



Appeal Decision

Inquiry Held on 3-5 December 2019

Site visits made on 4 and 6 December 2019

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 16 January 2020

Appeal Ref: APP/W1525/W/19/3224079

Land off Highwood Road, Edney Common, Essex CM1 3QE

- 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 Robert Cooper against the decision of Chelmsford City Council.
 - The application Ref 18/00965/FUL, dated 29 May 2018, was refused by notice dated 7 September 2018.
 - The development proposed is change of use of land to provide 7 travelling showpersons' plots and associated works including hardstanding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application as originally submitted, and as considered by the Council, was for a travelling showpersons' site with 8 plots. During the appeal stage, the appellant submitted a revised plan, No TDA.2317.03A, which reduced the number to 7 plots. At the inquiry, it was confirmed that the Council had no objection to this amended plan being substituted, and the description of the development being amended accordingly. I have considered the appeal on this basis.
3. The Council's refusal of planning permission was based on four reasons. Subsequently, in the light of further information submitted by the appellant, the Council withdrew Reason No 2, relating to surface water drainage.
4. In relation to Reason No 3, the Council confirmed prior to the inquiry that its concerns regarding ecological impacts had been reduced to matters relating to Great Crested Newts only. During the inquiry, it was further agreed that the effects on the species' favourable conservation status could be adequately mitigated by means of conditions.
5. During the inquiry, I conducted two accompanied visits. The first, on 4 December 2019, was to the appeal site. The second, on 6 December, was to view two plots at the Buckles Lane showmen's quarters site, where some of the appeal site's proposed occupiers currently live. Buckles Lane is in South Ockendon, Essex, within the Borough of Thurrock.

Relevant Planning Policies

The development plan

6. The development plan policies of most relevance to the appeal, are contained in the 'Chelmsford Borough Core Strategy and Development Control Policies' (the CS), adopted in February 2008, and the 'Focussed Review' (the CS Review), adopted in December 2013.
7. The appeal site is located in the Metropolitan Green Belt (the GB), where Policy DC1 of the CS Review states that planning permission will not be granted, except for certain specific types of development. Travellers' or showpeople's sites are not included in the specified exceptions.
8. Criteria for gypsy and traveller proposals are set out in Policy DC34 of the CS. These include Criterion (iii) relating to visual impact and the effects on the area's character and appearance, Criterion (v) which requires a clearly established need, and Criterion (vi) which excludes sites in the GB.

The emerging draft local plan

9. The draft Chelmsford Local Plan (the draft CLP), in its pre-submission version, was published in January 2018. The public examination has been completed and consultation has taken place on proposed Modifications. The main thrust of the policies relevant to the appeal is not significantly changed by these Modifications. The Modifications are subject to objections by the present appellant, but these relate more to the plan itself rather than to the Modifications. In the circumstances, I consider that the draft plan policies carry significant weight.
10. Draft Policy S13 seeks to protect the GB from inappropriate development. Main Modification MM17 strengthens this aim by recognising the importance of the GB's openness and permanence.
11. For travelling showpeople, draft Policy S8 identifies a potential need for 24 new plots up to the year 2036. Draft Policy S9 proposes to make provision for these within some of the larger sites allocated for housing development. For other gypsy, traveller and showpeople's site proposals, Draft Policy HO3(A) proposes new criteria. As before, Criterion (i) excludes sites in the GB. In addition, amongst other things, Criterion (v) requires developments to have no significant impact on the countryside's intrinsic character and beauty, and Criterion (vi) seeks to avoid adverse impacts on the natural environment.

National Policies

12. In the National Planning Policy Framework (the NPPF), paragraph 143 provides that inappropriate development in GBs is to be treated as harmful by definition, and should not be approved except in very special circumstances. Paragraph 144 requires that substantial weight must be given to any harm to the GB; and states that very special circumstances will not exist unless the harm to the GB, and any other harm, are clearly outweighed by other considerations. Paragraph 170 requires the countryside's character and beauty to be recognised, and that any impacts on biodiversity are minimised.
13. In the Planning Policy for Traveller Sites (the PPTS), paragraph 3 seeks to ensure fair and equal treatment, and to facilitate travelling communities' traditional ways of life. Paragraph 4 urges planning authorities to develop

strategies to meet need, and to promote more private site provision. However, paragraph 16 states that traveller sites in GBs are inappropriate, and that subject to the best interests of children, the resulting harm to the GB is unlikely to be outweighed by personal circumstances and unmet need.

Main Issues

14. It is not disputed by either of the main parties that the proposed development would constitute inappropriate development in terms of GB policy. Nor is it in dispute that it would cause some harm to the GB's openness and some degree of encroachment into the countryside.
15. In the light of the above matters, and taking account of all the submissions made, both orally and in writing, the main issues in the appeal are now as follows:
 - the extent of the harm to the GB's openness and purposes;
 - the effects on the character and appearance of the area;
 - whether there is an unmet general need for showpeople's sites in the area;
 - the weight to be given to the needs and personal circumstances of the proposed occupiers;
 - and, in the final planning balance, whether the harm to the GB, and any other harm, is clearly outweighed by other considerations, so as to constitute the very special circumstances required to justify inappropriate development in the GB.

Reasons for Decision

Effects on the GB's openness and purposes

16. The appeal site comprises a large paddock, surrounded by hedges, together with a smaller area of rough grassland at the front, through which the proposed access road would run. These two parts are separated by a strip of scrub woodland. The whole of the site is undeveloped open land, forming part of the Green Belt countryside surrounding the village of Edney Common.
17. The appeal proposal would involve laying crushed stone or other hard surfacing across almost the whole of the paddock area, and erecting 1.8m high fencing in this part of the site to form 7 plots or yards. Within these, there are proposed to be one static mobile home on each plot, and up to two touring caravans on each, with the remainder of this space being used for the parking and storage of vehicles, trailers and fairground equipment. Some form of external lighting would be required within each plot.
18. Within the front part of the site there would be a hard surfaced roadway which would run for a length of about 75m, before passing through the tree belt and continuing on into the rear paddock. At the access onto Highwood Road, the first 10m or so of the new road would be finished in brushed concrete. Visibility splays would be formed, which would require the removal of a section of the existing front hedge.
19. From the evidence presented at the inquiry, the vehicles that would be kept at the site would include, amongst others, 30-foot box lorries, 45-foot articulated lorries, and articulated caravans of a similar length. On my visit to the existing

sites at South Ockendon, I was able to see examples of a number of these and other types of large-scale vehicles and equipment commonly used by showpeople, including some of those belonging to certain of the proposed occupiers of the appeal site. Although a height limit of 4.5m is suggested, this is a substantial size, which would include some of the tallest vehicles seen on UK roads.

20. Having regard to the type of development proposed, and all the available evidence, it is clear that the effect would be that the appeal site's present open character would be entirely changed. The rear paddock would take on an appearance rather akin to an urban lorry park. In the front section, the remaining grassed area would become subservient to the new access road. To my mind, the result of these changes would be that the site's openness would be completely lost.
21. Moreover, the appeal site would no longer appear as part of the countryside, but rather as an extension of the existing village. The development would therefore represent an urban encroachment into the countryside, contrary to one of the central purposes of GB policies, as identified in NPPF paragraph 134.
22. The loss of openness and conflict with GB purposes would therefore be significant, exacerbating the already acknowledged conflicts with Criterion (vi) of CS Policy DC34, Policy DC1 of the CS Review, and the equivalent provisions in Policy HO3(A) of the draft CLP. The harm caused to the GB in these respects would be over and above the agreed harm by reason of inappropriateness. Having regard to the terms of NPPF paragraph 144, substantial harm must be attributed to any harm to the GB.

Effects on the character and appearance of the area

23. The countryside surrounding Edney Common is predominantly arable land, with a varied pattern of large and small fields. The topography is gently undulating, giving rise to constantly-changing long and short views from the intervening lanes. Despite some localised detracting features, the overall impression is of an attractive and pastoral rural landscape.
24. The appeal site's main paddock sits back from Highwood Road, and its interior is screened by the surrounding hedgerows and tree belt. However, large or high-sided vehicles, and mobile homes raised off the ground, would be likely to be visible above the western boundary hedge, from medium-range vantage points on Highwood Road and Wyse's Road. Any light or bright colours, which might well be expected in this type of development, would be particularly noticeable in this setting, especially in winter. In this location, mobile homes, fairground rides and tall commercial vehicles, especially in large numbers, would appear as alien and unsightly features, at odds with the rural character of the surrounding landscape.
25. Within the site's front section, the proposed new access and roadway would be clearly visible at close range, from Highwood Road, on the edge of Edney Common village. These would again appear as incongruous urban features. Visual harm would therefore be caused not only to the local landscape, but also to the character and appearance of the village.
26. With regard to this front area, I also have serious concerns that, if not adequately controlled, parking and storage could spill over into this more

prominent part of the site, including on the proposed roadway and the adjoining grassed area. From the evidence given, it is clear that storage space for showmen's equipment is highly sought-after, and that space utilisation tends to be maximised. Informal space-sharing arrangements between showpeople on different sites are evidently not unusual. The front part of the appeal site could easily become a magnet for such activities. Whilst in theory, restrictions could be imposed by conditions, no such conditions are before me; and in any event, in the absence of any other measures, the enforcement of such conditions could impose a considerable burden on the local authority. In terms of visual impact, there can be no doubt that any parking or storage on this front part of the site would be severely damaging. This potential additional impact, and the lack of any positive proposals to prevent such use, further reinforces my concerns about the development as a whole.

27. I appreciate that some seasonal variation in site usage would be likely. But even during the summer and autumn periods, the evidence suggests that vehicles and equipment would return to the site, between events. And in any case, the periods of peak site usage would tend to be mainly in the winter, when visibility is at its greatest. A landscaping scheme is proposed, and in time this would provide some additional screening. However, this new planting would be unlikely to ever conceal the development entirely. In a sensitive rural landscape such as this, the residual visual impacts would still be highly significant.
28. The adjoining land is developed with large-scale greenhouses. However, the horticultural nature of these makes them less jarring; for this reason, greenhouses usually tend to be recognised as a rural land use, and a generally accepted feature of rural areas. There are some other existing showmen's sites in and around the village, including two close to the appeal site. But those sites are smaller, and also more visually contained, by the existing settlement and road pattern, and by the topography. The appeal proposal has to be considered on its own merits, and the existence of these other developments does not change my view as to the adverse impact of the development now proposed.
29. I conclude that the proposed scheme would be an incongruous and intrusive use of the land in the context of this small rural village and its agricultural landscape. If my concerns regarding the possible use of the front part of the site were realised, then the impact would be magnified still further, but my conclusion on this matter does not rely on that possibility, as substantial harm would arise from the development in any event. The development would thus cause significant harm to the area's character and appearance, and to the countryside's intrinsic character and beauty, contrary to Criterion (iii) of CS Policy DC34, and Criterion (v) of the draft CLP's Policy HO3(A).

General need for showpeople's sites in the area

30. The need for showmen's sites in the District was considered in the Chelmsford Gypsy, Traveller and Travelling Showpeople Accommodation Assessment completed in June 2017 (the District GTAA). Over the whole of the study period 2016-33, the District GTAA identified a need for 16 for additional plots for households who met the 'planning definition'¹ of travelling showpeople. Of

¹ As set out in the PPTS, Annex 1, paragraph 3

- these, 11 were needed in the first five years, 2016-21. A further 5 plots were potentially needed, across the whole study period, for households whose status was unknown.
31. In the emerging draft CLP, the plan period runs to 2036, and the District GTAA figures are extrapolated to cover the additional three years. On this basis, the draft plan identifies an overall need for travelling showpeople amounting to 24 new plots. These are proposed to be provided within the proposed strategic housing site allocations at Warren Farm, West Chelmsford (5 plots), North East Chelmsford (9), Moulsham Hall/Great Leighs (5), and North of South Woodham Ferrers (5).
32. I agree that the Council has taken a proactive and innovative approach, by seeking to include provision for showpeople within major new housing sites. But based on the District GTAA, around half of these new plots are already needed now, or are likely to be needed within the next year or so. Whereas, based on the Council's own assumptions, none of the new plots on the allocated sites are likely to come forward before 2024 at the earliest. Indeed, there is as yet no certainty that these planned sites will come forward at all, as this will depend on agreements yet to be negotiated with the developers or promoters of the relevant housing sites. In the meantime, it is agreed that no other sites for showpeople are available. The District therefore does not have a 5-year supply, or indeed any supply of sites available now, to meet the identified current need.
33. This assessment, in the District GTAA, does not include any allowance for the possible needs of the proposed site occupiers in the present appeal, as none is resident in Chelmsford District. However, that does not preclude them from deriving support from it. The assessment indicates a level of under-provision, which is a relevant consideration in the appeal.
34. In addition, the Essex-wide GTAA (the County GTAA), completed in January 2018, shows a need in the period 2016-33, across the remaining Districts in Greater Essex, for an additional 20 plots for showpeople meeting the planning definition, and a further 2 plots for those of unknown status. These latter figures exclude the Buckles Lane site. The separate GTAA for Buckles Lane shows a need for a further 233 plots arising from that site alone. There is no evidence as to how much, if any, of these wider needs have since been met. The potential additional needs at county level reinforce the conclusion that there are significant unmet needs for showpeople's sites in the area generally.
35. Having regard to CS Policy DC34, Criterion (v) requires there to be a clearly established need that cannot be met by an existing or allocated site. In the present case, it seems to me that a general need for additional showpeople's sites has been established, and the lack of any available existing sites in Chelmsford District is not disputed. Although the policies of the draft CLP carry significant weight, the site allocations are not yet certain to come forward. On this basis, Policy DC34's Criterion (v) is met.
36. Given the conflicts that I have found with some of Policy DC34's other criteria, meeting Criterion (v) does not change the position regarding the appeal scheme's lack of compliance with the policy as a whole. But nevertheless, the unmet general need, reflected in this conclusion regard criterion (v), carries weight in favour of the appeal.

The occupiers' personal needs and circumstances

37. Seven households are identified as the proposed occupiers of the new plots to be created at the appeal site. From the evidence provided, all of these prospective occupiers come from families who identify as showpeople, and who have operated fairground rides and stalls for many generations. All currently live in cramped conditions, sharing space with other family members, on existing showmen's sites that are overcrowded.
38. Mr & Mrs C, who have one infant son, live on the site where Mr C grew up, at Wickford, in the neighbouring Borough of Basildon. Although they have their own chalet there, the yard is owned by Mr C's father, and is shared also with Mr C's brother. Mr C has a mobile catering business, but there is not enough space on the site for his 7.5 ton lorry, plus his five trailers, and his coffee van, together with all of the other vehicles and equipment used by his father and brother. Mr C has a temporary arrangement to store some of his items with an aunt at the Buckles Lane site in South Ockendon, but this space will shortly have to be given up for another family member. Mr C wishes to expand his business further but is prevented by the lack of space for further vehicles. Mr & Mrs C also wish to increase their family, but would need a larger chalet, which cannot be accommodated at the Wickford site. Mr C has made several enquiries with regard to other showmen's sites, but none has been able to offer the family an alternative space to live and store their equipment.
39. Mr H and his fiancée live on the Vale of Health showmen's site at Hampstead in north London. Although Mr H has lived there most of his life, his family also has connections with Writtle, within the Borough of Chelmsford. The Hampstead site is jointly owned by various family members, including Mr H's parents, and occupied on a shared basis. The lack of space on the site, and the number of occupiers, means that Mr H and his partner can only live in a touring caravan. They would like to marry and start a family, but cannot do so in their current accommodation. Mr H operates a big wheel, a water walker, and set of bungees, but these cannot all be accommodated, not only because of the lack of space, but also the difficulty of access through narrow roads. Currently the largest item is stored at Buckles Lane, but this arrangement is only short-term, and also sometimes involves having to move it at short notice. Other family members wish to sell the Hampstead site, and have entered into an option agreement with a housing developer, so there is uncertainty about its future availability.
40. Mr & Mrs M (with the initials C and R), live in a mobile home on a small site at Leaden Roding, Essex, in Uttlesford District. Mrs RM grew up in Writtle, and has other family there and elsewhere in the Chelmsford area. The Leaden Roding site is owned by her grandmother, and is shared with her and with RM's parents. Mr & Mrs M's mobile home is not large enough for their two young daughters, aged 6 and 3 years, to have a bedroom each, and there is little external space for them to play. Privacy between the caravans is limited. Mr & Mrs M have two catering vans and a bouncy castle, but these cannot be kept at Leaden Roding, because of the lack of space. Instead, when not in use, these are stored at Mr CM's father's yard at Redditch, in Worcestershire. This means incurring high travelling costs and wasted time. It also means that CM has to stay away from home for two or three days a week, placing a strain on family life. The couple have made enquiries to find a place on other showpeople's sites, over a wide area, but without success. They would prefer to stay within

reach of Leaden Roding, as their elder child has started school there, and Mrs M needs regular access to her local doctor and health services.

41. The other Mr & Mrs M (initials W and C), and their two very young children, live on a yard at Victoria Way, which is part of the Buckles Lane site. On this part of the Buckles Lane site, the original temporary planning permission expired in 2013, and so there is some uncertainty as to the area's future. The yard where Mr & Mrs M live is a double plot owned by Mrs CM's parents, and is shared with them and two other siblings and their families. CM grew up on the site. As well as their 45-foot 'American-style' caravan, Mr & Mrs M have several other vehicles including a 45-foot articulated games trailer, 30-foot box lorry, an articulated tractor unit, a vintage lorry, a van, a box trailer and a juvenile ride. There is not enough space to store all of this equipment at the Victoria Way site, and the remainder is kept at a yard owned by Mr WM's family in Gloucester. For part of the year, WM has to stay at the Gloucester site, to service the equipment kept there. At other times, he has to travel back and forth between the two sites, and this is inconvenient and time-consuming. Although WM expects to inherit the Gloucester site shortly, it is not suitable as an alternative home for the couple and their young family, as it too small for all their vehicles, and access is difficult, and the site is prone to flooding. Mr & Mrs M have made enquiries about other showpeople's sites, but without success.
42. Mr & Mrs P live on a site near Doncaster, in South Yorkshire. Mrs P grew up on a site at Hoddesdon, Hertfordshire, just outside the Essex border, and her family still lives in that area. The Doncaster site is owned by Mr P's parents, and shared with them and several other family members. The couple have a 47-foot articulated caravan, a twister ride and bumper cars, both on articulated trailers of about 15m in length, two tractor units, two vans, two smaller trailers, a children's train, and other equipment. Not all of these can be accommodated on the site, together with the other occupants and their equipment, so some has to be kept off-site, but it is getting difficult to find any yards with space to spare, or where the owners are willing to let it out. Often where space is available, it is only for short periods, and on short notice terms. Mr & Mrs P also need more space to be able to start their own family. They have been unable to find suitable premises within their budget.
43. Mr & Mrs S and their three teenaged children live in a mobile home and a touring caravan at Buckles Lane. Their plot forms part of a larger yard which is owned by Mrs S's father, and shared with other members of the extended family. Mrs S grew up at the site, and has lived there most of her life. Mr and Mrs S have lived there together for 15 years. Mr S has a 7.5 ton lorry, a 20-foot trailer and towing vehicles. Also, their oldest son is now 18, and has started to run his own stall, and so needs space for his own equipment too. In a few years, the other two sons are likely to want to do likewise. Even now, the family does not have room for their vehicles and equipment, and extra space has to be rented from other plot owners, but this is inconvenient, as items are constantly having to be moved. Alternatively, vehicles or other items are stored on the road, but this is not secure, and can block access to other yards. Recently, Mrs S's father has asked them to vacate the site, and they have been looking elsewhere, but unsuccessfully. Mrs S has health problems and needs a settled base to access a doctor. The uncertainty of their situation is a cause of stress to the whole family.

44. The final household is Mr & Mrs R, who are the owners of the yard at Victoria Way, Buckles Lane, where WM and CM also live with them and other family members. Mr R has two lorries, a van, and two trailers. Mr & Mrs R have lived at the site for many years. As well as the difficulties of juggling all their family's equipment in the limited space, Mr & Mrs R are concerned about the issues of fire risk, emergency access, crime, inadequate water and power supplies, and the expired planning permission. This has had an adverse effect on their health, both physical and mental.
45. In considering the personal circumstances of these proposed occupiers, and the potential benefits to them, I am conscious that there is no evidence of any formal leases, licences or other written agreements guaranteeing any of these families any rights to occupation of the appeal site, nor any evidence as to the terms of such occupation. Nevertheless, the evidence presented at the inquiry clearly proceeds from an assumption that the seven households in question would be granted such rights, on terms acceptable to them, and giving them a sufficient degree of control as to allow them to achieve their stated aims. The evidence on these matters has not been challenged on this basis. I have therefore taken the evidence at face value, and based my decision accordingly.
46. On this basis, all of the families involved face significant difficulties in their current accommodation, principally, though not solely, due to the lack of space and cramped conditions. The appeal scheme would potentially offer them the opportunity for more space, for both their family and business needs. This would allow those who wish to, to upgrade their living accommodation, and to enlarge their families. It would allow all the families to consolidate their homes and businesses on a single site, and in some cases relieve them of the need to split their storage between remote locations, travelling long distances. It would allow Mr & Mrs S to accommodate the needs of their older children, as they reach young adulthood. It would give Mr and Mrs C, and any others who wish to, space to expand their business activities. The scheme would also potentially free all of the families from the stresses of overcrowding and excessive proximity between neighbours, with all that that entails.
47. There is no evidence of any means to ensure that, over time, the new plots at the appeal site would not become overcrowded with vehicles and equipment, just like the existing sites that the prospective occupiers wish to get away from. Conditions are proposed with regard to the number and spacing of caravans, but not the other items of equipment, and I have some doubts as to how effectively those matters could be controlled anyway. But nonetheless, even if the benefits of living and operating in a less cramped, less stressful and safer environment were to last for only a few years, that would still represent some form of improvement for those involved.
48. Whilst the benefits would be essentially personal to the families in question, they would also serve a public purpose, in facilitating the showpeople's traditional way of life, which would accord with one of the aims of the PPTS. Considered as a whole, the proposed scheme's benefits are not insubstantial.
49. None of these benefits appears to be dependant on the development being located at the site currently proposed. There is nothing to suggest that the exact same benefits could not be achieved on almost any greenfield site in the county, or indeed beyond. Neither is there any apparent reason why similar benefits could not be achieved by freeing up some of the space on the

occupiers' existing sites, for example by relocating some of the vehicle parking and equipment storage to other commercial areas or premises. The lack of consideration to any other alternatives reduces somewhat the weight that I consider should be given to the benefits of the present proposal.

50. Nevertheless, having regard to the proposed occupiers' personal circumstances, and all of the other matters set out above, I accept that the development would be likely to bring significant benefits, of a social, environmental and economic nature, and would help to facilitate the occupiers' way of life. Having regard to all the circumstances of this case, I consider that these benefits carry moderate weight in favour of the appeal.

Other Matters

Effects on biodiversity

51. The Council now agrees that the appellant's revised landscaping proposals, incorporating ecological mitigation measures, would adequately maintain the favourable conservation status of the local population of Great Crested Newts. For my part, I note that the effectiveness of the proposed measures would depend on being able to keep people, children and pets out of parts of the site on a permanent basis, and given that the areas in question would not be easily visible from outside the site, the task of monitoring this could well be a challenging one. But nevertheless, given the Council's position, it seems right that the benefit of the doubt should go in favour of the appellant.
52. In the light of the Council's change of position, it seems to me that the proposed development cannot now be said to cause significant harm to biodiversity. On that basis, CS Policy DC13 is satisfied, and there is therefore no need to consider the criteria within that policy, as these only apply where significant harm would arise. With regard to the draft CLP, it also follows that the proposed scheme must now be considered to conserve the District's network of habitats, species and sites, in accordance with Policy NE1; and to avoid adverse impacts on natural environment assets, as required in Criterion (vi) of Policy HO3(A).
53. In the circumstances, I see no need to consider the tests applicable to licensing applications made to Natural England, or the likelihood of such a licence being granted.
54. Although the proposed mitigation scheme includes some measures, such as log piles, which are intended as enhancements, it has not been established that there would be any net gain, after taking account of the disturbance to the existing habitat. The net effect in my view would be neutral.

Effects on the local economy

55. The development would facilitate the expansion of some of the small enterprises operated by the proposed site occupiers, with the acquisition of additional fairground rides and the like. Although there is no formal commitment to any such expansion, I have no reason to doubt the genuineness of the aspirations expressed by some of the occupiers in this regard. Whilst there is no quantified evidence, it seems likely that some positive impact on the local economy could be anticipated. Given the small scale of the businesses concerned, and the lack of any further evidence, the economic benefits carry modest weight in favour of the appeal.

Reduction in long journeys

56. Two of the proposed occupiers currently have to make frequent long journeys, to Redditch and Gloucester respectively, to store or retrieve equipment stored there. The appeal scheme would obviate the need for these vehicle trips. Irrespective of the benefits to the individuals and their families, this reduction in travel would have environmental benefits for the public at large, in terms of a reduction in fuel usage and emissions. These benefits have not been quantified. This again weighs modestly in favour.

Risk of homelessness

57. It is argued by the appellant that, in their current accommodation, four of the proposed occupier families are at risk of becoming homeless. However, with regard to Mr C, any sale of the Hampstead site for housing development would appear to be dependent on planning permission being granted. There is no evidence of any current planning application, or whether such an application would be likely to be successful. Such evidence as there is shows that permission has been refused on more than one occasion in the past, albeit some years ago.
58. With regard to Mr & Mrs S's shared plot at Buckles Lane, although it is said that Mrs S's father has asked them to vacate the site, the exhibited note does not confirm that position. Rather, the note expresses the view that with several children growing up, there is not always going to be enough room for the whole family.
59. In the case of Mr & Mrs R, and their daughter and son-in-law CM & WM, although the planning permission for that part of the Buckles Lane site expired some six years ago, there is no evidence of any action having been taken by the Council to prevent its continued use by showpeople. The motion apparently passed by the Council in September 2019, and accompanying note, whilst calling for a report on the situation, does not identify any issues relating specifically to Victoria Way, nor does it refer to the expiry of the permission for that part of the site. The motion does express an intention that the showmen community be protected.
60. In all of these cases, there is evidently some uncertainty as to what will happen in the future, but in none of these cases does this appear to amount to an imminent threat of homelessness. And in any event, in the absence of any details of the intended tenure arrangements at the appeal site, there is no clear evidence as to whether the occupiers' security of tenure would be improved by moving to the proposed development. Based on the evidence before me, these matters relating to the alleged risk of some occupiers losing their existing homes carry little weight.

Fire risk

61. It is also argued that, in their current accommodation, some of the proposed occupiers are at risk of fire, due to overcrowding on existing showmen's sites, with caravans on neighbouring plots being sited too close together. Anecdotal evidence was given regarding two previous fires at Buckles Lane. On my visit to that site, I was able to see a number of caravans which appeared to be less than 6m from each other. Other evidence before me shows that these conditions are not unique to Buckles Lane.

62. I understand and appreciate the concerns expressed. However, in so far as the spacing between caravans results in part from the placement of homes within the boundaries of their own plots, this is in part a matter within the control of the occupiers themselves. The appellant acknowledges that the 6m standard for caravan sites is not applicable to showpeople's sites, and in any event, the evidence does not suggest that fires are a regular occurrence. Although a serious fire on any caravan site would be extremely dangerous, there is no clear evidence that the level of risk at any of the prospective occupiers' current homes is unacceptably high. Furthermore, in the case of Buckles Lane, I note that Thurrock Council has formed a multi-agency task force, to tackle this and other issues, which suggests that the situation there is in hand and being actively managed.
63. It is also difficult to ignore the fact that similar arguments about fire risk could potentially be made by other existing occupiers on the sites affected. At Buckles Lane alone, the GTAA shows there were over 700 occupied units of accommodation in May 2018. In all the circumstances, I conclude that the issue of possible fire hazards attracts only modest weight in the present appeal.

Local connections

64. It is argued that the local connections of some of the prospective occupiers should carry weight. In policy terms there is no requirement for an applicant to have any particular ties with the area, but nevertheless, I accept that such a connection could be considered a material consideration.
65. From the information provided, the only historic connections with Chelmsford are those of Mrs RM and Mr H. None of the proposed occupiers lives in the District now. Most of the families do have strong ties with the county of Essex, but since that is a much larger area, the weight that such connections carry is considerably less. In the present appeal, I consider that the occupiers' local affiliations carry little weight.

'Failure of policy'

66. It is argued that the failure of the Council's policies to ensure an adequate supply of available sites amounts to an additional material consideration in its own right. I accept that such a failure has occurred, since the emerging CLP is only now catching up with the need that has been identified. However, this is inherent in my finding with regard to the issue of unmet general need. I do not consider that any purpose would be served by giving further weight to this as a separate consideration.

Suitability of the site and location

67. It is contended that the appeal site is appropriately located with regard to local services, and that weight should be accorded to this. However, this claim seems unfounded. Although the Council has not cited Policy DC34's Criterion (i) in its refusal reasons, that alone does not necessarily make the location sustainable. Since the closure of the Green Man pub, the village of Edney Common has had no facilities of any kind. The next nearest village, Highwood, has a primary school, but the connecting road is a country lane without footways. No other settlements or facilities are within reasonable walking

distance. There is a bus service to Writtle and Chelmsford, but in all other respects the location has no easy access to any facilities other than by car.

68. Moreover, none of the evidence before me identifies any other advantages that the appeal site is considered to have, or any particular attributes that are considered to make it an appropriate location for the proposed development. There is no evidence that any other sites were considered, or that planning considerations played any part in the choice of site. I therefore find no basis on which to give any positive weight to the suitability of the site itself, or its location.

Best interests of children

69. The best interests of children are a primary consideration. In this case, the main potential benefits to the children of the proposed occupiers would be the possibility of an environment with more space immediately around their homes, and reduced family stress. These outcomes are not guaranteed, but there is a reasonable prospect, particularly with regard to having space to play, including the proposed grassed area in the front part of the site. In so far as there are perceived to be fire risks associated with their present homes, those risks would be likely to be reduced, although for the reasons given earlier, I find the evidence relating to this issue inconclusive.
70. However, none of the children involved currently lacks a settled home base. In most cases those children would be moving away from well-located sites on the edges of larger urban areas (as at South Ockendon and Wickford), where they are currently close to many kinds of local facilities, and close to large numbers of other children, and moving instead to a small rural village with very little nearby. Some would have to change schools. There is no evidence that this would bring any clear advantage to any child's health or education. Although the development at the appeal site would be likely to be less crowded than the existing sites, the children would still be housed in non-permanent buildings, and in an environment dominated by large commercial vehicles. The development would also be visibly different from the housing areas of the settled community, and this could well affect the children's prospects for social integration.
71. I therefore find no clear evidence as to how the children's best interests would be affected. Any advantage would be at best marginal. In the circumstances, the potential benefits to children's interests carry only modest weight.

Article 8 rights

72. It is common ground between the appellant and the Council that Article 8 rights² are engaged, including those of the appellant himself and the named occupiers. I have therefore considered the matter on that basis.
73. As far as the occupiers are concerned, all have existing homes, which will not be affected by the outcome of this appeal. In so far as their private and family lives are centred on those existing homes, these will equally be unaffected. The appeal site is not their home, but is seen by them as a possible future home, and the refusal of planning permission would prevent that aspiration

² Under the European Convention on Human Rights (ECHR), incorporated into UK law by the Human Rights Act 1998 (the HRA)

from being realised. However, such a refusal would not take away any of the rights that they currently enjoy. None of the families involved is homeless, and for the reasons explained earlier, I am not persuaded that any of them is in imminent danger of becoming homeless. None is therefore dependent on the appeal site for their future home. A refusal of permission would therefore leave the proposed occupiers in no different position from that which they hold now.

74. With regard to the appellant himself, from the evidence presented, he has no intention of taking up occupation at the appeal site, and there is no suggestion that his private or family life are dependent on the appeal in any way.
75. In any event, any interference with the Article 8 rights of any of these parties would fall to be weighed against the public interest in protecting the Green Belt and the character of the area, in accordance with the policies of the development plan. Having regard to all of foregoing matters, I am satisfied that, if permission is refused, the degree of interference would be proportionate.

Unlawful discrimination

76. There is general agreement between the parties that, whilst showpeople do not necessarily share any protected characteristics under Section 149 of the Equality Act 2010, they nevertheless represent a distinct social group, and a national minority for the purposes of Article 14 of the ECHR. I have no reason to disagree.
77. The appellant's contention is principally that the Council's treatment of showpeople's housing needs in the draft CLP is less favourable than that of other groups, because none of the proposed sites will be available till 2024 or later; whereas, the draft plan seeks to provide a 5-year supply for the needs of gypsies, travellers, and the settled population immediately on the plan's adoption. It is argued that this is unlawful discrimination, and that this is a material consideration weighing in favour of the appeal.
78. However, Article 14 rights relate to the rights and freedoms derived from the ECHR. For the reasons explained above, I find that no-one's Article 8 rights stand to be infringed, and no interference with any other ECHR rights has been alleged. In these circumstances, I can see no basis on which any breach of Article 14 rights can have taken place.
79. In any event, the CLP provides a mechanism for dealing with windfall proposals such as the appeal scheme, through draft Policy HO3, which mitigates against any disadvantage.
80. In the circumstances, the allegation of unlawful discrimination carries little weight in my decision on the appeal.

Planning Balance and Conclusions

81. The appeal proposal would constitute inappropriate development in the Green Belt. It would also result in the almost total loss of the site's openness, and would represent a significant urban encroachment into the countryside, conflicting with some of the main aims of GB policies, and exacerbating the harm to the GB. In these respects the scheme would be in clear conflict with Policy DC1 of the CS Review, and with criterion (vi) of CS Policy DC34. The development would also cause substantial visual harm to the character and

- appearance of the landscape and the village setting, contrary to Policy DC34's criterion (iii). The proposal therefore fails to accord with the most relevant provisions of the development plan. Planning permission must therefore be refused unless this conflict is outweighed by other material considerations.
82. In the emerging draft CLP, although a need for more showpeople's sites is identified, the main policies relevant to the appeal site do not represent any significant departure from those in the existing development plan. In national policy, although the PPTS is supportive of provision for showpeople in appropriate locations, the policy is firmly against sites located in GBs. Nothing in any of the relevant local or national policies therefore supports the present appeal proposal, except in the event that very special circumstances are judged to have been demonstrated, having regard to NPPF paragraph 144.
83. The principal matters weighing in favour of the appeal are the unmet general need for showpeople's sites in the area, and the benefits of the scheme to the prospective occupiers, resulting from their personal circumstances. However, the position in national policy is that, subject to the best interests of children, these kinds of considerations are unlikely to clearly outweigh harm to GBs. In the present case, whilst I have some sympathy for the families concerned, there is nothing which seems to me so exceptional as to justify departing from this approach.
84. In addition to these principal benefits, there would also be some minor benefits in the form of a potential minor boost to the local economy, cutting out long-distance journeys, relief from worries about fire risks, and possible marginal benefits to the lives of the children. But these benefits would be small in scale, and the weight that they add to the overall case is therefore modest. For the reasons already explained, the interests of the children, although an important consideration, are not compelling in this case.
85. Consequently, when the benefits of the proposed development are weighed against the combined harm, to the GB and to the area's character and appearance, the harm is not clearly outweighed. It follows from this that the very special circumstances that would be needed, to justify inappropriate development in the GB, have not been demonstrated. Neither have the material considerations in favour of the development been shown to outweigh the conflict with the development plan.
86. I have considered the option of granting permission on a temporary basis only. But if the period was set to allow for sufficient plots to be made available on the CLP sites, then it would need to be at least 5 years, or possibly longer. During that time, the harm to the GB, and the visual harm to the area, would be substantial. In addition, the need for restoration works at the end of that temporary period, could pose further risks to the site's newt population, which would be outside the scope of the current mitigation proposals. PPTS paragraph 27 makes it clear that the encouragement that is given there to temporary permissions, in some circumstances, does not apply in GBs.
87. I have taken account of all the other matters raised, but none outweighs these conclusions. The appeal therefore fails.

J Felgate
INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Josef Cannon, of Counsel	Instructed by Victoria Marsh, Solicitor to the Council
He called:	
Mr Steve Jarman	Opinion Research Services
Mrs Kimberley Howard	Senior Natural Environment Officer
Ms Kirsty Dougal	Senior Planning Officer

FOR THE APPELLANT:

Mr Stephen Cottle, of Counsel	Instructed by Ruston Planning
He called:	
Mr Giles Coe	The Ecology Consultancy
Mr Rhodri Crandon	Tirlun Design Associates
Mr Brian Studt	Prospective occupier
Mr Brandon Cooper	Prospective occupier
Mrs Stephanie Pullen	Prospective occupier
Mr John Cogger	Prospective occupier
Mrs Rio Manders	Prospective occupier
Mr William Morgan	Prospective occupier
Mr John Roberts	Prospective occupier
Dr Simon Ruston	Ruston Planning

OTHER INTERESTED PERSONS:

Mr John Drake	CPRE Essex (and also as a local resident)
Mr Richard Frost	Neighbour
Mr Philip Ronn	Local business owner
Cllr Mrs Nicolette Chambers	Ward Member for Chelmsford Rural West

DOCUMENTS TABLED AT THE INQUIRY

TABLED BY THE COUNCIL

CO/1	Opening statement
CO/2	Appearances list
CO/3	Motion submitted by Cllr Jeffries (Thurrock Council)
CO/4	Buckles Lane Travelling Showpeople Accommodation Assessment report
CO/5	Essex, Southend-on-Sea & Thurrock GTAA, Jan 2018
CO/6	Land at North Fairground site, Vale of Health – Planning Statement
CO/7	Camden Local Plan Examination – Council’s response to Inspector
CO/8	Camden Local Plan 2017 - extract
CO/9	Gloucester City Plan (Pre-Submission version), Sept 2019
CO/10	Basildon Borough Local Plan (revised publication version), Oct 2018
CO/11	Closing submissions
CO/12	Final list of agreed conditions

TABLED BY THE APPELLANT

AP/1	Opening statement
AP/2	Gypsy and travellers’ sites trajectory 2019-36 (extract from Local Plan main modifications)
AP/3	Planning Committee 4 December 2018 - extract re land at Drakes lane
AP/4	2 nd rebuttal proof of Dr Ruston, with <u>appendices</u> :
AP/5	Doncaster Borough GTAA, Feb 2018
AP/6	Planning permission for land at Mosscroft Lane, Hatfield, Doncaster
AP/7	Email from Barron Harniess – re site at Mosscroft Lane
AP/8	Email from Renny Mulhearn, Yorkshire Showmen’s guild – re Doncaster
AP/9	Uttlesford District GTTAA, June 2017
AP/10	Tewkesbury Borough Plan (pre-submission version, Oct 2019) - extract
AP/11	Morge v Hampshire County Council, 2011
AP/12	UN Convention on the Rights of the Child - General Comment 14 (2013)
AP/13	Appeal APP/Q1153/W/19/3230781 – Whiddon Down
AP/14	Appeal APP/K2610/W/16/3156445 – Oasis, Thorpe St Andrew, Norwich
AP/15	Closing submissions

TABLED BY OTHER PARTIES

OP/1	CPRE Essex statement (tabled by Mr Drake)
OP/2	Mr Drake – additional comments in reply to Inspectors’ question on day 1