



Appeal Decisions

Inquiry opened on 23 November 2021

Site visits made on 24 November 2021, 27 April 2022, 23 November 2022

by Diane Lewis BA(Hons) MCD MA LL M MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2023

**Appeal Refs: APP/U2235/C/18/3210851, APP/U2235/C/18/3212986
Land known as Plot 6, The Meadows, Lenham Road, Headcorn, Maidstone,
Kent TN27 9LG**

- The appeals are 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 Patrick Hanrahan and Mrs Sandra Hanrahan against an enforcement notice issued by Maidstone Borough Council.
- The enforcement notice, numbered 1, was issued on 16 August 2018 (to be referred to as EN1).
- The breach of planning control alleged in the notice is failure to comply with condition No 2 of a planning permission Ref MA/11/1528 granted on 17 May 2012.
- The development to which the permission relates is Use of land for stationing of a mobile home and two touring caravans for gypsy/traveller family together with utility room and provision of hardstanding, as described in planning application forms received 21 September 2011 and design and access statement received 5 September 2011, as shown on drawing numbers MAI/18/PL/01, 02, 03 and 04 all received on 5 September 2011.
- The condition in question, No 2, states: The use hereby permitted shall be carried on, and the caravans occupied, only by Mr Martin Hanrahan and his dependants and shall be for a limited period, being the period of 3 years from the date of this decision or the period during which the premises are occupied by them, whichever is the shorter.
- The notice alleges that the condition has not been complied with in that the use continues.
- The requirements of the notice are:
 - i. Cessation of the residential use on the land within the red outline on the attached plan.
 - ii. Removal of all caravans and any other structures in connection with the residential use on land within the red outline on the attached plan.
 - iii. Removal from the land all external lighting and all items and paraphernalia associated with the residential use.
 - iv. Removal of hard surfacing under, around and leading to all caravans and structures from the land within the red outline on the attached plan.
 - v. Removal from the land all resultant materials from complying with requirement steps (ii) and (iv).
- The period for compliance with the requirements is 6 months.
- The appeals are proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. In both cases, 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.

Summary of Decisions: The appeals are allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Appeal Ref: APP/U2235/C/18/3210854 and linked appeals¹

Land known as Land to the rear of The Meadows, Lenham Road, Headcorn, Maidstone, Kent TN27 9LG

- 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 Mrs Lisa Murphy against an enforcement notice issued by Maidstone Borough Council.
- The enforcement notice, numbered 2, was issued on 16 August 2018 (to be referred to as EN2).
- The breach of planning control alleged in the notice is failure to comply with condition No 2 of a planning permission Ref MA/12/1772 granted on 25 April 2013.
- The development to which the permission relates is Use of land as residential to provide 5 plots for gypsy families, with a total of 5 mobile homes, 10 touring caravans and 5 utility blocks with associated works as shown on drawing numbers MAI/29/PL/01A and WSP/ME/03 received on 30/1/13.
- The condition in question, No 2, states: When the site ceases to be named by those named in Condition 1 (above) or at the end of 3 years, whichever shall first occur, the use hereby permitted shall cease, all materials and equipment brought on to the premises in connection with the use, including the amenity blocks hereby approved, shall be removed and the land restored to its former condition in accordance with a scheme of work submitted to and approved in writing by the local planning authority.
- The notice alleges that the condition 2 has not been complied with in that the use continues.
- The requirements of the notice are:
 - i. Cessation of the residential use on the land within the red outline on the attached plan.
 - ii. Removal of all caravans and any other structures in connection with the residential use on land within the red outline on the attached plan.
 - iii. Removal from the land all external lighting and all items and paraphernalia associated with the residential use.
 - iv. Removal of hard surfacing under, around and leading to all caravans and structures from the land within the red outline on the attached plan.
 - v. Removal from the land all resultant materials from complying with requirement steps (ii) and (iv).
- The period for compliance with the requirements is six (6) months.
- The appeal is proceeding on the grounds set out in section 174(2)(e), (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.

Summary of Decisions: The appeals succeed in part and permission for that part is granted but otherwise the appeals fail and the enforcement notice as corrected and varied is upheld as set out below in the Formal Decision.

Appeal Ref: APP/U2235/C/18/3210879 and linked appeals

Land known as Plots 6 - 10 Rear of The Meadows, Lenham Road, Headcorn Maidstone, Kent TN27 9LG

- 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 James Doran against an enforcement notice issued by Maidstone Borough Council.
- The enforcement notice, numbered 3, was issued on 16 August 2018 (to be referred to as EN3).
- The breach of planning control alleged in the notice is failure to comply with condition No 2 of a planning permission Ref MA/12/2113 granted on 25 April 2013.

¹ See Appendix 1

- The development to which the permission relates is Use of land as residential to provide 5 plots for gypsy families, with a total of 5 mobile homes, 10 touring caravans and 5 utility blocks with associated works as shown on drawing numbers MAI/29/PL/05A and MAI/29/PL/06 received on 30/1/13.
- The condition in question is No 2 which states: When the site ceases to be named by those named in Condition 1 (above) or at the end of 3 years, whichever shall first occur, the use hereby permitted shall cease, all materials and equipment brought on to the premises in connection with the use, including the amenity blocks hereby approved, shall be removed and the land restored to its former condition in accordance with a scheme of work submitted to and approved in writing by the local planning authority.
- The notice alleges that the condition 2 has not been complied with in that the use continues.
- The requirements of the notice are:
 - i. Cessation of the residential use on the land within the red outline on the attached plan.
 - ii. Removal of all caravans and any other structures in connection with the residential use on land within the red outline on the attached plan.
 - iii. Removal from the land all external lighting and all items and paraphernalia associated with the residential use.
 - iv. Removal of hard surfacing under, around and leading to all caravans and structures from the land within the red outline on the attached plan.
 - v. Removal from the land all resultant materials from complying with requirement steps (ii) and (iv).
- The period for compliance with the requirements is six (6) months.
- The appeal is proceeding on the grounds (e), (a) and (g) set out in section 174(2) 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.

Summary of Decisions: The appeals succeed in part and permission for that part is granted but otherwise the appeals fail and the enforcement notice as corrected and varied is upheld as set out below in the Formal Decision.

PART 1

1. This section covers matters that are common to all appeals. This context and assessment inform Part 2, which covers the issues specific to the ground (a) and ground (g) appeals for each enforcement notice.

The Inquiry

2. The Land to the rear of The Meadows has a long planning history, going back to before 2010. More recently in May 2018 I opened an inquiry into appeals against an enforcement notice issued on 15 March 2017 and appeals under section 78² against refusals of planning permission. For various reasons the enforcement notice was withdrawn by the Council and the appellants later withdrew their section 78 appeals.
3. On 16 August 2018 the Council issued four enforcement notices, the three notices EN1, EN2 and EN3 detailed above and a fourth notice (EN4) related to land to the north of the EN1 site. An inquiry into all the appeals against these notices was due to open on 9 June 2020 but was postponed due to the Covid-19 pandemic. A Case Management Conference was held on 16 November 2021 prior to the inquiry opening on 23 November 2021.

² References to statute are to the Town and Country Planning Act 1990 unless otherwise stated

4. On 22 November 2021 the Council withdrew the notice EN4. The associated appeals fell away and I have taken no further action on the notice or the appeals.
5. The inquiry was adjourned on 30 November 2021 for Covid related reasons. The inquiry resumed on 28 March 2022 but again had to be adjourned because of Covid. The inquiry was able to resume on 17 October 2022 and sat for five days. The final session of the inquiry was on 11 December 2022.
6. Headcorn Parish Council and Lenham Road Neighbourhood Group had Rule 6 status and was professionally represented at the inquiry.
7. Accompanied visits to the appeal sites took place on 24 November 2021 and 23 November 2022 and to the adjoining lands on 27 April 2022.

Enforcement Notices

8. Each of the three appeal sites benefitted from a planning permission that was limited to a specified time period by planning condition. In each case the use continued after the expiry of the period allowed and so enforcement action is within paragraph (b) of section 171A(1), directed at the non-compliance with the condition. This is because the material change of use of the land (the act of development) was authorised by the earlier permission.
9. During the inquiry proceedings possible corrections to the notices were considered, mainly related to the ground (e) appeals and potential ground (b) appeals. An agreed position was reached. All parties confirmed they were satisfied the amended plans addressed the issues identified.
10. In summary, the plan of the Land attached to EN1 and to EN3 will be replaced with a corrected plan in order to resolve land ownership matters. On this understanding, all the appeals on ground (e) are no longer being pursued.
11. An additional correction will be made to EN1 to resolve a separate matter related back to planning permission Ref MA/11/1528. Condition 2 did not require restoration of the site at the end of the time-limited period. The appellants' argued no action could be taken against the hardstanding, walls and fences. The Council did not dispute that and proposed a single requirement "Cease the residential use of the land within the hatched area shown on the attached plan." and the deletion of steps (ii), (iii), (iv) and (v)³.
12. I agree that as they stand the requirements are excessive. The matter usually would be dealt with through a ground (f) appeal but in this case it needs to be addressed 'up front' because it informs the base condition of the land in the ground (a) assessment. The deletion of step (iv) would address the appellants' concern. Additional minor corrections to the wording are also necessary to ensure references to the corrected plan are accurate.
13. The parties proposed no corrections to EN2. However, the Land is defined with reference to the site plan for the previous permission and the access road linking the site with Lenham Road is included in the red line. The wording of the requirements should refer to the land hatched black within the red outline,

³ Email dated 11 January 2022

but excluding the access road, to clarify no works would be required to the access road.

14. I am satisfied these corrections will not cause injustice to either the appellants, the local planning authority or to any interested party.

The Appeals

15. There are two appeals against EN1, fourteen appeals against EN2 and 17 appeals against EN3. Appendix 1 lists the appellants and grounds of appeal. By the time of the inquiry in October 2022 many of the appellants had moved away from the site and in certain instances had given verbal permission for their appeal to be taken over by the subsequent occupiers.
16. Written statements (unsigned) and supporting medical and educational information from occupiers of the sites were submitted in November 2021. At the inquiry several site residents gave evidence and updated or corrected their statements. This suggests those statements unsupported by personal oral evidence may not be entirely accurate now. The appellants provided a layout plan which also sets out the residents on each pitch⁴. The oral evidence indicates the list may not be up to date and accurate.
17. In view of the agreed corrections to the notices the outstanding grounds of appeal for determination are ground (a) and the associated deemed planning applications and ground (g) on the compliance period.
18. Success through the ground (a) appeal would result in a new planning permission (under section 177(5) and section 177(1)(a)) that would not be bound by any conditions on the time-expired planning permission. In effect, planning permission would be granted for development carried out, comparable to the provisions in section 73A, which encompasses development carried out in accordance with planning permission granted for a time-limited period. New conditions may be imposed which are necessary and reasonable in relation to the continuation of the use and which meet the 'six tests' overall. With reference to section 177(1)(a), permission may be granted for all or part of the development, all or part of the land.
19. The appellants are seeking permanent planning permissions by the removal of the time-limited conditions, or in the alternative further time-limited permissions. The Council and the Rule 6 Party argued strongly against even a temporary permission.
20. As I will explain in more detail later, the planning history shows that temporary planning permissions were granted in the past in expectation the planning circumstances would change in a particular way at the end of the period. Planning Practice Guidance states it will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission will then be granted permanently. If I conclude a permanent permission is not acceptable, a temporary permission must be

⁴ Inquiry Documents 11 and 23

considered, not least to ensure requirements on protecting human rights are met.

The Caravan Sites

21. The appeal sites are located northwest of Lenham Road, connected to the public highway by an access road. EN1 and EN2 relate to sites west of the access road and EN3 covers pitches to the east.
22. The first permissions authorising a material change of use to Gypsy caravan sites on the EN2 and EN3 lands were for a temporary period of two years. The permissions were granted on appeal in February 2011⁵ following an inquiry. The temporary planning permissions granted by the Council in 2012 (EN1) and 2013 (EN2 and EN3) authorised a total of 11 pitches, 33 caravans, of which no more than 11 should be mobile homes, and 10 utility blocks. These are the permissions cited in the enforcement notices.
23. Applications were made to vary the time-limiting conditions to allow for permanent occupation of the EN2 and EN3 sites. Appeals against the Council's refusals were dismissed by decisions dated 16 January 2014⁶.
24. The Council's biannual caravan count in January 2016 recorded across the three sites a total of 35 caravans of which 12 were mobile homes. In July 2018, shortly before the issue of the enforcement notices, 28 caravans were present of which 15 were mobile homes. In July 2022 the count recorded 43 caravans in total, of which 24 were mobile homes, similar to January 2020.
25. The appellants' record of the position on the November 2021 site visit shows 16 pitches across the 3 sites, a total of 41 caravans of which 24 were mobile homes and 15 utility blocks. In November 2022 the position was 16 pitches, a total of 30 caravans of which 19 were mobile homes and 18 utility blocks⁷. Pitch 10 on the EN3 site was vacant on both visits.
26. These records indicate from around 2018, a marked increase in the number of caravans, with a greater proportion being mobile homes and an associated increase in utility blocks. The increase in the number of pitches on all three sites post-dates the issue of the enforcement notices. The evidence also shows that many residents named in the personal permissions have moved on and new families have arrived. Therefore there has been a considerable turnover and increase in intensity of occupation.

Main issues

27. The caravan sites will be assessed as Traveller sites, consistent with the approach adopted by all the parties.

Ground (a) appeals/ deemed planning applications

28. The main issues, which are the same for each site, are:

- The effect of the development on landscape character and the appearance of the land and the surrounding countryside (both as an individual site and cumulatively).

⁵ Appeal ref APP/U2235/A/10/2129095 and Appeal ref APP/U2235/A/10/2130188

⁶ Appeal ref APP/U2235/A/13/2198352 and Appeal ref APP/U2235/A/13/2198345

⁷ Inquiry Documents 11 and 23

- The effect on the local settled community, including the amenity of neighbouring landowners.
 - Whether any identified harm may be suitably mitigated through compliance with planning conditions.
 - The existing level of local provision and the need for traveller sites.
 - The personal need for a site by the appellants and the current occupiers, taking account of their personal circumstances, human rights (including the best interests of the child), protected characteristics and the availability (or lack) of alternative accommodation.
29. I will consider additional matters raised by the parties including accessibility to local services, failure of policy and intentional unauthorised development.

Appeals on ground (g)

30. In the event of a lack of success on ground (a), the appeals on ground (g) are seeking an extension to the compliance period. The issue is whether the period for compliance stated in the enforcement notice is reasonable and proportionate.
31. Integral to my decision-making will be exercising duties under the Human Rights Act 1998. Article 8, a Convention Right⁸, affords a person the right to respect for their private and family life, their home and their correspondence. This qualified right requires a balance between the rights of the individual and the needs of the wider community. There is a positive obligation to facilitate the Gypsy way of life to the extent that the vulnerable position of Gypsies and Travellers as a minority group means some special consideration should be given to their needs and different lifestyle in the regulatory planning framework and in reaching decisions on particular cases.
32. As required by public sector equality duty (PSED) under the Equality Act 2010, I will have due regard to the three aims identified in the Act – to eliminate discrimination, advance equality of opportunity and foster good relations. Irish Travellers are an ethnic minority and have the protected characteristic of race under section 149(7) of the 2010 Act. I am also aware from the evidence that persons on the site have the protected characteristics of age and disability. There is no doubt that the PSED is engaged in these appeals. The decisions must be proportionate to achieving the legitimate planning aims.

Planning Policy

33. The development plan for the area includes the Maidstone Borough Local Plan adopted in October 2017 (the Local Plan).
34. In respect of the main issues, Policy SS 1 sets out the spatial strategy for the Borough and Policy SP 17 applies to development proposals in the Countryside⁹. Turning to the Development Management Policies, Policy DM 15 sets out the criteria to guide the determination of planning applications and

⁸ Article 8 of the European Convention on Human Rights, which was enshrined into UK law by the Human Rights Act 1998.

⁹ Countryside is defined by Policy SP 17 as all those parts of the plan area outside the settlement boundaries of the Maidstone urban area, rural service centres and larger villages.

allocation of specific sites for Traveller accommodation. Policy DM 30 identifies the design principles that must be met by development in the countryside to achieve high quality design. These also are the policies cited in reasons for issuing the enforcement notices.

35. The Local Plan Review was submitted for examination on 31 March 2022 and the hearings are in progress. I place no reliance on the emerging plan because of the stage reached in its preparation, where policies are subject to change.
36. The National Planning Policy Framework July 2021 (the Framework) replaced the previous version published in February 2019. Planning Policy for Traveller Sites August 2015 (PPTS) should be read in junction with the Framework.
37. The Court of Appeal judgement *Smith v SSLUHC & Ors*¹⁰ was issued on 31 October 2022. The judgement was specific to the Inspector's decision, where race discrimination was an element of the challenge. As part of its deliberations the Court analysed the change in the definition of "gypsies and travellers" introduced by PPTS. It was held that the exclusion of Travellers who have ceased to travel permanently is discriminatory and has no legitimate aim. PPTS was not quashed or declared unlawful by the Court and remains extant. I will apply PPTS to the appeals, except for the definition of "gypsies and travellers" set out in Annex 1 of the document.
38. The Framework states that applications should be assessed and determined in accordance with the presumption in favour of sustainable development. Where there are no relevant development plan policies or the most important policies for determining the application are out-of-date the tilted balance applies, provided there is no clear reason to refuse permission under paragraph 11d) i) of the Framework.
39. Regarding Traveller cases, the appellants referred to an appeal decision issued in November 2019 to support their view that the tilted balance should be exercised in these appeals. The reasoning in that decision pre-dated the 2021 Framework which clarified the approach in respect of Traveller sites. For sites to be occupied by those covered by the PPTS definition, a shortfall in the general supply of housing land would not trigger the provisions of paragraph 11d). In addition, the absence of a five year supply of Traveller sites would not in itself trigger the provisions of paragraph 11d) or render the policies most important for determining the appeal out-of-date.
40. That position has changed following the *Smith* judgement in so far as placing reliance on the PPTS definition. A distinction remains on how the tilted balance applies to proposals for Traveller sites, with a condition restricting occupation based on a broader definition to include Travellers who would benefit from the *Smith* judgement, and policy in the Framework on housing and housing land.
41. The Local Plan policies which are the most important for determining the applications are Policies DM 15, DM 30, SS 1 and SP 17. All these policies are consistent with the Framework and PPTS. The one policy which may be out of date is Policy SS 1, only in so far as it sets a target for the provision of Traveller sites between 2011 and 2031. If it is out-of-date, an overall

¹⁰ *Smith v Secretary of State for Levelling Up, Housing and Communities & Others* [2022] EWCA Civ 1391

judgement must then be made as to whether the most important policies taken as a whole, are to be regarded as out-of-date for the purpose of the decision.

42. My conclusion is that because the target is derived from the 2012 GTAA it can be considered out-of-date, as I explain in more detail in the Need section. Moving to the next step, the key policy is DM 15. Policies SS 17 and DM 30 inform the application of criteria in that policy. Policy SS 1 does not set a cap on the number of pitches that may be allowed and is less important to the decisions. Therefore the basket of most important policies is not out-of-date for the purpose of the decisions and the tilted balance does not apply. I note in the Benover Road appeal decision¹¹ the tilted balance was not applied. Nevertheless, the objectives on sustainable development and applicable policies in the Framework are very relevant as considerations.

Existing character and appearance

43. The appeal sites are in the countryside, approximately 2.3km north east of Headcorn and within the Low Weald Landscape of Local Value. The pitches are at the northern end of an access road some 250 metres back from Lenham Road. Paddocks separate the sites from the group of Traveller sites close to Lenham Road. Immediately to the east of the EN3 site is Fiddlers Green, an equestrian premises where a new indoor riding school was nearing completion in late 2022. The rear boundary to the EN1 and EN2 sites is formed by a hedgerow that includes mature oak trees. In the near vicinity sporadic development fronts onto Lenham Road, comprising residential properties, farmsteads and traveller sites. A network of public rights of way crosses the farmland, including footpaths to the west and north of the appeal sites.
44. The wider landscape setting has a relatively flat to slightly undulating topography and the predominant land use is agricultural, primarily in the form of enclosed pastures. Development in the open countryside is sparse, typically scattered farms, small hamlets and individual residential properties linked by rural roads and lanes. The village of Headcorn, one of the rural service centres, has grown from the historic core, with recent housing on its north eastern edge. The landscape character assessments highlight the importance of watercourses, water bodies and riparian habitats as well as the hedgerows, shelterbelts and dominance of mature oaks. Tranquillity and remoteness are identified as qualities of the rural area. The condition of the landscape was assessed as good and having a high sensitivity to change in the Maidstone Landscape Character Assessment (2012).
45. Some long views are found across the Low Weald to the Greensand ridge to the north and from the ridge to the Low Weald. More typically, intervening vegetation encloses many immediate views across the flat to very gently undulating landform¹². Views of the appeal sites are interrupted to a large extent by boundary vegetation, although there are views across from the public footpath on elevated ground to the north east of Upper Boy Court Farm.
46. The Local Plan identifies landscapes of local value according to criteria related to their character and sensitivity. The designated areas were highlighted as being of local value through public consultation. The Low Weald Landscape of

¹¹ Inquiry Document 7 Appeal Decision ref APP/U2235/C/20/3264812 dated 14 June 2022

¹² Maidstone Landscape Character Assessment, landscape character area 43 Headcorn Pasturelands

Local Value covers a significant proportion of the countryside in the rural southern half of the Borough. Distinctive landscape features are the field patterns (many of medieval character), stands of trees, ponds and streams and buildings of character¹³. Development proposals through their siting, scale, mass, materials and design should seek to contribute positively to the conservation and enhancement of the protected landscape in accordance with Policy SP 17.

47. The appellants considered the immediate setting to the appeal sites is less rural and with a more settled residential character because of a number of Traveller sites along Lenham Road. The Council's information shows that not all of the caravan sites are authorised, including 2 and 3 The Meadows at the southern end of the access road and sites to the south of Lenham Road, such as at Acers Place and Greengates.
48. In April 2022 planning permission was granted on appeal for a caravan site with a total of three caravans at Oak Tree Farm¹⁴, on the east side on Lenham Road. The Inspector concluded that the development with appropriate mitigation measures would be in keeping with the wider landscape, low key and less visible than the authorised gypsy and traveller sites on the opposite side of the road as well as the stables and farm buildings to the northeast. In his assessment he noted the traveller caravan sites are of contrasting character and appearance to the countryside either side of Lenham Road because they typically involve large amounts of hardstanding and fencing, with a number of mobile homes and touring caravans visible from the road. He found the authorised sites are not an integral part of the landscape, a conclusion that I agree with particularly when placed within the wider landscape context.
49. The appellants also submitted the base line position has changed considerably for the worse since the 2011 permissions and subsequent planning permissions granted in 2012 and 2013. The changes identified are the three lawful pitches near Lenham Road¹⁵, the lawful site access road, the access linking the access road with Lenham Road, the hardstanding on the EN1 site and the developments that have occurred at Fiddlers Green, including the new indoor riding school¹⁶.
50. Of these changes the indoor school is the most significant by reason of its size/scale and visual presence. Fiddlers Green Stud is to be a centre of excellence for the training and production of high level competition horses¹⁷. The indoor school provides the necessary buildings and infrastructure to realise this intent. The building, measuring 22m x 73m with a maximum eaves height of 5.6m and maximum ridge height of 8m, is sited to the rear of the dwellings, outbuildings and facilities on the equestrian site. The officer report concluded the development would have a negative impact on the landscape at first but with mitigation, primarily new planting, the equestrian building would be successfully integrated into the landscape in time. Tranquillity was not a matter discussed in the report. Overall the benefits to the rural and local economy and

¹³ Local Plan paragraphs 4.113 to 4.117

¹⁴ Appeal decisions ref APP/U2235/W/19/3219674, APP/U2235/W/19/3242701 paragraphs 12 to 18

¹⁵ Ash Gardens and Smiths Cottage

¹⁶ Planning permission was granted on 28 July 2020 for a new equestrian indoor school with 13 stables, a proposed roof to an existing horse walker, the creation of a detention basin and a canter track (ref 19/504099)

¹⁷ Inquiry Document 15 Planning Statement paragraph 1.2

to the recreational and sporting needs of local communities were found to justify the scale of the building and additional facilities in the development.

51. The permission also included a canter track on land to the rear of the new building and east of the EN3 site. A bund was created along the boundary with the EN3 site using excess spoil from the ground works for the indoor school. Native hedging is proposed along the top of the mound. A purpose of the bund and the associated ditch is to protect the canter track from the neighbouring site. Planning permission was granted for the bund on 5 January 2023 (ref. 22/504693/FULL). A condition requires the landscaping to be completed by February 2024.
52. The functional rural building appeared to be larger than other agricultural buildings nearby and has introduced a different visual dimension to development close to the appeal sites. A planning condition restricts its use to a 'centre for equestrian education, training and leisure including activities'. The evidence about the purpose of the development and concentration of activities on the Fiddlers Green site indicates the development would increase activity and hence have a very localised effect on tranquillity. The bund is largely neutral in terms of landscape character, although it improves amenity for the owners of Fiddlers Green and the amenity of the occupiers of the EN3 site. The equestrian use and premises also have affected the overall character and appearance of the landholding when compared to the surrounding farmland. The horse exercise, training and riding areas, the subdivision into paddocks and increased enclosure and the associated buildings result in a more intensive and active use.
53. Notwithstanding recent changes, I conclude the area surrounding the appeal sites shares key characteristics of landscape character area 43 Headcorn Pasturelands and is representative of the Low Weald landscape of local value
54. The appellants referred to about two thirds of the Borough being either Areas of Outstanding Natural Beauty (AONB), Metropolitan Green Belt, Flood Zone 2 or 3 or built-up area¹⁸. The inference was that provision for traveller sites would be in the remaining countryside including that designated as a landscape of local value. The Council produced figures to show almost half the Borough was not constrained¹⁹.
55. The Council's figures are not directly comparable to those cited by the appellants because they do not include the proportion of land within the built-up areas. Of more relevance, if a site comes forward in a landscape of local value the policy requirements remain and any harm to the landscape will have to be weighed in the planning balance. On a broader point, PPTS states local planning authorities should very strictly limit new traveller sites in open countryside that is away from existing settlements or outside areas allocated in the development plan. In Maidstone Borough experience has shown that all pitches granted permission between 2011 and 2016 (windfall sites) were on greenfield sites in countryside locations, not in or adjacent to existing villages

¹⁸ These figures are taken from paragraph 26 in the 2014 Appeal Decisions ref APP/U2235/A/13/2198352 and Appeal ref APP/U2235/A/13/2198345

¹⁹ Inquiry Document 18. The Council estimated areas of landscape of local value extended over 17% of the Borough, Areas of Outstanding Natural Beauty 27% and Green Belt 1.1%, resulting in some 45% of the Borough being designated land. Around 12% of the Borough falls within flood zone 3.

or the urban area²⁰. The Local Plan acknowledges that traveller sites will be in rural areas because of land availability and this is reflected in the criteria of Policy DM 15 and the location of the allocated sites.

56. The case for the appellants and for the Council on the effect on landscape character and visual impact was presented primarily through the evidence of the expert landscape witnesses. The Council submitted the appellants' assessment failed to take account of the suite of landscape character assessments available and explained why it is contrary to GLVIA3²¹. The identified deficiencies include a lack of transparency, a failure to adequately assess the value of the landscape and its sensitivity or visual receptors or to take into account winter views or the effect on night skies. The appellants submitted the Council's assessment focussed on visual aspects, did not take into account existing and lawful landscape features and the considerable changes at Fiddlers Green. It is the case that no mention is made of the new indoor school in the Council's assessment but the witness confirmed to the inquiry that the building was factored in as part of his baseline. I will bear in mind all these matters in exercising my judgement on whether the developments meet the policy tests.
57. The Rule 6 Party's evidence demonstrated the light pollution from the caravan sites is similar to the village of Kingswood with over 100 homes²². The Council and the appellants proposed a planning condition to require an approved scheme of external lighting to be carried out. Such control would reduce the impact on dark skies to a certain extent.

Effect on the settled community

58. PPTS states the Government's overarching aim is to ensure fair and equal treatment for travellers in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.
59. The tensions and strong emotions that can arise were evident in these appeals, possibly in part due to the planning history of the Meadows sites. The Rule 6 party emphasised the temporary intent of previous decisions because of the impact on the local landscape. They drew attention to the degradation of the local area, the lack of basic drainage infrastructure, the domination of the local community, the disproportionate number of traveller sites now accommodated in Maidstone Borough and more particularly in the Headcorn area, and the change in the curriculum now offered at Ulcombe primary school. The Meadows sites were described as providing poor quality living conditions for the site occupiers and being in a location that is not sustainable.
60. The MP for Faversham and Mid-Kent in her representation highlighted two main matters²³. The first, planning compliance and public confidence in the planning system raised matters related to my main issues and application of the DM 15 policy criteria of the Local Plan. The second, the impact on people's lives, related to the PPTS requirements set out in paragraphs 25 and 26 on scale of development, pressure on the local infrastructure and site planning of proposed sites.

²⁰ Maidstone Borough Local Plan Gypsy & Traveller and Travelling Showpeople Topic Paper 2016 paragraph 39

²¹ Guidelines for Landscape and Visual Impact Assessment third edition (GLVIA3)

²² CPRE England Light Pollution and Dark Skies map

²³ Inquiry Document 12

61. Going back to the 2011 appeal decisions, the second main issue identified by the Inspector was whether the proposed developments taken on their own or in combination with each other and the existing Gypsy and traveller sites in the vicinity would unacceptably dominate the nearest settled community. He concluded that the settlements of Headcorn and Ulcombe were too large and too distant to be dominated by the developments. He recognised that the scale of the developments proposed, accommodating some 56 or so residents, would add a substantial number of homes and people to a relatively scattered community. He had some sympathy with the concerns of residents living on Lenham Road and Boys Court Road but he was not convinced that the developments even when considered together would be so large or so close as to harmfully dominate the settled community, which included a significant number of Gypsies and Travellers.
62. In the 2014 appeal decisions, the Inspector concluded that, overall, the scale and distribution of gypsy sites in the area, including the appeal sites, did not unacceptably dominate the local community or have a significant adverse effect on social cohesion²⁴. These two sets of appeal decisions led the appellants to conclude that the effect on the character and appearance of the countryside was the one outstanding issue they needed to address by a landscape statement and scheme.
63. The position now is that by comparison with 2011 and 2014 the population on the EN2 and EN3 sites has increased because pitches have been subdivided. Also, there is the additional EN1 site. The appellants' November 2022 information suggests around 73 residents including 48 children on the three appeal sites.
64. PPTS states that traveller sites in rural areas should respect the scale of and not dominate the nearest settled community. Local Plan Policy DM 15 focuses on the physical, landscape impact in criterion (ii) but otherwise does not have a directly comparable criterion to reflect PPTS. The Inspector in 2011 considered the matter in terms of the relative sizes of the sites and proximity to larger settlements, the much smaller groups of bricks and mortar residential properties nearby and established traveller sites.
65. I agree that size of sites and proximity are relevant considerations but I question whether traveller sites should be included within the term 'settled community'. As before, Headcorn and Ulcombe are too large and too distant to be dominated by the developments. I can see that residents of nearest properties along Lenham Road may be very concerned about the increased number of traveller sites. At the level of the individual household, the issue is related to the effect on residential amenity and living conditions, with similar considerations, such as noise and privacy, as would be addressed with the proposed introduction of any residential development. Scale of development and cumulative impact is picked up in the landscape character and appearance issue.
66. The Inspector's report on the Local Plan includes helpful observations to explain the number of traveller sites in the Headcorn area. He noted the identification of more sites for allocation would have been desirable but despite a repeated call for sites no further suitable sites came forward. The Inspector observed

²⁴ Appeal ref APP/U2235/A/13/2198352 and Appeal ref APP/U2235/A/13/2198345 paragraphs 12 to 14

that the relatively large extent of need in the Borough and the landscape, flood risk and other constraints made it inevitable that there will be a concentration of sites in some parts of the Borough. The Council's evidence points to the success of the Local Plan strategy in providing traveller sites. Against this background the location of the appeal sites near Headcorn and within Headcorn parish is not a factor that counts against them. The Policy DM 15 criteria provide the relevant tests.

67. Sites in rural areas also should avoid placing an undue pressure on the local infrastructure. In this case the focus was on drainage and water supply as regards physical infrastructure and the effect on local schools as part of the social infrastructure.
68. Drainage and water supply. The representations and evidence from the Rule 6 party and local Councillors and written comments from Mid Kent Environmental Health Shared Services show that in respect of foul drainage there is a history of reported problems in the locality involving investigations by the local authority in 2010, 2012 and 2013. The local authority reported that whilst problems potentially were linked to the Meadows site, tracing the exact source posed difficulties. No complaints post-dated 2013.
69. When the first temporary planning permissions were granted on appeal in 2011 for the EN2 and EN 3 sites each permission was subject to a condition that required details of a scheme for the means of foul and surface water drainage of the site and completion of the scheme approved by the local planning authority. There is a record that an application to comply with this condition was approved²⁵. The subsequent temporary planning permissions granted for each site by the Council in 2013 were not subject to a condition related to foul and surface water disposal. This is consistent with the earlier approval of details.
70. As for the EN1 site, condition 8 of the MA/11/1528 permission required details of the proposed method of foul sewage treatment along with details regarding the provision of potable water and waste disposal. An application seeking approval of such details for approval is not recorded in the site's planning history. The planning history for all three sites makes no reference to the LPA taking action against non-compliance with or breach of the conditions.
71. Regarding the more recent position, on the site visit in April 2022 I observed leaking pipes and water discharge from the EN3 site into the ditch along the boundary with Fiddlers Green. There also appeared to be similar problems occurring on the adjoining land to the west in relation to some pitches on the EN2 site. It may be, as the Inspector indicated in 2014²⁶ that the temporary permissions have led to continued uncertainty and that a permanent permission would allow for investment in the sites on foul drainage and landscaping.
72. Given past arrangements it appears that connection to a public sewer is not feasible, although no specific evidence has been produced to demonstrate that is the case. Planning Practice Guidance advises that applications for developments relying on anything other than connection to a public sewage

²⁵ Appendix 1 to Rule 6 party's proof of evidence

²⁶ Appeal ref APP/U2235/A/13/2198352 and Appeal ref APP/U2235/A/13/2198345 paragraph 33

treatment plant will need to be supported by sufficient information to understand the potential implications for the water environment. No such information has been forthcoming to support the current deemed planning applications. The appellants rely on planning condition(s) to provide details of the means of foul and surface water drainage. The Council is content with this approach. The proposals are likely to involve the use of cess pits, based on the information from site residents on existing arrangements. Adequate capacity, good maintenance and regular emptying would be essential to avoid environmental, amenity and public health problems. The total number of people now living on the three sites indicates a coordinated approach should be considered rather than reliance on arrangements for each individual pitch.

73. As to water supply, the evidence from both neighbouring residents and site residents indicates water supply difficulties existed in relation to at least some of the pitches. South East Water carried out investigations and a new water supply pipe was installed in March 2021. The route of the pipe is parallel to Lenham Road, to the front of Fiddlers Green and the traveller sites at the southern end of the access track. The new pipe appears to have resolved the matter.
74. Schools. PPTS expects policies for Traveller sites should ensure that children can attend school on a regular basis. There was no evidence indicating school capacity is an issue. A big advantage of having a settled base is that children have the opportunity to go to school and receive a stable education. The oral evidence of some site residents was of children progressing well, making friends and becoming part of the local community. This positive factor is the relevant consideration rather than the more personal opinion expressed by an interested party about Ulcombe primary school. The content of a curriculum is a matter for the school and the education authority.
75. Site planning. The sites, and in particular the larger EN2 and EN3 sites, could promote opportunities for healthy lifestyles by the provision of landscaping and play areas for children. The pitches are all hard surfaced and the landscaping proposals do not address this matter, whether on individual pitches or over the site. The failure to do so is a concern and reduces the confidence that this omission could be resolved adequately through a planning condition.
76. Other matters. Representations raised various matters, going back to 2008, to do with anti-social behaviour, damage to property and other incidents. Neighbouring landowners referred to causes of stress, adverse effects on their health and businesses and disruption to their lives. Having regard to the two principles established in case law²⁷ and the fact that a caravan site is a residential land use fear of crime is not a relevant consideration here in my view. Acts of criminal damage are for police investigation, not a planning matter.
77. Nevertheless, the number of pitches and caravans have led to a considerable increased in activity, noise and vehicle movements, which probably have been more acutely felt because of the peaceful, sparsely populated, rural location before. The same would be true with any form of residential development. Over the years neighbours have experienced problems to a varying or lesser degree that have affected their residential amenity and home environment. However,

²⁷ *Smith v FSS and Mid Bedfordshire Borough Council* [2005] EWCA Civ 859

when explored in more detail certain matters could not be directly attributed to the appeal sites or existing site residents. To some extent the protracted appeal proceedings and the continuing uncertainty over the future of the appeal sites have not helped. Site residents who spoke at the inquiry, whilst acknowledging water supply problems, generally were concerned with carrying on their own lives and having a safe place for their children to live.

Policy DM 15 criteria and local services

78. Policy SS 1 identifies Headcorn as one of five rural service centres in the Borough. The centre serves both the village and the surrounding hinterland. There is a good range of services and community facilities, including a nursery and a primary school, a range of shops and eating places, a doctor's surgery, at least one place of worship, a community hall and open space provision. Public transport services connect Headcorn to Maidstone, other settlements and to the wider region.
79. Criterion (i) of Policy DM 15 requires local services to be accessible, preferably on foot, by bicycle or public transport. This criterion is generally consistent with national policy. The Framework promotes the use of sustainable transport modes, having regard to the type of development and its location. An aim of PPTS in site provision is to enable Travellers to access education, health, welfare and employment infrastructure. Mode of transport is not specified.
80. The appeal sites are about 2.3km from Headcorn. Lenham Road is not a bus route, it has no footway and is not lit. For these reasons the car is likely to be the primary mode of transport, although site residents mentioned their children get a school bus. Therefore, the sites are accessible to and not too far from local services, although not safely and realistically by the preferred modes. The countryside location and a reliance on the car is likely to discourage social interaction. Site residents who have less mobility by reason of age or health would be dependent on family members to provide transport for everyday needs. All matters considered, the constraints on access to services have a small amount of weight.
81. The access road is surfaced and straight with good visibility. The junction with Lenham Road is of an adequate standard and the Council has no highway safety concerns. The sites can be accessed safely from the highway by all vehicles. They are not located in an area at risk from flooding. Criteria (iii) and (iv) of Policy DM 15 are met. The ecological impact of the development has not been assessed (criterion (v)) but in view of the history of development of the sites this omission is not a main issue in the current appeals.

Need for Traveller sites and local provision

82. There is a generally recognised need for Traveller sites nationally and in the South East region, although the level of need varies considerably between areas.
83. Turning to Maidstone District, in the statement of common ground it is agreed that there is a significant unmet need for pitches across the plan period to 2037. When explored further at the inquiry it turned out that the Council and the appellants differed in their understanding and interpretation of this 'agreed'

- point. Areas of disagreement include whether there is an existing shortfall of sites and whether there is at present a 5 year supply of sites.
84. Both the Council and the appellants referred to appeal decisions to support their respective cases. The relevance of each decision is dependent on whether any findings on need were made and the date of the decision. The Benover Road decision issued on 14 June 2022 is the most recent and relevant. The Inspector described the GTAA as somewhat dated. He referred to the lack of an up-to-date assessment of need and the Kent County Council waiting list for a socially rented pitch²⁸. The Inspector considered it was not possible to conclude that the Council was able to provide a 5 year supply of sites against their locally set target.
85. In this inquiry the Council relied on the annual monitoring update and submitted that a 6.2 year supply of pitches is demonstrated in the Borough as at 1 April 2022²⁹. This conclusion is based on the locally set target and strategy for supply in the Local Plan.
86. My starting point is the adopted Local Plan. Policy SS 1 makes provision for 187 Gypsy and Traveller pitches between 2011 and 2031 through the granting of planning permissions and the allocation of sites. The supporting text explains both privately owned and affordable pitches on publicly owned sites will contribute towards the targets. Additional contributions will be the sites granted planning permission since 2011 (a total of 81 pitches), together with the delivery of 41 pitches on the sites allocated under Policy GT1. The balance will be delivered on unidentified sites.
87. The target of 187 pitches was derived from a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment report dated January 2012³⁰ (the GTAA). The appellants have challenged elements of the methodology and components in the needs assessment. However, the fact is the Local Plan Inspector concluded the GTAA was adequate. The recommended Main Modifications were confined to modifying Policy DM16 (now Policy DM 15 in the adopted plan) for effectiveness and consistency with national policy.
88. I do not question the adopted strategy or seek to set a new pitch requirement target. Review of such matters are for the local plan process, informed by a robust evidence base and consideration of many variables. However, it is relevant to these appeals to consider whether the Council's assessment of need continues to be broadly accurate and whether, as required by PPTS, the Council can demonstrate a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against the locally set targets.
89. The Council's monitoring shows that 273 permanent pitches were granted permission between 1 October 2011 and 31 March 2022³¹. By comparison 92 pitches were granted permanent permission from 1 October 2011 to 13 May 2016³². These permissions are consistent with the Local Plan strategy to rely on

²⁸ Inquiry Document 7 Appeal Decision ref APP/U2235/C/20/3264812 paragraphs 24 and 25

²⁹ Inquiry Document 5

³⁰ The GTAA found a residential need of 157 pitches for 2011-2026. For the purposes of the Local Plan, the figure was rolled forward a further five years to 2031, resulting in 187 pitches.

³¹ Inquiry Document 5. The Council's planning witness gave a figure of 247 pitches granted permanent, non-personal planning permissions since 2011.

³² Maidstone Borough Local Plan Gypsy & Traveller and Travelling Showpeople Topic Paper 2016 paragraph 29 Table 3

windfall sites as well as allocated sites to meet need. However, the number far exceeds the 187 pitch need identified by the GTAA for the whole plan period 2011 to 2031. The number of permissions is greater over the last five years than the first five years of the plan period. The figures strongly indicate the level of need is considerably greater than when assessed in 2011/2012. The number of unauthorised caravans continues to be at a relatively high level³³. As a further indicator, the families currently on the appeal sites have need of a pitch, which is unlikely to have been allowed for in the target. As a matter of fact the GTAA recommended that the assessment of accommodation need be repeated in about 5 years to ensure the assessment remained as accurate as possible.

90. A new GTAA is being prepared to inform the Gypsy, Traveller and Travelling Showpeople Development Plan Document (the DPD). Survey work commenced in September 2019 but the publication of the GTAA has been delayed, not least by the restrictions related to the Covid pandemic. The Council accepted that the preliminary GTAA work shows the need for pitches over the plan period to 2037, as yet unquantified, is likely to be significant. The Council submitted that the need arises over the plan period up to 2037, that it is not known when the need will arise over the course of fifteen years and it is a future need. That may be so, but the plan period starts in 2022 and the probability is a proportion of total need exists in the immediate and short term.

Conclusions

91. The probability is that the GTAA of 2012 does not represent a robust and accurate assessment of need within the Borough and into the future. The authors of the report recommended a repeat assessment after about 5 years and a further 5 years has elapsed since the anticipated review date. The number of pitches granted permission over the plan period to date substantially exceeds the total pitch target.
92. The Council is able to demonstrate a 5 year supply against the Local Plan target. The target probably no longer is an accurate and up-to-date figure because the 2012 GTAA continues to provide base data to inform the pitch requirements over the next five years.
93. The evidence points to an existing shortfall of sites and a shortfall in the supply of 5 years worth of deliverable sites.
94. The appeal sites would add to the stock of traveller sites, especially for occupation by Irish Travellers. They would be windfalls, a source heavily relied on in the Local Plan strategy and in the 5 year supply. They are meeting the personal needs for accommodation of families currently living there.

Future Supply

95. Looking forward, the DPD will form a part of the Development Plan, in addition to the Local Plan Review. There was a call for sites in February / March 2022. The Local Development Scheme (adopted by the Council on 28 September 2022) sets out the timescales for further rounds of consultation, examination, with a view to adoption by the end of 2024. The Council's planning witness

³³ The appellants' evidence referred to 250 caravans in 2019 and 2022.

confirmed this timescale remained on course, which would mean the DPD would be adopted before the end of the current plan period.

96. The Project Plan for the DPD within the Local Development Scheme indicates that work has proceeded on the 2015 PPTS meaning of “gypsies and travellers”. Some form of review may reasonably be expected in light of the *Smith* judgement. The Project Plan also indicates the DPD is closely linked to policies in the Local Plan Review. A delay to the adoption of the Local Plan Review may have implications for the DPD. Adoption by the end of 2024 is by no means certain.

Failure of policy

97. I will deal with the appellants’ case on this consideration over two periods – before the adoption of the Local Plan in 2017 and post adoption.
98. The pre-2017 period is relevant in so far as it helps to explain the history of temporary planning permissions for the sites and the expectations of the first residents who continue to occupy pitches on the sites. The 2011 decisions considered various aspects related to need and substantial weight was attached to the unmet need in the planning balance. In particular the Inspector found there was no five year supply of deliverable sites and no policy guidance on where acceptable sites may be found. The permissions were made temporary and personal to the appellants, with a two year period considered sufficient to allow the appellants to seek alternative sites or the Council to produce and act upon a Site Allocations DPD.
99. In 2013 the Council granted time-limited permissions on the EN2 and EN3 sites because the sites were in an area where the stationing of caravans/mobile homes was not normally permitted. An exception was made to reflect the personal need of the applicant and other occupiers.
100. When in 2014 the Inspector considered the proposals to make the sites permanent he found a delay in allocating sites, a failure by the Council to deliver sites in the past and to maintain a five year supply of sites and a failure of policy to remedy the shortfall in provision³⁴. He also referred to the Council having available funding to establish 15 public pitches, albeit at the time the Council was not in a position to reveal the location of the proposed site or to submit a planning application. The timescale for the adoption of the new local plan was the summer of 2015. Allocations for traveller sites would be through the local plan rather than a DPD. The Inspector described this as an ambitious timetable but worked on the basis that it would be quite possible for sites to be available by the end of 2015. It was on that understanding the period of the permissions was not extended.
101. Therefore Inspectors found a policy vacuum for traveller sites and failings in bringing forward an adequate supply of traveller sites through the local plan process. A 15 pitch public site was not delivered and the appeal sites were required to provide for the accommodation needs of the occupiers. Timescales slipped and finally the Local Plan was adopted in October 2017. This position was also unsatisfactory for the settled community, who would have had an

³⁴ Appeal ref APP/U2235/A/13/2198352 and Appeal ref APP/U2235/A/13/2198345 paragraphs 15-19 and 30

initial expectation that occupation of the lands rear of the Meadows would be short and the land be restored within a few years.

102. The Inspector, in his report on the Local Plan, concluded that the needs evidence (the GTAA) was adequate and I do not intend to question that conclusion. The debate at the time appeared whether the change in the definition of gypsy and traveller in PPTS required a new GTAA, not that there were other flaws in the assessment. The Local Plan, with a plan period of 2011 to 2031, includes policies and allocations for traveller sites to meet the identified need. The adoption of the Local Plan brought to a close the policy failings described in the 2011 and 2014 Inspectors' decisions.
103. Post adoption period. A local plan should be reviewed every five years. The Local Plan Inspector set a target adoption date for the review of the Local Plan in April 2021. In October 2022 the Council explained that the Local Plan Review was at 'examination in public stage' and the timescale for its adoption was uncertain due to the complex nature of the hearing sessions. The Gypsy and Traveller DPD is an entirely separate document. The anticipated adoption date remains November/December 2024, as I have already outlined in the previous section on need. A review must follow due process. An existence of need for traveller sites (or housing sites) does not necessarily equate to a failure of policy.
104. A new GTAA has been in progress since 2020. Fieldwork was delayed by the Covid pandemic. The GTAA will include a pitch delivery assessment and may have to address any implications arising from the *Smith* judgement made at the end of October 2022. The GTAA is required to provide a robust evidence base that will inform the emerging DPD. In view of the size of task and unforeseen circumstances the timescale is not appropriately categorised as a failure of policy.
105. In conclusion, I attach little weight to the failure of policy argument in support for the developments.

Alternative sites

106. In the event the appeals are unsuccessful, and the enforcement notices are upheld, the occupiers would be required to remove their caravans and cease living on their pitch. No party was able to identify a specific alternative site that would be available, affordable, suitable and acceptable.
107. By way of background, in preparing the Local Plan, the Council included 465 sites in the assessment process. The 16 sites found to be suitable and available make up the allocations under Policy GT1. Of these only 4 were termed new sites. The remainder were extensions to existing sites, limiting their potential to be available to other families. This indicates the difficulty in finding acceptable sites. By contrast the large number of windfall sites that have received planning permission suggests the opposite.
108. As regards turnover, the Council work on an average of 1 pitch becoming available per year, based on the number of 'true' vacancies arising since 2006/7. The two public sites in the Borough have waiting lists. The probability of the occupiers being successful in securing a rented pitch soon is very low, even if they had put their name on the waiting list.

109. Much was made by the appellants of the Council's "promise" to provide a 15 pitch site. It seems to me that too great an emphasis was placed on this possibility. The Council explained in fact no grant funding was received to deliver the proposal. Even if a site had materialised there would have been no guarantee any of the original appellants would have been offered a pitch or if they were whether they would have found it acceptable. For example, in oral evidence Mr Doran stated he would not have wanted to move.
110. The appeal sites have been put forward for consideration in response to the call for sites in the DPD process. At the present time there is no knowing whether or not one or more sites would be allocated eventually. Notwithstanding, the new allocations through the DPD process could offer the prospect of pitches for the occupiers.

Intentional Unauthorised Development

111. The Government policy on intentional unauthorised development was confirmed by a Written Ministerial Statement in December 2015 and has remained in place after the publication of the Framework.
112. The policy was in response to concern about the harm caused, particularly in the Green Belt, where development is undertaken in advance of obtaining planning permission. In such cases there is no opportunity to appropriately limit or mitigate harm that may be caused and a planning authority may have to undertake expensive and time-consuming enforcement action. The policy does not apply retrospectively to actions pre-dating its issue in 2015.
113. The enforcement notices were issued because of non-compliance with the time limited conditions attached to the earlier temporary planning permissions. The original acts of development, the material change of use of the land, were carried out without permission. The developments were then authorised through the grant of the temporary permissions. Since the expiry of the permissions, attempts and applications have been made to secure a permanent permission following due process. For various reasons certain attempts did not complete the full course to a decision and the current appeals have not been determined as quickly as would be expected. The appellants and new occupiers of pitches reasonably would have an expectation or hope that their appeals would be successful.
114. In the circumstances I attach very little weight to intentional unauthorised development.

Other matters

115. The planning history of Fiddlers Green was pursued at some length by the appellants. Matters to do with the lawfulness of buildings and uses are not for me to determine or comment on.
116. The parties referred to a number of appeal decisions. The most relevant decisions relate to the appeal sites or Traveller sites nearby. The Neverend Farm decision³⁵ was cited quite extensively to illustrate various points and where appropriate I have taken the decision into my considerations, remembering that the specifics of the sites and proposals are not the same.

³⁵ Appeal refs APP/U2335/C/19/3243809, APP/U2235/W/19/3241823 dated 16 December 2021

PART 2

117. This section assesses the deemed planning applications for each site taking full account of the considerations and conclusions of Part 1. Each enforcement notice gives rise to a deemed planning application that must be considered on its own merits. Nonetheless in doing so I will have in mind the relationship to the other appeal sites and possible in-combination effects.

REASONS: EN1

Appeals on ground (a)

Background/site history

118. This enforcement notice relates to land known as Pitch 6 or The Blossoms³⁶.

119. Aerial photographs show that the land formed part of a much larger field into the 1990s, with a strong boundary hedgerow along its western edge. The land remained open and undeveloped until around 2011. Planning permission was granted on 17 May 2012 for the use of the land for a single gypsy/traveller pitch. No more than three caravans were to be stationed on the land (of which no more than one was to be a mobile home/static caravan). The permission was personal to Martin Hanrahan and his dependants and was for a maximum period of three years. These conditions were imposed in the interests of visual amenity and in order to meet the identified need of the applicant. The 3 year period was related to the time-limited permissions on the adjacent sites in order to avoid a single isolated pitch.

120. In 2015 the hardsurfaced plot shows clearly on the aerial photograph of that date. At the end of 2016 the Council refused an application to make the permission permanent. By that time occupation had changed to Patrick Hanrahan. The appeal was linked to appeals on the wider Meadows site and was eventually withdrawn. In response to the issue of EN1, the appeal was made by Patrick Hanrahan and Sandra Hanrahan, who were stated to be the owners of the land on 6 September 2018, the date of the appeal.

121. By November 2021 the pitch had been subdivided³⁷. The personal statements submitted at that time indicated that Pitch 6A was occupied by Patrick Cawley and his family. Pitch 6B was occupied by John O'Brien and his extended family. On the appeal site visit in November 2021 a total of four mobile homes, two touring caravans and a motorhome were present. When the second visit was made in November 2022 a single mobile home was on Pitch 6A. One mobile home and a touring caravan were stationed on Pitch 6B, which was no longer occupied by John O'Brien. The appellants are now seeking retention of the two pitches and two mobile homes.

Deemed planning applications

122. The notice in paragraph 3 states the matters which constitute the breach of planning control. The development forming the deemed planning applications is derived directly from the description of the breach (see section 174(2)(a)). It

³⁶ The Enforcement Notices uses the word Plot rather than Pitch when describing the location of Land. Evidence uses the word Pitch. Pitch is the more typically used word in respect of Traveller sites and I have followed this lead in the reasoning. The address in the Decisions revert back to the word Plot, to be consistent with the notices.

³⁷ Shown on the appellants' plan Inquiry Document 11

follows that the development is use of land for the stationing of a mobile home and two touring caravans for gypsy/traveller family together with utility room and provision of hardstanding. It is not within my power to alter the description of the development because in this instance it is taken directly from planning permission ref. MA/11/1528. In the event the ground (a) appeals are successful, a new planning condition could not be imposed on the permission that would change the operative part of the original permission.

123. The land is shown on the corrected plan EN1.

Effect on character and appearance

124. The appellants considered the magnitude of landscape change as a consequence of the development to be low and of minor significance. The Council's assessment was of the plot and the access. The Council concluded the magnitude of change to the overall site character and to landscape character to be medium with a moderate adverse level of effect³⁸. As may be expected the level of effect is lower than on the EN2 and EN3 sites.

125. The baseline condition of the land does not fall neatly into the Framework's definition of previously developed land³⁹. Nevertheless, in view of the planning history the Council accepted that the enforcement notice should be corrected to delete the requirement to remove the hard surfacing. The residential use would have to cease and the caravans and other structures would have to be removed. Even putting aside the 2012 permission, the notice could not require an agricultural use to be carried out. The baseline condition would be a hard surfaced area, rather than a grass surface or pastoral use. Over time the hard surface would gradually become less noticeable as vegetation took hold but even so restoration to the previous condition would not be fully secured.

126. The residential use on Pitch 6, together with developments on adjoining lands to the south and east, has replaced the former agricultural land use. This pitch is the furthest from Lenham Road on the western side of the access track. When first granted permission in 2012 a low intensity use was authorised for one family for a temporary period.

127. The location of the residential plot some distance from the public highway and the associated residential activity are not in keeping with the characteristic linear and sporadic settlement pattern along Lenham Road and the largely undeveloped landscape of the wider area. The use as a caravan site does not encourage the use of local materials. The land is totally hard surfaced and whilst the layout may serve the occupiers well, the site is not well planned or soft landscaped in such a way to positively enhance the environment. The recent sub-divisions and increase in caravan numbers has increased the design failings and the level of domestic activity. On the positive side the development is small scale and the strong boundary hedgerows of the traditional field pattern remain. Access is via a lawful access road. The site has not directly impinged on any watercourses or ponds, although observations on the site visits indicated some possible effect on land drainage nearby.

³⁸ The Council provided an addendum in February 2022 to address the sub-division and increased level of occupation of the appeal sites.

³⁹ Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.

Visual impact

128. The appellants concluded that the overall visual amenity impact (without mitigation) was negligible or minor adverse. The Council's assessment of the significance/level of effect for Pitch 6 ranged from slight adverse to substantial moderate adverse for the various viewpoints.
129. Apart from the residents of the Traveller sites as users of the access track, receptors mainly would be people using the rights of way for leisure purposes, who are regarded to have high sensitivity. I found the mature field boundary vegetation limits short distance views from the public footpath to the west. In longer distance views, as from the north, the site is seen as part of the Meadows development as a whole. The sense is of a developed area of land, with structures of a low height as opposed to open fields and elements or features were not distinct. From near the Lenham Road entrance the focus is on the caravan sites nearest the road. Apart from caravans on adjacent pitches the pitch is not visible from inside anyone's home. Adjoining landowners to the west would be well aware of the site's presence from their landholding as part of the wider development. The probability is that external lighting would be visually intrusive in conjunction with the lighting associated with the two other sites.

Mitigation

130. Planning conditions could control the number and type of caravans and require a site development scheme.
131. The appellants relied on a submitted landscape scheme to address concerns expressed in the 2011 and 2014 appeal decisions. The proposals show a single pitch (no internal subdivision), alterations to the boundary fencing and the introduction of new planting along two of the boundaries⁴⁰. The proposals would retain the mature hedgerows and add some greenery but the scheme does not address such matters as site planning, the northern boundary, the use of hard surface materials and amenity space within the site.
132. Even when established the new planting is unlikely to represent a substantial visual gain for receptors outside the site. In this respect I note the appellants' assessment with mitigation was based on the landscape proposals that showed no sub-division. The Council's visual assessment from all viewpoints remains the same in year 15 as in construction/ year 1.

Conclusions

133. The development has resulted in a small harmful change in landscape character. The site layout is poor but the harm to the visual amenity of the area is of a low order. The small scale limits the contribution to the adverse cumulative effects. The recent intensification of use has placed greater pressure on the land parcel and the ability to successfully integrate the caravan site into its surroundings. There is not full compliance with Policy DM 15 criterion 1(ii). Allowing for the caravan site land use the overriding principle of securing high quality design set out in Policy DM 30 is not met. With reference to Policy SP 17 the distinctive landscape character of the Low Weald is not conserved and enhanced.

⁴⁰ Plan TDA/2235/07

134. The use of planning conditions would not fully overcome the identified harm but would offer the scope to secure a small well-planned and landscaped Traveller site that makes use of an existing access and hard surface infrastructure.

Effect on the settled community

135. A residential caravan site for one or two families is a small scale development that in terms of land use would not be expected to have a negative effect on the settled community. There is no specific evidence of problems arising from this site. Environmental improvements and appropriate site drainage arrangements could be secured by planning condition and no other pressures would be placed on local infrastructure. I am mindful of possible cumulative effects but this factor does not weigh significantly against this single pitch.

Policy DM 15 criteria

136. Local services are not far away but access would be primarily by car. There are social advantages and disadvantages, as explained in Part 1. The site can be safely accessed and is not located in an area at risk of flooding. In view of the site history no objection is justified on ecological grounds. A landscape scheme would be an opportunity to bring about a small enhancement to biodiversity.
137. Despite the areas of compliance, not all criteria are met, including criterion (ii) regarding landscape and rural character. The development is not supported by Policy DM 15. An acceptable site development scheme, if achieved through a planning condition, would go a long way to reducing the identified harm.

Need and site provision

138. Referring back to Part 1, the probable unmet need for sites and the doubt over the 5 year supply of sites each lends significant weight in favour of the development. The failure of policy argument does not provide any additional support.
139. Pitch 6 is available and would add to the stock of Traveller sites in the Borough.

Personal circumstances

140. No personal statement was submitted by the first appellants. Written, unsigned statements by Patrick Cawley Pitch 6A and by John O'Brien Pitch 6B were submitted on 9 November 2021. Mr Cawley also gave oral evidence at the inquiry, which probably is the most reliable account of the circumstances of the existing occupiers and position regarding Pitch 6. The most up to date list of site occupants (November 2022) does not include Mr John O'Brien for Pitch 6B.
141. Mr Cawley said he bought Pitch 6A from the appellants and that he moved onto the land with his family around September / October 2021. They have a very young child and a baby. Previously they rented a temporary site in Redhill and then for the last few years they were on the road. They were looking for a permanent site for the last five years or so because it is a lot harder to travel, being moved on every day or two days. He put his name down for a pitch in

Redhill but heard nothing. If this pitch is lost they would not be able to afford a new one. He travels for 2 to 3 months looking for work, including to places in Wiltshire and Bedfordshire. Currently the family are in good health and they want their children to be able to have an education. He is wanting permission for one mobile home and one touring caravan and a utility block. A relative was on the site for a few months but he is now on the road.

142. Mr Cawley also explained the position regarding Pitch 6B. This pitch is owned by his mother-in-law, who lives there with her four children. It appears that she bought the plot from Mr O'Brien. As a result of an illness she is cared for by her daughter and children. He was unable to provide any more information about medical and educational needs. They want to continue living as an extended family and so they would struggle if the current number of caravans were not allowed.
143. Mr John O'Brien in his written statement said he moved to Pitch 6B from 2 The Meadows about 2 years ago⁴¹ for family reasons and caring responsibilities. He said his cousin and her 6 children lived at the rear of the plot and that all the children attended local schools. They had no alternative site and so would have to live by the roadside if the appeal was not allowed. In view of the probable departure of Mr O'Brien from the site this evidence now has little weight, although it shows site occupation can change in a short period of time.
144. To comply with the enforcement notice would require the families to leave the site. At the present time no alternative available site has been identified for Mr Cawley and his extended family. To have to leave in such circumstances would result in a serious interference with their rights under Article 8 and the best interests of the children would suffer. To be able to stay on the site would enable stability in home and family life, allow care and support within the extended family to continue, improve opportunities for education and health care and the ability to continue a nomadic lifestyle to earn a livelihood.

Planning balance

145. The development enforced against is contrary to Policies DM 15, SP 17 and DM 30. The development plan when read as whole directs permission should be refused.
146. The need-related considerations provide very significant for support the development. In terms of national policy, the site meets social and economic objectives by supporting the Traveller community's accommodation needs and health, social and cultural well-being. Its development would promote an effective use of land in meeting the need for homes. Planning conditions could enhance the quality of development and enable development to proceed by mitigating the adverse effects. A positive outcome for the appellants would promote equality and be a small contribution towards meeting the accommodation needs of the Traveller community.
147. The combined weight of the other considerations changes the balance in favour of the development. I conclude that the appeals succeed on ground (a) and planning permission will be granted subject to planning conditions.

⁴¹ This would be 2019, given the date of the statement.

Planning conditions

148. I have considered the conditions proposed by the Council and the appellants⁴², considering paragraph 56 of the Framework⁴³, the advice in Planning Practice Guidance and the discussion at the inquiry.
149. The permission will be a full, not temporary, permission, because I have concluded that the development is acceptable on its planning merits. The permission will run with the land and there is no necessity to make the permission personal to the current occupiers.
150. The occupation of the site should be restricted to Gypsies and Travellers because the accommodation needs of this community have weighed heavily in the planning balance. The wording of the condition updates the definition of Gypsies and Travellers to take full account of the *Smith* judgement to ensure those who have ceased travelling permanently are not excluded.
151. A condition specifying the number and type of caravans on the caravan site is to protect the character and appearance of the area. Caravans will be restricted to a mobile home and two touring caravans, reflecting the description of the development. I recognise the current occupiers probably would like to have at least one more mobile home but I consider this is precluded through the deemed planning application by the description of the development. Moreover, in the absence of a site development scheme I am not satisfied an increase in the number of caravans could be accommodated within a well-planned layout.
152. A site development scheme is necessary to secure acceptable details on the layout, drainage, landscaping, boundary treatments and external lighting of the site. Such details are required with a view to ensuring the site is well planned and soft landscaped to enhance the environment and, in respect of site drainage, to protect public health and the water environment.
153. The condition is worded to ensure that the required details are submitted, approved and carried out so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively and to minimise the period of ongoing harm to the character and appearance of the countryside. The condition will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.
154. I have added a condition requiring the replacement of trees and shrubs, as necessary, over a period of five years to ensure soft landscaping is secured into the future in the interests of visual amenity and countryside enhancement.
155. Exclusion of business activity taking place on the site, including the parking of larger vehicles is reasonable and necessary to protect residential and general amenity in this rural location.

⁴² Inquiry Document 24

⁴³ Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

156. The conditions support the criteria and requirements of Policies DM 15, DM 30 and SP 17 of the Local Plan.
157. The probability is that not all the people living on the site in November 2022 could be accommodated within the number of caravans allowed. If that is the case the loss of the home would be a serious interference with their Article 8 rights. However, the constraint on the number of caravans has been constant and consistent since 2012. The permission will not be personal, allowing flexibility in occupation over time. The evidence about the family life of the occupiers of Pitch 6B was limited and lacking detail. Their occupation post-dated the issue of the enforcement notice.
158. The planning conditions to be imposed on a full planning permission are necessary and proportionate. There is no violation of residents' human rights.

Conclusions

159. For the reasons given above, the appeals succeed on ground (a). I shall grant planning permission for the use as described in the notice in respect of the land shown on the corrected plan.
160. The enforcement notice will be quashed. The appeals on ground (g) do not fall to be considered.

REASONS: EN2

Appeals on ground (a)

Planning history

161. To briefly recap, on 4 February 2011 planning permission was granted on appeal for development described as a change of use of land to residential to provide 5 plots for gypsy families, with a total of 5 mobile homes, 10 touring caravans and 5 utility blocks with associated works⁴⁴. The permission was personal to the named occupiers of the five plots and was for a period of two years or the period of the named residents' occupation, if shorter. The Inspector concluded that the location was not appropriate for the development proposed and that the damage to the character and appearance of the countryside would be severe. However, in the planning balance a temporary permission was justified because the identified harm would be reduced and substantial weight was given to unmet need.
162. In April 2013 the Council granted a permission for a further three year period, again personal to the same named occupiers (ref MA/12/1772). An application to vary conditions 1 and 2 to allow permanent occupation of the site was refused and then dismissed on appeal in January 2014.
163. The site is on the western side of the central access road. The rear and the south eastern boundaries are marked by a mature hedgerow. The site is separated from the pitches near to Lenham Road by a paddock. The pitches are deeper than those to the east on the EN3 site. Pitches 3 and 4 have been subdivided. Over the last two years the number and type of caravans and related structures have fluctuated. On the appellant's evidence as of November 2022 there was a total of 10 mobile homes, 6 touring caravans, a motorhome

⁴⁴ Appeal decision ref APP/U2235/A/10/2129095

and 9 utility blocks/day rooms. I recorded a similar picture on the visit in November 2021 when there were slightly more touring caravans, although the Council's record was of 12 mobile homes, 3 touring caravans and one motor home. On both visits the number of mobile homes had increased significantly on the number originally accepted.

Deemed planning applications

164. The description of the development, derived from the breach set out in paragraph 3 of the notice is the use of land as residential to provide 5 plots for gypsy families, with a total of 5 mobile homes, 10 touring caravans and 5 utility blocks. The land is shown on the plan attached to the notice.

Character and appearance

165. The baseline condition is open pasture. Going back to the 1960's the land formed part of a larger field in the block of land to the rear of the group of buildings now known as Fiddlers Green. The field pattern in this particular location did not display the same degree of enclosure as nearby. However, the larger field was within the swathe of open countryside north of Lenham Road. The mature hedgerow along the rear western boundary of the site has been a constant strong landscape feature.
166. As a result of the development the appellants concluded the magnitude of landscape change is medium, having a moderate or minor level of significance. The Council concluded the magnitude of change to the overall site character is medium to high, having a substantial to moderate adverse effect. Within the context of the landscape of local value the magnitude of change was assessed as medium with a moderate adverse effect.
167. The residential land use on this relatively large block of land is a form of development that is not in character with the prevailing land use or settlement pattern. The location of the site set well back from the Lenham Road frontage, the quite extensive level of occupation and the hardsurfacing of the land in particular are at odds with the traditional sporadic, low density development along the rural lanes and the largely open landscape of the wider area. The more recent subdivisions have intensified the harm both in a physical sense and in the level of activity through the increase in pitches, numbers of caravans, structures and vehicles. External lighting contributes to the light pollution of dark night skies in this rural area. The site now has a very urban character that is incongruous in the landscape setting.
168. The rear boundary hedgerow has been retained, although the siting of caravans, structures and fencing is not always well related to this landscape asset. On the November 2022 site visit some vegetation appeared to have been cut down in conjunction with works to a ditch, which may have been carried out by the adjoining landowner.
169. In summary, the site is not well located in the landscape and the layout is not well planned or soft landscaped in such a way as to positively enhance the environment.
170. Visual Impact. The appellants drew attention to the generally restricted visual envelopes of the site due to the relatively flat to undulating topography of the area and the presence of vegetation. Any adverse visual impacts from

short range views were said to be localised. The appellants concluded the overall level of significance of the visual impacts are negligible/minor adverse. The Council's assessment of the significance/level of effect was greater and included the additional viewpoints near Upper Little Boy Court Farm and an assessment of views from residential properties.

171. The residential caravan site has resulted in a substantial change to the appearance of the land when compared to the position back in 2008. I agree with the appellants that visual impacts are localised. For the most sensitive receptors views from the public footpaths to the south west are interrupted by tree cover and hedgerows. The presence of the site is most visible from the nearest footpath for a short distance, especially where there are gaps in the boundary hedgerow. The proximity of the EN2 site to lawful caravan sites on Lenham Road increases the visual intrusion because of the loss of open land and erosion of visual separation between development.
172. There are glimpses of the site from Lenham Road. From the viewpoints to the north the EN2 site is seen as part of the development on the three sites as a whole. I thought visual intrusion was limited because of the distance and the views of the wider landscape and the immediate surroundings. The probability is that external lighting would change the perception during hours of darkness, but people are less likely to be walking along the public footpath for leisure purposes in the dark. I attach a lower level of harm to these views than the Council.
173. The probability is that the visual impact from peoples' homes is negligible taking account of separation distances, the presence of mature vegetation and the position of the site relative to dwellings. The objections made by the owner of adjoining farmland to the west for the most part were not to do with the loss of visual amenity.
174. I conclude that overall moderate harm is caused.

Mitigation

175. Planning conditions could control the number and type of caravans, the number of pitches and require a landscape scheme. Currently the increased number of families on the site, with the necessary related requirements for homes, utility blocks, parking areas and typical residential paraphernalia reduce the opportunity for landscaping.
176. Reliance was placed by the appellants on the submitted landscape scheme to address concerns expressed in the 2011 and 2014 appeal decisions⁴⁵. The proposals allow for retention of existing hedgerows on the rear and southern boundaries and would introduce a limited amount of planting to the frontages of the pitches. The continuity of this soft enclosure would be interrupted by the regularity of the site entrances to the pitches. Alterations to the position of close boarded fencing is indicated, including the removal of the fencing subdividing pitch 4. Even so the extent of close boarded fencing would be quite dominant. The scheme does not address such matters as site planning, the use of hard surface materials and amenity space within the site. It could not

⁴⁵ TDA.2235.06

overcome the harm caused by the siting of a residential land use that does not accord with the traditional settlement pattern and land use.

177. Accordingly the scheme would not adequately mitigate the harm to landscape character or to visual amenity.

Conclusions

178. The development has a poor site layout and has resulted in a significant and harmful change in landscape character. The harm to the visual amenity of the area is moderate and localised. The recent intensification of use has placed greater pressure on the land parcel and the ability to successfully integrate the caravan site into its surroundings.
179. There is conflict with Policy DM 15 criterion 1(ii). The overriding principle of securing high quality design set out in Policy DM 30 is not met. The distinctive landscape character of the Low Weald is not conserved and enhanced, contrary to Policy SP 17. The use of planning conditions would not overcome the identified harm.

Effect on settled community

180. A residential caravan site for five families is of a scale that respects the settled community. I am however mindful of the recent intensification of use on the site and the concerns of nearby landowners and residents about the local environment and cumulative effects of caravan sites. Improvements to site planning and removal of uncertainty over the site's future may encourage greater acceptance and integration. Appropriate site drainage arrangements could be secured by planning condition and no other pressures would be placed on local infrastructure.
181. This consideration contributes a limited degree of additional weight against the development over and above that attached to the character and appearance issue.

Policy DM 15 criteria

182. Access to local services would be primarily by car. The identified disadvantages of this dependency, identified in Part 1, have greater significance for this larger site. The criteria on safe highway access and flood risk are met. No objection is sustained on ecological grounds and landscaping based on an approved scheme would be an opportunity to bring about a small enhancement to biodiversity.
183. Notwithstanding the areas of compliance, the main conflict is in respect of criterion (ii) of the policy regarding landscape and rural character. The development is not supported by Policy DM 15.

Need and site provision

184. I adopt the reasoning on these considerations set out in Part 1. The probable unmet need for sites and the doubt over the 5 year supply of sites each lends significant weight in favour of the development. The failure of policy argument does not provide any additional support. The site is available and would add significantly to the stock of Traveller sites in the Borough.

Personal circumstances

185. No details are available of the occupiers of Pitch 1, although there were two mobile homes, a touring caravan, sheds and a portacabin block on the site in November 2022.
186. A written statement was submitted in November 2021 by a Terry O'Brien. The appellants' plan of November 2022 states that Pitch 2 is occupied by Terry O'Brien, his mother, cousin and two children. This information is not consistent with the oral evidence given by Terry O'Brien. Based on the oral evidence Mr O'Brien senior lives on the pitch with his wife, his son and his partner and their two children. Mr T O'Brien senior has lived on the pitch since June 2021, having travelled for work and then come to settle with his family. He explained that his son purchased the site from Mr M Murphy, who told him he could continue with the appeals. Mr M Murphy possibly moved north where he has relatives. His wife is a carer for her niece who is now resident on a pitch near by and this could not continue if they have to leave the pitch. He travels for about 3 or 4 months a year to work, usually with his son. They knew of the site from Mr John O'Brien (his wife's brother) and it is the longest time he has had a settled base. The site is safe for his family when he is away travelling and is close to shops and other services. It provides a permanent address, useful for registering for health care. The children go to a local nursery. He is not on a waiting list for a site and he was unsure if his wife was. His daughter in law is on a list for sites in Essex and Kent. They have two touring caravans and a utility block.
187. Pitch 3 is now subdivided. Pitch 3A is owned and occupied by Mr Abraham Howard senior. In his oral evidence Mr Howard explained he took over the site from the appellant. He was aware of an appeal against the enforcement notice but did not understand the rules and regulations or have the terms of the notice explained to him. Before occupying Pitch 3A he was on Pitch 8A with his daughter in law. He explained that due to an injury and health he is not able to travel now. His wife is with her parents on a yard in Leicester and she comes to stay. He is not on a waiting list for a site because of the length of the waiting period.
188. Pitch 3B is now occupied by Nathan Boswell, his wife and three children. According to his oral evidence they moved to the Meadows in February/March 2022, initially to support the family on pitch 9. He then bought Pitch 3B from the previous owner Anthony O'Brien, who moved to his family and friend in Essex. They moved onto the pitch a few months later and also went traveling in the summer months. In future he expects to be travelling for work purposes on his own and with the rest of the family in the school holidays. He referred to the difficulties now in roadside living and the advantages of having a base. He considers a number of residents on the Meadows as his family, including Mr Howard senior. To date there has not been enough time to sort out schooling for the children but the hope is that they will start soon.
189. Given the change in occupation, Anthony O'Brien's written statement about his need to be on the pitch with his family and lack of an alternative site has very little weight.
190. Pitch 4A (known as The Oak Tree). The written statement of James Doran explained that he and his family have lived on the pitch for the last two and a

half years. The statement includes quite detailed information about the health of two of the family members, which is supported by professional medical reports. The site was described as a safe place and enabled Mr Doran to travel to earn a living. The information on the November 2022 plan does not include all the family members referred to in the statement, which may be an omission.

191. Pitch 4B is shown to be occupied by Simon Doherty, his wife and 4 children. The written statement suggests that there may in fact be 5 children. The family moved to the pitch in 2015 aware of the temporary permission and in expectation that the Council would provide a new 15 pitch site. They have been unable to find an alternative site in the area because they are full and overcrowded or reserved for family members only. Supporting information is provided about the children's education and health of family members.
192. Pitch 5 is occupied by Miles and Mary Doran, one of the families who moved onto the site in 2010. They understood that a suitable site would be found for them when the temporary permission ran out and they have nowhere else to go if the appeal is not successful. Mr Doran explained he is not at all in good health, as acknowledged by the Inspector in the 2011 decision. His four children are now on the pitch. They continue to have a travelling lifestyle, two are married with children. Two mobile homes and two touring caravans would be the minimum caravan accommodation on the pitch to meet their needs.
193. The themes emerging from this personal evidence is that only one family named in the 2011 permission remains and only on two pitches has occupation been relatively stable. There has also been a fair bit of movement between pitches on the EN2 and EN3 sites and various family ties exist across the sites. All families have a personal need for a pitch and for some this is their first settled base.
194. If the appeals are unsuccessful the families would have to leave the site. At the present time no alternative available site(s) has been identified for them. To have to leave in such circumstances would result in a serious interference with each family's rights under Article 8 and the best interests of the children would suffer. Success in the appeals would enable stability in home and family life, improve opportunities for education and health care whilst at the same time enabling continuation of a nomadic lifestyle to earn a livelihood.

Planning Balance

195. The development is contrary to Policies DM 15, SP 17 and DM 30. The development plan when read as whole directs permission should be refused. Considering national policy, the site meets social and economic objectives by supporting the Traveller community's accommodation needs and health, social and cultural well-being. This benefit is illustrated by the personal needs of the current occupiers. The harm to the amenity of the settled community has a limited amount of weight. Planning conditions could enhance the quality of development but would not be sufficient to adequately mitigate the harm to the local environment related to the location and size of the site, number of pitches and caravans, even before subdivision of pitches. The balance is against the development.

196. Conscious of the very serious implications for the occupiers of the site, and the duties in respect of Article 8 and the PSED, I now turn to the possible alternatives to ensure the outcome is necessary and proportionate. Options under the ground (a) appeals are a temporary permission (time limited and/or personal) or a permission on part of the land. The appellants' fallback position was a temporary permission for 5 years to enable all the current occupiers to stay and allow the Council time to consider need and supply of sites through a new GTAA.
197. A temporary permission would alter the planning balance. The identified harm would not be permanent, whilst the lack of an up-to-date 5 year supply of deliverable sites should be a significant material consideration. The current occupiers would have stability and certainty of a home in the short term, with all the associated benefits. Loss of their existing homes and a safe base and a potential return to reliance on unauthorised encampments would be avoided. Such an approach would assist in minimising disadvantages and advancing equality of opportunity for members of a minority group.
198. However, the planning history of the site is a particularly important consideration in this case. Over 10 years has elapsed since permission was first granted on a temporary and personal basis. Many of the residents named in the first and subsequent personal permissions have left and probably have found alternative sites. During this time the serious harm to the local environment has persisted and latterly increased with the intensified use. The enhancement that could be secured reasonably through planning conditions would be limited because of the short time period involved.
199. The Article 8 rights of adults who have moved onto the site subsequently, especially since the enforcement notice was issued in 2018, are less strong. However, the oral evidence demonstrates the importance of a stable base to family and home life, and to their overall welfare. A number of vulnerable people rely on the site as their home and the best interests of the children on site are a primary consideration.
200. Interference with fundamental rights would arise from exercising a statutory function and be in accordance with the law. The interference would be in pursuit of a legitimate aim to protect the environment through the regulation of land use. The public interest argument against a temporary permission is very strong. I have carefully considered the rights of each family or extended family on each pitch, based on the personal evidence provided. In no case are the private interests sufficient to justify a temporary permission for the site.
201. The second option, a permanent permission on part of the land subject to planning conditions, merits further consideration, with a view to sufficiently reducing harm to tip the planning balance. By way of context for this option, the enforcement procedure is intended to be remedial rather than punitive. An inspector has wide powers to decide whether there is any solution, short of a complete remedy of the breach, which is acceptable in planning and amenity terms. The use of planning conditions to secure mitigation and improvements can enable development to proceed where it would otherwise have been necessary to refuse planning permission. In this case, the ground (a) appeals provide the appropriate mechanism.

202. The appellants and the Council were made aware of this option and it was open to them to put forward alternatives. The fact neither party took up the opportunity to do so is not surprising given the respective cases and the planning history. Also very relevant is my conclusion that the EN1 site is acceptable on its planning merits. Additional pitches would avoid an isolated plot.
203. The atypical location of the site set back some distance from Lenham Road and the change in land use to residential obviously cannot be changed. However, there is some comparability with location of the residential use on a minor road seen at Little Boy Court, a short distance to the north. A reduction in the size of site and scale of development served by an existing minor access road would result in a more open pattern of settlement that would integrate more readily into the landscape setting than is currently the case. There would be an opportunity to reflect the small scale field pattern of the surrounding area and increase the sense of enclosure on a reduced site through a landscaping condition. The harm to visual amenity would be much reduced by limiting and compacting the extent of development along the rear boundary. These objectives would be better achieved by accepting retention of pitches at the northern end of the EN2 site.
204. Looked at from a welfare, human rights and PSED point of view, the evidence shows the most serious consequences of a failure to secure permission would be for the occupiers of Pitches 4A and 5. This reinforces the conclusion based on the landscape and visual considerations.

Planning conditions

205. I have based my assessment on the conditions put forward by the Council and the appellants. A purpose of the conditions would be to respond to the criteria and requirements of Policies DM 15, DM 30 and SP 17 of the Local Plan.
206. A permission would be permanent and would run with the land. Conditions restricting the permission to a temporary period and /or to named individuals would not be necessary or reasonable in the circumstances, as explained above.
207. The occupation of the site should be restricted to Gypsies and Travellers because the accommodation needs of this community have weighed heavily in the planning balance. The wording of the condition would need to update the definition of Gypsies and Travellers to take full account of the *Smith* judgement to ensure those who have ceased travelling permanently are not excluded.
208. A control on the number and type of caravans on the caravan site would be necessary to protect the character and appearance of the area. The earlier permissions on the land allowed for one mobile home and two touring caravans per pitch, although the planning condition stated a total number of caravans across the site. In November 2022 there were three mobile homes and one touring caravan on pitch 4 (comprised of 4A and 4B) and 3 mobile homes and one touring caravan on pitch 5, slightly less than in November 2021⁴⁶. As noted above, the appellant is seeking permission for a minimum of two mobile homes and two touring caravans on pitch 5.

⁴⁶ Inquiry Document 11 lists the number of caravans for November 2021 as four mobile homes and two touring caravans on pitch 4 (comprised of 4A and 4B) and 2 mobile homes and one touring caravan on pitch 5.

209. The site visits indicated that it would be difficult to achieve a well-planned site with the number of caravans then present. However, the pitches are quite generous in size. Allowing no more than eight caravans in total, of which no more than four should be a mobile home, would strike a fair balance and be within the scope of the ground (a) development. The condition suggested by the Council and the appellants would control the number of pitches and utility dayrooms per pitch. I consider these matters would be more appropriately resolved through a site development scheme in order to ensure a well-planned site whilst providing a degree of flexibility for the future.
210. A site development scheme would be essential to secure acceptable details of the layout, drainage, landscaping, boundary treatments and external lighting of the site. Such details are required with a view to ensuring the site is well planned and soft landscaped to enhance the environment and, in respect of site drainage, to protect public health and the water environment. The condition would incorporate a strict timetable for compliance because permission would be retrospective and to minimise the period of ongoing harm to the character and appearance of the countryside. The wording would ensure the development can be enforced against if the required details are not submitted for approval within the stated period, or if the details are not approved, or if the details are approved but not carried out in accordance with an approved timetable. The backstop would be that the use would have to cease and land cleared if an approved site development scheme is not achieved.
211. In view of the importance of soft landscaping, provision should be made to secure the replacement of trees and shrubs, as necessary, over a period of five years.
212. Exclusion of business activity taking place on the site, including the parking of larger vehicles would be reasonable and necessary to protect residential and general amenity in this rural location.

Conclusions on ground (a)

213. Drawing these considerations together I conclude the way forward is to grant permission for the development on part of the land equivalent to Pitches 4 and 5. The permission would be subject to conditions as considered above. The policy conflict with the development plan would remain but the harm would be reduced to such an extent it would be outweighed by the considerations related to aspects of need, social and cultural well-being.
214. The appeals on ground (a) succeed in part only, and I will grant planning permission for use of part of the land for a residential caravan site and refuse to grant planning permission in respect of the other part of the land. The interference with the occupiers Article 8 rights is necessary and proportionate in the wider public interest.

Appeals on ground (g)

215. The issue is whether the compliance period of six months is reasonable and proportionate.
216. The policy context is provided by the Framework and Planning Practice Guidance, which state that effective enforcement is important to maintain public confidence in the planning system and to tackle breaches of planning

control which would otherwise have an unacceptable impact on the amenity of an area. In this case the main harm is to the character and appearance of the countryside.

217. The compliance period must take account of what the recipients of the notice have to do in practice to carry out the steps, namely to cease the residential use, remove the caravans and residential paraphernalia and take up and remove the hardsurfacing. No undue physical constraints would be involved. The main consideration is the social and family consequences for the occupiers who would lose their homes.
218. No alternative pitch or site has been identified that is available for them to move to. The probability is that most, if not all, the families would have to find temporary places to stay whether doubling up with family or friends, through unauthorised encampments, and such like. This outcome would be hard, given the recent period of stability.
219. A period of one year would provide time for the appellants and resident families to explore and consider their options and possibly avoid a return to the roadside. During this period the GTAA and the DPD should have progressed, which may also indicate a way forward.
220. In conclusion, the periods for compliance fall short of what is reasonable and proportionate. A period of twelve months strikes a fair balance. I shall vary the enforcement notice prior to upholding it. The appeals on ground (g) succeed to that extent.

Conclusion

221. For the reasons given above the appeals on ground (a) should succeed in part only, and I will grant planning permission for use of land as residential to provide caravan pitches for Gypsy/Traveller families on part of the Land known as Plots 4 and 5. Otherwise I will uphold the notice with a variation to extend the compliance period and refuse to grant planning permission in respect of the use of land as residential to provide caravan pitches for Gypsy/Traveller families on part of the Land known as Plots 1, 2 and 3.
222. The requirements of the notice relating to the acceptable part of the development will not be deleted, so as to avoid any grant of unconditional planning permission being made through section 173(11). The appellants are able to rely on section 180(1) in that the notice ceases to have effect insofar as it is inconsistent with the planning permission.
223. This outcome is necessary and proportionate and will not result in a violation of the appellants' or occupiers' human rights.

REASONS: EN3

Appeals on ground (a)

Site history

224. On 4 February 2011 planning permission was granted on appeal for a change of use of land to residential to provide 5 plots for gypsy families, with a total of 5 mobile homes, 9 touring caravans and 5 utility blocks with associated

works⁴⁷. The permission was personal and was time limited to a period of two years or the period of the residents' occupation, if shorter. In April 2013 the Council granted a permission for a further three year period, again personal to the same named occupiers (ref MA/12/2113). An application to vary conditions 1 and 2 to allow permanent occupation of the site was refused and then dismissed on appeal in January 2014.

225. The site is on the eastern side of the central access road, with the rear boundary adjoining Fiddlers Green. The site extends further northwards than the EN1 site but is not of the same depth as the EN1 and EN2 sites to the west. A paddock separates the land from the pitches near to Lenham Road. At the time of the site visit in November 2021 there was a total of 10 mobile homes, 5 touring caravans, 1 motorhome and 9 utility blocks/day rooms. Pitches 8 and 9 had been subdivided and Pitch 10 was vacant. At the November 2022 visit, 7 mobile homes were present, together with 4 touring caravans. Pitch 10 remained vacant. Therefore the overall level of occupation has increased considerably since permission was granted in 2011 and over the last few years the number of mobile homes has not been constant.

Deemed planning application

226. The description of the development, derived from the breach set out in paragraph 3 of the notice is the use of land as residential to provide 5 plots for gypsy families, with a total of 5 mobile homes, 10 touring caravans and 5 utility blocks.
227. The site is the land shown on the corrected plan, as submitted by the Council. In referring to the pitch numbers I have relied primarily on the appellants' plans to show the extent of each pitch⁴⁸. Pitch 10, as shown on the plan, appears not to extend northwards to the full extent of the land.

Landscape character and appearance

228. As with site EN2, for many years the land formed part of a larger field in the block of land to the rear of the group of buildings now known as Fiddlers Green. On other nearby landholdings the field pattern displayed a higher degree of enclosure and the surrounding area was typically extensive farmland with a sparse amount of development. The baseline condition of the site is open pasture.
229. As a result of the development the appellants concluded the magnitude of landscape change is medium, having a moderate or minor level of significance. The Council concluded the magnitude of change to overall site character is medium to high, having a substantial to moderate adverse effect. The magnitude of change was assessed as medium with a moderate adverse effect on the landscape character of the landscape of local value. These conclusions are the same as for EN2.
230. The residential land use in a location divorced from the Lenham Road frontage area is out of character with the prevailing land use and settlement pattern. The quite intense level of occupation and the regularity in pitch layout is not in keeping with the traditional sporadic, low density development along

⁴⁷ Appeal decision ref APP/U2235/A/10/2130188

⁴⁸ The plans are in the Landscape Statement of Evidence October 2021

the rural lanes. In turn a lot of activity takes place and lighting introduced in a previously quiet setting. Caravans are sited close to the rear boundary and in conjunction with the close boarded boundary fencing present a hard edge to the site. The lack of green space, the extensive use of hardsurfacing and close boarded fencing and the more recent subdivision of pitches 8 and 9 emphasise the harm in respect of the site itself and to the landscape character of the surrounding area. Existing trees and vegetation have been little affected and the hedgerow along the southern boundary has been retained.

231. In summary, the residential site is not in an appropriate location and the layout is not well planned or soft landscaped in such a way as to positively enhance the environment.

Visual impact

232. Similar to site EN2, the appellants drew attention to the generally restricted visual envelopes and the localised nature of any adverse visual impacts, leading to visual impacts of a negligible/minor adverse level of significance. The Council's assessments of the magnitude of change and significance of effect was of the same order as for EN2.
233. The open appearance of the land itself has substantially changed to a very functional caravan site where the mobile homes/caravans, hard surfacing, solid boundary treatment and parked vehicles are visually dominant. The adjoining land to the east comprises the paddocks at Fiddlers Green and there are no public footpaths affording views from that property. In that respect the visual impact in short distance views is less than for EN2. The site visit demonstrated that the caravans sited close to the common boundary are highly visible from the adjacent paddocks. However, this area is the part of the equestrian premises and does not have the same sensitivity as for a residential property. The dwellings are some distance away, to the front of the indoor riding school.
234. When viewed from the public footpaths to the north this site adds to the scale of caravan development visible from this location but there are other features that catch the eye in the wider landscape, which reduce the significance of this impact. Very little change has occurred to views across the landscape from the other identified viewpoints on Lenham Road and Southernden Road because of intervening features and vegetation. The new indoor riding school is a far more visually dominant structure from certain locations.

Mitigation

235. Planning conditions could control the number and type of caravans, the number of pitches and require a site development scheme. Currently the increased number of families on the site, with the necessary related requirements for homes, utility blocks, parking areas and typical residential paraphernalia reduces the opportunity for landscaping on certain pitches.
236. Reliance was placed by the appellants on the submitted landscape scheme to address concerns expressed in the 2011 and 2014 appeal decisions⁴⁹. The objectives are to ameliorate the visual impacts of structures on site, to integrate the development into its landscape setting, to enhance the small

⁴⁹ Plan ref TDA.2235.08

scale field pattern and increase the sense of enclosure. The proposed landscaping indicates planting of a native hedgerow along the rear and northern boundaries and along the frontage to the pitches. Existing planting along the southern and rear boundary of Oakview would be retained.

237. The scope of planting is limited and the scheme does not address such matters as site planning, the use of hard surface materials and amenity space within the site. A scheme could not mitigate the harm to landscape character caused by the siting of a residential land use that does not accord with the traditional settlement pattern and land use. Significant harm to landscape character and visual amenity would continue.

Effect on the settled community

238. A residential caravan site of five to seven pitches is of a scale that respects the settled community. I am however mindful of the recent intensification of use on the site and the concerns of nearby landowners and residents about the local environment and cumulative effects of the increasing numbers of caravan sites. Improvements to site planning and removal of uncertainty over the site's future may encourage greater acceptance and integration. Appropriate site drainage arrangements could be secured by planning condition. No other significant pressures on local infrastructure have been identified. Additional pitches, in conjunction with existing lawful Traveller sites and the to be approved EN1 and EN2 sites, may not ease the existing tensions or help community cohesion, at least initially.
239. This consideration contributes limited additional weight against the development over and above that attached to the character and appearance issue.

Policy DM 15 criteria

240. Access to local services would be primarily by car. The identified disadvantages of this dependency, identified in Part 1, have greater significance for this larger site.
241. The criteria on safe highway access and flood risk are met. No objection is sustained on ecological grounds and landscaping based on an approved scheme would be an opportunity to bring about a small enhancement to biodiversity.
242. Notwithstanding the areas of compliance, the main conflict is in respect of criterion (ii) of the policy regarding landscape and rural character. The development is not supported by Policy DM 15.

Need and site provision

243. Referring back to Part 1, the probable unmet need for sites and the doubt over the 5 year supply of sites each lends significant weight in favour of the development. The failure of policy argument does not provide any additional support. The site is available and would add significantly to the stock of Traveller sites in the Borough.

Personal circumstances

244. The pitch known as Oak View is at the southern end of the site and is occupied by one of the original families who moved to the land in 2010. Their

written statement says they do not have an alternative pitch to go to if the appeal is unsuccessful but little additional information is provided.

245. Pitch 7 also is occupied by one of the original families who moved to the land in 2010. According to the written statement of the appellant, Felix Doran, he lives on the pitch with his wife, now that all their children have grown up, got married and moved away. Mr Doran travels for 3 to 4 months of the year using the pitch as a base. He stated they have been unsuccessful in finding an alternative pitch.
246. Pitch 8 has been subdivided. Pitch 8A is now occupied by Charlene Howard, her husband Abraham Howard and their five children⁵⁰. The family moved onto the land around 2019 from a rented pitch on a private site in Bedfordshire in order to have a safe place for their son. Mr Howard has health problems requiring hospital treatment. Three of the children attend a local primary school and have friends there. Abraham Howard senior joined them about a year later for health reasons and he now lives on pitch 3A.
247. Pitch 8B (also known as Newhaven) is now owned and occupied by Myles Smith, his wife and their 4 children and his father. They have been there since 2018/2019, having heard the pitch was available from Jason Ross (Pitch 9A). The three children of school age have been attending local schools regularly, have made friends and are doing well. Mr Smith does roofing work and now mainly travels during school holidays. His father has travelled all his life but now needs a stable base to be close to medical facilities.
248. Pitch 9A is now occupied by Jason Ross, his partner Bonnie Boswell and their three children. They first came to the Meadows in May 2016, when they occupied pitch 4. They moved to their current pitch about 3 years ago. A settled base is important to them because of the medical and educational needs of the children. Mr Ross was unable to assist with who lives on pitch 9B.
249. Pitch 10 is vacant and no up-to-date details were provided by the appellants.
250. In summary there has been less turnover on this site compared to EN2 and two of the original families remain. All families have a personal need for a pitch and for some good access to medical facilities is particularly important. There are a number of children on the site, who are settled well at school and their best interests is a primary consideration. No reason was given to explain why pitch 10 was vacant.
251. If the appeals are unsuccessful the families would have to leave the site. At the present time no alternative available site(s) has been identified for them. To have to leave in such circumstances would result in a serious interference with their rights under Article 8 and would be against the best interests of the children. Success in the appeals would enable stability in home and family life, improve opportunities for education and health care as well as providing a base from which to continue a nomadic lifestyle to earn a livelihood.

Planning Balance

252. The development is contrary to Policies DM 15, SP 17 and DM 30. The development plan when read as whole directs permission should be refused.

⁵⁰ The original written statement by Charlene Howard was updated by the oral evidence of Abraham Howard senior

Considering national policy, the site meets social and economic objectives by supporting the Traveller community's accommodation needs and health, social and cultural well-being. These benefits are well illustrated by the personal needs of the current occupiers. The harm to the amenity of the settled community has a limited amount of weight. Planning conditions could enhance the quality of development but would not be sufficient to successfully mitigate the harm to the local environment related to the location and size of the site, number of pitches and caravans, even before subdivision of pitches. The balance is against the development.

253. Similar to EN2, possible alternatives have to be considered to ensure the interference with site residents' rights is no greater than necessary to address the legitimate aim of protecting the environment through the regulation of land use. Under the ground (a) appeals the options are a temporary permission (time limited and/or personal) or a permission on part of the land, informed by the extensive evidence base. The appellants' proposed a temporary permission for 5 years to enable all the current occupiers to stay and allow the Council time to consider need and supply of sites through a new GTAA.
254. A temporary permission would alter the planning balance towards the development. The identified harm would be for a limited period of time. The lack of an up-to-date 5 year supply of deliverable sites is a significant material consideration. The current occupiers would have stability and certainty of a home in the short term, with all the associated benefits. The oral evidence demonstrates the importance of a stable base to family and home life, and to their overall welfare. A number of vulnerable people rely on the site as their home. The best interests of the children on site, a primary consideration, would be safeguarded. Loss of their existing homes and base and a potential return to reliance on unauthorised encampments would be avoided. Such an approach would assist in minimising disadvantages and advancing equality of opportunity for members of a minority group.
255. However, over 10 years has elapsed since permission was first granted on a temporary and personal basis. During this time the serious harm to the local environment has persisted and latterly increased with the intensified use. Uncertainty would continue for all the community. The enhancement that could be secured reasonably through planning conditions would be limited because of the short time period involved. Some residents named in the first and subsequent personal permissions have left and probably have found alternative sites. Those who have moved onto the site subsequently, especially since the enforcement notice was issued in 2018, should have been aware of the planning position. Planning Practice Guidance on granting a further temporary permission is very relevant.
256. There is no certainty circumstances will change to deliver an acceptable pitch for site residents after five years. Interference with fundamental rights would arise from exercising a statutory function and be in accordance with the law. The interference would be in pursuit of a legitimate aim to protect the environment through the regulation of land use. The public interest argument against a temporary permission has substantial weight. Balancing all the various considerations I conclude that a temporary permission has served its purpose.

257. The appellants did not put forward a proposal for part of the land even though they were made aware of this option. Even so, a permanent permission on part of the land for part of the development, suitably controlled though planning conditions, offers a potential way forward for the same reasons as with the EN2 site. My conclusions on the EN1 and EN2 sites support this approach.
258. I recognise that a permission would involve confirmation of a residential use on land away from the Lenham Road frontage, which would be out of character with the prevailing sporadic linear development. However, the substantial harm is primarily derived from the size of site, scale of development and the associated level of encroachment into the countryside. The adjacent equestrian use reduces the sensitivity of the landscape to change in this location. A permanent safe means of access exists.
259. The site unacceptably extends development northwards, indicating a northern boundary should be drawn to be consistent with the extent of the EN1 site. Based on the appellants' information Pitches 9B and 10 would be primarily affected. The aim of reflecting the small scale field pattern of the surrounding area indicates the size of the remaining site should be further reduced by focussing on Pitches 8A, 8B and 9A. A block of three pitches would form a small cluster, which together with the pitches to be allowed on the western side of the track, would be in scale with other authorised Traveller sites in the area. The harm to visual amenity would be much reduced by a more compact development.
260. Regarding welfare, human rights and PSED considerations the evidence shows the most serious consequences of a failure to secure permission would be for the occupiers of pitches 8A, 8B and 9A. The greatest stability of occupation appears to have been on Oak View and Pitch 7, although the information on Oak View is minimal and the written statement for Pitch 7 may not be up-to-date. No information was provided on the vacant Pitch 10. This evidence supports the conclusion based on the landscape and visual assessment.

Planning conditions

261. I have relied on the conditions put forward by Council and the appellants for the EN3 site and which were discussed at the inquiry⁵¹.
262. The permission would be permanent and would run with the land. Conditions restricting the permission to a temporary period and /or to named individuals would not be necessary.
263. The occupation of the site should be restricted to Gypsies and Travellers because the accommodation needs of this community have weighed heavily in the planning balance. The wording of the condition would have to update the definition of Gypsies and Travellers to take full account of the *Smith* judgement to ensure those who have ceased travelling permanently are not excluded.
264. Control on the number and type of caravans would contribute towards protecting the character and appearance of the area. The earlier permissions on the land allowed for one mobile home and two touring caravans per pitch,

⁵¹ Inquiry Document 24

with the planning condition stating a total number of caravans across the site. In November 2022 there was one mobile home and one touring caravan on Pitch 8A and on Pitch 8B, 1 mobile home and one touring caravan on Pitch 9B. The condition proposed by the parties allows for no more than one mobile home, one touring caravan and one utility dayroom per pitch. I agree this provision would be reasonable, taking account of the size of the site to be approved and the number of existing pitches.

265. A site development scheme would be necessary to address concerns about the layout of pitches and to secure acceptable details on the layout, drainage, landscaping, boundary treatments and external lighting of the site. An approved scheme would offer the prospect of a well planned and soft landscaped site, securing appropriate site drainage to protect public health and the water environment.
266. The condition would be worded to ensure that the required details are submitted, approved and carried out so as to make the development acceptable in planning terms. A strict timetable for compliance could be imposed because of the retrospective nature of the permission and to minimise the period of ongoing harm to the character and appearance of the countryside. In the event the requirements or timetable is not met the condition is worded to be enforceable. The backstop would be cessation of the use and clearance of the land if an approved site development scheme is not achieved.
267. In view of the importance of soft landscaping, provision should be made to secure the replacement of trees and shrubs, as necessary, over a period of five years. A condition to exclude business activity taking place on the site, including the parking of larger vehicles would protect residential and general amenity in this rural location.
268. A set of planning conditions on the above matters would be justified by the criteria and requirements of Policies DM 15, DM 30 and SP 17 of the Local Plan. All the 6 tests would be met. Subject to the approval and delivery of a good quality site development scheme, a caravan site on the smaller area would not overcome all the identified harms but the level of harm would be substantially reduced.

Conclusion on ground (a)

269. The way forward is to grant permission for development on part of the land equivalent of pitches 8A, 8B and 9A. The policy conflict with the development plan would remain but the harm would be reduced to such an extent it would be outweighed by arguments related to aspects of need, social and cultural well-being. This outcome would not enable all the families currently on the site to remain. I have considered the interests of each family and balanced the potential consequences for their home and family life against the public interest. In each case my conclusion is that it is necessary and proportionate to refuse planning permission on part of the land.

Appeals on ground (g)

270. The issue is whether the compliance period of six months is reasonable and proportionate. My reasoning follows that for the EN2 appeals.

271. The Framework and Planning Practice Guidance state that effective enforcement is important to maintain public confidence in the planning system and to tackle breaches of planning control which would otherwise have an unacceptable impact on the amenity of an area. In this case the main harm is to the character and appearance of the countryside.
272. The compliance period must take account of what the recipients of the notice have to do in practice to carry out the steps, namely to cease the residential use, remove the caravans and residential paraphernalia and take up and remove the hardsurfacing. No undue physical constraints would be involved. The main consideration is the social and family consequences for the occupiers who would lose their homes.
273. No alternative pitch or site has been identified that is available for them to move to. The probability is that most, if not all, the families would have to find temporary places to stay whether doubling up with family or friends, through unauthorised encampments, and such like. This outcome would be hard, given the recent period of stability.
274. A period of one year would provide time for the appellants and resident families to explore and consider their options and possibly avoid a return to the roadside. During this period the GTAA and the DPD should have progressed, which may also indicate a way forward.
275. I conclude the periods for compliance fall short of what is reasonable and proportionate. A period of twelve months strikes a fair balance. I shall vary the enforcement notice prior to upholding it. The appeals on ground (g) succeed to that extent.

Conclusion

276. For the reasons given above, the appeals on ground (a) should succeed in part only, and I will grant planning permission for the use of land as residential to provide caravan pitches for Gypsy/Traveller families on part of the Land known as Pitches 8A, 8B and 9A, but otherwise I will uphold the notice with a correction and variation and refuse to grant planning permission in respect of the use of land as residential to provide caravan pitches for Gypsy/Traveller families on part of the Land known as Oakview, Pitches 7, 9B and 10. The requirements of the notice relating to the acceptable part of the development will not be deleted, so as to avoid any grant of unconditional planning permission being made through section 173(11). The appellants are able to rely on section 180(1) in that the notice ceases to have effect insofar as it is inconsistent with the planning permission.
277. This outcome is necessary and proportionate and will not result in a violation of the appellants' or occupiers' human rights.

DECISIONS

Enforcement Notice 1: Appeals APP/U2235/C/18/3210851, APP/U2235/C/18/3212986

278. It is directed that the enforcement notice be corrected by:

- the substitution of Plan EN1 annexed to this decision document for the plan attached to the enforcement notice;
- In paragraph 5 the deletion of step (i) and its replacement by "Cease the residential use of the land within the area hatched black shown on the attached plan"; in step (ii) the deletion of the words "within the red outline" and the substitution of the words "within the area hatched black"; the deletion of step (iv); the renumbering of step (v) as step (iv) and the deletion of (vi).

279. Subject to the corrections, the appeals are allowed, the enforcement notice is quashed and planning permission is granted on the applications deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the use of land for the stationing of a mobile home and two touring caravans for a Gypsy/Traveller family together with utility room and provision of hardstanding at land known as Plot 6 The Meadows, Lenham Road, Headcorn TN27 9LG as shown by the area hatched black on the corrected Plan EN1 and subject to the following 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 but excluding members of an organised group of travelling showpeople or circus people traveling together as a group.
- 2) No more than three 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 one shall be a static caravan) shall be stationed on the site at any time and no more than one utility dayroom shall be provided on the site.
- 3) 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 28 days of the date of the 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 site development scheme shall have been submitted for the written approval of the local planning authority. The scheme shall include details of: the internal layout of the site, including the siting of the static caravan and utility block, means of enclosure, parking and amenity areas; the means of foul and surface water drainage of the site; a scheme of landscaping including tree, hedge and shrub planting with details of plant species, sizes and proposed numbers and densities and indicating all existing trees and hedgerows on the site identifying those to be retained with measures for their future

protection and retention; boundary treatments; external lighting on the boundary of and within the site; a timetable for implementation of the approved scheme.

- 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 retained.

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.

- 4) If any trees or plants which within a period of 5 years from the carrying out of the approved landscape scheme, are removed or become seriously damaged or diseased they shall be replaced in the next planting season with others of similar size and species.
- 5) No business, industrial or commercial storage activities shall take place on the land, including the storage of materials and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

Enforcement Notice 2

Appeal refs APP/U2235/C/18/3210854, APP/U2235/C/18/3210855, APP/U2235/C/18/3210856, APP/U2235/C/18/3210863

280. It is directed that the enforcement notice in paragraph 5 is corrected by the deletion of the words "within the red line outline on the attached plan" and the substitution of the words "within the area hatched in black, excluding the access track, within the red outline on the attached plan" in steps (i), (ii) and (iv).
281. The appeals are allowed insofar as they relate to the land known as Plots 4 and 5, shown cross hatched black on the Plan EN2 Development Site annexed to this decision document and planning permission is granted on the applications deemed to have been made under section 177(5) of the 1990 Act as amended for use of land as residential to provide caravan pitches for Gypsy/Traveller families involving the stationing of caravans and the provision of utility blocks, subject to the planning conditions set out in Schedule EN2.
282. It is directed that paragraph 6 of the enforcement notice be varied by the substitution of Twelve (12) months as the time for compliance.

283. The appeals are dismissed in respect of the development on the part of the land which is shown hatched black (excluding the access track) on Plan EN2 Development Site annexed to this decision document and the enforcement notice is upheld as corrected and varied. Planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended for use of land as residential to provide caravan pitches for Gypsy/Traveller families involving the stationing of caravans and the provision of utility blocks on land known as Plots 1, 2 and 3 shown by black hatching on Plan EN2 Development Site annexed to this decision document.

Appeal refs APP/U2235/C/18/3210857, 3210858, 3210859, 3210860, 3210861, 3210862, 3210864, 3210865, 3210866, 3210867

284. It is directed that the enforcement notice in paragraph 5 is corrected by the deletion of the words "within the red line outline on the attached plan" and the substitution of the words "within the area hatched in black, excluding the access track, within the red outline on the attached plan" in steps (i), (ii) and (iv).

285. The appeals are allowed on ground (g) and it is directed that paragraph 6 of the enforcement notice be varied by the substitution of Twelve (12) months as the time for compliance.

286. Subject to this correction and variation the enforcement notice is upheld as set out in the EN2 decisions above.

Enforcement Notice 3

Appeal refs APP/U2235/C/18/3210879, 3210886, 3210887, 3210888

287. It is directed that the enforcement notice is corrected by the substitution of Plan EN3 annexed to this decision document for the plan attached to the enforcement notice.

288. The appeals are allowed in so far as they relate to the Land known as Plot 8 (comprising Plot 8A and Plot 8B) and Plot 9A, shown cross hatched black within the red line on the Plan EN3 Development Site annexed to this decision document and planning permission is granted on the applications deemed to have been made under section 177(5) of the 1990 Act as amended for use of land as residential to provide caravan pitches for Gypsy/Traveller families involving the stationing of caravans and the provision of utility blocks, subject to the planning conditions set out in Schedule EN3.

289. It is directed that paragraph 6 of the enforcement notice be varied by the substitution of Twelve (12) months as the time for compliance.

290. The appeals are dismissed in respect of the development on the part of the land which is shown hatched black on Plan EN3 Development Site annexed to this decision document and the enforcement notice is upheld as corrected and varied. Planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended for use of land as residential to provide caravan pitches for Gypsy/Traveller families involving the stationing of caravans and the provision of utility blocks on land known as Oakview and Plots 7, 9B and 10 shown by black hatching on Plan EN3 Development Site annexed to this decision document.

Appeal refs: APP/U2235/C/18/3210880, 3210881, 3210882, 3210883, 3210884, 3210885, 3210889, 3210890, 3210891, 3210892, 3210893, 3210894, 3212989

291. It is directed that the enforcement notice is corrected by the substitution of Plan EN3 annexed to this Decision document for the plan attached to the enforcement notice.
292. The appeals are allowed on ground (g) and it is directed that paragraph 6 of the enforcement notice be varied by the substitution of Twelve (12) months as the time for compliance.
293. Subject to this correction and variation the enforcement notice is upheld as set out in the EN3 decisions above.

Diane Lewis

Inspector

APPEARANCES

FOR THE APPELLANT:

Alan Masters, Barrister	Instructed by Dr Angus Murdoch
He called	
Rhodri Crandon BA (Hons) Dip LA	Director, Tirlun Design Associates Ltd
Dr Angus Murdoch BA MA MSc MRTPI PhD	Director, Murdoch Planning Limited
Jason Ross	Site resident
Myles Smith	An appellant
Abraham Howard	Site resident
Terry O'Brien	Site resident
Miles Doran	An appellant
Patrick Cawley	Site resident
Nathan Boswell	An appellant

FOR THE LOCAL PLANNING AUTHORITY:

Emmaline Lambert, Barrister	Instructed by Head of Legal Services for Mid Kent
She called	
Mark Flatman CMLI Dip LA BA(Hons)	Chartered Landscape Architect, Liz Lake Associates
Emily Temple BSc(Hons) MSc MRTPI	Director, ET Planning

FOR THE RULE 6 PARTY:

Judith Norris BSc MSc FRICS IHBC FBIAC (advocate and witness)	The Rural Planning Practice
She called	
Thomas Boland	Resident in Ulcombe
Stefan Christodoulou	Clerk to Headcorn Parish Council
Daniel Watson	Fiddlers Green

INTERESTED PERSONS:

Councillor Martin Round	Councillor, Maidstone Borough Council
-------------------------	---------------------------------------

DOCUMENTS submitted at the inquiry

- 1 Statement of common ground dated 23 November 2011
- 2 Site history Plans (requested by Inspector)
- 3 Statement of common ground signed and dated 14.10.22 and
17.10.22
- 4 Medical information
- 5 5 year supply for Gypsy and Traveller Pitches at 1 April 2022
submitted by the Council
- 6 Proof of evidence addendum and appendices (hard copy
requested by Inspector)

- 7 Land south of Benover Road Appeal decision ref APP/U2235/C/20/3264812 dated 14 June 2022
- 8 Opening submissions on behalf of the Council
- 9 Extract from LVIA Guidance
- 10 Google Earth view of Appeal sites, Fiddlers Green and surroundings
- 11 A3 plan of pitches (based on site visit 24 November 2021) and residents on site
- 12 Representation by Helen Whately MP dated 25 March 2022
- 13 Photo of entrance to Fiddlers Green with buildings behind
- 14 Planning application documents for creation of an earth bund (ref 22/504693/FULL)
- 15 Planning statement in support of application for earth bund (see above)
- 16 CLEUD for use of land and barn for the private keeping of horses ref MA/05/1889 issued 17 November 2005
- 17 CLEUD for erection of a chalet and its occupation as a separate and self-contained dwelling ref 14/506535/LDCEX issued 16 March 2015
- 18 Designations submitted by the Council
- 19 Housing register information dated 18 October 2022 submitted by the Council
- 20 Local Development Scheme update and screen shot, email dated 20 October 2022
- 21 Planning permission for change of use of land to horse training centre and erection of stables (ref MA/06/1865)
- 22 Local Development Scheme 2022-2024 September 2022
- 23 Site layout plan updated to November 2022
- 24 Revised list of planning conditions
- 25 Closing submissions on behalf of the Council
- 26 Notes to oral closing submissions on behalf of the appellants

APPENDIX 1: ENFORCEMENT NOTICES AND APPEALS

Enforcement Notice 1 Land known as Plot 6, The Meadows, Lenham Road, Headcorn, Maidstone, Kent TN27 9LG

Appellant, appeal reference and grounds of appeal

Mr Patrick Hanrahan ref APP/U2235/C/18/3210851 grounds (a) and (g)
Mrs Sandra Hanrahan ref APP/U2235/C/18/3212986 grounds (a) and (g)

Enforcement Notice 2 Land known as Land rear of The Meadows, Lenham Road, Headcorn, Maidstone, Kent TN27 9LG

Appellant, appeal reference and grounds of appeal

Mrs Lisa Murphy ref APP/U2235/C/18/3210854 grounds (e), (a) and (g)
Mr Michael Murphy APP/U2235/C/18/3210855 grounds (e), (a) and (g)
Mr Mark Harris APP/U2235/C/18/3210856 grounds (e), (a) and (g)
Mr Simon Doherty APP/U2235/C/18/3210857 grounds (e) and (g)
Ms Bonnie Boswell APP/U2235/C/18/3210858 grounds (e) and (g)
Mr Miles Doran APP/U2235/C/18/3210859 grounds (e) and (g)
Mr Felix Doran APP/U2235/C/18/3210860 grounds (e) and (g)
Mrs Josaphine Cash APP/U2235/C/18/3210861 grounds (e) and (g)
Ms Charlene Hogan APP/U2235/C/18/3210862 grounds (e) and (g)
Mr James Doran APP/U2235/C/18/3210863 grounds (e), (a) and (g)
Ms Agnes Mongan APP/U2235/C/18/3210864 grounds (e) and (g)
Mr Myles Smith APP/U2235/C/18/3210865 grounds (e) and (g)
Mr Thomas O'Brien APP/U2235/C/18/3210866 grounds (e) and (g)
Mrs Margaret O'Brien APP/U2235/C/18/32108567 grounds (e) and (g)

Enforcement Notice 3 Land known as Plots 6-10 Rear of The Meadows, Lenham Road, Headcorn, Maidstone, Kent TN27 9LG

Appellant, appeal reference and grounds of appeal

Mr James Doran APP/U2235/C/18/3210879 grounds (a), (e) and (g)
Mr Felix Doran APP/U2235/C/18/3210880 grounds (e) and (g)
Mr Myles Smith APP/U2235/C/18/3210881 grounds (e) and (g)
Ms Nicole Skarlett APP/U2235/C/18/3210882 grounds (e) and (g)
Mrs Margaret O'Brien APP/U2235/C/18/3210883 grounds (e) and (g)
Mr Thomas O'Brien APP/U2235/C/18/3210884 grounds (e) and (g)
Ms Charlene Hogan APP/U2235/C/18/3210885 grounds (e) and (g)
Ms Lisa Murphy APP/U2235/C/18/3210886 grounds (a), (e) and (g)
Mr Michael Murphy APP/U2235/C/18/3210887 grounds (a), (e) and (g)
Mr Mark Harris APP/U2235/C/18/3210888 grounds (a), (e) and (g)
Mr Simon Doherty APP/U2235/C/18/3210889 grounds (e) and (g)
Ms Bonnie Boswell APP/U2235/C/18/3210890 grounds (e) and (g)
Mr Miles Doran APP/U2235/C/18/3210891 grounds (e) and (g)
Ms Agnes Mongan APP/U2235/C/18/3210892 grounds (e) and (g)
Mr Patrick Hanrahan APP/U2235/C/18/3210893 grounds (e) and (g)
Ms Josaphine Cash APP/U2235/C/18/3210894 grounds (e) and (g)
Mrs Sandra Hanrahan APP/U2235/C/18/3212989 grounds (e) and (g)

SCHEDULE EN2 PLANNING CONDITIONS

Land rear of The Meadows, Plot 4 and Plot 5

Appeal refs APP/U2235/C/18/3210854, APP/U2235/C/18/3210855, APP/U2235/C/18/3210856, APP/U2235/C/18/3210863

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 but excluding members of an organised group of travelling showpeople or circus people traveling together as a group.
2. No more than eight 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 four shall be a static caravan) shall be stationed on the site at any time.
3. 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 28 days of the date of the 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 site development scheme shall have been submitted for the written approval of the local planning authority. The scheme shall include details of: the internal layout of the site, including the definition of the pitches, the siting of the static caravans and the utility dayrooms, the means of enclosure, parking and amenity areas; the means of foul and surface water drainage of the site; a scheme of landscaping including tree, hedge and shrub planting providing details of plant species, sizes and proposed numbers and densities and indicating all existing trees and hedgerows on the site identifying those to be retained with measures for their future protection and retention; boundary treatments; external lighting on the boundary of and within the site; a timetable for implementation of the approved scheme.
 - 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 retained.

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.

4. If any trees or plants which within a period of 5 years from the carrying out of the approved landscape scheme required by condition 3, are removed or become seriously damaged or diseased they shall be replaced in the next planting season with others of similar size and species.
5. No business, industrial or commercial storage activities shall take place on the land, including the storage of materials and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

End of Schedule

SCHEDULE EN3 PLANNING CONDITIONS

Land rear of The Meadows, Plot 8A, Plot 8B and Plot 9A

Appeal refs APP/U2235/C/18/3210879, APP/U2235/C/18/3210886, APP/U2235/C/18/3210887, APP/U2235/C/18/3210888

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 but excluding members of an organised group of travelling showpeople or circus people traveling together as a group.
2. There shall be no more than 3 pitches on the site. On each of the 3 pitches no more than 2 caravans shall be stationed at any time, of which no more than one shall be a static caravan and no more than one utility dayroom shall be provided.
3. 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 28 days of the date of the 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 site development scheme shall have been submitted for the written approval of the local planning authority. The scheme shall include details of: the internal layout of the site including the definition of the pitches, the siting of the static caravans and the utility dayrooms, means of enclosure, parking and amenity areas; the means of foul and surface water drainage of the site; a scheme of landscaping including tree, hedge and shrub planting with details of plant species, sizes and proposed numbers and densities and indicating all existing trees and hedgerows on the site identifying those to be retained with measures for their future protection and retention; boundary treatments; external lighting on the boundary of and within the site; a timetable for implementation of the approved scheme.
 - 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 retained.

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.

4. If any trees or plants which within a period of 5 years from the carrying out of the approved landscape scheme required by condition 3, are removed or become seriously damaged or diseased they shall be replaced in the next planting season with others of similar size and species.
5. No business, industrial or commercial storage activities shall take place on the land, including the storage of materials and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

End of Schedule



Plan EN1

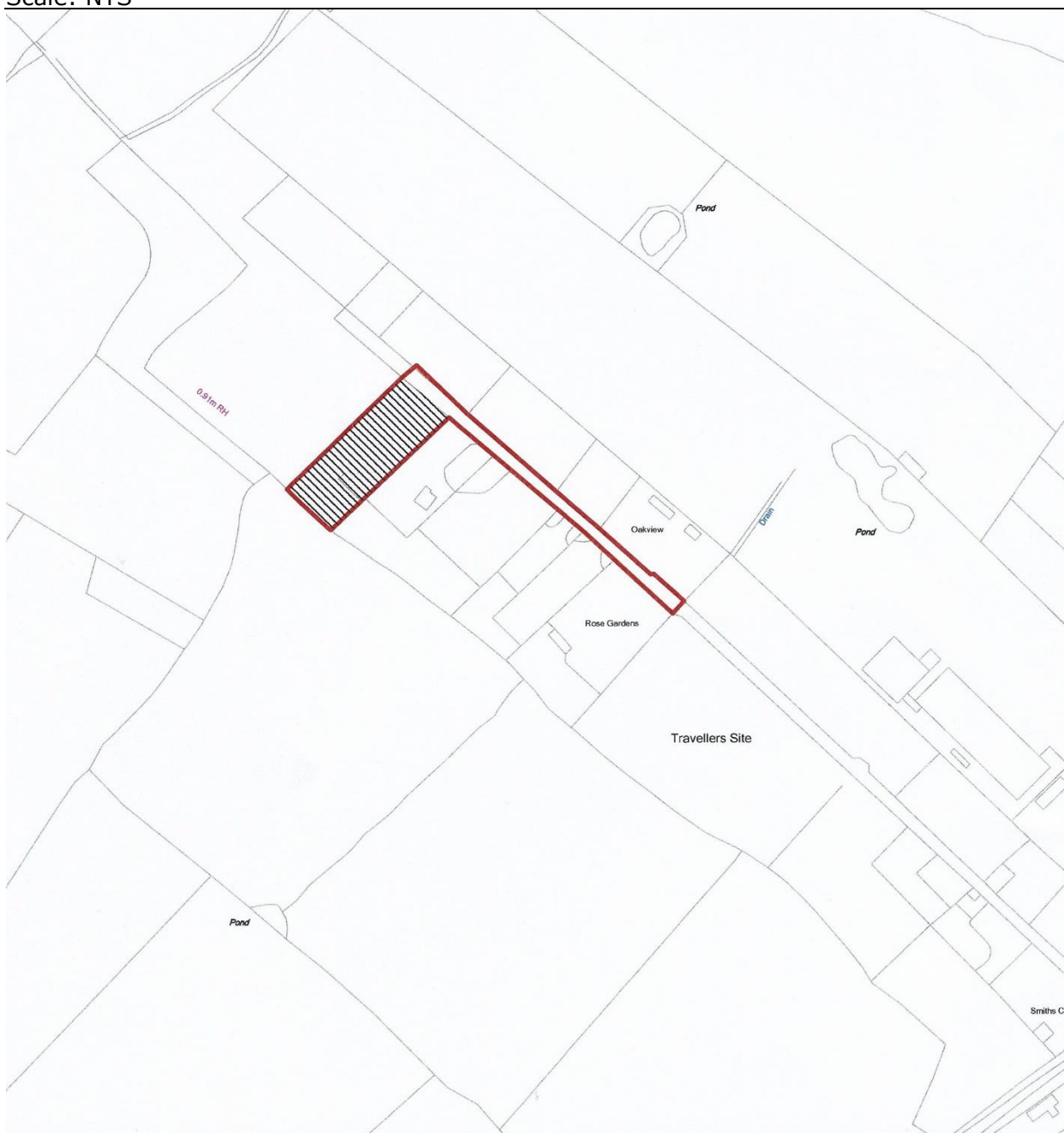
This is the plan EN1 referred to in my decision dated: 17 March 2023

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

Land at: Plot 6 The Meadows, Lenham Road, Headcorn, Maidstone TN27 9LG

References: APP/U2235/C/18/3210851, APP/U2235/C/18/3212986

Scale: NTS





Plan EN2 Development Site

This is the plan EN2 Development Site referred to in my decision dated: 17 March 2023

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

Land at: Plots 4 and 5, Land rear of The Meadows, Lenham Road, Headcorn TN27 9LG

Reference: APP/U2335/C/3210854 and linked appeals

Scale: NTS





Plan EN3

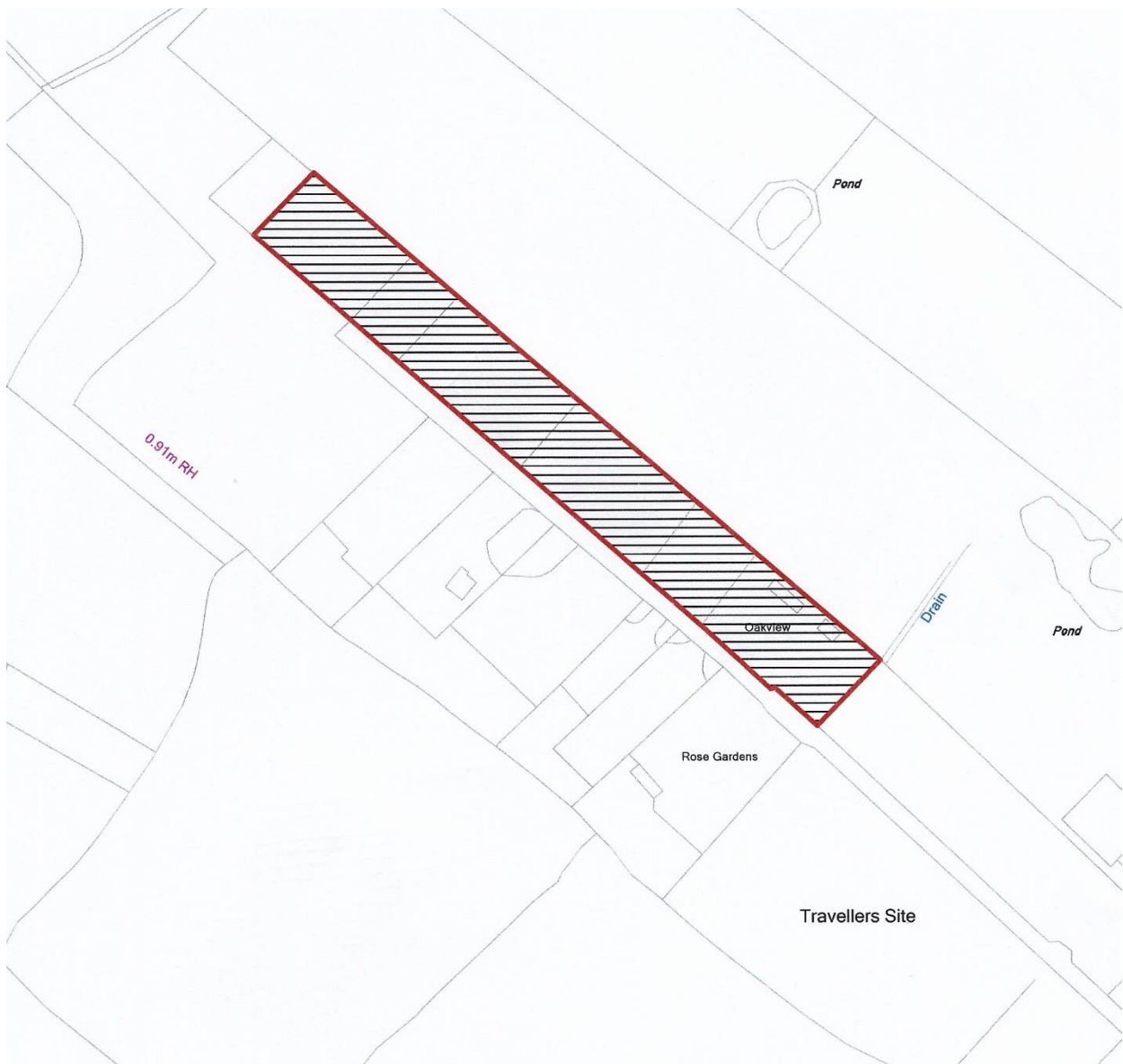
This is the plan EN3 referred to in my decision dated: 17 March 2023

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

Land at: Plots 6-10 Rear of The Meadows, Lenham Road, Headcorn TN27 9LG

Reference: APP/U2235/C/18/3210879 and linked appeals

Scale: NTS





Plan EN3 Development Site

This is the plan referred to in my decision dated: 17 March 2023

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

**Land at: Plots 8 (comprising Plots 8A and 8B) and 9A, Rear of The Meadows,
Lenham Road, Headcorn TN27 9LG**

Reference: APP/U2235/C/18/3210879 and linked appeals

Scale: NTS

