regards it would conflict with LP policy NE1 and part (d) of LP policy D11.

Whether there is a need for the development.

29. While LP policy D11 sets out criteria for the assessment of proposals for Gypsy and Traveller sites, it is only supportive of such development where there is an identified need, taking into account existing local provision and the availability of alternatives. Through its submissions¹, the Council has accepted there is no requirement for a general need to be demonstrated but that a personal need can qualify for the purposes of meeting the terms of LP policy D11. Nonetheless, the Council's Statement of Need June 2024 (the Need Statement) claims that in excess of 5 years' worth of supply of deliverable Gypsy and Traveller sites when assessed against local targets can be demonstrated. As such, the Council's position is that the supply of sites requirement as set out at paragraph 10(a) of the PPTS is met. In essence, the Council's case is that the number of pitches already permitted and delivered exceeds target numbers for the period of 2016 to 2026 and indeed for the period extending to 2029.
30. I find a number of difficulties with the Council's contentions in these regards. Firstly, its pitch target as set out at LP policy S6 and updated target in the Need Statement are based upon a Gypsy and Traveller Accommodation

¹ Paragraph 5.12 of the Written Statement for Informal Hearing of Miss Emma Mumby, June 2024.

Assessment (GTAA) dated 2017 and with a base date of February 2016. The Council's representative at the hearing accepted the GTAA is now old. At paragraph 7(b), the PPTS states that local planning authorities should maintain an up-to-date understanding of the likely accommodation needs for pitches. By reason of its age, the GTAA fails to meet this requirement and so there is uncertainty whether the Council's pitch targets accurately reflect actual need.

31. Also, it is noteworthy that an Inspector who dealt with appeals relating to a number of Gypsy and Traveller pitches at Sunset Park Homes in Whitfield found in December 2022 that the GTAA has significantly underestimated the need for pitches within Aylesbury Vale². No further assessment of need has been carried out since these appeal decisions.
32. Moreover, footnote 4 of the PPTS states sites should be available now to be considered deliverable. This supports the appellant's suggestion that the purpose of PPTS paragraph 10(b) is to ensure a front-loaded supply of sites to address needs before or as they arise. Most of the sites identified as contributing towards supply in the Need Statement have already been granted planning permission and have been delivered. Those identified as future supply do not benefit from planning permission and in any case, they are already occupied. The evidence indicates that none of these sites are currently available. Also, the Council's representatives at the hearing were unable to identify any vacant sites with planning permission or allocated for Gypsy and Traveller accommodation use. Given this context, it is unclear how any need for further pitches that has not been accounted for in the GTAA would be addressed. As such, I am unconvinced a 5 year supply of deliverable sites can be demonstrated and so I find there is a general need for more pitches.
33. The appellant and others who attended the hearing explained how the accommodation needs of the intended occupants have changed or will soon change due to family and personal circumstances. I was told that the pitches available at Oakhaven Park have become too small to accommodate all the intended residents of the appeal development. Also, I was advised that a proposal to extend the Oakhaven Park site was refused planning permission following an appeal. Altogether, this evidence indicates that Oakhaven Park provides insufficient space to meet the accommodation needs of the intended occupants of the appeal development. No party at the hearing could identify any alternative site to meet these accommodation needs.
34. As such, I conclude the development would help address a general and personal need for additional Gypsy and Traveller pitches. In these respects, it would accord with LP policy D11.

Suitability of location.

35. The appeal site is in the countryside. The statement of common ground says it is approximately 0.8km by road to the western edge of Gawcott. Towards the centre and eastern edge of the village there is a primary school, village hall, a church and a pub as well as playing fields. Bus stops on the main street provide

² Appeal Decisions reference numbers APP/J0405/W/22/3295747, APP/J0405/W/22/3295748, APP/J0405/W/22/3295749, APP/J0405/W/22/3295750, APP/J0405/W/22/3295751, APP/J0405/W/22/3295752, APP/J0405/W/22/3295753, APP/J0405/W/22/3295754, APP/J0405/W/22/3295755, APP/J0405/W/22/3295756, APP/J0405/W/22/3295757, APP/J0405/W/22/3295758, APP/J0405/W/22/3295759, APP/J0405/W/22/3295760, APP/J0405/W/22/3295761, APP/J0405/W/22/3295762, APP/J0405/W/22/3295763, APP/J0405/W/22/3295764, APP/J0405/W/22/3295765, APP/J0405/W/22/3295766

access to buses to the key services in Buckingham, which is about 5km away by road. Tingewick lies about 2km by road from the appeal site and it contains a store/post office as well as a primary school, village hall and pub. Preston Bissett is about 3km from the site and it has a pub and a church.

36. Part (a) of LP policy D11 requires Gypsy and Traveller sites to have reasonable access to existing local services, including shops, schools and healthcare. It goes on to say that sites should be close to sustainable settlements or with good access to a classified road and/or public transport. Occupants of the appeal development would have good access to Preston Road, which is a classified C-road. In these regards, the scheme would meet a requirement of criterion (a) of LP policy D11. The wording of the second sentence of criterion (a) includes the words "and/or" and so it does not require sites to also have good access to public transport.
37. There is no guidance in the LP as to the meaning of "reasonable access to existing local services" or "close to existing sustainable settlements". Gawcott and Tingewick are identified as being medium villages within the LP and so it is reasonable to treat both as sustainable settlements. It is unlikely that residents of the development would walk to and from the services within these villages given the separation distances and the lack of pavements and lighting along most of the connecting roads. However, the distances and nature of the highways would be conducive to cycling between the site and the nearest facilities. Also, the development would be only a short drive time away from the nearest villages. To my mind, the site would provide reasonable access to local services and would be close to sustainable settlements.
38. Residents of the development are likely to travel to Buckingham to access health care facilities, secondary schools and a broader range of retail, employment and leisure premises. The bus stops in Gawcott provide the potential for such trips to be carried out by public transport although the walking distance between the development and the bus stops would discourage such journeys. Instead, it is fair to assume residents would travel by car to access services in Buckingham. However, such trips would be fairly short in distance and time and not unusual given the largely rural context of the wider area around Buckingham. Therefore, in these regards the residents of the development would have reasonable access to facilities.
39. LP policy S3 seeks to avoid new development in the countryside unless it accords with policies in the LP to support thriving rural communities. The development would be close enough to Gawcott, Tingewick and Preston Bissett to allow its occupiers reasonable opportunity to support services within the villages and to integrate with local communities. As the development would accord with part (a) of LP policy D11, I find no conflict with LP policy S3.
40. LP policy S2 sets out a spatial strategy for strategic growth and investment. It states that housing development in rural areas will be strictly limited but it includes no provisions in respect of Gypsy and Traveller sites. Also, LP policy S6 includes no requirements or criteria on the location of Gypsy sites. Therefore, the development would not directly conflict with these policies. LP policy S1 says all development must comply with the principles of sustainable development but it contains no guidance in what this means in terms of the location of Gypsy and Traveller sites. The policy requires

consideration of access to facilities. However, I find the development would be acceptable in these regards as it would comply with part (a) of LP policy D11.

41. LP policy T1 explains the Council's sustainable transport strategy is based on encouraging modal shift with greater use of more sustainable modes of transport. This accords with the provisions of section 9 of the Framework. The development would be located so that residents would be highly reliant on private car travel to access facilities. However, LP policy D11 that relates specifically to Gypsy and Travellers sites does not preclude such development as preferred modes of travel are not identified. Also, paragraph 109 of the Framework highlights that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. When taking this into account, I consider the residents' reliance on car travel would be acceptable, particularly given the fairly short drive times to the nearest services.
42. Paragraph 25 of the PPTS indicates that new Gypsy and Traveller sites in open countryside and away from existing settlements should be strictly limited. However, this does not entirely preclude such development. Under PPTS paragraph 24(d) it is clear that locally specific criteria should be used to assess applications that may come forward on unallocated sites. In this case, the development would accord with part (a) of LP policy D11 and this is the overriding factor in my assessment of the scheme against this main issue.
43. Therefore, when considering all relevant policies and provisions as a whole, I conclude the development would be in a suitable location in light of LP policies, the Framework, the PPTS and accessibility to services. Acceptability in these regards is a neutral factor in my overall assessment of the appeal.

Drainage and flood matters.

44. The SDA explains the intention to provide rainwater harvesting butts, permeable surfacing as well as 2 soakaways to attenuate surface water from the development prior to infiltration into the ground. The soakaways are shown as lying between the pairs of pitches towards the front and rear of the appeal site. Foul water from the development would lead to a package treatment plant positioned in the field adjacent to the appeal site and in the appellant's ownership. Discharge from the plant would lead into a herringbone drainage system that would allow treated water to infiltrate into the ground.
45. The SDA refers to an infiltration suitability map that identifies a moderate potential for ground infiltration on the site. However, the SDA recommends a site investigation to confirm infiltration capacity as well as groundwater levels. No site specific ground investigations have been carried out.
46. The failure to investigate ground conditions may potentially undermine the drainage proposals. I note that part (o) of LP policy I4 on sustainable drainage systems specifically requires development layouts to be informed by site specific ground investigations. At the same time, the test to be applied in light of part (g) of LP policy D11 is whether the Gypsy and Traveller site would be capable of being adequately served by sewerage disposal facilities. There is no requirement under this policy nor LP policies I4 and I5 for full details of drainage schemes to be submitted and approved as part of planning applications. My views on this matter are supported by the Inspector for the aforementioned Edgcott appeal, who found that the issues of surface and foul water drainage could be addressed through a planning condition.

47. In this case, even if tests found the ground had no potential for infiltration, there would be sufficient space on the appeal site and on the adjoining land in the appellant's ownership to provide a foul water system that did not rely upon infiltration. For the same reason, I fail to understand how a technical solution to deal with the disposal of surface drainage could not be secured by planning condition, particularly as most of the development would be covered by permeable surfacing. There is no substantive evidence to suggest the site is not capable of being adequately serviced in terms of drainage.
48. The appeal site itself is not subject to any identified risk of flooding. While my attention is brought to a surface water flood route to the south of the site, I am satisfied that a surface water drainage system could be secured through a planning condition that ensures the development would avoid increasing flood risk elsewhere. Therefore, I conclude the development would be acceptable in terms of drainage and flood matters. In these regards, it would accord with LP policies I4 and I5 as well as part (g) of LP policy D11. Amongst other things, these look to ensure development is provided with sufficient drainage so as to prevent pollution and to avoid an increase in flood risk. Acceptability in these regards is a neutral factor in my overall assessment.

Other issues, benefits of the development and planning balance.

49. Due to the conflict identified in respect of the first 2 main issues, the development would not accord with the development plan when read as a whole. It follows to consider whether factors in support justify granting planning permission contrary to the LP.
50. The development would change the appearance and character of the site. However, proposed planting and the retention of existing trees and hedges on the side and rear boundaries would screen the development so it would not be unduly prominent. Also, other nearby residences and buildings are seen from Preston Road and so the presence of mobile homes, caravans, vehicles and amenity buildings would not appear unusual. The provision of 4 pitches would avoid any sense of domination of Gawcott as the nearest settled community, even in light of any cumulative effect when considering Oakhaven Park. Acceptability in these regards is a neutral factor in my assessment rather than a benefit to which I attach positive weight.
51. Under the third main issue I have identified a general need for additional Gypsy and Traveller pitches in the local area. The government's aim to promote more private Gypsy and Travellers sites is included at PPTS paragraph 4(e). The development would help address these local and wider recognised needs. Although 4 pitches would be a modest contribution towards supply, the benefit in these respects still attracts moderate weight.
52. Also, the verbal evidence provided at the hearing indicates the intended occupants of the site require new pitches. As there are no vacant sites elsewhere, refusing planning permission could lead to the residents living on unauthorised or overcrowded sites or by the side of the road. The lack of a suitable settled base could make it more difficult for residents to access education and healthcare facilities. The personal accommodation needs of the occupants therefore attract significant positive weight.
53. Dismissing this appeal could lead to the current occupants having to leave the site and depriving those intended occupants still living at Oakhaven Park of a

place to live. Such a decision could interfere with the occupants' rights to peaceful enjoyment of their possessions and to respect for a private and family life and their home under Article 1 of the First Protocol and Article 8 of the Human Rights Act 1998. However, it is noted that these are qualified rights.

54. From the verbal evidence provided on the intended occupiers, I am aware that 1 of the current residents is a child of school age. Little information has been provided on how or where this child is educated. However, it is appropriate to take a precautionary approach and conclude that a settled base at the appeal site would be in the best interests of this child in terms of providing access to education as well as the safety of a secure home. These factors are a primary consideration and in the forefront of my mind in my overall assessment of the appeal. However, they are not determinative of the planning issue.
55. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010. This sets out the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not share it. This includes those of a particular race and so the occupants of the development. Granting planning permission for a settled base close to villages would allow the opportunity for the intended occupants to foster good relationships with the local community.
56. Therefore, the benefits of the development are highly significant. However, the identified harm in terms of highway safety and biodiversity is also of considerable weight in the balancing exercise. In particular, the deficiencies of the proposed access would pose an unacceptable risk of harm to road users. Most at risk would be the intended occupiers, including children, who would be reliant on private car travel and frequent users of the unsafe egress. This risk to highway safety and harm to biodiversity are the overriding factors in my assessment. An interference with the intended occupants' human rights would accord with the law and be pursuant of well-established and legitimate aims to avoid prejudicing highway safety and to safeguard biodiversity. Also, the harm caused by the development would outweigh any benefits in terms of advancing the opportunities for Gypsy and Travellers as a group with a protected characteristic. Dismissing the appeal would be a proportionate and necessary response to the PSED.
57. At paragraph 27, the PPTS states that a lack of an up to date 5 year supply of deliverable sites should be a significant material factor when considering applications for a temporary planning permission. Consequently, I have considered whether it would be appropriate to grant planning permission subject to a condition that allows the development temporarily. The parties at the hearing suggested a 4 year period, during which time it is envisaged the LP would be reviewed and there would be a more up to date understanding on how to address the local need for Gypsy and Travellers Sites. A temporary permission would overcome my concerns over the impact on biodiversity as a condition could be imposed that requires the site's restoration and biodiversity value following cessation of the residential use. However, during this 4 year period the risk to highway safety would continue. The harm caused in these regards is the overriding factor that justifies refusing planning permission, even if the development is only allowed for a temporary period.
58. The appellant has referred to several appeal decisions that allow Gypsy and Traveller sites. However, these relate to schemes at other locations and where

different circumstances apply. As such, it would not be inconsistent with these other decisions to conclude that planning permission should be refused.

Conclusion

59. For the reasons given above, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Philip Brown	Agent for the appellant
Rory Spiller	Highway Consultant
Fred Ball	Appellant
Fred Ball Junior	
James Birch	

FOR THE LOCAL PLANNING AUTHORITY:

Emma Mumby	Senior Planning Officer
Laura Pearson	Team Leader, Development Management
Kate Pearce	Sustainable Drainage Officer
Helen Harding	Planning Policy
Annie Ottaway	Biodiversity Net Gain Officer
Emily Brown	Senior Planning Policy Officer
Matthew Raven	Highways Officer
David Marsh	Highways Officer

LIST OF DOCUMENTS SUBMITTED AT THE HEARING:

1. Appeal decision reference number APP/J0405/W/23/3332664.
2. Transport and Highways Technical Note – The Transport Consultancy, July 2024 (the Highways TN).
3. Letter from Matthew Raven, Highways Development Management, Buckinghamshire Council, dated 7 August 2024 (Highways Officer's response).

APPENDIX 14

Appeal Decisions

Hearing held on 15 April 2025

Site visit made on 15 April 2025

by **Peter Willows BA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 June 2025

Appeal A: APP/R1845/C/25/3358562

Appeal B: APP/R1845/C/25/3358563

Land at Drakelow Lane, Wolverley, Worcestershire

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mr Henry Smith (Appeal A) and Mrs Diane Smith (Appeal B) against an enforcement notice issued by Wyre Forest District Council.
 - The notice was issued on 27 November 2024.
 - The breach of planning control as alleged in the notice is without planning permission:
 - i. the construction of an unauthorised hardcore pad,
 - ii. the storage of materials, waste and items not associated with an agricultural use of the Land and
 - iii. the material change of use of Land from agricultural to a mixed-use comprising agriculture and the stationing of a campervan/motorhome for residential occupation.
 - The requirements of the notice are:
 1. Permanently remove the hardstanding/hardcore and membrane from the land and remove all resulting hardcore, rubble and materials from the land and re-grass the land.
 2. Permanently remove all materials and waste not associated with an agricultural use (including but not limited to; metal railings, kitchen sink, scrap metal, washing line, camping chairs, trailer, and bags of mixed waste) from the land and restore the Land to pasture.
 3. Permanently cease the use of the Land for a mixed use of agriculture and residential purposes and permanently remove the campervan/motorhome from the land and return the use to solely agricultural purposes.
 - The period for compliance with the requirements is 3 months.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended). Appeal B is proceeding on ground 174(2)(g) only. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decisions

Appeal A

1. It is directed that the enforcement notice is corrected by the deletion of all wording at section 3 of the notice (the matters which appear to constitute the breach of planning control) and its replacement with the following:

Without planning permission:

- i. *the construction of a hardcore pad*
- ii. *the material change of use of Land from agricultural use to a mixed-use comprising agriculture and the stationing of a caravan for residential occupation.*

2. Subject to that correction, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely:

- i. the construction of a hardcore pad
- ii. the material change of use of Land from agricultural use to a mixed-use comprising agriculture and the stationing of a caravan for residential occupation

as shown on the plan attached to the notice and subject to the conditions in the attached schedule.

Appeal B

3. Since the notice is quashed as a result of my decision on Appeal A, no further action will be taken in connection with Appeal B.

Preliminary Matters

Statement of Common Ground

4. I was not provided with a Statement of Common Ground (SoCG) before the hearing but was advised at the event that a draft document was under discussion and might be completed before the close of the hearing. Following an adjournment, I was provided with a signed (but undated) SoCG document.
5. The SoCG says that it is agreed 'That the Ground A Appeal be allowed on a 3 year temporary basis for 1 single unit mobile home, personal to the Appellants and their resident dependents'. When I queried what was meant by this, it was clear that there was not, in fact, agreement on the matter. The appellant's position was that a 3-year temporary permission could be granted, although the preference was still for a permanent permission. The Council, on the other hand, still opposed the development, but would prefer a 3-year permission to a permanent one. While the appellant felt that the Council was resiling from an agreed position, it was clear, following discussion, where the parties stood on the matter, and I am satisfied that the issues relating to the appeal were fully discussed at the hearing on the basis of a proper understanding of the stance taken by both sides. Quite clearly, notwithstanding the wording of the SoCG, there was not agreement as to how the appeal should be decided.

The Enforcement Notice

6. At the hearing the allegation and requirements set out in the notice were discussed. The allegation at section 3 is split into three elements, the second of which is 'the storage of materials, waste and items not associated with an agricultural use of the Land'. I queried this, since the material change of use alleged in the third element of the allegation does not include a storage use. The Council confirmed that the storage is regarded as ancillary to the use alleged but not a primary use in its own right. Accordingly, I have removed it from the notice, since the material change of use alleged must relate to the primary use of the land rather than any ancillary uses.

7. I also queried whether the use alleged at section 3 iii properly captures the use now being carried out. Given that the campervan/motorhome is a caravan for planning purposes¹ the allegation would, in my view, be better expressed with reference to a caravan, which would be a better reflection of the actual use of the land taking place.
8. Both parties were content that changes along the above lines could be made without causing injustice, a view I share, and I shall correct the notice accordingly. I have also removed the unnecessary reference to the hardcore pad being 'unauthorised', a change which does not change the meaning of the notice and, again, causes no injustice to either party.
9. At the hearing, I also queried whether the reference to returning the land to agricultural purposes is necessary, on the basis that the notice should focus on securing the cessation of the unauthorised use, rather than seeking the resumption of a previous use. However, since the notice is to be quashed, the requirements will not take effect, and it is therefore not necessary to make any change to the notice in that respect.

The appellant's proposals

10. The appellant (Appeal A) proposes 2 alternative site layout plans. However, both of these involve moving an existing stable building, which would be development in its own right, beyond the matters alleged in the notice. Consequently, it falls outside the scope of the deemed planning application arising from ground (a). Nevertheless, I have had regard to the drawings insofar as they show how the site might be landscaped and laid out in other respects, matters which could be controlled with planning conditions.
11. A different caravan, including a mobile home of the type contemplated in one of the appellant's options, would fall within the scope of the allegation as corrected.

Ground (a)

Main Issues

12. The site lies within the West Midlands Green Belt. It is common ground that this is inappropriate development in the Green Belt. With that in mind, the main issues are:
 - The effect of the development on the openness of the Green Belt and its purposes.
 - The effect of the development on the character and appearance of the locality, the Wolverley Conservation Area and other heritage assets.
 - Whether the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations, including any need for the development and the personal circumstances of those living at the site, so as to amount to the very special circumstances necessary to justify the development.

The Green Belt

13. Policy DM.22 of the Wyre Forest District Local Plan (2016-2036) sets out the approach to safeguarding the Green Belt. It generally follows national policy that

¹ See s29 of the Caravan Sites and Control of Development Act 1960 and s13 of the Caravan Sites Act 1968 as amended

applied at the time the plan was produced but does not align with aspects of Green Belt policy introduced in the 2024 revision of the Framework. But whichever approach is applied, this is inappropriate development within the Green Belt. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy DM.22 adopts a broadly similar approach.

14. The presence of the motor caravan on the site, together with items such as a portable toilet, kennel, fencing and garden furniture, have eroded the openness of the site and the Green Belt. The hardcore pad creates the opportunity for the parking of vehicles, with consequent further harm to openness. The fact that these items are located close to a substantial hedge rather than in a more open part of the site limits the effect of this to an extent. Nevertheless, since the Framework advises that openness is one of the essential characteristics of Green Belts, some harm arises from the loss of openness.
15. It is common ground that one of the 5 purposes of Green Belt - to assist in safeguarding the countryside from encroachment – is compromised by the development, a view I share. The introduction of a residential use and living accommodation in the form of the motor caravan, together with the hardstanding and fencing, have created a more urban character at a site that was plainly rural in character. The impact is limited to part of the site only, much of it being retained for grazing. The layout of the development could be controlled with planning conditions.

Character, appearance and heritage assets

16. The appeal site is a field which lies alongside a country lane on the edge of the village of Wolverley. Part of the site is at road level, but it falls away further within the site. The site has a lengthy frontage to Drakelow Lane and a substantial hedge runs along this boundary. New close boarded fencing has now been erected behind this hedge. When I visited the site, trees and hedgerows were in leaf and views of the fence were limited, although it could be seen through gaps in the hedge and, in particular, at the site entrance.
17. The access and hardstanding have been formed along the front boundary of the site, to the rear of the hedge. When I visited the site the motor caravan was parked on the hardstanding at the western end of the site.
18. The site lies within, but on the edge of, the Wolverley Conservation Area, and the effect of the development on a number of listed buildings has also been raised. The appellants have provided a detailed heritage appraisal of the development by a qualified specialist.
19. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Where development affects a listed building or its setting, section 66 requires me to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In accordance with the advice in the Framework, I attach great weight to the conservation of the heritage assets in this appeal.

20. I saw that the Conservation Area has a distinctive character, derived in part from its steep topography and sandstone cliffs, varied architecture, a range of materials, including red brick, some key buildings and significant areas of fields and pasture such as the appeal site (prior to the development). The Church of St John the Baptist, a Grade II* Listed Building of red brick construction, stands on high land and is seen in many views around the village, including from Drakelow Lane and the appeal site. Two memorials within the churchyard – the Woodward memorial and the Talbott memorial – are Grade II listed.
21. I understand that the village expanded during the 18th Century due to the development of iron mills in the area, but the surrounding fields will have been farmed, and it appears that the appeal site was formed as a result of enclosure in the 18th Century. The current boundaries of the field were formed by 1882. Thus, the field is a typical and long-standing element of the rural surrounds to the village of Wolverley and contributes to the significance of the conservation area.
22. Much of the appeal site is essentially unchanged by the development and continues to be used for grazing. However, there has been a marked change in that part of the site closest to the road. In particular, the introduction of a residential use and living accommodation in the form of the motor caravan, together with the hardstanding and fencing, portable toilet and dog kennel, along with domestic paraphernalia such as garden furniture, have created a more urban character on land that was firmly rural in character before. This detracts from the rural character of the site and the contribution it makes to the significance of the conservation area.
23. I agree that the visual harm could be reduced to an extent by landscaping and revised boundary treatment. In particular, there is scope to improve the appearance of the entrance of the site by removing the existing close-boarded fencing, something that could be secured with a planning condition. Nevertheless, some of the pasture surrounding the core of the village would be lost, and that harm would remain. Lighting at nighttime would also erode the rural character of the site, even if controlled by planning conditions. While views into the site are limited due to the topography and screening, much of it, including the area occupied by the motorhome, is easily seen from the public footpath that runs past the site. Overall, in my view, there is moderate harm to the character and appearance of the conservation area, which could be reduced to a low level with mitigation measures.
24. As to other heritage assets, the church has a wide setting, formed of the churchyard, the built-up part of the village and the surrounding fields and pasture, including the appeal site. The setting provided by the fields and pasture is important to the significance of the church, given its role as a prominent public building at the heart of the village, serving the village and its rural surrounds. Due to its urbanising effect, the development has eroded the rural character of the site and thereby harms the setting of the church, detracting from its significance. However, the scale of the development, its distance from the church and the screening at the site lead me to agree with the assessment within the appellant's heritage appraisal, which finds a low level of harm to the significance of the church. This harm could be reduced, but not entirely eliminated, with some of the mitigation works proposed by the appellant, including changes to the boundary treatment and landscaping.
25. The listed memorials are smaller structures, experienced in the more immediate setting of the churchyard rather than the wider landscape. In my judgement, the setting of the memorials is not affected by the development.

26. I conclude that the character and appearance of the locality, the conservation area and the setting of the listed parish church have been harmed. This gives rise to conflict with the aims for the countryside, local character, landscape and the historic environment within policies SP.2, SP.20, SP.21, DM.23, DM.24 and DM.26 of the local plan.
27. The Framework advises that where, as in this case, the harm to the significance of designated heritage assets is 'less than substantial', this harm should be weighed against the public benefits of the proposal. I consider later the benefits of this development and the overall planning balance.

General need for and supply of pitches

28. Although the appellant refers to national and regional shortages of Gypsy and Traveller sites, it seems to me that local provision is the key consideration. The *Planning Policy for Traveller Sites* (PPTS) advises at paragraph 28 that 'If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply'.
29. Paragraph 11d) states:
 - d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
 - ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.*
30. The Council's Gypsy and Traveller and Travelling Showperson Accommodation Assessment (GTAA) was published in September 2020. Work on a replacement GTAA is underway, but the Council currently relies on the 2020 document.
31. The GTAA takes account of the 'planning definition' of Gypsies and Travellers in the 2015 version of the PPTS that applied at the time, which is more restrictive than the definition in the 2024 version of the PPTS. It is common ground that the 'planning definition' figures are no longer relevant in light of subsequent court rulings and changes to the PPTS. However, the GTAA also produced figures for the wider 'cultural' need, which was said to accord with the overall needs of the travelling community.
32. The GTAA considers need over the periods 2020/21 to 2024/25, 2025/26 to 2029/30 and 2030/31 to 2035/36. It identifies a total cultural need of 51 pitches in the period 2020/21 to 2035/36. When potential sources of additional pitches were taken into account, a residual need of 35 pitches was calculated. The Council now relies on this figure. The appellant regards it as a minimum, and considers that actual need under the current Gypsy and Traveller definition is likely to be higher.

33. Local Plan Policy SP.14 is concerned with Gypsy and Traveller site provision. It lists sites shown on the proposals map and sets out an assessment of need, based on the GTAA. Policy SP.14 focuses primarily on the 2015 definition in terms of meeting local need, and is consequently out of date in its approach.
34. Irrespective of the precise level of need, it is now common ground, in light of recent appeal decisions at Curslow Lane, Shenstone², that the Council is currently unable to demonstrate a 5-year supply of deliverable sites. The Council's position at the hearing was that, taking account of the single pitch allowed in the most recent appeal, there was now a shortfall of 8 pitches.
35. The appellant's position was that the true figure was likely to be higher. In particular, the appellant pointed to the revised Gypsy and Traveller definition in the 2024 PPTS, which post-dates the GTAA. I agree that this does broaden out the definition (compared to the 'cultural' definition in the GTAA), by the inclusion of 'all other persons with a cultural tradition of nomadism or of living in a caravan'. Thus, I also regard the figure of 8 as a minimum. However, I have no alternative higher figure for the shortfall. Overall, therefore, from the information before me, it appears that there is a shortfall of not less than 8 pitches.
36. There was discussion at the hearing as to when the current shortfall would be addressed. The Council relies largely on the 16 pitches intended for the Zortech Avenue site (Policy SA.K17), a site which the Council has been in the process of selling. I cannot be certain as to whether or when that site will come forward. Sites must be deliverable if they are to make up part of the five-year supply. Deliverability is defined at footnote 4 of the PPTS, which indicates that sites should be 'available now'.
37. The Council advised that the site was being sold with the intention of it being developed for Gypsy/Traveller pitches, with a requirement that planning permission for 16 pitches will be obtained within 2 years. While I do not have firm documentary evidence of that and cannot be certain the Council will achieve its aims, it appears that there are at least good prospects of the site coming forward in a reasonable period of time. If so, regardless of whether it would meet the needs of the appellants personally, the site would contribute to the overall supply of pitches within the district. Nevertheless, as things stand, it is not part of the current supply of available sites.
38. The Council advises that the January 2025 caravan count identified 3 vacant pitches on allocated sites but that does not alter the agreed position that there is currently a shortfall in supply overall.

Personal circumstances and need

39. The site is occupied by the appellants only. I understand that they live there permanently and that it is the only home available to them. It is common ground that the appellants are Gypsies falling within the definition within the PPTS. Although they have previously lived in bricks and mortar accommodation, it appears that that was due to the particular medical needs of a family member at that time, and that they have an aversion to such accommodation in general.

² APP/R1845/C/21/3287457/8 & APP/R1845/C/23/3320687/8

40. I have been provided with medical evidence showing that one of the appellants suffers from some medical conditions and has been prescribed a range of medications and treatments. That evidence is not disputed and suggests a particular need for continued access to medical services.
41. At the hearing I asked what would happen to the appellants if the notice were upheld. I was told that there are no permanent sites available to them and they would consequently be forced into a roadside existence. I cannot be sure of that, but I have to regard it as a distinct possibility, given the wider shortfall of Traveller pitches within the district. It is said that a roadside existence would be particularly difficult and damaging given the health issues raised. I accept that, not least because of the prospect of access to medical treatment being disrupted due to not having a fixed address.
42. I understand that a grandchild comes to the site each day to be looked after and taken to school while his mother is at work. Another grandchild visits regularly.
43. In principle, no planning consideration is more important than the best interests of a child. In this instance, however, while these arrangements are no doubt beneficial to the wider family, the children have their own home and do not live on the site. Overall, I am not persuaded that education or wellbeing of the children would be unduly compromised by the notice being upheld, and attach only limited weight to this consideration.
44. Nevertheless, the personal circumstances and health issues as a whole are compelling and the appellants' need for the development weigh very significantly in favour of a grant of planning permission.

Other considerations

45. The Council has referred to policies designed to steer development away from open countryside, including local plan policy SP.2, and Paragraph 26 of the PPTS, but such general policies add little to the approach to be taken in this Green Belt case. Policy SP.11 is concerned with addressing specific rural housing needs and is not relevant to the issues in this case.
46. I have been referred to a number of appeal decisions, in addition to the ones highlighted above, but none would lead me to any different decision. The appellant refers to two appeal decisions where the permission was granted despite harm to heritage assets. However, those appeals were decided on the facts of the cases, and do not show where the planning balance lies in this case.
47. The Council refers me to appeals at Drakelow Lane and Shatterford Lane Wolverley and Priorslee Road, Shifnal, Shropshire³. The general approach taken by the Inspectors in those cases are consistent with my findings regarding Green Belt impact in this case. As with the appeals at Cursley Lane, Mustow Green⁴, there is a residential element to the use in this case and the site is in the Green Belt, but the facts of that case were different and the decision was taken against a different policy background. The proposal for 3 dwellings at Wolverley Road, Wolverley⁵ was a very different development and of little relevance.

³ APP/R1845/C/22/3299706 & APP/R1845/W/23/3323726 & APP/L3245/W/23/3334142

⁴ APP/R1845/C/17/3175891 & APP/R1845/C/17/3176026

⁵ APP/R1845/W/22/3298447

Human Rights and the Public Sector Equality Duty (PSED)

48. I have no doubt of the important implications of the notice for the occupiers of the site. Loss of their home would represent a serious interference with their right to respect for their private and family lives and homes in accordance with Article 8 of the European Convention on Human Rights, as set out in Schedule 1 of the Human Rights Act 1998. However, that is a qualified right. While the notice would result in people losing their current home, that must be weighed against the public interest of ensuring the proper planning of the locality. I return to this later in the planning balance.
49. I have also had due regard to the aims set out in the PSED of eliminating discrimination, victimisation or harassment against persons with protected characteristics, advancing equality of opportunity for those persons and fostering good relations between them and others. Protected characteristics in this context include race and disability/impairment.

Planning balance

50. This is inappropriate development in the Green Belt and therefore harmful by definition⁶. There is also an element of harm to the openness of the Green Belt and encroachment into the countryside. I attach substantial weight to the harm to the Green Belt. The Framework states that inappropriate development should not be approved except in very special circumstances. These circumstances will not exist unless the development's harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
51. Furthermore, there is harm to the character and appearance of the locality, the conservation area and the setting of the Grade II* listed parish church. I have identified factors that limit the extent of the harm in this instance. Nevertheless, I attach considerable importance and weight to that harm. There is conflict with a number of relevant local policies and I conclude that there is conflict with the development plan as a whole.
52. On the other hand, this development meets the accommodation needs of a household comprised of the two appellants. That is particularly important in this case, because the Council is unable to demonstrate a 5-year supply of pitches for Gypsy and Traveller accommodation. Policy SP.14 is based on an out of date approach to need. The importance of having a 5-year supply is clear from national policy.
53. The need for a pitch at this site is also substantially reinforced by the personal and health needs of the appellants. The loss of their home would clearly have a very significant, harmful impact on them. Indeed, it could lead to a roadside existence, for a temporary period at least, and could have harmful health outcomes.
54. Looking at the case as a whole, I am not persuaded that the matters raised in support of the development would clearly outweigh the harm to the Green Belt and other harm arising from a permanent planning permission. Consequently, very special circumstances do not exist and, in accordance with local and national

⁶ Framework Para 153

policy, including Paragraph 11(d)(i) of the Framework, planning permission should not be granted.

55. However, while it would still be inappropriate development in the Green Belt, the overall level of harm would be reduced in the case of a temporary planning permission. A temporary permission would meet the appellants' immediate needs but would retain the prospect of the harm arising from the development being addressed in the future. In my judgement, the harm arising from a temporary planning permission could, subject to appropriate conditions, be clearly outweighed by the considerations set out above.
56. The question of a temporary planning permission was discussed at the hearing. Notwithstanding the SoCG, the appellant's preference was for a 5-year period, while the Council favoured 3 years. In my judgement, 3 years is an appropriate period, since it appears to me that there is a significant prospect of the Council addressing the current shortfall of traveller sites within that period, including from the Zortech site. While I cannot be sure of that, any future decision relating to this site will be able to take account of the supply situation at that time. A longer period is not desirable, given the harm arising from the development and, on the evidence before me, is not justified.
57. I conclude that the reduced harm arising from a temporary, 3-year planning permission is clearly outweighed by the other considerations outlined above. Consequently, very special circumstances exist and the granting of temporary planning permission on this Green Belt site is justified, notwithstanding the conflict with the development plan. For the same reasons, the adverse impacts of a temporary permission do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, as described in Paragraph 11d) of the Framework.
58. In my judgement, the temporary permission I shall grant represents a proportionate response, which balances the qualified rights under Article 8 against the legitimate planning aims of the Council, and would not result in any violation of the rights of the individuals concerned. For the same reasons, it is consistent with the aims of the PSED.

Conclusion

59. For the reasons given above, Appeal A succeeds on ground (a). I shall grant planning permission for the development as described in the notice as corrected. The enforcement notice will be corrected and quashed. In these circumstances the appeals on ground (g) do not fall to be considered.

Conditions

60. The permission is limited to a period of 3 years for the reasons already given. It is limited to the appellants because it is justified in part on the basis of their specific needs. Since the appellants are named, a further condition restricting occupancy to Gypsies and Travellers only is not necessary. Condition 2 requires the use to cease and the site to be restored when the permission expires, in order to minimise the harm arising from the development.
61. The number and type of caravan on the site, commercial activities and the use of large commercial vehicles are restricted to protect the character of the area. I have

required a site management scheme requiring details of the site layout, drainage, landscaping, landscape maintenance, boundary treatment and lighting to ensure that those matters are addressed in the interests of the proper planning of the site, its appearance and biodiversity, and to ensure compliance with aspects of local plan policy DM.5, which is concerned with site standards for Gypsy and Traveller sites. This condition combines several items proposed by the parties in separate conditions.

Peter Willows

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Angus Murdoch BA MSC PhD MA
MRTPI

Nichola Burley Dip Cons Arch, MRTPI, IHBC Heritage Vision Ltd

Rhodri Crandon TDA

Henry Smith Appellant

Diane Smith Appellant

Ruby Schofield Relative

Shaun Schofield Relative

FOR THE LOCAL PLANNING AUTHORITY:

Helen Hawkes Planning Manager

Richard Jennings Principal Planning Team Leader

Sam Hawkins Planning Enforcement Officer

Robert Wall Planning Officer

Jamie Richards Conservation Officer

DOCUMENTS SUBMITTED AT THE HEARING

1. Appeal Decision APP/R1845/C/23/3320687 & APP/R1845/C/23/3320688
2. Statement of Common Ground
3. Suggested Conditions
4. Email dated 25 March 2025 from Nichola Burley to the Planning Inspectorate

CONDITIONS

- 1) The site shall be occupied only by Henry Smith and Diane Smith and their resident dependants, and shall be for a limited period of 3 years from the date of this decision, or the period during which the site is occupied by them, whichever is the shorter.
- 2) When the site ceases to be occupied by those named in condition 1 or at the end of 3 years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use, shall be removed and the land restored to its condition before the development took place.
- 3) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 4) No more than 1 caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, shall be stationed on the land at any time.
- 5) No caravan falling within the definition of a twin unit caravan set out in the Caravan Sites Act 1968 as amended shall be stationed on the land at any time.
- 6) No commercial activities shall take place on the land, including the storage of materials.
- 7) The use hereby permitted shall cease, the hardcore pad shall be removed and all equipment and materials brought onto the land in connection with the use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for the following (hereinafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation:
 - the internal layout of the site, including the siting of the caravan, hardstanding, access road, parking and amenity area
 - details of foul and surface water drainage
 - a scheme of landscaping, which shall include details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development
 - Details of how the landscaping is to be maintained
 - Details of boundary treatment, which shall include the removal of the existing close-boarded fencing at the site entrance
 - Details of any external lighting
 - ii) If within 9 months of the date of this decision 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.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained and retained in accordance with the approved details for the life of the development.

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.

APPENDIX 15



Appeal Decisions

Hearing and site visit held on 7 August 2024

by A U Ghafoor BSc (Hons) MA MRTPI ACMI fCMgr

an Inspector appointed by the Secretary of State

Decision date: 25 September 2024

Appeals A & B Refs: APP/R1845/C/21/3287457 and 58

The Beeches, Curslow Lane, Shenstone, Kidderminster DY10 4DX

1. The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended ("the 1990 Act"). Appeal A is made by Mr N McGinley and Appeal B is made by Mr Joseph McGinley against an enforcement notice issued by Wyre Forest District Council.
2. The notice was issued on 27 October 2021.
3. The breach of planning control as alleged in the notice, as corrected, is the change of use of the land from equestrian use to a mixed use for the stationing of caravans for residential occupation and the keeping of horses and operational development including the laying of services, installation of a septic tank and associated pipework, laying of hardstanding and erection of ranch fencing, sheds and external lighting in connection with the mixed use.
4. The requirements of the notice, as varied, are to:
 1. Cease the mixed use of the land for the stationing of caravans for residential occupation and the keeping of horses.
 2. Remove from the land all caravans, services, septic tanks and associated pipework, hardstanding, ranch fencing, sheds and external lighting.
 3. Restore the Land to its condition prior to the breach of planning control.
5. The period for compliance with the requirements, as varied, is 12 months.
6. Appeal A is proceeding on the grounds set out in section 174(2)(a), (b) and (g) of the 1990 Act.
7. Appeal B is proceeding on the grounds set out in section 174(2)(b) and (g) of the 1990 Act. Since ground (a) is not pleaded, Appeal B an application for planning permission is not deemed to have been made under section 177(5) of the 1990 Act.

Summary of Decision: Appeal A is allowed, the enforcement notice is quashed, and temporary planning permission is granted for three years, subject to conditions, as set out in the formal decision below. No action is taken in Appeal B.

Appeal C Ref: APP/R1845/W/21/3285175

- The appeal is made under section 78 of the 1990 Act against a refusal to grant planning permission.
- The appeal is made by Mr Noel McGinley against the decision of Wyre Forest District Council.
- The application Ref 21/0666/FUL, dated 2 July 2021, was refused by notice dated 21 September 2021.
- The development proposed is change of use of Land for the creation of 6 Gypsy/Traveller pitches comprising the siting of 6 mobile homes & 6 touring caravans.

Summary of Decision: The appeal is dismissed.

Preliminary matters

1. Corrections and variations made by the previous Inspector to the issued notice are not contentious as no injustice is caused to any party: for clarity, I have also adopted them in my banner header above. The s78 planning appeal is for 6 pitches and not 5 as stated in the application form.
2. The Inspectorate's decision issued on 22 March 2023 was challenged in the High Court pursuant to section 288 and 289 of the 1990 Act. Permission was subsequently granted on 14 November 2023. The claim was conceded by consent (order dated 12 March 2024). I must only redetermine ground (a) and the s78 appeal (Appeal A and C).

Appeal A and C - ground (a) & S78 appeal

3. For background information, the site's lawful use is the keeping of horses. There is a stable type of structure, and the site is accessed via an existing roadway. The terms of the deemed application are directly derived from the corrected allegation. Essentially, planning permission is sought for the mixed-use referred to in the banner header. In Appeal C, the scheme includes some retrospective-and-prospective development given the change to the site's layout.

Main issues

4. The site is located inside the Green Belt and a residential caravan site of this kind constitutes inappropriate development. The unauthorised use and proposed scheme would have an adverse effect on openness of the Green Belt and conflict with the fundamental aim of keeping land open. The appeal parties also agree with the previous Inspector's findings on highway safety and sustainability: I concur. The appellant challenges landscape findings, however.
5. The common main issues are firstly, the effect of the Appeal A and C development on the character of the landscape, and secondly, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the grant of planning permission.

Reasons - *character of the landscape*

6. I undertook a comprehensive accompanied site visit to gain an impression of the site and locality. The appellant contends that the site and the land surrounding it is not the subject of any landscape designations such as an Area of Outstanding Natural Beauty, but its character has been assessed and recorded in the Worcestershire County Council Landscape Character Assessment Supplementary Guidance (Landscape Character Assessment SG). The site lies at the boundary between two landscape character areas: Principal Timbered Farmlands, which lie to the south and the Estate Farmlands to the north.
7. The Principal Timbered Farmlands are recorded as being characterised by amongst other things a small-scale landscape with scattered hedgerow trees. The approach to the site from the south along Curslow Lane is typical of this landscape. In contrast the Estate Farmlands are described as an ordered agricultural landscape characterised by medium to large scale fields.

8. There are public footpaths to the north and west of the appeal site. There are glimpsed views of the site for a short distance along the footpath on the opposite side of Curslow Lane which runs perpendicular to the road. Extensive hard standings have been laid on the site to accommodate the caravans and the access has been altered to provide improvements to visibility splays. The latter has involved the removal of roadside trees and vegetation. The stable/hay barn has been retained on the site together with an open area parallel to the road. As a result, the caravans are currently set back from the road. The same arrangement applies in the Appeal C scheme.
9. Curslow Lane is at a low point relative to the land to the west and this results in the level of the land rising away from the road across the site. The notice relates to land that was probably grassland before the caravans were brought onto the site. However, the latter was also used for equestrian-related activities and included a stable or hay barn, an area enclosed by fencing described as a sand school and the access serving these facilities. That said, given the site's location and positioning, it is reasonable to assume that the character of the land was not dissimilar to the verdant, green, and natural appearance of the surrounding countryside. Contrary to the appellant's arguments, I consider that the introduction of the residential use, facilitated by the stationing of caravans and associated work, has significantly changed the site's physical characteristics.
10. Keeping of horses for recreational use is also likely to have had a visual effect on the appearance of the landscape. However, in comparison, the caravans facilitate a residential use. The latter introduces domestic living to this part of the countryside where caravans are not a feature of the landscape. Fencing divides the pitches from the paddocks and there are physical barriers dividing areas occupied by the caravans. A similar arrangement is shown on the proposed site layout plan in Appeal C and planting along the site boundaries could have a softening effect. The caravans and associated development are, and would be, noticeable to the naked eye when seen from the site access and highway. This is because of the site's layout and positioning, and the area's topography. The introduction of domesticity across the site, facilitated by the stationing of caravans, external lighting and the placing of outdoor furniture or washing lines, individually or cumulatively, appears as incongruous features I disagree with the claim that the evergreens planted along the site's boundary reduce the visual impact of the residential caravan site.
11. In Appeal C, the layout places the caravans in closer proximity to each other than they are at present such that the area of the pitches is much smaller. However, 6 mobile homes and tourers are proposed to be accommodated and there will be limited space between them other than for parking. A separate amenity area is shown providing a secure, gated space for the residents. Compared to the current setup, the caravans would not extend across the site. That said, they would be larger than the current touring caravans. The proposed scheme in Appeal C would appear out of keeping with the rural character of the landscape.
12. Much is made of the locality's existing features. To the south of the site, there are two plots accommodating residential caravans and buildings. There is some confusion as to their planning status. The appellant insists on comparisons with the appeal site and caravans associated with the fishing lakes. Similarly, there are substantial buildings served by Curslow Lane to the south of the site which are visible from the public footpaths because of the typography of the land. However, these do not substantially detract from the predominately rural nature of the landscape surrounding the site and as described in the Landscape Character Assessment SG. In any event, while there are caravans found nearby and in the wider locality, I am concerned with the visual impact of this appeal site's residential use.

13. I too find that the development is visible from the surrounding area, noticeable in views from the highway and footpaths. The introduction of caravans and paraphernalia associated with domestic lifestyles is likely to significantly harm the character and appearance of the surrounding area. The Appeal A and C development would be contrary to Policy SP.20 of the Wyre Forest Local Plan (LP), which requires new development to integrate effectively into its surroundings and to be a positive addition to the landscape.

Other considerations - *The need for and supply of gypsy and traveller sites*

14. There was much debate about the need for more pitches in the district. The previous Inspector's approach to this topic was also the focus of the challenge. The Council insist that it has identified the need for additional pitches as set out in the 2020 Gypsy and Traveller Needs Assessment (GTNA). However, Annex 1 to the revised PPTS contains a definition of gypsies and travellers for planning purposes. The Council's approach to meeting the needs of those who do not meet the PPTS definition needs to be addressed given this latest update: I am not satisfied the GTNA does not provide a robust enough evidence base as it requires a refresh. The level of need for additional pitches is likely to increase not decrease.

15. As the PPTS advises, in producing their LP, authorities should identify, and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. Footnote 4 contains guidance on what constitutes deliverability¹. My attention is drawn to LP Policy SP.14, which is underpinned by the GTNA. The Policy indicates that the need throughout the 15-year plan period is 13 pitches under the PPTS definition, 3 of which were required in the first five years to 2024/25. There is a further wider need for 22 pitches for those who did not meet the PPTS definition at that time. The need is set out in table 7.0.4, which forms part of the reasoned justification to Policy SP.14.

16. The table contains two columns differentiating between the need in PPTS terms and the wider 'cultural need'. The PPTS column begins with the 5-year shortfall to 2024/5. That figure is reduced by 3 pitches to allow for potential turnover on existing sites and by a further 4 pitches to allow for expansion of existing sites, but it is unclear as to how, when and where this turnover is likely to occur, or which sites are expanded. After taking account of the provision of 4 new pitches on a new site at Wilden Lane, the residual PPTS to 2024/25 is calculated at 3 pitches: the residual pitch requirement for non-PPTS is 14. It seems to me that the level of unmet need lacks clarity given the position with the GTNA and reliance on turnover on existing pitches and the expansion of sites.

17. On the supply side, again there is an over reliance upon turnover and use of existing sites via expansion without clear explanation as to how or which sites are to be expanded. LP Policy SP.14 sets out a list of sites which are safeguarded to meet the needs of gypsies and travellers over the plan period and the vast majority are already in use.

18. There was much debate about two site allocations – Site M (Wilden Lane) and N (Zortech Avenue). Site M is unlikely to come forward any time soon and I regard it as not deliverable within the first five years to 2024/2025. The evidence does not clearly show this site is likely to come forward any time soon. This is because it is in private

¹ To be considered "deliverable", sites should be available now, offer a suitable location for development, and be achievable with a realistic prospect that development will be delivered on the site within five years. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within 5 years".

ownership, it is a scrap yard and there is no evidence to indicate the current owner intends to apply for planning permission to change its use to a residential caravan site for gypsies and travellers.

19. Zortech Avenue, which is a 1.48 ha site allocated for 16 pitches, is available to purchase and the intention is for it to be delivered during 2021 to 2026. The land was part of the former Burlish Golf course and has been extensively tipped with hardcore. It is adjacent to the proposed site for the travelling showpeople and it shares an access drive from Zortech Avenue. While adjacent to an industrial unit, it is also close to a residential area with easy access to a range of facilities including education. The Council will consider a separate access from Walter Nash Road West, which would provide a more direct route for residents of the site to access local schools, shops, and the nearby play facilities.
20. The Council explained that it wishes to prepare the site for 16 pitches by retaining hardcore on the land. The evidence presented demonstrates a willingness to do the work as the Council has obtained quotations for the preparatory work, and undertaken soil sampling. However, prior to any utility provided or pitches constructed, the work requires significant engineering operations given the considerable amount of tipped material. Evidently, all this requires financial investment, due to the nature, extent, and scale of preparatory works.
21. In addition, there is a need to obtain planning permission for the residential caravan site and the evidence presented does not clearly show to me how standards for 16 pitches, as set out in LP Policy DM.5, would be achieved given this site's layout and the topography. It is also unclear how appropriate buffering would be provided for the adjacent Burlish Top nature reserve and to screen the development from the adjacent dwellings on Birchen Coppice. There is lack of clarity on vehicular access from either Zortech Avenue or Walter Nash Road West.
22. I share the Council's optimism about the potential for Zortech Avenue as it could go some way in meeting the short-to-medium unmet need for additional pitches within the district in a suitable and sustainable location and setting. However, given what I have already said elsewhere, the quantum of the evidence presented, including documentary and oral evidence, makes me doubt if Zortech Avenue will come forward by 2026, as envisaged by LP Policy SA.K17.
23. Drawing all the above points together and given my findings about Zortech Avenue and Wilden Lane site, I disagree with the previous Inspector's conclusions that, as it stands, the Council can identify a 5-years' worth of deliverable sites against the locally set target in the LP.

Availability and lack of alternative accommodation

24. The appellant and his family left the site at Sandy Lane for various reasons and would not move back – that site does not meet the needs of his family in terms of security. The Zortech Avenue site is suggested by the Council as an alternative, but the appellant cannot afford that site, especially if the preparatory costs are added to the purchase price. Additionally, if Zortech Avenue was a realistic option, the appellant is concerned that he and his family are Irish Travellers and mixing with other types of gypsies on a large site would present challenges. Furthermore, the appellant said that he would prefer a site which accommodated his family only given his concerns about security and safety and in terms of his and his family's health. However, it has not

been shown that part of the Zortech Avenue site could not be secured to meet the needs of the appellant in these regards.

25. To be regarded as a genuine or realistic alternative, the Zortech Avenue site would need to be shown to be suitable, affordable, acceptable, and available. The reasons why the appellant finds this site to be unsuitable and unacceptable need to be tempered by the fact that at present the land is not in use by any gypsy or traveller group and has not been laid out. However, it would be unreasonable to expect the appellant to acquire all the land and in that context his concerns regarding living on the same site as gypsies and travellers from other ethnic groups remain valid. I too find that the evidence presented to me does not show that alternative accommodation is affordable. Therefore, at present, Zortech Avenue has not been demonstrated to be a realistic alternative in terms of affordability and availability.

Personal circumstances of the appellant and his family, including best interests of the children

26. There has been change in the personal circumstances since the previous Hearing. Given the sensitive nature of the personal circumstances, I will not explain them here. The health and educational needs of the occupiers are well documented and the evidence is unchallenged. Clearly, the development allows for an extended family to live together enabling them to provide support for each other, which is acknowledged as of importance to the gypsy and traveller community. It is reasonable to assume that a stable base from which to access education and healthcare is in the best interests of the occupiers, including the children. Similarly, the occupation of the site by much of the extended family allows members to help with caring, parenting and meeting the needs of those who have health concerns.

Human Rights and Public Sector Equality Duty

27. These rights must be considered under Article 8 of the European Convention on Human Rights (ECHR)². This includes not only respect for home but also private and family life and traditional gypsy lifestyle. The refusal of planning permission could result in the entire site's occupiers being evicted. Interference with their home, private and family life is therefore serious, but must be balanced against the wider public interest in pursuing the legitimate aims stated in Article 8. In this location, the inappropriate nature of the development represents a grave land-use objection. There is a need for restrictive policies to be applied to such areas and this restriction is an appropriate proportional response to that need.
28. There is no alternative site presently suitable and available for occupation in the district, or indeed, the wider area: that makes interference more serious and, as indicated above, given that background, it would be in the best interests of each child to remain on the site. This is a primary consideration in the proportionality assessment required by Article 8. It is necessary to consider whether it would be proportionate to refuse planning permission in all the circumstances of this case. I shall consider whether refusal would have a disproportionate effect on the appellant and occupiers of the site in my overall conclusions.
29. Occupiers are Irish Gypsies and are persons who share a protected characteristic. I have borne in mind the need to eliminate discrimination; advance equality or opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a

² The ECHR protections have been codified into UK law by the Human Rights Act 1998.

relevant protected characteristic and persons who do not share it. The need for a settled base together with the present lack of a suitable available alternative site and the general unmet need have been considered. I will assess if dismissal of the appeals would be proportionate in the light of any potential equality impacts in my overall conclusions.

Planning balance - conclusions on ground (a) & s78 appeal

30. The development in Appeal A and C have harmful implications for the Green Belt in terms of inappropriateness, erosion of openness and encroachment into the countryside, which is a serious planning objection. In accordance with national policy, such harm carries substantial weight. Accordingly, there is conflict with the Green Belt protection objectives found in national and local planning policy. There is significant harm to the character and appearance of the countryside contrary to LP Policies DM.22 and SP.20.
31. I too attach moderate weight to the previous findings about intentional unauthorised development, which, evidently, had occurred. However, the previous Inspector's findings on highway safety and sustainability are neutral in the planning balance in that they neither weigh in favour or against the schemes.
32. To my mind, there is a clear and immediate unmet need to accommodate gypsies and travellers in the district. The evidence presented does not show to me there is an immediate prospect that this unmet need will be properly satisfied soon. Nonetheless, the LP has allocated sites to come forward, but none seem to have materialised in the first five years of the LP. The level of need has increased as time marches on. Nevertheless, having heard the Council's evidence on this matter, I am optimistic, and steps are now being taken to address shortcomings. This finding weighs, significantly, in support of granting planning permission for Appeal A and C.
33. There is deficiency in that the Council cannot demonstrate an up-to-date five-year supply of deliverable traveller sites. This should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. However, as the PPTS points out, the exception is where the proposal is on land designated as Green Belt, such as this site.
34. There is no other site available at the current time. If the families are forced to leave the site now, it is likely they would resort to living on an unauthorised roadside encampment which is not conducive to their health and wellbeing and has other implications. Given enforcement action has been taken, the latter is a realistic prospect. I attach moderate weight to the lack of an available alternative site.
35. The personal circumstances add further weight in favour of granting planning permission. The PPTS, however, explains that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. The best interests of the children are of considerable importance, but these interests do not always outweigh other considerations. The best interests of the children involved would clearly be served if families had a settled base.
36. The case in favour of planning permission, in Appeal A and C, has been forcefully put. Nevertheless, in my planning judgment, the advanced considerations in support of the appeals, whether taken individually or cumulatively, do not, on balance, clearly outweigh the conflict with planning policies designed to protect the Green Belt so as to justify the grant of a permanent planning permission on the basis of very special circumstances. Although, at present, there is no alternative site for the

appellant/occupiers to go to, in all the circumstances it is not disproportionate to refuse permanent planning permission right now. I shall, however, consider the grant of temporary planning permission next.

37. The totality of harm to the Green Belt is substantial. Although it would be reduced were it for only a limited period, the PPTS states that even temporary traveller sites are inappropriate development in the Green Belt which again should only be granted permission on the basis of very special circumstances. The material considerations to which regard must be had in granting any permission are not limited or made different by a decision to make the permission a temporary one. The latter might be appropriate where planning circumstances will change in a particular way at the end of that period.
38. The appellant submits that a conditional temporary planning permission for 5 or 3 years should be granted. However, the Council is making some progress in addressing alternative site provision to meet current and future need. It seems to me that alternative site provision is likely to come forward within the next couple of years. Estimates for site clearance and preparation works at Zortech Avenue have been obtained. A longer period would give sufficient time to allow for the completion of the plan-making process as well as examining alternative site options, addressing the need, and identifying a five-year deliverable supply of sites. It would allow for the possibility of the provision of a gypsy site through the grant of planning permission once suitable sites have been identified.
39. The NPPF and PPTS provide a very strong and considerable incentive to proceed quickly with site allocations in a planned and coordinated manner. The discussion at the Hearing is persuasive and I believe the Council is responding to previous shortcomings and action is being taken to address the needs of travellers via plan-making. On this occasion, the Council is serious and proactively taking steps to address the needs of gypsies and travellers in its administrative area. The possibility of planning circumstances changing by at least end of 2027 seem realistic, and relate to the potential Zortech Avenue site, and updating of the GTNA. There is a clear and precise timetable for change. For these reasons, I consider that a shorter period of three years is reasonable.
40. Having regard to all of the evidence presented on this topic and the particular circumstances of this case including personal circumstances and the lack of alternative site for the appellant and occupiers to go to right now, thus forcing them to roadside existence, I am of the firm opinion that a three year temporary planning permission is wholly reasonable and a pragmatic approach to this planning conundrum as circumstances are likely to change at the end of three years in a particular way. Additionally, temporary permission would give the appellant and occupiers a base from which they can access health and educational facilities. I am satisfied that this would be a proportionate approach to the legitimate aim of protecting the environment, and it would have no greater impact on the appellant/occupiers than would be necessary to address the wider public interest.
41. On the circumstances and facts of this case, it is therefore concluded that, on balance, the points raised in support of Appeal A, including best interests of the children, are sufficient to clearly outweigh the harm identified so that very special circumstances exist, provided that the use is limited to a period of three years from the date of my decision.

Conditions³

³ The Council did not suggest any conditions, but I have reviewed those previously referred to in the officer report.

42. I will consider imposing conditions only in relation to Appeal A. Bearing in mind the need to allow sufficient time to find an alternative site with planning permission, and the local planning process to take its course, I consider three years is justified and reasonable. A restoration scheme would need to be agreed with the Council.
43. A condition limiting occupation to the appellant and resident dependants is necessary because the personal circumstances which have weighed in the overall balance in favour of the grant of temporary permission. Occupiers are gypsies for planning purposes, nevertheless, it is necessary to additionally impose a condition restricting occupation to those persons who fall within that planning policy definition, because I have placed weight on status.
44. I am not persuaded a drainage scheme is required neither are there access improvements needed given the provision of onsite facilities and the permission is temporary in nature. Commercial activity and vehicle sizes should be restricted. However, since a temporary planning permission is justified, I concur that it would be too onerous to require a comprehensive landscaping scheme, though some landscaping has taken place.
45. In the interests of visual amenity and given the site's location as well as the fact that temporary permission is granted, I shall impose a condition limiting the number of pitches to six, which reflects the current makeup and occupiers of the site. I will also limit the number of caravans to 6 given the effect on character if the landscape. Each pitch can only have 1 caravan. Any variation is a matter for the appellant and Council to resolve.

Overall conclusions - Appeals A, B and C

46. Having considered all other matters, for all the above reasons, my conclusions are that ground (a), Appeal A, should be allowed for a limited period of three years. In Appeal B, I take no further action and the enforcement notice will be quashed because of allowing Appeal A. Appeal C should be dismissed.

Formal decisions - Appeal A

47. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the mixed use for the stationing of caravans for residential occupation and the keeping of horses and operational development including the laying of services, installation of a septic tank and associated pipework, laying of hardstanding and erection of ranch fencing, sheds and external lighting in connection with the mixed use at The Beeches, Curslow Lane, Shenstone, Kidderminster DY10 4DX, subject to the following conditions:
- 1) The use hereby permitted shall be for a limited period being the period of three (3) years from the date of this decision.
 - 2) The occupation of the site hereby permitted shall be carried on only by Noel and Joan McGinley, Annemarie McGinley, Dennis and Caroline McGuire, Julie McGinley and Joe Mannings, Ned and Josephine Ward, Patrick and Cindy McGinley, Theresa McGinley Joseph (Gerry) and Victoria McGinley, and their resident dependants only.
 - 3) When the land ceases to be occupied by the named individuals in condition 2) and their resident dependants, or at the end of 3 years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land to facilitate that use, or works undertaken to it in connection with the use, shall be removed and the land restored to its condition

before the development took place, in accordance with a scheme and timetable of works that shall first have been submitted to and approved in writing by the local planning authority.

- 4) 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* (or its equivalent in replacement national policy).
- 5) There shall be no more than six (6) pitches on the site and on the pitches hereby approved no more than one (1) caravan shall be stationed at any time as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended.
- 6) No more than one commercial vehicle shall be kept on the land whatsoever for use by the occupiers of the caravans hereby permitted, and it shall not exceed 3.5 tonnes in weight. No commercial activities shall take place on the land, including the storage of materials.

Appeal B

48. No further action is taken.

Appeal C

49. The appeal is dismissed.

A U Ghafoor

INSPECTOR

APPEARANCES

For the appellant:

Alison Heine	Agent
Noel McGinley	Appellant

For the Council:

Richard Jennings	Team Lead, Planning Enforcement
Helen Hawkes	Planning manager
Heather Stone	Planning Policy

DOCUMENTS SUBMITTED TO THE HEARING

By the appellant:

Two letters from Abigail Martin Tuition relating to home schooling.

By the local planning authority:

Plan showing public footpaths in the vicinity of the site.

Extracts from Wyre Forest District Local Plan (2016-2036) (2022) relating to allocated sites for gypsy and traveller development at Firs View, Wilden Lane and Land rear of Zortech Avenue.

Redline plan of Land rear of Zortech Avenue

Landscapes of Worcestershire – Landscape Type Advice Sheets – Principal Timbered Farmlands and Estate Farmlands and extract from Worcestershire County Council website.

APPENDIX 16

Report to London Borough of Havering Council

by Susan Heywood BSc(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Date: 14 October 2021

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Havering Local Plan

The Plan was submitted for examination on 27 March 2018

The examination hearings were held from 9 – 18 October 2018 and 29 – 30 May 2019

File Ref: PINS/B5480/429/9

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Abbreviations used in this report

dpa	dwellings per annum
ELR	Employment Land Review 2015 (LBHLP.20)
ELWP	East London Waste Plan
FMM	Further Main Modifications
GLA	Greater London Authority
GTAA	Gypsy and Traveller Accommodation Assessment
HPS	Housing Position Statement
HRA	Habitats Regulations Assessment
LDS	Local Development Scheme
LP2021	London Plan 2021
LSIS	Locally Significant Industrial Sites
MM	Main Modifications
NPPF	National Planning Policy Framework
ONEL	Outer North East London
PPG	Planning Policy Guidance
PPTS	Planning Policy for Traveller Sites
PTAL	Public Transport Accessibility Level
SA	Sustainability Appraisal
SDA	Strategic Development Area
SHMA	Strategic Housing Market Assessment
SIL	Strategic Industrial Location
SINC	Site of Importance for Nature Conservation
SPG	Supplementary Planning Guidance
TfL	Transport for London
UCO	Use Classes Order

Non-Technical Summary

This report concludes that the Havering Local Plan provides an appropriate basis for the planning of the borough, provided that a number of main modifications are made to it. The London Borough of Havering Council has specifically requested that I recommend any main modifications necessary to enable the Plan to be adopted.

The main modifications all concern matters that were discussed at the examination hearings. Following the hearings, the Council prepared schedules of the proposed modifications and carried out sustainability appraisal and habitats regulations assessment of them. The main modifications were subject to public consultation over an eight-week period. An additional seven-week consultation took place on further main modifications needed to ensure the Plan is in general conformity with the London Plan 2021 and on an updated sustainability appraisal and habitats regulations assessment. In some cases, I have amended detailed wording of the modifications to take account of representations made in response to the consultations. I have recommended their inclusion in the Plan after considering the sustainability appraisal and habitats regulations assessments and all the representations made in response to consultation on them.

The Main Modifications and Further Main Modifications can be summarised as follows:

- Set out the need for an immediate update of the Plan and explaining the relationship of the Plan to the London Plan 2021, to ensure the Plan is positively prepared and effective;
- Identify the policies which are superseded by the Plan to ensure the Plan is legally compliant;
- Amend the objectives and various policies to include the need to support greater use of the River Thames for freight and passenger transport in line with the London Plan and national policy relating to sustainable travel;
- Various modifications to amend policies to ensure general conformity with the London Plan 2021, including those relating to the housing requirement, affordable housing targets and parking standards;
- Set out the benchmark figure for older person's housing and identify the need from the most up to date needs report, in order to ensure that the Plan is positively prepared, justified and effective;
- Amend Policy 11 relating to Gypsies, Travellers and Travelling Showpeople accommodation to reflect updated needs assessment, identify additional sites to meet the need and remove those sites from the Green Belt, all to ensure the Plan is positively prepared, justified, effective and consistent with national policy;
- Amend policies 19, 20, 21 and 22 to clarify the criteria, to reflect evidence of the amount of land which can be released from employment use and to reduce the affordable workspace requirement, in order to ensure the policies are justified, effective, consistent with national policy and in general conformity with the London Plan;
- Inclusion of a monitoring framework to ensure the Plan is effective;
- A number of other modifications to ensure that the plan is positively prepared, justified, effective and consistent with national policy.

Introduction

1. This report contains my assessment of the Havering Local Plan in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is compliant with the legal requirements and whether it is sound. The National Planning Policy Framework (NPPF) 2012 (paragraph 182) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. A revised NPPF was published in July 2021. Paragraph 220 states that the policies in the original NPPF published in March 2012 will apply for the purpose of examining plans, where those plans were submitted on or before 24 January 2019. The Havering Local Plan was submitted in March 2018. Therefore, unless stated otherwise, references in this report are to the 2012 NPPF.
3. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound Plan. The Havering Local Plan, submitted in March 2018 is the basis for my examination. It is the same document as was published for consultation in August 2017.

Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any main modifications (MMs) necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2** etc.
5. Following the examination hearings, the Council prepared a schedule of proposed MMs and carried out sustainability appraisal (SA) and habitats regulations assessment (HRA) of them. The MM schedule was subject to public consultation for eight weeks. An additional seven week consultation took place on further main modifications (FMMs) needed to ensure the Plan is in general conformity with the London Plan 2021 and on an updated SA and HRA. These further MMs are identified in the form **FMM1** etc in the report. Some of these FMMs supersede previous MMs. All MMs and FMMs are set out in full in the consolidated Appendix.
6. I have taken account of the consultation responses in coming to my conclusions in this report and in this light I have made some amendments to the detailed wording of the MMs and FMMs where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal/habitats regulations assessment that has been undertaken. Where necessary I have highlighted these amendments in the report.

Policies Map

7. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council are required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as Proposals Map Changes Booklet July 2017 (document LBHLP.2.1) and Addendum March 2018 (document LBHLP.2.2).
8. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, a number of the published MMs / FMMs to the Plan's policies require further corresponding changes to be made to the policies map.
9. These further changes to the policies map were published for consultation alongside the MMs and are contained within the Proposals Map Changes Booklet Addendum December 2019 (document MMC02). The latter document supersedes some of the gypsy site allocations in the earlier documents.
10. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted proposals map to include all the changes proposed in Proposals Map Changes Booklet July 2017 (document LBHLP.2.1), Addendum March 2018 (document LBHLP.2.2)¹ and the further changes included in the Proposals Map Changes Booklet Addendum December 2019 (document MMC02) published alongside the MMs. This will become the policies map for the Havering Local Plan 2016-2031.

Context of the Plan

11. Havering is an Outer London borough and the Plan must therefore be in general conformity with the London Plan. The Local Plan was prepared, and much of the Examination was undertaken, under the former London Plan 2016. The London Plan 2021 (LP2021) was published on 2 March 2021.
12. Further MMs have been put forward to ensure general conformity with the LP2021. However, given that the LP2021 was adopted at a late stage in the examination, it has not been possible for the evidence base documents for this Plan to be updated. This would have resulted in considerable delay in the examination and adoption of the Plan.
13. The Plan includes a commitment to an immediate update² and it is considered pragmatic to allow this Plan to proceed to adoption on this basis. This is in

¹ Apart from those superseded and replaced by the changes in the Proposals Map Changes Booklet Addendum December 2019 (document MMC02)

² The NPPF 2021 paragraph 33 sets out that Plans should be reviewed to assess whether they need updating at least once every 5 years and should then be updated as necessary. The commitment in the Plan is to undertake an immediate update rather than simply reviewing the policies to assess whether they need updating.

line with the Government's deadline for all authorities to have an up-to-date plan in place by December 2023. The relative certainty that will be provided by finalising the Plan will be beneficial in terms of encouraging sustainable development.

14. In order to ensure that the Plan is effective therefore, a FMM (**FMM1**) is necessary to explain the relationship of the Plan to the LP2021. It also sets out the need for an immediate update of the Plan, in accordance with specified timescales, in order to ensure that the Plan has full regard to the LP2021 and latest Government guidance. I have made a minor alteration to this FMM to reference the 2021 NPPF which was published after the consultation on the FMMs began.
15. The current adopted Local Development Framework 2008 includes the Core Strategy and Development Control Policies document, the Site Specific Allocations document and the Romford Area Action Plan. Once adopted the Havering Local Plan will supersede the Core Strategy and Development Control Policies document. The Local Plan indicates broad locations for housing, employment, retail, leisure, transport, community services and other types of development. It also allocates sites for Gypsy and Traveller pitches, a matter which is addressed in detail below.
16. When the Plan was submitted, it was the Council's intention to prepare a future Site Specific Allocations Local Plan to identify individual sites for specific uses. It is currently the Council's intention to incorporate site allocations into the immediate update of this Plan. In the interim period, the existing allocations in the Romford Area Action Plan and Site Specific Allocations document remain extant.

Public Sector Equality Duty

17. The Council carried out an Equalities Impact Assessment to inform the preparation of the Plan (LBHLP.6). I have had due regard to the three aims expressed in section 149(1) of the Equality Act 2010 and in particular considered how the Plan's policies and proposals are likely to affect people from groups with "protected characteristics"³. This has involved my consideration of several matters during the examination including those relating to different types of housing need, including for people with disabilities, older people and travellers; achieving thriving communities; promoting economic development; supporting sustainable transport connections and achieving high quality places and green places. My findings in relation to those matters are set out in subsequent sections of this report.

Assessment of Duty to Co-operate

18. Section 20(5)(c) of the 2004 Act (the Planning and Compulsory Purchase Act 2004) requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation. The Council set out the actions that they have undertaken in this regard in a Duty to Co-

³ Age; disability; gender reassignment; marriage and civil partnerships; pregnancy and maternity; race; religion or belief; sex; and sexual orientation (section 149 of the Equality Act 2010).

operate Statement (LBHLP.4). This describes the activities that it has undertaken with other bodies in order to maximise the effectiveness of the Plan's preparation.

19. Co-operation has taken place with the Greater London Authority (GLA) and a number of London boroughs including the adjoining boroughs of Redbridge, Barking and Dagenham and Bexley. Havering also adjoins Epping Forest District Council to the north, Brentwood Borough Council to the east and Thurrock Council to the south-east. The Council have co-operated with these authorities and with Essex County Council. Co-operation has taken place in relation to a range of matters, including the homes and jobs required for the borough, the approach to the Green Belt and the infrastructure required to support the level of growth. A Statement of Common Ground with these and other authorities has been submitted in support of the Plan.
20. Essex County Council and the authorities of Basildon, Thurrock and Rochford object to the Plan due to concerns relating to Havering's unmet housing need, although they have confirmed that these objections relate to soundness matters rather than any failure of the duty to co-operate. Matters relating to housing need and supply are considered later in this report.
21. The Duty to Co-operate Statement sets out the GLA's view that individual London boroughs are not expected to identify where any unmet need is to be met either inside or outside of London. Whilst this was produced under the 2016 London Plan, it also reflects the London Plan 2021 which sets out that the Mayor will work with partners in the Wider South East to find solutions to shared strategic issues, including barriers to housing delivery. The London Plan does nevertheless promote the importance of engagement on locally specific cross-border matters between individual London boroughs and authorities beyond London.
22. The Council have worked in partnership with other relevant bodies in order to address other specific strategic matters. An example includes engagement with neighbouring local authorities, Transport for London (TfL) and Highways England in relation to the transport implications of the Plan. The Council have also been involved in the A127 Growth Corridor working group led by Essex County Council to assess the impact of cross-borough growth on this highway corridor.
23. Co-operation has also taken place with bodies such as Natural England, the Environment Agency, Historic England, the Local Enterprise Partnership and Local Nature Partnerships with regard to specific Local Plan issues.
24. No objections have been raised in respect of any failure to meet the duty to co-operate by any of the bodies prescribed in relevant legislation for the purposes of section 33A(1)(c) of the Act. While concerns of detail remain, notably in respect of the Local Plan's approach towards meeting housing needs and the proposed parking standards in the Plan, these relate to matters of soundness rather than any failure under the duty to co-operate. I return to these matters later in this report.
25. I am satisfied that where necessary the Council have engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the duty to co-operate has therefore been met.

Assessment of Other Aspects of Legal Compliance

Consultation

26. Initial consultation on 'A New Local Plan for Havering' was undertaken in March 2015 in accordance with Regulation 18 (of the Town and Country Planning (Local Planning)(England) Regulations 2012), a 'Direction of Travel' document was consulted upon in November 2016 and consultation on the submission version of the Plan was consulted upon between August and September 2017, in accordance with Regulation 19. Consultation has subsequently taken place on the proposed MMs and FMMs. Consultation on the Plan and the MMs/FMMs was carried out in compliance with the Council's Statement of Community Involvement and the Regulations.

Sustainability Appraisal

27. The Plan was subject to a SA during its preparation and to inform the proposed MMs and FMMs. No statutory consultation bodies have raised any significant concerns about the SA process.
28. A number of options, or reasonable alternatives, for the spatial strategy in the Plan were assessed in the Sustainability Appraisal for the Havering Local Plan 2017 (LBHLP.8). The options considered alternative levels of growth and the spatial distribution of that growth. The alternative options included increased densities in specified areas to meet a higher housing target and two alternative options which considered limited Green Belt release, one of which would have facilitated more family and older person's housing by developing at lower densities.
29. The SA has not considered an option which seeks to meet housing need through large scale release of Green Belt land. However, the Council are only required to consider reasonable alternatives which are capable of meeting the objectives of the Plan to such an extent as that option is viable. One of the Plan's objectives is to protect and enhance Havering's Green Belt. I consider it reasonable for the SA not to have considered this option given the objectives of the Plan and the requirement to be in general conformity with the London Plan which also seeks to protect the Green Belt. This is consistent with the judgement in *R. (on the application of Friends of the Earth England, Wales and Northern Ireland Ltd) v Welsh Ministers [2015] EWHC 776 (admin)*.
30. The 2017 SA report did not make clear the assessment of the preferred option (option 1) against many of the SA themes, which reflect the range of effects being considered through the SA process. It was not therefore clear that the preferred option had been assessed against the reasonable alternatives and judged to be the most appropriate option to help achieve the environmental, economic and social objectives set out in the SA themes. A SA Report Addendum (LBHLP.56) was produced in December 2018 to address these concerns.
31. Together, the SA and SA Addendum set out the likely significant effects of each of the options, or reasonable alternatives. Each of the options is assessed against the SA themes and planning judgement has been used to determine the likely significant effects of each of the options and whether they

meet the objectives of the Plan. The Plan's objectives include increasing the supply of housing by a minimum of 17,550 dwellings over the Plan period and protecting and enhancing the Green Belt. Whilst some of the options considered against the SA themes included exceeding the London Plan target the SA concluded that these options would not achieve the objective of protecting and enhancing the Green Belt.

32. The SA process led the Council to determine that the most appropriate strategy having regard to the relevant objectives of the Plan was option 1 which seeks to meet the London Plan housing target, reflects current densities of development and which does not involve release of Green Belt land.
33. The SA was updated following the need for the FMMs (the SA Report Further Addendum June 2021)(FMMC02). The minimum housing figure which the Plan seeks to meet has been increased following the increase in the LP2021 housing target. However, the SA Further Addendum concludes that as neither the spatial distribution nor the supply over the first 10 years of the Plan period has changed, this FMM does not significantly affect the findings of the SA or SA Addendum. The majority of the remaining FMMs do not significantly affect the findings of the SA / SA Addendum. FMM24 (which relates to car parking and is discussed in detail below) has been the subject of further appraisal through the SA Further Addendum and found to be not likely to have a significant effect alone nor to significantly affect the findings of the SA / SA Addendum.
34. No statutory bodies have raised significant concerns about the SA process. Whilst there were a number of criticisms made by other representors, it is not unusual for there to be disputes about some of the findings of the SA. I am satisfied that the SA process, once clarified by the SA Addendum 2018 and SA Further Addendum 2021, has been carried out satisfactorily and that there is nothing which undermines the SA findings. The SA process has assessed the extent to which the emerging Plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives. Overall, I am satisfied that the SA process was proportionate, objective and the judgements reached were reasonable. The SA is compliant with legal requirements and relevant national guidance.

Conformity with the London Plan

35. Section 24(1)(b) of the Planning and Compulsory Purchase Act 2004 requires all development plan documents to be in general conformity with the London Plan. The GLA have confirmed that, subject to the FMMs, the Plan is in general conformity with the LP2021.

Other Legal Compliance matters

36. The Plan has been prepared in accordance with the Council's Local Development Scheme (LDS). The Council have confirmed that the LDS will be updated to reflect the timescales for the immediate update of the Local Plan.
37. The Habitats Regulations Assessment (HRA) June 2017 sets out that development in the Plan will not have a likely significant effect on any internationally designated site either alone or in combination. As such, an

Appropriate Assessment is not necessary. The MMs and FMMs were subject to further HRA. Both concluded that there would be no likely significant effects on European sites (now part of the national site network) from the MMs or FMMs.

38. The Development Plan, taken as a whole, includes policies to address the strategic priorities for the development and use of land in the local planning authority's area.
39. The Development Plan, taken as a whole, includes policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. In this respect the Plan includes policies relating to flood management, low carbon design, decentralised and renewable energy. Accordingly, the Development Plan, taken as a whole, achieves the statutory objective of S19(1A) of the Planning and Compulsory Purchase Act 2004⁴.
40. Regulation 8(5) of The Town and Country Planning (Local Planning) (England) Regulations 2012 (the 2012 Regulations) require that where a plan contains a policy that is intended to supersede another policy in the adopted development plan, it must state that fact and identify the superseded policy. As submitted, the Plan does not identify which documents forming part of the Council's development plan would be superseded and which parts remain extant. A main modification (**MM1**) is needed to clarify this in order to ensure that the Plan is legally compliant. I have made a minor alteration to the wording of MM1 to clarify that the proposals map 2008 will be superseded by the policies map for this Local Plan. This will bring the terminology in line with the current Regulations. Subject to this modification, the Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

Assessment of Soundness

Main Issues

41. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified 8 main issues upon which the soundness of this Plan depends. This report deals with these main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy, policy criterion or allocation in the Plan.

Issue 1 – Is the Plan's spatial strategy and approach to the Green Belt appropriate and justified? Is it in general compliance with the London Plan and consistent with national policy?

42. The Plan adopts a spatial strategy which seeks to meet the growth requirements for the borough in accordance with the London Plan. It also seeks to retain the suburban character of the borough and to protect the

⁴ As amended by the Planning Act 2008.

Green Belt. The Plan identifies the main town centre of Romford together with Rainham and Beam Park as Strategic Development Areas (SDAs). This is in line with the London Plan which identifies these areas as Opportunity Areas. These areas, together with the Council's housing estate renewal programme, will be the focus for growth in the Plan. Other options for different spatial strategies, including development in the Green Belt, were considered in the SA as set out above but were discounted as not meeting the aims of the Plan to protect the Green Belt and the character of the borough.

43. The Council carried out a Green Belt Study including a land parcel assessment in 2016 (LBHLP.26 and 26.1). This concluded that all of the Green Belt in Havering has value when considered against the purposes of the Green Belt. The majority of land parcels were assessed as making a fundamental or high contribution to the Green Belt, with only one parcel making a low contribution. This parcel contains recreational land, which is a beneficial use in terms of the NPPF paragraph 81, and a cemetery.
44. A further Sites Green Belt Assessment was carried out in 2018 (LBHLP.27, 27.1 and 27.2). This assessed a number of sites which had been put forward for potential Green Belt release against the Green Belt purposes and against a set of sustainability criteria. Whilst some sites were identified as having a low or moderate rating assessment of harm for release of the whole site (Table 5.1 LBHLP.27), none of the assessed sites have been released from the Green Belt. The Council set out (Matter 5 Green Belt hearing statement) that a low or moderate assessment of harm does not amount to exceptional circumstances for the release of Green Belt sites.
45. The NPPF states that the Government attaches great importance to Green Belts. Once established, Green Belt boundaries should only be altered in exceptional circumstances. The LP2021 states that the Mayor strongly supports the continued protection of London's Green Belt and the GLA have confirmed the Mayor's support for Havering's approach to the Green Belt (document LBHLP.14 and GLA letter dated 18 March 2021). The strategy of protecting the Green Belt complies with the NPPF and is in general conformity with the LP2021.
46. Main Modifications to the Plan have resulted in the allocation of existing Gypsy and Traveller sites and the removal of these sites from the Green Belt, a matter considered in detail later in this report.
47. The 2008 Core Strategy identified four Major Developed Sites in the Green Belt. The NPPF does not refer to Major Developed Sites in the Green Belt and the Plan does not specifically identify any such sites. However, the Housing Position Statement 2019: Technical Update (HPS 2019) (Document CHPDO25) identifies two previously developed sites within the Green Belt which have potential for housing development⁵. The Rowley Cardrome site was also identified in the Core Strategy but is not specifically identified in the HPS 2019 as contributing to the Council's housing land supply. Nevertheless, none of these sites are released from the Green Belt. Any development proposed on the sites would need to be justified having regard to the NPPF, local policy and

⁵ St George's Hospital and Quarles Campus

any other material considerations. The approach of the Plan to these sites is sound.

48. Other than the limited exceptions for Gypsy and Traveller site allocations, the Plan proposes no release of Green Belt land for general housing or employment purposes. I deal below in detail with the Council's housing land supply position. In summary, although it appears unlikely that a 5-year supply can be demonstrated in the Plan, the evidence demonstrates that there is likely to be sufficient housing supply to meet the requirement for the first 10 years of the Plan period.
49. The aim of Green Belt policy in the NPPF is to keep land permanently open and the essential characteristics of Green Belts are their openness and permanence. The lack of a 5-year housing land supply is a situation that can change over a relatively short period of time and the Council have committed to an immediate review of this Plan in order to reassess the options for increasing the housing land supply in the borough. Having regard to the support in the LP2021 and in Government policy for the protection of the Green Belt and the fact that the Plan can demonstrate a 10-year housing supply, I am not satisfied that the current lack of a 5 year housing land supply provides the exceptional circumstances necessary to alter the boundaries of the Green Belt as part of this Plan.
50. Aside from the protection of the Green Belt, the Plan also sets out the other aims and objectives it seeks to tackle the key issues facing the area. A modification (**MM2**) is proposed to add to the objectives the need to support greater use of the River Thames for freight and passenger transport. This modification is necessary in order to encourage greater use of sustainable transport options in line with paragraphs 29 and 35 of the NPPF and to ensure compliance with the London Plan. This objective follows through into modifications to specific policies (identified separately below) to support this overarching objective.
51. Policy 1 sets out the number of homes to be provided in the Romford SDA over the Plan period. A modification is proposed to update the housing figures to reflect updated evidence in the Housing Position Statement 2019 (MMC07, MMC08, MMC09.01-04, MMC10) (**MM3**). This is necessary to ensure the policy is positively prepared, justified and effective.
52. The policy also sets out the support for commercial development, to enhance connectivity, to ensure the delivery of infrastructure and promote good design and heritage conservation within the SDAs. **MM3** modifies the criterion which sets out the requirements for additional primary school provision over the Plan period in order to reflect updated information regarding school provision. This part of the modification is necessary to ensure that the policy is justified and effective. I have made a further change to the wording to reflect the fact that future site allocations are likely to be dealt with through the immediate update of this Plan. The modification also explains the requirement in the policy which seeks 'generous' floor to ceiling heights. This is required to ensure the policy is effective. I have made a further minor change to the wording of this part of the modification to allow flexibility in the application of this criterion.

53. In order to ensure clarity and effectiveness and so as not to unnecessarily burden smaller developments, **MM3** makes further modifications to Policy 1 and its justification to clarify that only major developments will be required to secure improvements to connectivity; to clarify the role of the Romford Masterplan and to emphasise the importance of mixed-use developments within the SDA.
54. The modification also alters and explains the requirements for tall buildings and removes a restriction on such buildings north of the railway line. The submitted policy restricts tall buildings within the conservation area but the modification to the justification paragraphs clarifies the considerations to be taken into account for such buildings elsewhere within the SDA. The modifications included in **MM3** are necessary to ensure that the policy is positively prepared, justified, clear and therefore effective.
55. Policy 2 relates to development within the Rainham and Beam Park SDA. It contains similar criteria to Policy 1 to guide development within the SDA. As submitted the wording of requirements for floor to ceiling heights and the need for a mix of uses is unclear. A modification is therefore necessary (**MM5**). Similar to Policy 1, I have made a further minor change to introduce some flexibility in the application of the floor to ceiling height criterion. The modification also introduces a criterion to ensure that development has regard to listed buildings and their settings. The modification is necessary to ensure that the policy is effective, justified and consistent with national policy.
56. Subject to the main modifications outlined above I conclude that the Plan's spatial strategy and approach to the Green Belt is appropriate, justified, in general compliance with the London Plan and consistent with national policy.

Issue 2 – Is the Local Plan's overall approach to the provision of new housing soundly based, having particular regard to the housing requirement and the desirability of there being a 5-year supply of deliverable housing land?

Housing Requirement

57. Havering forms part of the London-wide housing market area. The Havering Local Plan was prepared, and much of the Examination was undertaken, at the time when the London Plan 2016 was the published plan. The London Plan 2016 set a minimum target of 11,701 new homes for Havering over the ten-year period 2015 – 2025. This equates to an average annual housing target of 1,170 dwellings per annum (dpa) or 17,550 dwellings over the 15-year Plan period. This target is set out in Policy 3 of the submission version of the Local Plan and in the table within the Plan which sets out the 'Key features of the spatial strategy'⁶.
58. In March 2021, at a late stage in the Examination, the LP2021 was published and the 10-year housing target for Havering was increased to 12,850 homes between 2019/20 and 2028/29. In order to ensure that the Plan is in general

⁶ Chapter 5 of the Plan

conformity with the LP2021, modifications are required to the table within Chapter 5 and to Policy 3 and its justification, to reflect the adopted London Plan housing requirement. This is achieved through **FMM3** and **FMM6** respectively.

59. The 10-year target for Havering within FMM6 is 12,505 new homes. This reflects the fact that the Havering Local Plan straddles the two London Plan periods. The annual requirement for the period 2016/17 to 2018/19 is 1,170 dpa (in line with the 2016 London Plan) and for the period 2019/20 to 2025/26 the annual requirement is 1,285 dpa (in accordance with the LP2021).
60. In line with the 2016 London Plan, the Outer North East London (ONEL) Strategic Housing Market Assessment (SHMA) was undertaken jointly with the London Boroughs of Redbridge, Barking and Dagenham and Newham. The ONEL SHMA Update for Havering (November 2016) identifies a need for 30,052 dwellings within Havering over the period 2011-2033 or 1,366 homes per year. I have considered whether this should be the housing requirement in the Plan. However, the LP2021 makes clear that London should be considered as a single housing market area⁷ and that boroughs are not required to carry out their own housing needs assessment. The approach of the Plan as modified to seek to meet the LP2021 housing target is therefore sound.

Housing trajectory

61. The Plan is supported by the Housing Position Statement which was updated during the Examination by the 2019 Technical Update (HPS 2019) (document MMC07). The HPS 2019 is now in itself somewhat dated and the position of sites within the housing trajectory may have altered. However, the Council have been unable to provide a further update to that document within a reasonable timeframe. Even if this were to have been provided, any new information submitted would need to be subject to consultation and may necessitate further hearing sessions. Overall, this would result in considerable further delay in the Examination and ultimately would further delay adoption of the Plan.
62. The HPS 2019 sets out that the Council will adopt a stepped approach to housing delivery, with increased housing delivery in years 5-10 compensating for under-delivery in the first 5 years. This is in line with the LP2021 which acknowledges⁸ that boroughs may set out stepped housing delivery targets over a 10-year period where appropriate. Furthermore, national policy does not prevent a phased approach to the delivery of housing across a plan period.
63. The Plan sets out that construction on a significant proportion of new housing development will be on large sites within the Strategic Development Areas. It states that development in these areas is likely to be towards the end of the 5-year period and into the 10-year period. The Plan therefore aims to deliver its land supply over a 10-year period. However, the Plan as submitted does not make clear the stepped annual target the Council are seeking to deliver over the 10-year period. **FMM6** contains a modification to Policy 3 and its

⁷ Para 4.1.2

⁸ Para 4.1.10

explanatory text to explain the stepped approach to delivery. This is necessary to ensure that the Plan is positively prepared, justified and effective. **FMM6** sets out the phased delivery of the housing requirement as outlined in the following table. The figures in this FMM have been adjusted to take account of the higher housing requirement in the LP2021:

Years 1-5	2016/17 to 2020/21	700 dpa target
Years 6-9	2021/22 to 2024/26	1,801 dpa target
Year 11-15	2026/27 to 2030/31	1,285 dpa target

64. Under the phased targets the rate at which housing will be delivered across the Plan period will vary in each 5-year period. The 700 dpa target for years 1-5 of the Plan is significantly lower than the 1,170 dpa in the 2016 London Plan which was the published Plan during those years. However, completion figures for the previous 7-year period from 2012-2017 averaged 715 units. The lower target over the first 5 years of the Plan aligns with average annual net completions during the previous 7 years and with anticipated completions over the remaining period to 2020/21.
65. The figure for the first 5 years also reflects the fact that a significant proportion of the Council's housing land supply comes from large sites within the Romford and Rainham and Beam Park SDAs and from the Council's estates regeneration sites. These have long lead in times as a result of land assembly and infrastructure requirements. For the estates regeneration sites there is the need to engage with and move existing residents and the early years of redevelopment will include a number of demolitions, thus having a negative effect on housing supply. Consequently, anticipated net completions are predicted to be lower in the first years of the Plan period than later. There is predicted to be a significant increase in anticipated completions between 2020/21 and 2025/26, with particular 'spikes' in 2022/23 and 2023/24.
66. Furthermore, the first 5-year period up to 2020/21 has now elapsed. The annual target on adoption of the Plan will increase to 1,801 dpa. This target exceeds the 1,285 dpa annual target in the LP2021 in order to account for under-delivery in the early years of the Plan.
67. In the context of pre-plan period delivery averaging 715 dpa and the evidence relating to land supply, I am satisfied that 700 new dwellings per year for the first 5 years of the Plan period (to 2020/21), rising to 1,801 dwellings per year for years 6-10 would appropriately reflect the realities of delivery in the SDAs and the estates regeneration programme.

Housing land supply

68. The components that make up the housing supply are set out in the HPS 2019 and accompanying trajectories. The evidence does not identify sufficient land supply to cover the 15-year Plan period. Overall supply is likely to be 16,438 homes against a modified target of 18,930 homes over the Plan period (a total shortfall of 2,492 homes by 2031). The HPS 2019 demonstrates that there will be a supply of 13,095 homes to cover the 10-year period 2016/17 to

2025/26 against the target of 12,505 homes set out in Policy 3 as modified. The evidence therefore demonstrates a sufficient supply of sites to meet the target for the first 10 years of the Plan.

69. The NPPF at paragraph 47 does not require that a plan identifies specific sites to meet the housing requirement for the full plan period. It states that land should be identified for years 11-15 "where possible". The London Plan also sets its targets for boroughs over a 10-year period. This aspect of the Council's housing land supply position is therefore in accordance with the NPPF and the London Plan.
70. The HPS 2019 provides evidence regarding build-out rates, lead-in times and lapse rates locally and capacity studies are provided for some of the identified sites. The proposals for Crossrail to include a station at Romford is likely to be one of the key drivers for growth in the Romford SDA and gives credence to the Council's estimate of the number of dwellings likely to be developed in the SDA over the first 10 years of the Plan period.
71. Similarly, the Rainham and Beam Park SDA is linked to the delivery of a new railway station at Beam Park. It is also identified as one of the GLA's Housing Zones. Housing Zones attract a range of planning and financial measures to support house building within these areas.
72. The Council have presented detailed evidence regarding the timing and phasing of its estates regeneration sites. It is clear that the Council have had regard to the potential for needing to exercise their Compulsory Purchase powers and have factored this timescale into their assumptions. I am satisfied that the Council's evidence in terms of the number of dwellings likely to come forward in these areas is robust.
73. Criticism has been made that the Council have been ambitious in its expected completions, average build-out rates and lead-in times for some sites. However, the HPS 2019 incorporates the latest available information regarding the suitability, availability, achievability and deliverability of each of the sites based on planning application information, discussions with landowners and developers and the constraints affecting some sites. A discount rate of 10%, 20% and up to 35% has been applied to sites where there is a degree of uncertainty over its delivery. On other sites capacities have been reduced to accord with the Council's capacity studies. Whilst there are different views regarding the discount rates applied, it is likely that some of these sites will come forward at the higher, non-discounted, rates whilst others may not come forward within the timescale envisaged. Ultimately, this is likely to balance out.
74. A small number of sites gained planning permission some years ago and queries have been raised as to whether the sites are deliverable. However, the sites have planning permission⁹ and there is no evidence of any insurmountable constraints to their development. In accordance with the NPPF¹⁰, sites with planning permission should be considered deliverable until

⁹ At the time of the HPS2019

¹⁰ Footnote 11, NPPF 2012

permission expires, unless there is clear evidence that schemes will not be implemented within five years.

75. Some of the supply relates to prior approvals and whilst it is possible that not all of these will come forward, it is equally possible that other prior approvals not currently in the trajectory will materialise. This is even more likely having regard to recent changes to the Use Classes Order (UCO). A small sites and vacant units allowance of 1,500 dpa has been included over the first 10 years of the Plan period. This is justified by the evidence in the HPS 2019 which sets out the annual average for small sites and vacant units returning to use. NPPF at paragraph 48 confirms that authorities may make an allowance for windfall sites in the 5-year supply if there is compelling evidence. There is nothing in the NPPF which precludes this allowance being made over the Plan period.
76. It is argued by some that the Council have been overly optimistic for some sites, but there is also evidence that they have been conservative in their estimation for others. There is also some evidence that other sites may come forward which have not been included in the supply due to uncertainty over their delivery.
77. **FMF6** updates the figures for homes to be provided in the Romford SDA, the Council's housing estate renewal areas, other major sites and on small sites, including vacant units returning to use. It also modifies the supporting text to set out the supply from all sources for the Plan period. These parts of the modification are required to reflect the evidence in the HPS 2019 in order to ensure that the policy is justified.
78. To support housing delivery **FMF6** also inserts criteria into Policy 3 to indicate the Council's support for the re-use of brownfield sites and for residential development around stations, subject to design review. I have added a further change to include mixed-use development around stations where appropriate to ensure that best use can be made of land which is accessible by sustainable modes of transport, in line with the NPPF. These aspects of the modification and further change ensure that the policy complies with the London Plan and national policy.
79. I conclude that the overall housing supply position is reasonable when conservative and optimistic estimates from the various sources are balanced and should ensure a sufficient supply over the first 10-year period to meet the modified housing target in the Plan. An immediate update of the Plan is proposed, as explained below. This will provide the opportunity to update the housing supply position.

5-year supply

80. The Plan does not seek to allocate specific housing sites as this was to be done in the Site Specific Allocations Local Plan but is now intended to be included in the immediate update to this Plan. Nevertheless, the HPS 2019 provides information on the various sources of supply of housing land.
81. Due to the persistent under delivery of housing in the past, the Council have justifiably included within its 5-year supply calculations a buffer of 20% to provide a realistic prospect of achieving the planned supply and to ensure

choice and competition in the market for land. This buffer has been added to the shortfall. Using the 'Sedgefield' approach to addressing past shortfall, where the under-delivery in earlier years is made up in the first 5 years of the Plan period, the HPS 2019 identifies a 5.34 years' supply of housing on adoption of the Plan.

82. However, the 5-year supply figures in the HPS are based on a then anticipated adoption date of 2019 and on the 2016 London Plan requirement which was lower than the 5-year requirement moving forward from adoption in 2021/22. As set out above, I do not have an updated housing trajectory. Based on the housing supply identified in the 2019 trajectory (MMC10) the Council confirm¹¹ that they will not have a 5-year supply of sites on adoption later in 2021.
83. Whilst other sites which are argued to have potential for housing were put forward during the Examination, a number of these are in the Green Belt. In any event, it would not be possible for me to recommend inclusion of additional sites in the housing trajectory without further consideration by the Council of all alternative sites which may meet the need. This would be likely to involve further consultation on an updated trajectory and discussion at further hearing sessions. This process would lead to significant additional delay in the adoption of the Plan.
84. As a result of the housing land supply situation, **FMM6** includes the commitment that the Council will undertake an update of the Plan beginning immediately after adoption. This is necessary to ensure that the Council take into account the latest information relating to any shortfall in delivery and any updates to the housing supply position in seeking to meet the updated housing requirement in the LP2021.
85. Ordinarily, the demonstration of a 5-year supply of deliverable housing land is a prerequisite of a sound plan in terms of the need to deliver a wide choice of homes. However, in the circumstances of this Plan, where the housing requirement has increased at a late stage in the examination, I ultimately conclude that the Plan, as proposed to be modified, is sound in this regard subject to an immediate review.
86. This is a pragmatic approach which is consistent with the findings of the Dacorum judgement¹². It aims to ensure that an adopted plan is put in place in the interim period before the update is adopted and the 5-year housing land supply situation is established. Ultimately, there is no evidence to suggest that if the Plan was not to be adopted now, more housing would be delivered in the next 5 years and, indeed, the continuing lack of certainty resulting from this would potentially mean that fewer dwellings would be constructed. The consequences if the Council cannot demonstrate a 5-year supply will be that the presumption in favour of sustainable development, as set out in paragraph 11 of the NPPF 2021, will be applicable in decision-making on development proposals. In itself, this should help to boost housing supply.

Conclusion on Issue 2

¹¹ In document 'Five-year land supply at adoption in 2021'

¹² Grand Union Investments Ltd. V Dacorum Borough Council [2014] EWHC 1894 (Admin)

87. For the above reasons, and subject to the modifications included in **FMM6**, I conclude that the Plan's overall approach to the provision of new housing is soundly based, having particular regard to the housing requirement and the desirability of there being a 5-year supply of deliverable housing land.

Issue 3 – Does the Plan address the needs for all types of housing, including affordable housing and the needs of different groups in the community?

Affordable housing and the housing mix

88. The SHMA 2016: Update for Havering identifies a need for 10,520 affordable homes from 2011-33 or 478 affordable homes per year. In order to help meet that need, Policy 4 sets out that developments of more than 10 dwellings or more than 1,000 square metres site area should provide at least 35% affordable housing. This needs to be modified to 10 or more dwellings to ensure general conformity with the LP2021 (**FMM7**). To ensure that the policy is effective, **FMM7** also includes a modification to update the reference to the Mayor's Affordable Housing Supplementary Planning Guidance (SPG) to reflect the fact that it is now adopted SPG.
89. The policy was prepared at the time when the London Plan 2016 stated that boroughs should set their own overall targets for affordable housing taking account of overall housing targets and the need to ensure a total of 17,000 affordable homes in London were provided over the London Plan period.
90. The LP2021 includes a strategic affordable housing target of 50% of new homes across London to be affordable. The London Plan sets out that the strategic target is to be achieved, amongst other measures, by the threshold approach which requires major developments to provide a minimum of 35% affordable housing, 50% for public sector land and on land in certain specified industrial areas. Provided that a scheme accords with the minimum requirements without public subsidy no viability information needs to be submitted.
91. Whilst Policy 4 does not make reference to the overall strategic target, it does not conflict with that target and the target would still apply to development proposals in Havering through the application of the LP2021 policies. The 35% target and threshold approach set out in Policy 4 is in general conformity with the London Plan but the policy does not contain the higher 50% target for public sector land or industrial land. **FMM7** therefore includes the 50% target for such land and this is necessary to ensure general conformity with the LP2021.
92. The Viability Assessment (LBHLP.24) demonstrates that affordable housing of up to 50% would be viable for lower density scheme typologies. However, higher density typologies will only support between 25% and 35% affordable housing. Policy 4 allows for development proposals which do not meet the 35% or 50% thresholds to submit a detailed viability assessment in support of the development. The Viability Assessment concludes that the flexible approach in the policy will ensure that most developments will be likely to be viable over the Plan period. Thus, whilst affordable housing needs are unlikely

to be met in full, the policy sets out a proportionate approach, which is justified by the viability evidence and is in general conformity with the LP2021.

93. Policy H5 of the LP2021 makes clear that affordable housing should be based on gross rather than net residential development. **FMM7** includes this clarification to Policy 4. This is necessary in order to ensure that the policy is effective and in general conformity with the LP2021.
94. Policy 5 sets out the housing mix requirements based on housing need identified in the ONEL SHMA. To ensure that the policy is effective, a modification is required (**MM8**) to allow the requirements to be applied flexibly having regard to individual site circumstances and to clarify that the requirements do not apply to proposals for retirement, sheltered or extra care housing.
95. With the modifications set out above, the Plan's approach to affordable housing and the housing mix is sound.

Specialist, including older persons', accommodation

96. Policy 6 sets out the Plan's support for the provision of specialist accommodation which meets a number of criteria. Such accommodation is defined as that which is specifically designed and built to meet the needs of the elderly, disabled, young or vulnerable adults. This is line with national policy and the LP2021.
97. In relation to older persons' housing the LP2021 identifies indicative benchmarks which should inform local level assessments of specialist housing need. For Havering, the benchmark is 185 units per year. A modification is required to the justification for Policy 6 to reflect this approach (**MM9**). I have altered the wording of MM9 to delete reference to the 2016 London Plan.
98. The Council's local needs report Review of 2018 Review of Specialist Older Persons' Housing August 2020 (MMC06) identifies a need for 255 owner occupied / intermediate housing units per year for the 10 years from 2018 to 2028, or a total of 2,552 units over that 10-year period. **MM9** sets out this figure and includes a commitment to review the local needs report every 3 years to maintain an up-to-date understanding of need. This is necessary to ensure that the Plan is positively prepared, justified and effective. Whilst the frequency of review has been questioned, there is nothing in national or London Plan policy which requires a more frequent review and without such a commitment, the only requirement would be for the Council to review the Plan every 5 years to assess whether policies need updating¹³. It is also notable that the annual benchmark set out in the LP2021 has not increased from the 185 units per year set out in the 2016 London Plan.
99. In terms of supply, the evidence¹⁴ identifies a deficit in sheltered / retirement housing for people wanting to purchase or lease but a surplus of affordable sheltered housing schemes. Whilst the Plan does not identify specific sites for such accommodation it was envisaged, at the time of preparation and

¹³ NPPF 2021 paragraph 33

¹⁴ Further response from London Borough of Havering to Inspector January 2019 (CPHD0006)

submission of the Plan, that this would be the role of the Site Specific Allocations Local Plan. As set out earlier, the Council are currently intending to prepare a full Local Plan as an immediate update of this Plan. The London Plan policy requirement for boroughs to work with specialist providers to identify sites will be a matter for consideration at that stage. With the modification set out above, and the requirement for an immediate update of the Plan, the Plan's approach to specialist accommodation, including older persons' housing need, is sound.

Gypsies, Travellers and Travelling Showpeople

Background and Policy 11 of the Plan

100. Policy 11 of the submission version of the Plan indicates that 7 existing privately owned sites are allocated to provide a maximum of 33 pitches for Gypsy and Traveller accommodation. This was based on the London Borough of Havering Gypsy and Traveller Accommodation Assessment (GTAA) February 2017. A subsequent update of the GTAA in March 2018 resulted in an increase in the number of households who had been interviewed. On submission of the Plan therefore the Council proposed modifications to Policy 11 to increase the number of sites allocated to 11 providing a total of 70 pitches.
101. When assessed against national policy in Planning Policy for Traveller Sites (PPTS), the GTAA 2018 had a number of shortcomings which resulted in an underestimation of the need. It did not reflect an up-to-date assessment of existing gypsy sites, there was a low response rate to the survey undertaken to inform the GTAA at just 40% and in interpreting the GTAA into policy, need arising from 'proxy' interviews (those where Travellers from one household had answered on another household's behalf) had not been included.
102. The Council considered that they did not have sufficient information on the households who had not responded to the survey in person to determine whether or not they fell within the planning definition of a Gypsy or Traveller, set out in Annex 1 of PPTS. These households were determined to be 'unknown' households. Policy 11 of the submission Plan does not therefore seek to meet the need for those not meeting the planning definition of a Traveller, including the 'unknown' households.
103. Section 124 of the Housing and Planning Act 2016 sets out the duty of Councils to "*consider the needs of people residing in or resorting to their district with respect to the provision of sites on which caravans can be stationed*". PPTS requires planning authorities to identify and update annually, a supply of specific deliverable sites to provide 5 years' worth of sites against their locally set targets.
104. The Plan does not allocate sufficient sites to provide for a 5-year supply. Neither does it identify the supply or broad locations for the remaining years of the Plan based on a robust assessment of need in accordance with PPTS. In addition, not all potentially available sites had been assessed for allocation. Instead, the sites were allocated on the basis that the existing residents fell into the planning definition of a Gypsy or Traveller. Given the lack of a robust assessment of the need and planning status of existing residents in the first place, this is not a sound approach.

105. The sites which have been allocated in Policy 11 remain in the Green Belt. PPTS makes clear that Traveller sites are inappropriate development in the Green Belt. The application of national policy to these allocated sites would therefore make it difficult for planning permission to be granted, thus jeopardising the deliverability of the allocated sites to meet the need.
106. In addition, the GTAA 2018 concludes that there is no current or future need for plots for Travelling Showpeople and as such Policy 11 does not seek to meet a need or allocate any sites. However, the GTAA notes that overcrowding on the existing yard was identified by an existing resident of the site, as was a need to provide future plots for teenage children.
107. Finally, some of the criteria set out in Policy 11 for assessing Gypsy and Traveller planning applications are onerous and not in accordance with PPTS.
108. For the above reasons, the GTAA 2018 does not constitute a robust assessment of need and the approach to Gypsies and Travellers in Policy 11 of the Plan is not in accordance with PPTS. The approach is not positively prepared, justified or effective and is therefore unsound.

Updated GTAA 2019

109. The Council subsequently commissioned the GTAA Update Report July 2019. A further survey of the existing Gypsy and Traveller community was undertaken to inform the updated GTAA taking the response rate to the survey up to 96% which results in a much more robust assessment of the need. More accurate assessments have been made of the need arising on existing sites, the number of households meeting the planning definition, those who are undetermined¹⁵ and those who do not meet the definition. The number of undetermined households has significantly fallen (from 102 'unknown' to 6 'undetermined'). The majority of the previously 'unknown' households have either fallen within those meeting the planning definition or those who do not.
110. The updated GTAA identifies a need to 2031 for:
- 174 pitches for households that meet the planning definition;
 - 43 pitches for households who do not meet the planning definition;
 - 3 pitches for undetermined households;
 - 5 plots for Travelling Showpeople who meet the planning definition.
111. In total a need for 220 pitches and 5 Travelling Showpeople's plots has been identified in the updated GTAA 2019. The GTAA breaks down the need for Gypsy and Traveller pitches into the first 5 years of the Plan (171 pitches), years 6-10 (23 pitches) and years 11-15 (26 pitches). I am satisfied that the GTAA 2019 provides a robust assessment of need for the purposes of the Local Plan.

¹⁵ the term 'unknown' in the 2018 GTAA has been replaced by 'undetermined' to reflect the fact that the Council know that the households are living on existing sites but have not been able to contact them to determine their planning status, despite repeated attempts.

Proposed Modifications to Policy 11

112. The Council have put forward main modifications to Policy 11 (**MM12**) to reflect the updated GTAA 2019. The policy as modified sets out the need over the Plan period and identifies the allocated sites for Gypsies and Travellers and Travelling Showpeople. The need which is to be met on these allocated sites is for those who meet the PPTS definition, those who do not meet the definition and those who are undetermined. The modification results in a greater proportion of the need over the Plan period being accommodated on allocated sites.
113. The allocated sites for years 1-5 of the Plan (2016-2021) are set out in new Appendix X (included in MM12) and are shown on the Proposals Map Changes Booklet 2017, Addendum 2018 and Addendum August 2020. Sites are allocated for 162 pitches and 5 plots for Travelling Showpeople against a 5 year need for 171 pitches, although this must be seen in the context of comments I make below in relation to the size of some of the allocated sites to accommodate this number of pitches. In accordance with PPTS, the modification includes the identification of specific developable sites to accommodate the need for years 6-10 of the Plan (23 pitches).
114. The majority of existing sites on which Gypsies and Travellers currently reside have been allocated for Gypsy and Traveller pitches under modification MM12. However, some existing households reside on pitches where there are land ownership disputes. These sites have not been allocated as the uncertainties could prevent delivery of permanent pitches on these sites. MM12 sets out that the remaining need for 7 pitches in the first 5-year period is to be accommodated through the consideration of planning applications on the sites identified for accommodating growth in years 6-15 of the Plan. I acknowledge that this may not be effective at meeting the need for those families currently residing on the sites with land ownership difficulties as it is not clear that the identified sites, which are in separate ownership, would be available to those families in need. If this proves not to be possible, a criteria-based policy would provide the basis for any planning applications which come forward on unallocated sites if the families are unable to stay on the sites they currently occupy.
115. In terms of need later in the Plan period, PPTS states that "where possible" developable sites or broad locations for growth should be set out for years 11-15. The Council have not been able to identify land within the urban area for future growth and the urban area is tightly constrained by the Green Belt. Accordingly, no sites or broad areas have been identified to meet the need for years 11-15 of the Plan. The modified policy states that sites that come forward to meet the need in these years will be assessed against the modified policy criteria and national policy. The modification sets out reasonable criteria, which accord with PPTS, for the assessment of future planning applications. The justification to the policy explains the commitment elsewhere in the Plan (set out in **FM6**) to undertake a review and to update

the Plan immediately after adoption. This will provide the opportunity to review how accommodation needs later in the Plan period will be addressed.

116. There are no national standards for design and layouts of Gypsy and Traveller sites. The Council have had regard to good practice guidance¹⁶ in determining the number of pitches each allocated site could accommodate. In some instances, the number of pitches would exceed that recommended in the good practice guide. This reflects the particular circumstances of the need, identified in the GTAA, for 40 pitches for teenage children in need of a pitch of their own in the next 5 years. Some households in these circumstances have expressed a preference to stay together on their existing sites and use smaller accommodation units and day rooms rather than splitting up their families to occupy larger units elsewhere.
117. MM12 includes an explanation of this approach in the modified policy. However, in order to further clarify that the allocated sites will not necessarily accommodate the specified number of full pitches (a pitch is defined in the Glossary of the Plan as accommodating a household and generally including a large static trailer, touring caravan, amenity building, parking and turning space), I have made a further change to the wording of MM12 to make this clear.
118. In the longer term, teenage children who may occupy the smaller accommodation units on some sites will be likely to form their own households and will be in need of a full pitch themselves. The immediate update of the Plan will provide the opportunity to address any future overcrowding and need for pitches for newly formed households. This is recognised in the justification to the policy in MM12. The immediate update of the Plan will also be required to be in general conformity with Policy H14 of the LP2021 which makes clear that boroughs that have undertaken a needs assessment since 2008 should update it as part of their Plan review process.

Site allocations - do exceptional circumstances exist?

119. MM12 and the updated policies map removes the allocated sites from the Green Belt and these are inset within it. This will ensure that applicants for planning permission for Gypsy and Traveller pitches on these sites will not need to demonstrate that very special circumstances exist in order for permission to be granted. This ensures that the allocated sites are likely to be deliverable.
120. PPTS states that local planning authorities can make exceptional, limited alteration to Green Belt boundaries to meet a specific identified need for a Traveller site. Exceptional circumstances must exist for any such alterations to Green Belt boundaries, both to accord with PPTS and NPPF.
121. There have been previous attempts in Havering to plan for the needs of the Gypsy and Traveller community. The Gypsy and Traveller Sites Development Plan Document was submitted for examination in 2012. That Plan was withdrawn following fundamental concerns expressed by the examining Inspector at that time. Since then, the need for pitches has increased and

¹⁶ Designing Gypsy and Traveller Good Practice Guide 2008 and Designing Gypsy and Traveller Sites Welsh Government Guidance 2015

there remains a significant level of unmet need in the borough for pitches / plots to accommodate the existing population of Gypsies, Travellers and Travelling Showpeople.

122. There is no public site provision in Havering. 21 pitches are currently located on sites with permanent permission, 7 pitches have only temporary permission and the vast majority of existing pitches (102 pitches) are sited on unauthorised sites, a small proportion of which are tolerated (5 pitches).
123. There is much competition for land in the urban areas due to the tightly drawn Green Belt boundaries in the borough. The only sites that have come forward as having potential for development for Gypsy and Traveller pitches are those owned and / or occupied by existing Gypsies and Travellers. The majority of these sites are in the Green Belt. It is clear from the length of time during which the allocation of sites has been unresolved in the borough, that there are currently no alternatives to the allocation of Green Belt land to meet the need. The Council acknowledge this and it is set out in the justification to the policy in MM12.
124. Regard must be had to the Public Sector Equality Duty, contained in Section 149 of the Equality Act 2010. In addition, one of the aims of PPTS is to ensure fair and equal treatment for Travellers. The allocation of sites to meet the need will reduce the disadvantages that Gypsies and Travellers in the borough currently suffer through the lack of allocated sites to meet their accommodation needs. This would achieve the social role of sustainable development set out in paragraph 7 of the NPPF.
125. I am satisfied that removal of these sites will not cause significant harm to the Green Belt. Even had that been the case, given the very significant level of need, the social benefits of meeting that need as far as possible, the lack of alternatives and the length of time that this issue has remained unresolved, I consider that exceptional circumstances exist in this case to make exceptional, limited alterations to the Green Belt boundaries in order to inset the allocated sites within the Green Belt.

Conclusion in relation to Gypsy, Traveller and Travelling Showpeople's Need

126. There remain some limitations in the Plan's approach in that it does not identify a supply of pitches to meet the entirety of the identified need in the first 5-year period and in the allocation of sites which are smaller than good practice would suggest. However, I recognise that Havering has significant constraints to the provision of Gypsy and Traveller pitches. There is competition for land in urban areas and there is currently no evidence that pitches could be found in these areas. Much of the rural areas are constrained by Green Belt.
127. The Plan is to be updated immediately on adoption and this will provide the opportunity to further consider the need and the availability of suitable sites. Given the allocation of a significant number of Gypsy and Traveller pitches in Policy 11 as modified, it is important that this Plan is adopted to ensure that the Council move closer to complying with Government policy in PPTS and its duty under the Housing Act. It will also give greater certainty to those currently residing on the allocated sites, to the Council and other local residents.

128. For the reasons set out above, the submission version of the Plan is unsound in its treatment of Gypsy, Traveller and Travelling Showpeople accommodation. Main modification **MM12** is therefore necessary to ensure that the Plan is positively prepared, justified, effective and accords with national policy.

Other housing policies

129. Policy 7 sets out requirements for residential design and amenity. **MM10** removes references in the policy and supporting text to London Plan policies regarding 'Lifetime Homes' and 'Lifetime Neighbourhoods' which are no longer relevant. The modification includes encouragement for development to provide green infrastructure and notes its environmental benefits. This modification is necessary in order to reflect London Plan policy and NPPF. **MM10** also clarifies the requirement for dual aspect accommodation to be maximised, this is necessary to ensure the policy is effective and accords with standards in the London Housing SPG.

130. Policy 10 sets out criteria for garden and backland development. **MM11** introduces a criterion to ensure that such development does not result in significant adverse impacts on green infrastructure and biodiversity. This is required in order to ensure that the Plan is effective, consistent with national policy and in general conformity with the London Plan.

Conclusion on Issue 3

131. Subject to main modifications set out above, I conclude that the approach of the Plan to addressing the needs for all types of housing, including affordable housing and the needs of different groups in the community is sound.

Issue 4: whether policies in Chapter 8 - Thriving Communities are justified, effective, in general compliance with the London Plan and consistent with national policy?

132. Chapter 8 of the Plan includes policies relating to healthy communities (Policy 12), town centre development (Policy 13), eating and drinking (Policy 14), culture and creativity (Policy 15), social infrastructure (Policy 16), education (Policy 17) and open space, sports and recreation (Policy 18).

133. Policy 12 seeks to support development which contributes to healthy communities. Criterion iii of the policy seeks to manage uses that can have a negative health impact with specific reference to betting shops and fast-food take-aways. The general principles of the policy reflect London Plan policy although the latter does not specifically refer to betting shops. However, the evidence base for the Plan does not contain information which supports the blanket management of these specific uses. The policy is modified (**MM13**) so that the wording refers to managing the overconcentration of uses, rather than singling out specific uses. **MM13** also clarifies that only developers of major development proposals are required to consider wider health strategies. This will ensure that developers of smaller proposals are not burdened by unnecessary policy requirements. **MM13** is necessary to ensure that the policy is justified, effective and in general conformity with the London Plan.

134. Policy 13 sets out the Plan's approach to town centre development. The Plan is supported by the Havering Retail and Commercial Leisure Needs Assessment 2015 (LBHLP.21) and an Update 2018 (LBHLP21.4). These documents set out the quantitative need for comparison and convenience retail and leisure floorspace over the Plan period. The Update identifies a need for 8,179 square metres gross additional comparison retail floorspace from 2026, increasing to 20,722 square metres gross by 2031. Additional convenience retail floorspace of 8,299 square metres gross is required by 2026, increasing to 10,851 square metres gross by 2031.
135. Policy 13 sets out the sequential approach to site selection in accordance with the NPPF and supports appropriate development within town centres. Policy 1 supports a mix of uses, including retail and leisure, in Romford town centre. Policy 2 sets out the requirement for a new local centre adjoining Beam Park Station to deliver up to 4,000 square metres of retail and commercial floorspace. Whilst specific sites are not allocated in this Plan, they will be allocated if necessary in the Plan update which will take account of up-to-date needs assessments. The approach of the Plan to town centres accords with paragraph 23 of the NPPF.
136. A modification is necessary to Policy 13 (**MM14**) to refer to the 2018 Update and incorporate the updated need figures. The modification also clarifies, in accordance with the evidence base, that the need for further comparison floorspace will not arise until after the Plan has been updated. The modification is required to ensure that the Plan is justified and effective.
137. In September 2020 the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force. This revoked many of the former use classes including A1 (shops), A2 (financial and professional services), class A4 (drinking establishments) and class A5 (hot food takeaway) and created a new 'commercial, business and service' use class (Class E).
138. Whilst Policy 13 sets criteria relating to the proportion of these former use classes in town centres, none of the policies in the Plan prevent the new Regulations taking effect. National policy in relation to town centres remains unchanged in the NPPF 2021, and whilst implementation of some of the policies in the Plan will be affected, the implications of these changes will need time to be considered.
139. These changes in circumstances came late in a process that has already taken a number of years to prepare. The Government believes that the planning system has a vital role to play in enabling the delivery of housing and economic growth that will support the UK's economic recovery. It therefore wants local planning authorities and the Planning Inspectorate to drive the planning process forward. Once adopted, the Plan will undergo an immediate update. That is the most appropriate way of dealing with the new Regulations.
140. Policy 15 relates to culture and creativity. It seeks to safeguard and encourage cultural, creative, sporting and entertainment activities and facilities. This is in accordance with NPPF. However, the policy criteria are onerous and unjustified in requiring major mixed-use developments to provide

arts and cultural facilities including by seeking financial contributions from developments to enhance existing facilities. These criteria are removed by **MM15** which is necessary to ensure that the Plan is justified and effective.

141. Policy 17 seeks to ensure existing education provision is safeguarded and sets out criteria for new education facilities. Other policies including Policy 1, relating to the Romford SDA, Policy 2, relating to the Rainham and Beam Park SDA, and Policy 16, Social Infrastructure, highlight the importance of developers providing education facilities to meet the requirements of the development where necessary. This is also set out in the Delivery and Implementation chapter of the Plan. A modification is necessary to Policy 17 to remove the need for drop-off and pick-up facilities for nurseries to be provided on-site. As long as these can be provided safely, there is no need for such facilities to be on-site. This modification (**MM16**) is necessary to ensure that the Plan is justified, effective and consistent with national policy.

142. Policy 18 relates to open space, sports and recreation. It is supported by a number of evidence base documents including the Open Space Study Standards Paper (LBHLP.37) and the Open Space Assessment Report (LBHLP.36). The policy seeks to protect existing provision and support improvement. The Plan does not seek to designate any new areas of open space but brings forward those allocated in the previous Core Strategy and identified on the Proposals Map. It may be the case that other sites in the borough could potentially be suitable for designation as open space. However, that does not mean that the Plan as submitted is not sound.

Conclusion on issue 4

143. Subject to the main modifications identified above, the policies within Chapter 8 - Thriving Communities are positively prepared, justified, effective, in general compliance with the London Plan and consistent with national policy.

Issue 5: Are the policies relating to employment sites and economic development justified, effective, consistent with national policy and in general conformity with the London Plan?

144. The Plan identifies Strategic Industrial Locations (SIL) in accordance with the LP2021 and Locally Significant Industrial Sites (LSIS) which support a range of local employment uses. Policy 19 is clear that such areas will be protected. The policy contains a number of criteria to direct and support office development and flexible business space. To ensure that the policy is effective, a modification (**MM17**) is required to qualify the requirement for residential proposals within Romford Town Centre to incorporate flexible business space to relate to the need for such space and individual site characteristics. The modification includes additional criteria to encourage greater use of the River Thames for freight and improve wharf infrastructure, and to support the growth of logistics activities in the borough. Both elements would be necessary to ensure general conformity with the London Plan.

145. The evidence regarding demand and supply of employment sites is included in the 2015 Employment Land Review (ELR) (LBHLP.20) and Addendum 2018 (LBHLP.20.1). The ELR concluded that of the 375 hectares of industrial land in the borough a total of 350 hectares was needed to meet demand over the Plan period. The ELR recommends the release of 24 hectares of employment land over the period. **MM17** includes a modification to the latter figure to ensure it reflects the ELR conclusions and is therefore justified and effective. The modification also clarifies that the need for employment land is to be kept under review in order to balance the protection of employment land with other land use objectives, including the need for housing. This ensures that the policy is effective and consistent with national policy.
146. Policy 20 sets criteria for the loss of industrial land. A number of modifications to the policy, and consequential modifications to the explanatory text, are necessary to ensure clarity regarding the application of the policy and relevant criteria to ensure the policy is effective. These modifications are incorporated into **MM18**. The modification includes a change to the title of the policy to reflect its application to LSIS and non-designated industrial land; changes to the policy to make clear that the provision of LSIS and non-designated industrial land will be kept under review; that wider land use objectives will be taken into account in considering release; to ensure the re-provision of non-designated industrial land in certain circumstances and to remove a criterion relating to conflicting uses.
147. The ELR also identifies a net additional demand for between 10,657 square metres and 17,132 square metres of office floorspace over the Plan period and that the most suitable location to accommodate this is Romford Town Centre. The Plan does not allocate specific sites to meet this need. However, Policy 1 encourages office development as part of mixed-use schemes and requires affordable office accommodation within or funded by new commercial and mixed-use developments. Policy 21 also seeks affordable workspace from major commercial and mixed-use developments. The Plan update can allocate specific sites to meet the need if necessary, having regard to updated needs assessment. The approach of the Plan accords with paragraph 21 of the NPPF.
148. A modification is necessary to clarify that the policy seeks to support local micro and small businesses and that affordable workspace will be sought in town centres, SIL and LSIS. The modification reduces the level of floorspace to be provided from 20% to 10% to reflect viability evidence; defines affordable workspace; provides flexibility for site circumstances and viability and clarifies the circumstances in which financial contributions in lieu of provision on site will be accepted. These are incorporated in **MM19** which also includes consequential modifications to the explanatory text. The modification is necessary to ensure that the policy is justified and effective.
149. Policy 22 seeks to encourage major development proposals to support employment, skills development and training opportunities for local people. A modification to the explanatory text is necessary (**MM20**) to define the meaning of 'local' within the policy. This is necessary to ensure that the policy is effective.
150. Whilst there are differences between the Plan policies and the employment policies in LP2021, the approach of the Plan does not prevent the application

of policies in LP2021. The policies, as modified, are therefore in general conformity with LP2021.

Changes to allocated employment sites

151. The policies map changes (set out in the Proposals Map Changes Booklet) removes Crow Lane Site 3 from the wider LSIS designation but retains the Royal Mail site as LSIS. It has been argued that the Royal Mail site should also be released as this is likely to cease being operational from 2022. The ELR concluded that this site could be retained as a Secondary Employment Area (renamed LSIS in this Plan) although I understand that at that time the Royal Mail had not confirmed any intention to vacate the site. Whilst things have clearly moved on in relation to this site since the ELR and Addendum were produced, the retention of this site within the LSIS does not make the Plan unsound. Policy 20 sets criteria for the loss of industrial land under which any proposal to change the use of the land could be considered. The immediate update of the Plan also gives the opportunity to further review the site having regard to the Royal Mail's current intentions.
152. A change to the policies map is also proposed by the Council to include the Freightmaster Estate as SIL. It has been argued that a composting facility on adjoining land should be included in this designation. The SIL boundary is defined in the London Plan and the designation as proposed in the Plan would allow the continued operation of the existing waste management operation within the SIL. The approach of the Plan to exclude the composting facility is sound and is in general conformity with the London Plan.

Conclusion on issue 5

153. Subject to the modifications identified, the policies relating to employment sites and economic development are justified, effective, consistent with national policy and in general conformity with the London Plan.

Issue 6: are policies relating to transport connections justified, effective, consistent with national policy and in general conformity with the London Plan?

154. Policy 23 sets out a number of ways in which the Council will work with partners and developers to improve transport infrastructure and connectivity in the borough. A modification (**MM21**) is necessary to include exploring opportunities to utilise the River Thames for freight and passenger transport. This is in line with earlier modifications (**MM2**, **MM17**) and ensures general conformity with the LP2021.
155. Policy T6 of LP2021 seeks to restrict car parking in line with levels of existing and future public transport accessibility and connectivity. The policy sets maximum residential car parking standards for areas with Public Transport Accessibility Levels (PTAL) 2-3 and PTAL 0-1 (the least accessible areas). In

places that are well-connected by public transport development is expected to be car-free or 'car-lite' (providing the minimum necessary parking).

156. LP2021 Policy T6 recognises that Outer London boroughs may adopt minimum residential standards, but these must be within the LP2021 maximum standards and should only apply to the least well-connected areas (PTAL 0-1). Within Outer London Opportunity Areas a maximum standard of up to 0.5 spaces per dwelling applies.
157. Policy 24 of the Havering Local Plan seeks to set minimum parking standards for residential development in all areas of the borough regardless of PTAL. The minimum standards for 3+ bedrooms in areas of PTAL 0-2 are also higher than the maximum standards in LP2021. Consequently, the policy is not in general conformity with the LP2021 and this view is supported by TfL and the GLA.
158. Prior to the publication of the LP2021, the Council proposed a modification to bring the policy in line with the 2016 London Plan. This would have required minimum parking standards in areas of PTAL 0-1 and limited areas of PTAL 2 which are 800 metres or more away from existing or planned rail and underground stations. However, the LP2021's parking standards are more restrictive than those in the 2016 London Plan, restricting minimum parking standards only to the areas with poorest connectivity levels (PTAL 0-1).
159. There is evidence which indicates that car ownership levels are high in the borough. The Council have also expressed concerns regarding north-south public transport connectivity which is not as good as connectivity into and out of central London. However, Policy 23 sets out a number of measures which aim to address this latter issue. Furthermore, the Plan notes that the borough suffers from issues of congestion and air pollution. The SA notes that the main source of air pollution is road traffic vehicle emissions (Part 8.6.1 LBHP.8). The expectation of minimum parking provision in areas with good public transport accessibility is incompatible with the objectives set out in the Plan to improve the health and wellbeing of the population, to support sustainable transport options and to improve and manage air quality. It could also undermine efforts to provide higher density residential development to increase housing delivery as more land would be needed for car parking.
160. A modification is therefore required to ensure that Policy 24 is in general conformity with the LP2021. This is set out in **FMM22** which supersedes the earlier proposed modification. The modification retains minimum parking standards, but these only relate to areas of PTAL 0-1. In addition, the minimum standards are within the maximum standards set out in LP2021 and they do not apply to the Opportunity Areas where LP2021 maximum standards will apply. This modification is necessary to ensure that the Plan is justified, effective and in general conformity with the LP2021. The GLA have confirmed that the modifications contained in FMM22 would ensure that the Plan is sound.

Conclusion on issue 6

161. Subject to the modifications identified, the policies relating to transport connections are justified, effective, consistent with national policy and in general conformity with the London Plan.

Issue 7: are the Plan's policies relating to high quality places and green places justified, effective and consistent with national policy?

162. The Plan contains a number of policies relating to the built and natural environment. A modification is required to Policy 28, which relates to heritage assets, to ensure that the wording is consistent with national policy in relation to the conservation and enhancement of the historic environment. This is achieved by **MM23**.
163. Policy 30 seeks to protect the natural environment. A modification is necessary (**MM24**) in order to ensure consistency with national policy including reference to the principles in NPPF of avoidance, mitigation and compensation of significant harm. I have made a further change to the modification to correct the reference to Sites of Special Scientific Interest.
164. The Sites of Importance for Nature Conservation (SINC) are listed in an Annex to the Plan and supported by evidence in the Havering SINC Review 2017 (LBHLP.28). It may be the case that other sites in the borough could potentially be suitable for designation as SINC. However, I am satisfied that the Plan as submitted is sound in this regard.
165. Policy 31 seeks to enhance the river environment by requiring developments in close proximity to a river to investigate and secure opportunities to restore and enhance rivers and their corridors in line with the Thames River Basin Management Plan. A modification is necessary (**MM25**) to clarify that this relates to major developments so as not to unnecessarily burden smaller developments. This will ensure that the policy is effective.
166. Policy 36 relates to low carbon design, decentralised energy and renewable energy. The Havering Local Plan Wind Resource Evidence Base (LBHLP.23) identifies suitable areas for wind turbine development and these sites are to be shown on the policies map. The policy contains a number of criteria which wind energy development on such sites will need to satisfy before planning permission would be granted. Modifications are required to the policy to make clear that the Council will follow the approach in national policy in determining applications, to clarify that there should be no unacceptable adverse impact on residential amenity or on highway safety. **MM26** incorporates these modifications and is necessary to ensure that the policy is effective and consistent with national policy.

Conclusion on issue 7

167. Subject to the above modifications the Plan's policies relating to high quality places and green places are justified, effective and consistent with national policy.

Issue 8: is the Plan's approach to minerals, waste and monitoring justified, effective and in general compliance with the London Plan?

168. LP2021 requires development plans to make provision for the maintenance of a landbank for aggregates of 7 years' supply. Havering is one of the few areas in London where resources of workable land-won sand and gravel exists. LP2021 apportions 1.75 million tonnes to Havering. NPPF requires minerals planning authorities to make provision for landbanks of at least 7 years' supply for sand and gravel. In order to ensure that the Plan is consistent with national policy and in general conformity with the LP2021, a modification (**MM27**) is required to make clear that at least a 7-year landbank will be retained and to set out the LP2021 apportionment. **MM27** includes alterations to the wording to ensure that the criteria are applied flexibly and as necessary in order to ensure that the policy is effective, and to include the requirement to consider use of the River Thames for transportation, in order to ensure general conformity with the LP2021.
169. The Plan does not include policies for dealing with the strategic waste apportionment as this is dealt with through the East London Waste Plan (ELWP). The Plan makes this clear at paragraph 12.7.2. In their response to the request for an opinion on general conformity with LP2021, the GLA have raised concerns with this approach. The Mayor points out that, as the ELWP only sets targets up to 2021, there is no plan which sets targets for the management of waste over the Plan period.
170. There is nothing to prevent the Council dealing with certain matters in a separate Development Plan Document (DPD) and the fact that the ELWP is in need of updating is not an issue of soundness or legal compliance for this Plan. Requiring this matter to be progressed through modifications to the current Plan would require significant further evidence and would result in further lengthy delay. I understand that the Council are working with adjoining authorities with the view to updating the ELWP. If this is not progressed within a reasonable time frame there remains the possibility for the matter to be dealt with in the immediate update of this Plan. The approach of the Plan in not dealing with strategic waste matters is not unsound and the GLA have confirmed that the Plan is in general conformity with the LP2021.
171. Turning to monitoring of the Plan, in order to ensure that the Plan is effective a modification is required (**FMM29**) to introduce a series of monitoring indicators against which the success of the policies in the Plan can be measured. This will ensure that the Plan, in the interim period prior to the adoption of the Plan update, can remain responsive and action can be taken if it becomes clear that the policies in the Plan are not achieving the aims of

sustainable development. **FMM29** sets out the policies to be monitored and the indicators to be used in the form of a table.

Conclusion on issue 8

172. Subject to the main modifications set out above the Plan's approach to minerals, waste and monitoring is justified, effective and in general compliance with the London Plan.

Overall Conclusion and Recommendation

173. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues set out above.

174. The Council have requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that the duty to cooperate has been met and that with the recommended Main Modifications and Further Main Modifications set out in the Appendix the Havering Local Plan satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

S Heywood

Inspector

This report is accompanied by an Appendix containing the Main Modifications and Further Main Modifications.

WAV001 The Willows, Runfold—GU10 1QG



10 Static Caravans / Pitches

WAV002 9 Burnt Hill, Dunsfold—GU8 4PG



10 Static Caravans / Pitches

WAV003 Bridge View, Runfold



WAV004 Hazelwood, Bramley—GU5 OLG

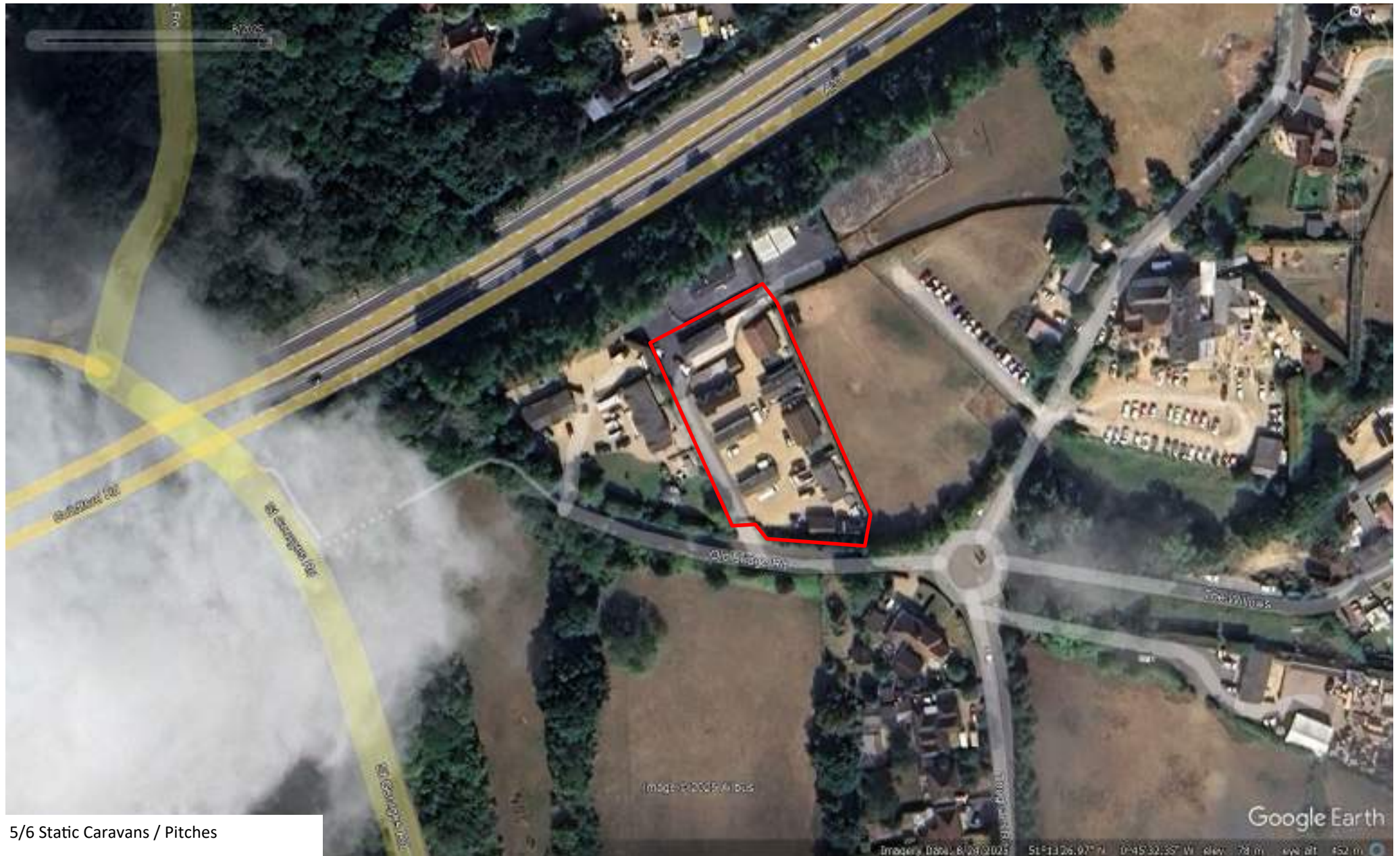


3 Static Caravans / Pitches

WAV005 Hilltops, Cranleigh



WAV006 Hop Meadows, Runfold



5/6 Static Caravans / Pitches

WAV007 Kilinside Place, Badshot Lea



7 Static Caravans / Pitches

WAV008 Legend Acres, Farnham



11 Static Caravans / Pitches

WAV – 009 - Lydia Park, Cranleigh GU6 8LE



Approx. 46 Static Caravans / Pitches
(Possible Dayrooms / Stables also counted)

WAV010 New Acres, Cranleigh



35 Static Caravans / Pitches

Imagery Date: 6/14/2025 51°02'41.44" N 0°32'10.11" W elev 61 m eye alt 505 m

WAV011 Old Mill Farm, Thursley



WAV012 Old Stone Yard, Runfold



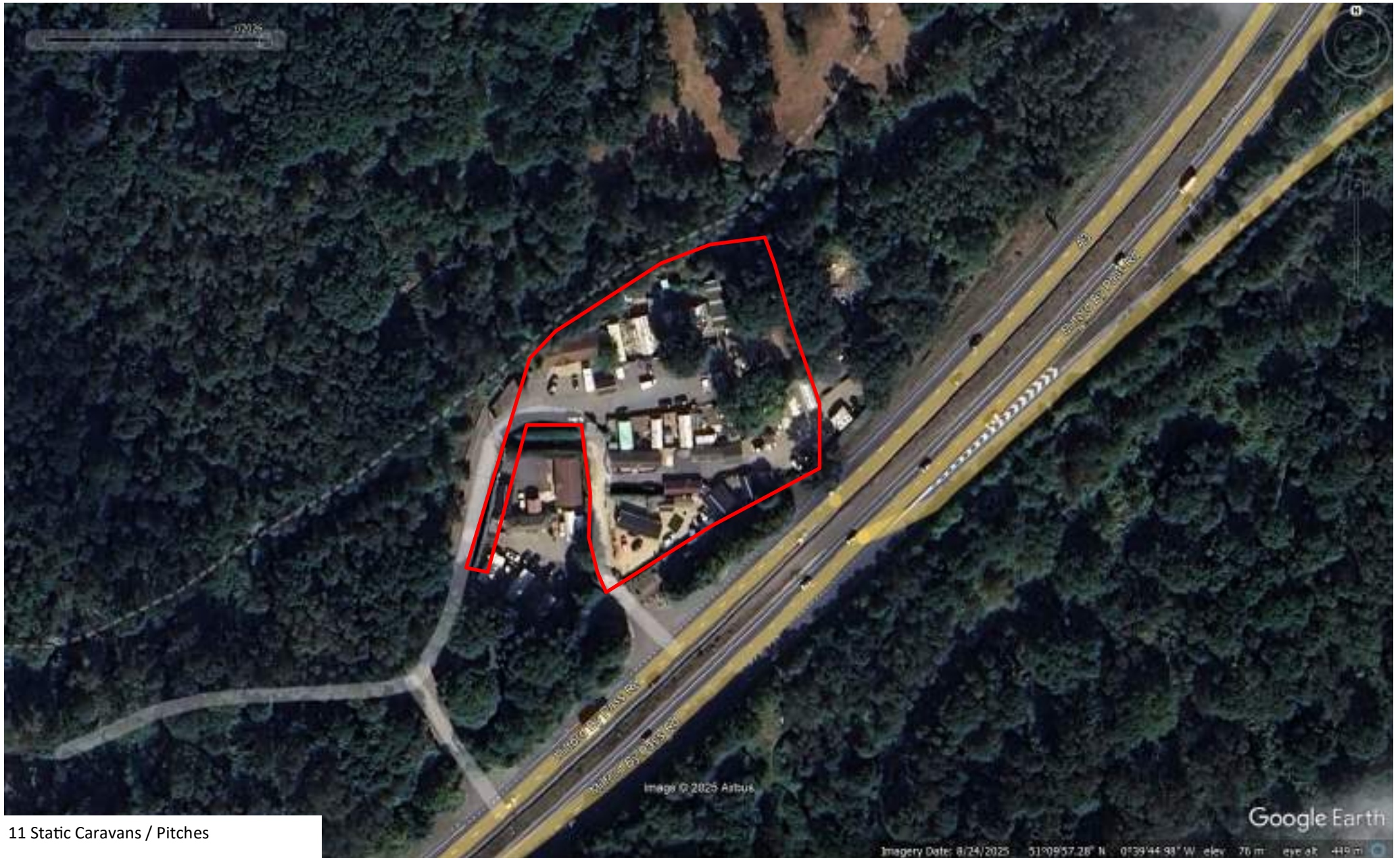
4 Static Caravans / Pitches

WAV013 Pollingfold Place, Ewhurst



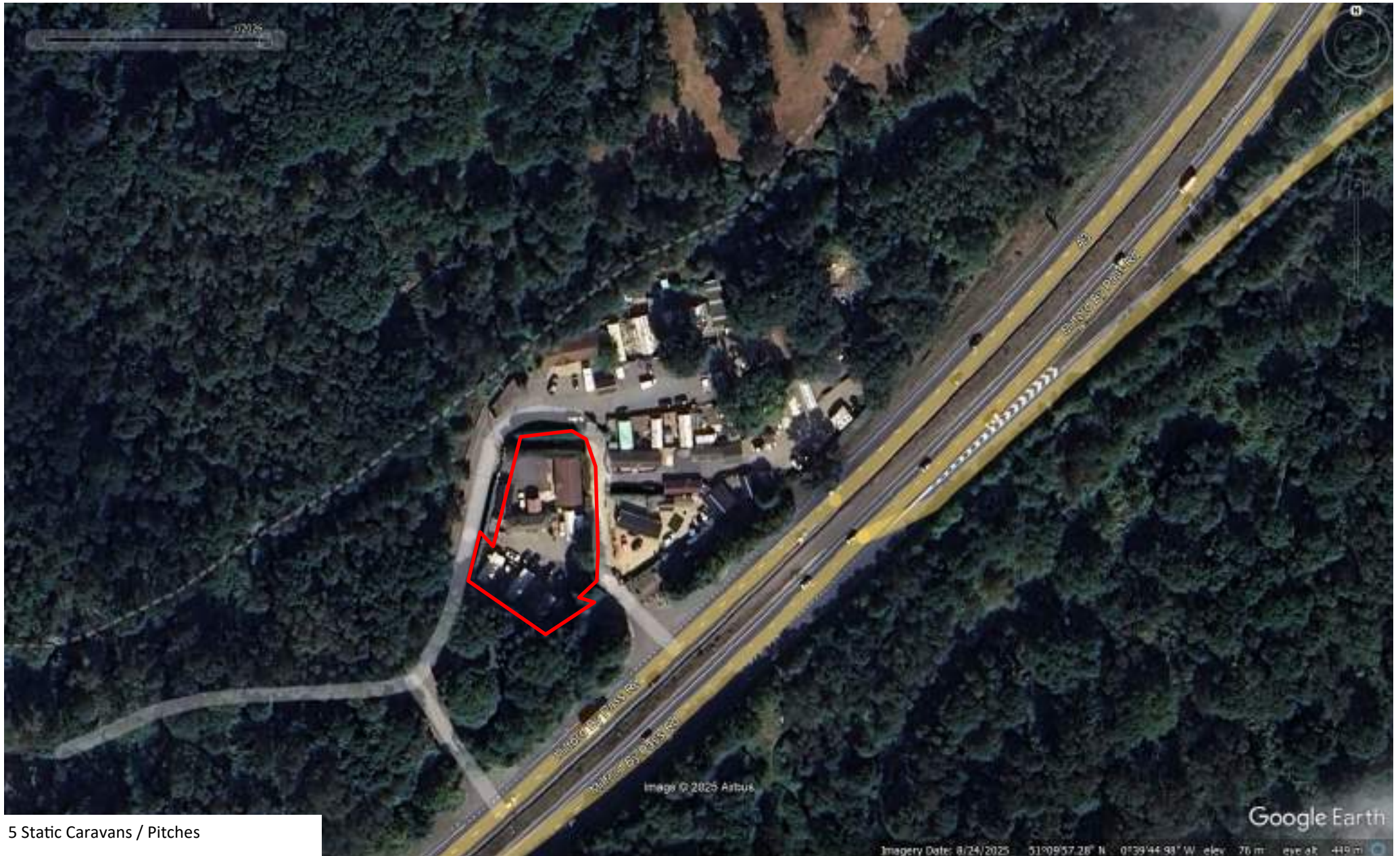
9 Static Caravans / Pitches

WAV014 (1, 3) Rodborough Hill Park



11 Static Caravans / Pitches

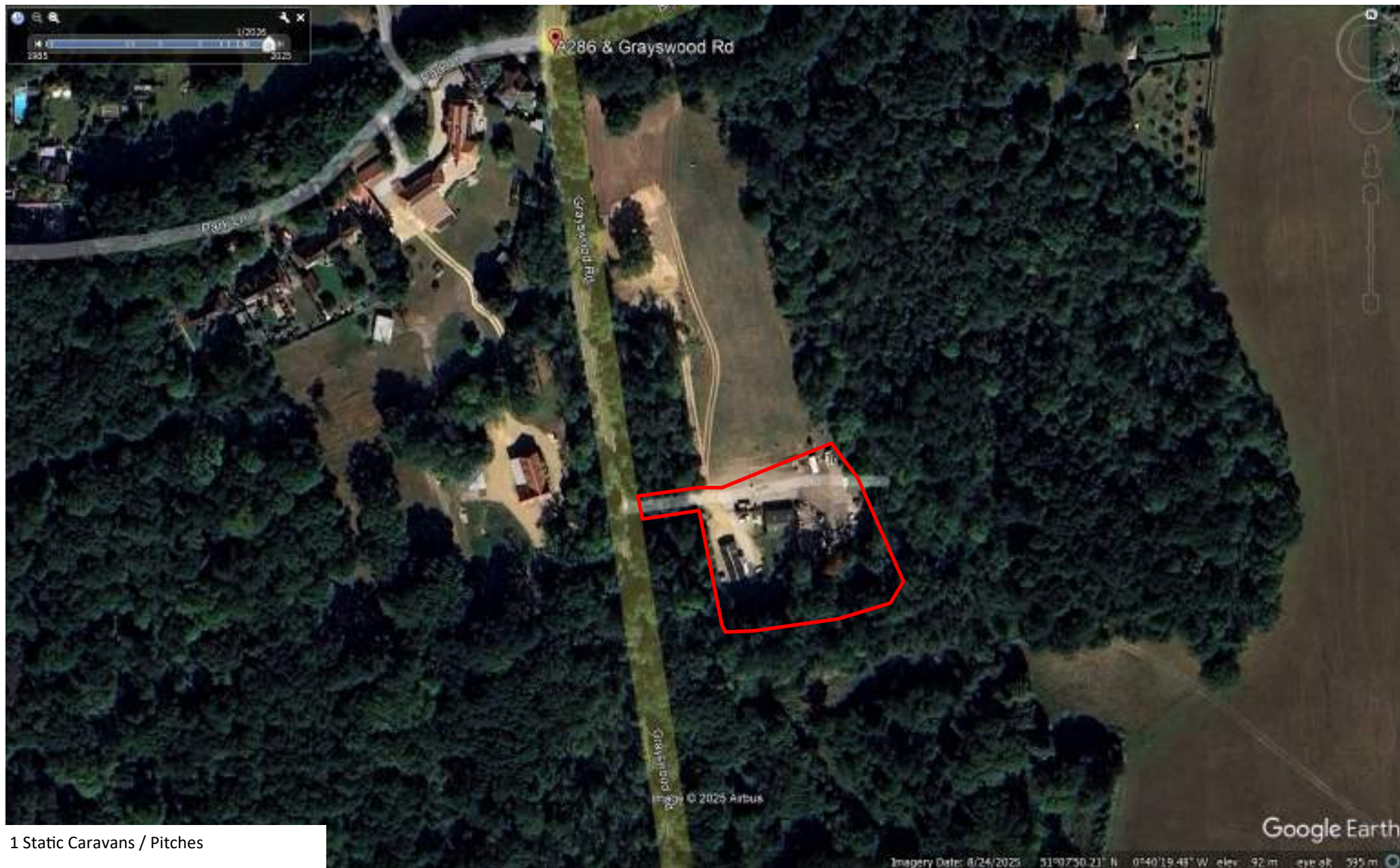
WAV014 (2) Toberside Rodborough Hill Park



5 Static Caravans / Pitches

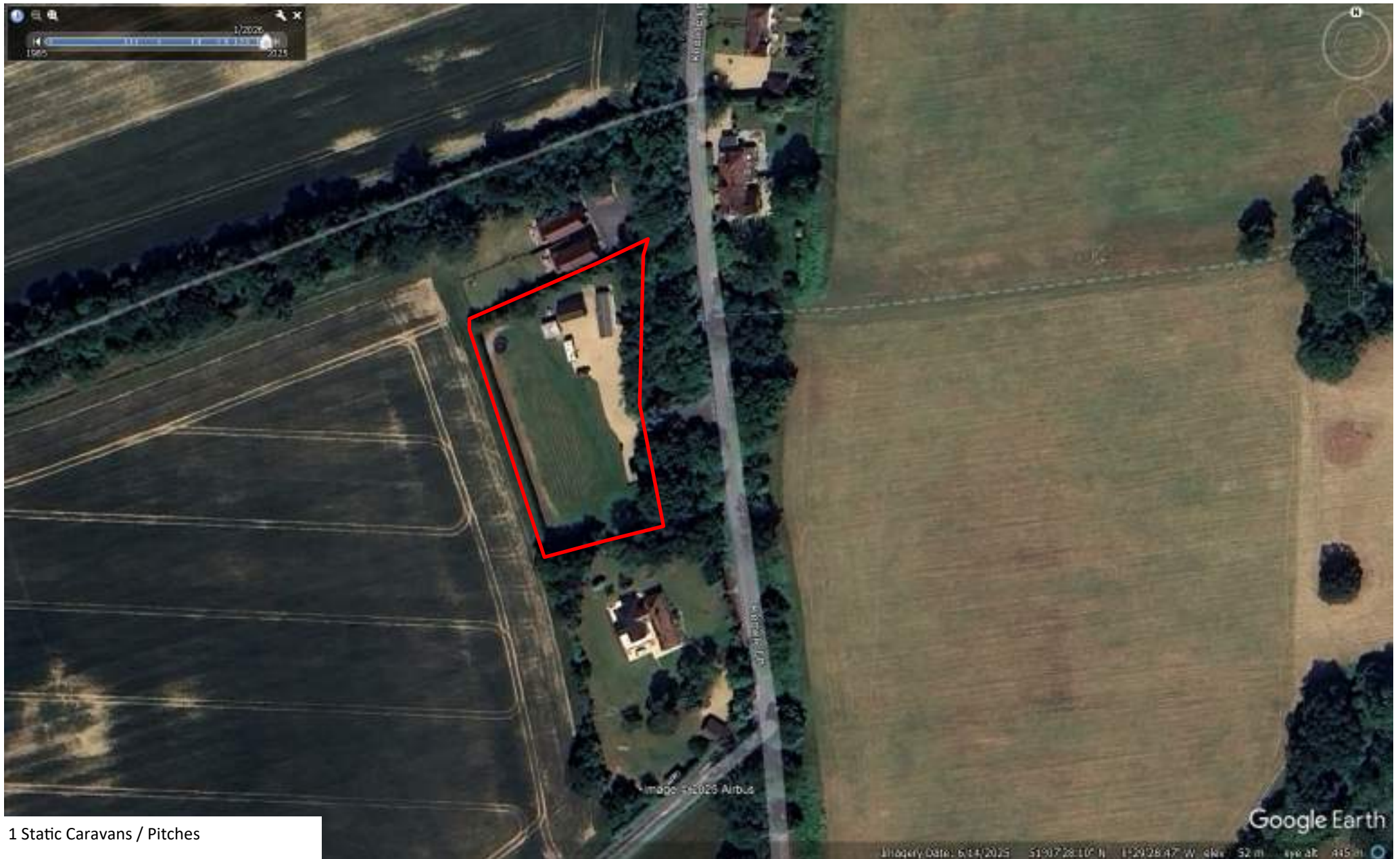
Imagery Date: 8/24/2025 51°09'57.28" N 0°39'44.98" W elev: 76 m eye alt: 449 m

WAV015 – Rosewood, Brook



1 Static Caravans / Pitches

WAV016 Twin Oaks, Cranleigh



WAV017-01 Land to the North of Lydia Park (The Homestead), Painshill Copse, Stovolds Hill, Cranleigh GU6 8LE



28 Static Caravans / Pitches

WAV017-02 - Land to the North of Lydia Park, Painshill Copse, Stovolds Hill, Cranleigh



17 Static Caravans / Pitches

WAV017-03 - Land Coordinates 502327 137818, Stovolds Hill, Cranleigh



WAV017-04 - Land at Stovolds Hill, Cranleigh



7 Static Caravans / Pitches

WAV017-05 - Land North of Lydia Park, Stovolds Hill, Cranleigh



8 Static Caravans / Pitches

WAV017-06 Land North of Lydia Park, Stovolds Hill, Cranleigh



2 Static Caravans / Pitches

WAV017-06 Land North of Lydia Park, Stovolds Hill, Cranleigh



12 Static Caravans / Pitches

WAV017-07 Land North of Lydia Park, Stovolds Hill, Cranleigh



14 Static Caravans / Pitches

WAV017-08 Land North of 11a Lydia Park, Stovolds Hill, Cranleigh



10 Static Caravans / Pitches

WAV017-09 Land adjoining 12 Lydia Park, Stovolds Hill, Cranleigh GU6 8LE



33 Static Caravans / Pitches

WAV017-11 Ranch Park, Crocus Lane, Cranleigh



25 Static Caravans / Pitches

WAV017-12 & 13 Land North of Lydia Park Centred Coordinates 502164 137703, Stovolds Hill Cranleigh



7 Static Caravans / Pitches

WAV017-14 Land North of Lydia Park Centred Coordinates 502164 137703, Stovolds Hill Cranleigh



No Static Caravans / Pitches

WAV017-15 (Weeping Willow), Land to the West of Lydia Park, Stovolds Hill Cranleigh



3 Static Caravans / Pitches

WAV017-16 (Weeping Willow), Land to the West of Lydia Park, Stovolds Hill Cranleigh



24 Static Caravans / Pitches

WAV018 Willows Nursery



1 Static Caravans / Pitch

WAV019 Wisteria, Alfold



1 Static Caravans / Pitch

WAV020 Thornfields, Badshot Lea



1 Static Caravans / Pitch

WAV021 (01) Land north of Lydia Park, Cranleigh (Appeal Site A)



1 Static Caravans / Pitch

WAV021 (02) Land north of Lydia Park, Cranleigh (Appeal Site B)



4 Static Caravans / Pitches

WAV021 (03) Land north of Lydia Park, Cranleigh (Appeal Site C)



1 Static Caravans / Pitch

WAV021 (04) Land north of Lydia Park, Cranleigh (Appeal Site D)



1 Static Caravans / Pitch

WAV021 (05) Land north of Lydia Park, Cranleigh (Appeal Site – Pitch 1)



No Static Caravans / Pitch

WAV021 (06) Land north of Lydia Park, Cranleigh (Appeal Site – Pitch 2)



2 Static Caravans / Pitch

WAV021 (07) Land west of junction of Stovolds Hill and Dunsfold Road



1 Static Caravans / Pitch

WAV024 7 Burnt Hill, Dunsfold



12 Static Caravans / Pitches

WAV025 Burnt Hill Caravan Site, Dunsfold



18 Static Caravans / Pitches

WAV026 Old Brickyard, Hambledon



1 Static Caravans / Pitch