



---

## Appeal Decision

Hearing held on 5 February 2019

Site visits made on 3 and 5 February 2019

**by John Felgate BA(Hons) MA MRTPI**

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

**Decision date: 4<sup>th</sup> March 2019**

---

**Appeal Ref: APP/K0235/W/18/3195889**

**Land known as Bromham Nursery, Bromham By-pass, Bromham, Bedfordshire MK43 8RG**

- 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 Mrs Rita Jolley against the decision of Bedford Borough Council.
  - The application Ref 17/00743/FUL, dated 13 March 2017, was refused by notice dated 15 August 2017.
  - The development proposed is "Change of use of land to use as a residential caravan site for 4 gypsy families with a total of 8 caravans, including 4 static mobile homes, laying of hardstanding, erection of two amenity buildings, installation of package sewage treatment plant, and earth works".
- 

### Decision

1. The appeal is dismissed.

### Planning Background

2. A previous appeal, relating to a proposal for five gypsy and traveller pitches, was dismissed in December 2014. The inspector at that time found that the proposal would have unacceptable impacts on the character and appearance of the area, and on the Hanger Wood Site of Special Scientific Interest (SSSI). He also found that it had not been demonstrated that satisfactory mitigation could be provided against the likely presence of ground contamination. As a result, the site was not suitable for the proposed use. These disadvantages were found to outweigh any social or other benefits.

### Relevant Planning Policies

3. The development plan for the area includes the Core Strategy and Rural Issues Plan (the CSRIP), adopted in April 2008, and the saved policies of the Bedford Borough Local Plan (the BBLP), adopted in October 2002.
4. In the CSRIP, Bromham is designated as a Key Service Centre. The appeal site is located a short distance outside the Settlement Policy Area (SPA) boundary, in an area defined as countryside. Both the site and the village are within the Rural Policy Area (the RPA).
5. CSRIP Policy CP13 restricts development in the countryside to only that which is consistent with national policy. Policy CP14 provides that, where there is a proven need for development in the RPA, such development should be focussed in or around the edge of the Key Service Centres.

6. Policy CP9 states that where a need for gypsy or traveller sites has been identified, developments may be permitted within or adjoining SPAs, or failing this, in the countryside. Sites should satisfy a list of requirements, including criteria relating to need, access, character and appearance, nature conservation, local facilities, and flood risk.
7. Other relevant policies, relating to specific issues, are identified elsewhere in this decision. At national level, these include the National Planning Policy Framework (the NPPF) and Planning Policy for Traveller Sites (the PPTS).
8. In addition, there is an emerging draft Local Plan, which has recently been submitted for examination. With regard to gypsy and traveller sites, the draft plan proposes two new, criteria-based policies. However, in view of its relatively early stage, this plan carries limited weight at present.

### **Main Issues**

9. In the light of all the submissions made, I consider the main issues to be as follows:
  - the effects on the area's character and appearance;
  - the effects on the biodiversity and ecological value of the Hanger Wood SSSI;
  - the risks to future occupiers due to potential ground contamination;
  - the risk of flooding;
  - the effects on vehicular and pedestrian highway safety;
  - whether there is an unmet need for gypsy or traveller sites in the area;
  - and whether the Council's policy for gypsy and traveller sites is up to date and consistent with relevant national policies.

### **Reasons for decision**

#### *Effects on the area's character and appearance*

10. In the case of gypsy and traveller sites, criterion (iii) of Policy CP9 seeks to ensure that the effects on local character and appearance are minimised. In addition, CS RIP Policies CP2(v) and CP24 require all developments to protect or enhance the quality of local landscapes; and Policy BE30(i) of the BBLP requires regard to be paid to the development's context, and to reinforcing local distinctiveness. Nothing in these policies appears to me to conflict with anything in the NPPF or PPTS.
11. In landscape terms, the appeal site lies within an extensive area of clay farmlands, stretching to the west of the Bedfordshire Ouse. The landform of the area is essentially a large, open plateau, bisected by a series of small valleys and tributaries. Although the topography is undramatic, its gently rolling nature affords broad, sweeping views over long distances. The pattern of large fields with low hedgerows, interspersed with small woodlands and farmsteads, provides a great deal of visual interest and character. Together, these features combine to form an attractive and distinctive landscape, of considerable quality.
12. The appeal site lies on a north-west facing slope, on the banks of the Stagsden Brook. To the east and south-east, the site is screened by Hanger Wood. To

the north, in medium-range or longer views, the site is obscured by the A428 Bromham By-pass, with its embankment and trees. From the road itself, the trees allow some close-range views, albeit filtered, and probably limited to the winter months. From the west and south-west however, the site is more exposed, with year-round longer views from various points along the A422 Bedford Road, between the A428 roundabout and Dropshort Farm. From this direction, the site is elevated above the intervening land, and this gives it a degree of prominence in relation to its surroundings.

13. The proposed development would involve eight caravans in total, with two amenity buildings, plus parked vehicles. Alongside these, a certain amount of domestic paraphernalia would be likely, and some form of lighting would be necessary. All of these would be alien and visually jarring features in the otherwise largely unspoilt rural scene. Both the static units and the amenity blocks would have a permanent presence, and the touring caravans would also be likely to stay on site during much of the winter, when visibility is at its greatest. The caravans would be likely to be light-coloured. The development would be located on the higher and more visible part of the site. In all these respects the proposed development would have the potential to cause visual intrusion.
14. By way of mitigation, some re-contouring and earth mounding are proposed, together with new tree and shrub planting. The re-contouring would reduce the existing ground levels somewhat, but the scope for this is limited, due to the conflicting requirement for adequate flood protection. The proposed earth bund would reach only 0.5m above the new ground level on the higher side, and thus would not in itself provide much by way of screening. These proposals, as currently presented, are clearly indicative rather than definitive, and are based on surveyed levels which are out of date, due to the changes made in September 2014. As a result, it is difficult to draw any firm conclusions on these matters, but based on the existing information, it seems likely that the re-contouring and mounding would have only a limited mitigatory effect. In the medium to longer term, the proposed new planting could potentially provide more effective screening, but this would take some years to reach maturity.
15. Taking account of all these considerations, it seems to me that the proposed development would result in a moderate degree of harm to the character and quality of the landscape, and to the attractive rural appearance of this part of the local countryside. As such, it would conflict with the relevant landscape policies and criteria that I have identified, in CSRIP Policies CP9(iii), CP2(v) and CP24, and in Policy BE30(i) of the BBLP.

#### *Effects on Hanger Wood SSSI*

16. Hanger Wood is designated as an SSSI because of its national importance as ancient, semi-natural woodland. In a Bedfordshire county context, it is also designated as a County Wildlife Site, as one of the best remaining examples of a wet ash-maple woodland, which is said to be a scarce habitat type locally, with a rich variety of shrubs, diverse ground flora, and marshy grassland communities. An extended phase 1 habitat survey carried out in 2012 found that the wood had the potential to support roosting bats, nesting birds, and the European Nightjar. As far as I am aware, this remains the most recent ecological survey carried out at the site.

17. In Policy CP9, as well as dealing with visual impacts, criterion (iii) also requires that traveller sites minimise any adverse impacts on biodiversity or nature conservation, and do not undermine the designation objectives of nationally recognised sites. For all types of development, CSRIP Policies CP2(ii) and CP25 seek to conserve or enhance priority habitats and other scarce biodiversity resources. In the BBLP, Policy NE3 protects designated wildlife sites from either direct or indirect damage, and Policy NE6 seeks to do likewise for ancient and other woodlands. Again these policies seem to me to be fully consistent with the relevant provisions of national policy.
18. In the present case, no development is proposed within Hanger Wood itself. However, the appeal site's eastern boundary runs alongside the SSSI for its whole length, and the proposed pitches and other facilities would be grouped in this part of the site. In the 2014 appeal, the inspector identified risks relating to incursion into the Wood by children and pets, dumping of rubbish, and fires. I accept that there is no certainty that these activities would occur; and in so far as some might be potentially unlawful, it would be wrong to make any such assumption. But nevertheless, Hanger Wood represents a rare and fragile habitat, and as such is highly vulnerable. Any form of trampling, predation, or disturbance, intentional or otherwise, could cause irreversible damage. I am aware that there is already the potential for trespass, from the public bridleway on the other side of the Wood. But the threat posed by any type of residential development, in such close proximity, would be significantly greater, as the occupiers would be likely to spend long periods of time at the site, rather than just passing by. All in all, it seems to me that the development now proposed would be likely pose a significant risk to Hanger Wood's ecosystem and biodiversity.
19. This risk could be partly mitigated by the proposed buffer planting and two rows of fencing, along the appeal site's eastern and south-eastern boundaries, as proposed in the appeal proposals. Such fencing would have a minor visual impact, but would not be unduly noticeable outside the site, and the details could be controlled by condition. Although the buffer planting currently proposed would be narrower than that normally required around ancient woodlands, and the present proposals do not include the additional 5m-wide 'stand-off' zone recommended by Natural England, there seems no reason why these could not be secured by further conditions. Ensuring the long-term retention and maintenance of the fencing and planting could present some challenges, but these should not be insuperable.
20. However, the mitigation that could be secured by these means, on the eastern and south-eastern boundaries, could not be achieved in the same way alongside the 60m-long private access strip, to the north of the Wood, since this part of the site is outside the appellant's ownership or control. In theory this need not prevent permission being granted subject to a Grampian-style condition. But whilst such a condition could secure the provision of some form of fencing here, it could not be relied on to ensure that fence's future retention and maintenance, since the condition would not be enforceable against the third-party owner. And in addition, even if a fence were provided, there would not be sufficient space within the access strip to provide any buffer planting or stand-off zone. As a result, the SSSI's northern boundary could not be protected to the same degree as its other boundaries with the appeal site. This strip of land would provide the sole access to the development, and would therefore be well used. In view of the ecological importance and vulnerability

of the woodland habitat, the lack of any sure way to restrict access from this direction is a significant weakness of the appeal scheme.

21. I conclude that the proposed development would carry an unacceptable risk of harm to the ecology and biodiversity of the Hanger Wood SSSI. In this respect, the scheme conflicts with the relevant provisions of Policy CP9(iii), and with the clear aims of Policies CP2(ii), CP25, NE3 and NE6.

*Ground contamination*

22. In the NPPF, paragraphs 178 and 180 require that planning decisions take full account of any risks arising from ground contamination, and the effects on health and living conditions, and also that decisions should be based on adequate site investigation information. Policy CP21(vii) of the CSRIP requires, amongst other things, that developments should where necessary mitigate against the effects of pollution, including any land contamination. This approach seems to me fully compatible with the above NPPF policy.
23. In the 2014 appeal decision, the inspector found good reason to believe that contamination could be an issue, due to the presence of made ground, including demolition waste, and the former use as a commercial nursery. In the absence of any investigation, he considered that it was not possible to conclude that the site would be safe for the proposed use, and in this regard he found conflict with Policy CP21.
24. Subsequently, a geo-environmental survey was carried out in September 2015 by AGB Environmental. The report found no elevated concentrations of gases within the suite of the analysis. The authors concluded that the risk to identified receptors was negligible, and that no remediation was necessary. However, the version of the AGB report that was submitted with the present application, and which is before me now, is incomplete, in that it excludes the various Appendices that form part of it, comprising site plans, photographs, historical 'Groundsure' maps and reports, fieldwork records, and lab test reports.
25. On the face of it, the authors' conclusions are clear, and in the absence of any evidence to the contrary, the balance of probability suggests that the site should be considered safe for occupation. But nevertheless, without the supporting evidence, the context in which those conclusions were arrived at is not transparent. As the Council points out, the burden of proof rests on the developer. In this case that burden has not been properly discharged. The appellant was aware of the Council's concerns regarding the incomplete report, since at least August 2017, but has not sought to rectify the defect. In this context, the failure to produce the missing Appendices is surprising, and the explanation given at the hearing was unconvincing. There is therefore some force in the Council's argument that the AGB conclusions should not be relied on in isolation.
26. In the circumstances, I conclude that that there is insufficient evidence on which to dismiss the possibility of significant ground contamination, with consequent risks to the health of future occupiers. In this respect therefore the proposed development cannot comply with Policy CP21, nor with the relevant advice in the NPPF.

### *Flood risk*

27. In Policy CP9, criterion (vii) requires that gypsy and traveller sites are located outside areas with a high risk of flooding. This is consistent with the NPPF, where paragraph 155 requires that in areas at the highest risk of flooding, inappropriate development should be avoided. In addition, the same paragraph goes on to say that any development in such areas should be made safe for its lifetime, and should avoid increasing flood risks elsewhere. NPPF paragraph 163 and the associated footnote 50 also advise that planning applications in Flood Zones 2 or 3 should be accompanied by a flood risk assessment (FRA), including where applicable the sequential and exception tests. The Planning Practice Guidance (PPG) defines residential caravans and mobile homes as 'highly vulnerable' development, which should only be permitted in Zone 2 where the sequential and exception tests are passed, and should not be permitted at all in Zone 3.
28. In the 2014 appeal, the Environment Agency (EA) initially objected, on the grounds that the site was considered to lie in Zone 3, and this was reflected in one of the Council's reasons for refusal. Following the appellant's submission of an FRA, dated October 2013, the EA withdrew its objection, and the Council did not pursue the point any further at the inquiry. On this basis, the inspector found that the development then proposed would not be at risk of flooding.
29. In the present case however, no FRA was submitted with the application. The EA informed the Council in March 2017 that in the absence of an up-to-date FRA, it would object. This stance was notified to the applicant at that time. In further correspondence, the EA clarified that its objection was based on the site's continued inclusion in Zone 3 on the EA flood risk map; that any FRA should be less than 6 months old; that climate change allowances had changed since 2013; and that the sequential and exception tests would also be required. Subsequently, the original 2013 FRA has now been submitted at the appeal stage. However, the EA has not commented further, and the Council maintains its objection.
30. From the evidence before me now, the EA's map shows more than half the site within Zone 3. An up-to-date FRA is therefore required. To my mind the existing FRA, dating from 2013, is out of date not only in terms of the climate change allowance, but also because it pre-dates the changes made to the ground levels in 2014. Nor does it consider the effects of the further earth moving that is now proposed. I therefore agree with the EA that, without an updated FRA, the flood risk implications, both on-site and off-site, cannot be properly or fully assessed.
31. The appellant's contention that the development itself would all be within Zone 1, is based on the detailed modelling in the 2013 FRA. However, for the reasons given above, that FRA can no longer be regarded as up to date, and this applies equally to the modelling work and the conclusions drawn from it. There is also no evidence to support the appellant's claim that the changes to the climate change allowance are negligible. Although the EA has changed its position since 2013, the reasons for this change are clearly explained and justified. The appellant has been aware of the EA's current position for some considerable time, and has had sufficient opportunity to satisfy them on these matters, but Agency's stated position remains unchanged. In the circumstances, I see no reason to disagree with the EA's view, that the FRA is

out-of-date, and therefore that no reliance can be placed on it. As a result, I see no alternative but to treat the site as being mainly in Zone 3, where there is a high risk of flooding. As a highly vulnerable use, the proposed development must be regarded as inappropriate in such an area.

32. Even if the validity of the 2013 modelling could be re-established, based on up-to-date data, as long as any part of the site remains in Zones 2 or 3, the sequential and exception tests would still need to be considered. This possibility cannot be ruled out. No such testing has been carried out. This reinforces my view that the development is unacceptable on flood risk grounds.
33. I conclude that it has not been demonstrated that the appeal site would be safe from the risk of flooding, nor that future occupiers could be adequately protected in such an event. Nor has it been shown that the development could be carried out without affecting flood risks elsewhere. In all these respects, the scheme conflicts with CSRIP Policy CP9(vii), and with the relevant provisions of the NPPF and PPG, as identified above.

#### *Highway safety*

34. Highway safety is not raised by the Council as a reason for refusal in the present appeal. However, issues relating to vehicular and pedestrian safety are raised in several other parties' submissions.
35. In Policy CP9, criterion (ii) requires gypsy and traveller sites to have satisfactory vehicular access from the public highway, and criterion (v) states that local facilities should preferably be accessible by foot, cycle or public transport. Elsewhere in the CSRIP, Policies CP2(vii) and 29 seek to ensure that all developments are located so as to maximise these modes of transport. In the BBLP, Policy BE30 criteria (v) and (vi) urge consideration of the access needs of all members of the community. These policies are consistent with the NPPF, where paragraph 108 requires that safe and suitable access is available for all users, and paragraph 109 makes it clear that an unacceptable impact on highway safety may be a sufficient ground for refusal of planning permission. This latter advice was added to the NPPF in the 2018 revision.
36. In the 2014 appeal, highway safety initially formed one of the Council's refusal reasons, but this was withdrawn prior to the inquiry. A separate refusal reason relating to sustainability remained, and the inspector dealt with this on the basis of the site's location and accessibility. On this issue he concluded that the location was sustainable, on balance. However, in coming to that view, he commented that journeys on foot or by cycle would be hazardous, and that in this respect he found that the proposal would not comply with some of the relevant policies, including CP2(vii), CP29, and BE30 (v and vi).
37. From my observations during my visits to the site, I have come to similar conclusions regarding the hazards to pedestrians and cyclists, due to the need to cross the A428 Bromham By-pass. My visits were undertaken on different days of the week, and covered different times of day, and in varying conditions as to lighting and traffic flow. During and throughout these visits, traffic on the By-Pass at this point was fast and moderately heavy. For residents of the appeal site to get to the village school, supermarket, bus stops, or other local facilities, either by foot or bicycle, they would have to cross the By-pass. The only potential crossing point is opposite the bridleway that leads towards Thistley Lane and the village centre, about 250m from the appeal site. There

- are no footways or cycle lanes leading to this crossing point, no lighting, and no central refuge. For a pedestrian or cyclist, of any age or ability, the roadside environment is hostile and intimidating. In darkness or bad weather, this impression would be intensified. Crossing this section of the road at any time requires a good deal of alertness, and also reasonable agility. There is no doubt in my mind that any children or less mobile people attempting to cross, whether accompanied or not, would place themselves in serious danger, and in doing so would also become a danger to other road users.
38. I accept that one option for future occupiers, faced with the danger and difficulty of accessing the site in this way, might be to rely more heavily on car journeys, or they might simply tend to avoid having to use local facilities where possible. However, neither of these would be a satisfactory outcome, bearing in mind that the PPTS aims, amongst other things, to encourage better social integration and foster good community relations. Therefore, the possibility of consequences such as these reinforces my view that the appeal site is not well located from the point of view of highway safety.
39. The bridleway that crosses the By-pass is used by walkers and ramblers, and there is no evidence as to any accident record. But the type and pattern of use would be very different. Site occupants needing to cross the road to access schools or buses would be likely to have to do so in peak hours, and under pressure of time, and would be more likely to include children.
40. As regards vehicular access, I accept that the existing site access could be improved to accommodate turning movements and a lay-by, and that unsafe right-turning movements could be made unlawful through a Traffic Regulation Order (TRO). Although the improvements would require third-party land, and a TRO would involve legal costs, these could potentially be dealt with through Grampian conditions. In these respects, the development would be capable of satisfying Policy CP9's criterion (ii). But this does not overcome the concerns that I have identified regarding pedestrian and cycle access.
41. I therefore conclude that the proposed development would have a significant adverse impact on highway safety for pedestrians and cyclists. As a result, it would fail to provide satisfactory pedestrian or cycle access to local facilities and public transport services, contrary to Policy CP9(v), or to maximise sustainable modes of transport in accordance with Policies CP2(vii) and CP29, or to provide for the access needs of all sections of the community as required by Policy BE30.
42. In respect of Policy CP9(v), my conclusions differ from those of the 2014 inspector, for the reasons set out above, but it should be noted that his decision was taken in the context of the 2012 NPPF, in which highway safety was given less weight than the present version. In all other respects, my conclusions on these matters and those of the 2014 inspector coincide.

#### *Need for gypsy and traveller sites*

43. Policy CP9 states that, subject to the criteria set out in the policy, permission will be granted for gypsy and traveller sites where a need has been identified through a Regional Spatial Strategy (RSS) or a Gypsy and Traveller Accommodation Assessment (GTAA). In addition, criterion (i) requires the submission of evidence to justify a local need for the scale and nature of the development proposed.

44. No RSS is now in force, but there is a GTAA for the Bedford Borough area, which was published in February 2017. For the period up to 2035, the GTAA identifies a need for only two additional pitches for households that meet the planning definition of gypsies or travellers, as set out in the PPTS. The need for these two pitches will arise from household growth amongst existing families, and they are expected to be needed by around 2022 and 2026 respectively. This identified need could be met by the proposed two new pitches at the existing Kempston Hardwick site, for which planning permission was granted in December 2018. It is not disputed that these additional pitches are deliverable within the required timescale. The level of need identified in the GTAA can therefore be met without the appeal proposal.
45. In addition to this, the GTAA acknowledges a possible additional need of up to 6 further pitches, spread over the whole period 2016-35, relating to households whose status in relation to the PPTS definition is unknown. However, the evidence seems to suggest that the majority of these households are unlikely to meet the definition, and it is possible that none will. There is therefore no certainty regarding the need to plan for any of these additional pitches. The possibility of some additional needs arising from this source, in quite low numbers and over a long period, does not seem to me to amount to evidence of a current local need within the terms of Policy CP9.
46. I accept that the GTAA methodology has some limitations. It does not appear to provide for any net in-migration. It does not allow for the offspring of non-travelling gypsies possibly wishing to return to a more traditional gypsy lifestyle. There is no means of independently auditing the authors' judgements regarding individuals. The GTAA also focuses quite narrowly on quantitative need, rather than on widening the choice available. Some of these criticisms may have some validity. However, none demonstrates in any clear-cut way the existence of additional local needs over and above those accounted for in the GTAA. The possibility of such additional needs may be a material consideration in the overall planning balance, but does not alter my conclusion as to compliance with Policy CP9.
47. In this context, I note that the 2014 inspector found that the lack of privately-owned sites, at local level and more widely, indicated an unmet need for this type of tenure. In the present case however, although I appreciate that the PPTS seeks generally to promote an increase in private sites, there is no convincing evidence that this amounts to a need, in terms of Policy CP9.
48. At the hearing, it was suggested that the proposed development would be occupied by members of the appellant's family. However, no evidence has been produced as to the identity of the households concerned, nor as to their particular needs, or whether they have gypsy status in terms of the planning definition. Previously, throughout the application and appeal process, it was stated that no specific occupiers had been identified, and the development was intended to provide pitches for sale or to rent. This was also confirmed in the agreed Statement of Common Ground. In any event, and whatever the current intentions, there is no evidence of any occupiers who would satisfy Policy CP9's requirement for evidence of a local need for the scale and nature of the development proposed.

49. I conclude that a need for the proposed development has not been demonstrated, either through the GTAA or in any other way. In this respect, the proposal conflicts with Policy CP9's criterion (i), and also with the basic requirement set out in the opening sentence of the policy itself.

*Whether the Council's policy for gypsy and traveller sites is up to date and consistent with relevant national policies*

50. Where a development would conflict with development plan policies, the NPPF requires consideration as to whether those policies are up-to-date and consistent with national policies, including those of the PPTS.
51. In the present case, as set out above, Policy CP9 requires that gypsy or traveller developments can only comply with the policy if a need has been identified through an RSS or GTAA. As the appellant points out, this effectively places a ceiling on the overall number of traveller pitches that can be permitted, irrespective of the merits or benefits of a particular proposal. This therefore means that, in some cases, acceptable sites or developments could be turned away, simply because a need had not been previously identified. In addition, Criterion (i) requires further evidence of local need, even in cases where the RSS or GTAA figures would not be exceeded. To satisfy this requirement, such further evidence must presumably relate to the individual needs of the applicant or occupiers. This requirement could result in proposals which might be suitable in every other way, being refused solely for lack of evidence of personal needs or local connections.
52. Looking at these two elements within Policy CP9, either singly or together, it seems to me that the most likely effect is that the overall number of traveller sites in the district will be restricted, to below the level that could otherwise be achieved within the scope of the policy's other criteria. In this context it is also relevant that, apart from CP9, the Council has no other policies or site allocations through which traveller sites can be provided or permitted. Partly as a result of this, provision within the Borough is apparently now concentrated entirely into two large, public sites, with therefore very little choice of location, site type or tenure.
53. In contrast, the PPTS sets out the aims which national policy seeks to encourage for gypsy and traveller policies. These include ensuring fair and equal treatment, developing fair and effective strategies to meet need, increasing overall site provision, promoting choice, and encouraging social inclusion, whilst also facilitating the gypsy way of life. To my mind, the provisions of Policy CP9 that I have identified here are clearly at odds with these aims. In this context it is relevant that the CSRIP pre-dates both the present and earlier versions of the PPTS.
54. I appreciate that most gypsy and traveller proposals are likely to be in the countryside, where protective policies such as Policy CP13 will usually apply, alongside CP9. In such cases, I agree that the question of need is likely to be a relevant consideration. But in the formulation of Policy CP9, need is elevated to become the overriding consideration. In my view, this is incompatible with the PPTS, for the reasons that I have explained. I am aware that in other appeal decisions, different views have been expressed, but my conclusions in the present case are based on the evidence before me and the situation that exists now.

55. In all other respects, for the reasons already given, I have found that Policy CP9's criteria are up-to-date and consistent with relevant national policies. But with regard to the policy's requirements concerned with need, that is not the case. I therefore agree that limited weight should be afforded to the appeal proposal's conflict with these specific provisions.

### **Other Matters**

56. There is no evidence that any alternative sites are available within or adjoining the main urban area or any or SPA. In these circumstances, I agree that Policy CP9 does not rule out traveller sites in the countryside in principle. But this does not change the fact that development in the countryside remains subject also to Policy CP13, which permits development in such areas only where it would be consistent with national policy. In this context, national policy includes paragraph 170 of the NPPF which requires recognition of the countryside's intrinsic character and beauty.

57. In addition, the national policies relevant to the application of Policy CP13 also include the PPTS, which requires traveller sites to be strictly limited where they are away from existing settlements, but elsewhere in the countryside, the same degree of strict limitation is not explicitly required. I agree that the appeal site is not 'away from' Bromham in this context. But nevertheless, there is nothing in the PPTS or NPPF, either expressed or implicit, which disapplies NPPF paragraph 170 in relation to gypsy or traveller sites. It follows that Policy CP13 too remains relevant to such developments.

58. I therefore conclude that the proposed development would involve an in-principle conflict with Policy CP13. Having said this, I accept that had the scheme been found to comply with Policy CP9, it would have been possible for the conflict with CP13 to be outweighed, in the final planning balance. But, for the reasons explained throughout this decision, that is not the case here, because I have found numerous significant conflicts with CP9. In the circumstances, the lack of compliance with Policy CP13 reinforces my conclusion that the appeal proposal fails to accord with the development plan's most relevant policies.

### **Planning Balance and Overall Conclusion**

59. For the reasons set out above, the appeal proposal conflicts with the aims of CSRIP Policy CP13, due to being in the countryside. The proposal also conflicts with Policy CP9, for numerous reasons, including its impacts on the area's character and appearance, and on biodiversity, the risks of flooding and contamination, the lack of safe access to local facilities, and because of the lack of an identified need. For similar reasons, the scheme would also involve conflict with various other development plan policies, including Policies CP2, CP21, CP24, CP25 and CP29 of the CSRIP, and Policies BE30, NE3 and NE6 of the BBLP. No development plan policies have been identified which positively support the proposed scheme. The proposal therefore conflicts with the development plan as a whole.

60. In so far as the conflict with Policy CP9 turns on the lack of need, this objection carries limited weight, because CP9's requirements in this respect are not consistent with relevant national policies. But in all other respects Policy CP9 accords with the NPPF and PPTS, as do the other development plan policies

that I have identified. These other policies and criteria carry full weight, as part of the adopted development plan.

61. The proposed development would increase the supply of traveller sites in the district, and would increase the choice available in terms of location, site size, and possibly tenure. These benefits would further the national policy aims of the PPTS. But since these aims are general in nature, they carry limited weight compared to the site-specific objections and related development plan conflicts that I have found in this case.
62. Since I have found Policy CP9 to be, in part, out-of-date and inconsistent with national policies, I agree that the planning balance should be considered in the light of NPPF paragraph 11(d). But even on this basis, it seems to me that the development's benefits are significantly and demonstrably outweighed by the multiple harms that I have identified.
63. I have considered the possibility of granting permission on a temporary basis. But the development would involve substantial physical works, including earth works, hardstandings, fencing and planting, and would require alterations to the highway access. Consequently a time limited permission would not be reasonable in this case. Nor do I consider that any of the other suggested conditions could sufficiently overcome the harm so as to change the overall planning balance set out above.
64. I have taken into account all the other matters raised, but none changes these conclusions. The appeal is therefore dismissed.

*J Felgate*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Philip Brown  
Mr Ned Jolley  
Mr William Jolley

Philip Brown Associates  
Appellant's husband  
Appellant's son

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Peter White  
Mr Callum Fletcher  
Mr Jonathan Billingsley  
Mr Steve Jarman

Planning Team Leader (Appeals/ Enforcement)  
Commercial Regulation Manager  
The Landscape Partnership  
Opinion Research Services

### INTERESTED PERSONS WHO SPOKE AT THE HEARING:

Mrs Julie Betts  
Cllr Mandy Jauncey  
Mr Philip Newman  
Mr John Balaam  
Mr Jeremy Clayson

Bromham Parish Council  
Stagsden Parish Council  
Adjoining owner  
The Greensand Trust  
Fisher German LLP

## **DOCUMENTS TABLED AT THE HEARING**

- 1 Agreed Statement of Common Ground, dated 28 January 2019
- 2 Council's response to inspector's Pre-Hearing Questions
- 3 Extract from draft Local Plan submission version, September 2018
- 4 Note from the Council on objections received in respect of draft Local Plan Policies 66 and 67
- 5 Aerial photographs of the appeal site, dated 2002 and 2006, tabled by the Council
- 6 Council's list of suggested conditions