



Appeal Decision

Hearing held on 15 February 2024

Site visit made on 15 February 2024

by Katie Child B.Sc.(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 May 2024

Appeal Ref: APP/B5480/W/23/3330145

Plot 10, New Acres, land north-west of Benskins Lane, Romford RM4 1LB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr. J. O'Driscoll against the Council of the London Borough of Havering.
 - The application Ref P1115.23, is dated 14 July 2023.
 - The development proposed is described as 'change of use of land for the creation of a 1 Gypsy/Traveller pitch comprising the siting of 1 static caravan, 1 touring caravan and erection of 1 day room, provision of ancillary works, alongside the formation of access.'
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land for the creation of a 1 Gypsy/Traveller pitch comprising the siting of 1 static caravan, 1 touring caravan and erection of 1 day room, provision of ancillary works, alongside the formation of access at Plot 10, New Acres, land north-west of Benskins Lane, Romford RM4 1LB in accordance with the terms of the application Ref P1115.23, dated 14 July 2023, subject to the conditions in the attached schedule.

Preliminary matters

2. Plot 10 is currently in use as a Gypsy and Traveller pitch and contains a static caravan, touring caravan and dayroom. The submitted plans with the application show the caravans and dayroom in a different position and a new undeveloped/landscaped area. I have taken account of these plans and proposals in my determination of this appeal.
3. I have referred to the date of the original application form in the above banner heading and decision paragraph, namely 14th July 2023. Further information and an additional plan was submitted on 26th July 2023, in response to validation issues. I have taken account of the further details and additional plan in my determination of the appeal.
4. The appellant, James O'Driscoll, has confirmed in writing he is the applicant and appellant but that ownership of the site is in the process of being transferred to his son, John O'Driscoll. An updated personal statement was submitted prior to the hearing indicating that John O'Driscoll, his wife Julie O'Reilly and their five children are the current and future intended occupants of

the appeal site. The Council accepts that John O'Driscoll and his family have Gypsy and Traveller status.

5. Plot 10 is part of a larger ten-pitch site which was refused permission on appeal in 2022 and is subject to an enforcement notice upheld at appeal. The notice requires the ceasing of use as a caravan site by 19 December 2023 and removal of unauthorised development by 19 March 2024. On my site visit I was not able to enter the other pitches but I observed a number of caravans and other structures present.
6. The ten-pitch site was previously part of a golf course comprising fairways, bunkers, ponds, woodland and scrub. The golf course features and vegetation were removed as part of the development. The enforcement notice requires the restoration of the land 'to its condition which existed before the unauthorised development and change of use were carried out, except for the ponds and the bunkers.' The Council's evidence, including historic aerial photos, indicates that Plot 10 previously comprised an area of shrubs, trees and scrub to the east of the main fairways and greens. At the hearing the Council stated that replacement planting would be sought in addition to natural regeneration/grassland, but the exact extent is yet to be determined.
7. A number of the submitted plans show the strip of land between the appeal site and nearby caravan site at Westwood Park as a landscaped area with trees. On my site visit the area was surrounded by a high close boarded fence which prevented views in. However, I was unable to see any trees above the fence and observed the top of a shipping container. Based on my observations it appears that a significant part of the strip does not contain planting and any landscaping that exists is low in height. It was unclear whether the strip of land forms part of Westwood Park or is in separate use.
8. The appellant submitted three new landscaping and planting plans for Plot 10 prior to the hearing session. At the hearing it was confirmed they are for illustrative purposes only, with landscaping details to be dealt with via planning condition. As such, I am satisfied the plans do not prejudice the interests of any parties and can be accepted on this basis. The Council concurred with this position.
9. Prior to the hearing the Council submitted a series of site layout drawings which appeared to be Gypsy and Traveller allocation sites from the Local Plan. At the hearing the Council was unable to confirm what the drawings show and conceded they were not essential to the appeal. Accordingly, I have not taken this late evidence into account.
10. Tree Preservation Order map 16/90 shows a number of protected trees along the frontage of Plot 10 and adjoining land. These trees no longer exist on the site frontage and both parties agreed they were not removed as part of the recent ten pitch development. There is no evidence before me to suggest this position is incorrect.
11. The definition of Gypsies and Travellers was updated in the revised National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) in December 2023. The parties were provided with an opportunity to comment on the revisions prior to the hearing, and the definition was discussed at the hearing itself. The implications are addressed later in my decision.

12. The Council confirmed that it would have sought to refuse the scheme on a number of grounds which are included in the main issues below. The Council has confirmed that the scheme is acceptable insofar as it relates to highway safety, sustainability of location, drainage/flood risk, impact on the living conditions of nearby residents and impact on local infrastructure.
13. The appeal site is located in the Green Belt. The parties agree that the scheme comprises inappropriate development in the Green Belt.

Main issues

14. The main issues are therefore as follows:

- 1) The effect of the scheme on the openness of the Green Belt and the purpose of including land within it.
- 2) The effect of the scheme on the character and appearance of the area.
- 3) The effect of the scheme on biodiversity.
- 4) Whether there has been intentional unauthorised development and, if so, what weight should be attached to it.
- 5) Whether any harm to the Green Belt is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the scheme, including:
 - Need for and supply of Gypsy and Traveller sites
 - Availability, suitability, affordability and acceptability of alternative accommodation
 - Policy failure
 - Personal circumstances of the occupants including the best interests of the children, and taking account of human rights and equality.

Reasons

Effect on openness and Green Belt purposes

15. The proposed scheme includes a static caravan and a day room, as well as fencing, hard surfacing and parking of a touring caravan. The previous use of the site was a golf course with woodland and open areas. Therefore in spatial terms the scheme would result in a loss of openness.
16. The submitted plans show some scope for planting on the boundaries and within the site. However, although this would provide an element of screening, the site adjoins Benskins Lane and is highly visible as you travel along the road. Benskins Lane is an unadopted road but has the status of a public footpath. The scheme, by virtue of its extent, form and position, would result in loss of openness which would be evident from Benskins Lane.
17. There is a public footpath further to the south and west. It is feasible that there could be some filtered distant views of Plot 10 from this path in the future. However, at the time of my site visit it was not possible to accurately ascertain this due to the presence of caravans and structures on the rest of the ten-pitch site. I was not made aware of any other viewpoints from where the appeal site would be readily seen.

18. The scheme would involve structures, hardstanding and residential activity on a site which was previously open land. As such the scheme would involve encroachment into the countryside and conflict with this Green Belt purpose. The site is in the countryside but lies just to the north of the metropolitan area and within the M25. The scheme therefore also conflicts with the Green Belt purpose of checking the unrestricted sprawl of large built-up areas.
19. In summary, the scheme would fail to preserve openness and conflict with the Green Belt purposes of protecting the countryside from encroachment and checking the unrestricted sprawl of large built-up areas. Taking account of the modest scale of development on Plot 10, I consider that harm in terms of loss of openness and urban sprawl would be moderate. In the context of scale and taking account of the mix of commercial, residential and open land along Benskins Lane I consider that harm in terms of encroachment would be limited. The scheme would be inappropriate development in terms of Green Belt policy as set out in the NPPF and PPTS. This harm and the other identified harm attracts substantial weight, as set out in the NPPF.

Character and appearance of the area

20. The site lies in the countryside to the north of Harolds Hill. The area around Benskins Lane has a mix of scattered residential and commercial properties as well as areas of open land and agricultural fields interspersed by hedgerows, small woodlands and other landscape features. The M25 lies just to the north.
21. At the hearing the Council confirmed that some of the caravans present on nearby Westwood Park previously had temporary permission. However, permission has expired and the caravans are unauthorised. The Council also referred to the presence of other unauthorised development in the locality, but no details were provided. However, there is no indication that all development in the local area is unauthorised and it was confirmed that the existing Gypsy and Traveller site to the north of Benskins Lane is allocated in the Local Plan. Therefore, notwithstanding some unauthorised development in the locality which the Council may or may not choose to enforce against, the area has a semi-rural character.
22. The Council confirmed at the hearing that the designations of Havering Ridge Special Policy Area, Area of Heritage Land and the Thames Chase Community Forest do not apply to the site.
23. When Plot 10 was part of the golf course it was undeveloped and contained a number of shrubs/trees. As such it would have had a verdant appearance which fitted with the character of the countryside. Photographic evidence submitted by the Council also shows that this part of Benskins Lane had a leafy aspect, with views into the site filtered by trees and vegetation.
24. Development on Plot 10 has removed vegetation and introduced structures and fencing. The site is currently hard surfaced and surrounded by a close boarded fence with metal gates. The proposed scheme incorporates a less visually intrusive site layout, with the static caravan repositioned. It also includes a large separate undeveloped/landscaped area within the site and less hard surfacing. As such it would provide a more attractive, verdant and well-planned environment than at present. There is also scope for landscaping and planting conditions to be used to secure screening and provide visual benefits.

25. Nonetheless, compared to the baseline position, the proposed scheme still presents a loss of undeveloped land and landscape features. Part of the site would be developed and planting confined to certain areas. As such, I consider the scheme would cause some harm to the visual amenity of the area. However, only one pitch is proposed, the height of structures would be modest and a significant proportion of the site would remain undeveloped with opportunity for landscaping. Furthermore, there are other permitted Gypsy and Traveller sites and scattered development along Benskins Lane and the area has a semi-rural and mixed character. Therefore, taking account of all factors I consider that harm to visual amenity and the character and appearance of the area would be limited.
26. As harm is identified, the scheme would fail to accord with Policies 26, 27 and 29 in the Havering Local Plan 2016-2031 (2021) (the Local Plan), insofar as they seek to ensure development respects and enhances its surroundings and retains key landscape features and green infrastructure. As Policy 27 is not satisfied, the scheme would also be contrary to criterion iii in Policy 11.
27. Criterion vii in Policy 11 requires Gypsy and Traveller development to avoid 'unacceptable' adverse impacts on visual amenity. The term is not qualified in the policy. Nevertheless, all development has the potential to affect the visual amenity of an area and the term 'unacceptable' suggests that a fair degree of harm should be involved. In this case, as I have identified that harm to visual amenity would be limited I consider it would not be 'unacceptable'. Therefore criterion vii in Policy 11 would be satisfied.

Biodiversity

28. The submitted plans propose a large undeveloped area with planting in the northern part of Plot 10 and there is scope to secure trees and planting elsewhere on the site via conditions. Based on the evidence before me it appears that the scheme could feasibly provide a significant level of mitigation planting and habitat, albeit the precise level would be determined via conditions.
29. The appellant indicated at the hearing that the proposed scheme would involve 40% biodiversity gain. However, although the proposed open mitigation land comprises about 40% of the site area, gain needs to be compared against loss.
30. A retrospective ecological appraisal for the ten-pitch scheme was prepared by the appellants in the enforcement case. It is based on the ecological value of the disused golf course and concludes that development has resulted in the loss of vegetated habitat and a net loss of biodiversity. The ecological value of Plot 10 itself is not defined. However, the evidence before me indicates that the site was previously covered by trees, shrubs and scrub rather than being part of the grassed fairways or greens. As such it is reasonable to assume that Plot 10 supported a range of biodiversity. The terms of the enforcement notice require restoration of the land to its former condition and the Council has indicated that tree planting would be sought as part of this.
31. There is no doubt that extensive biodiversity mitigation is proposed and is feasible as part of the development scheme. However, although the exact baseline level for Plot 10 cannot be precisely quantified, the evidence suggests the site had good biodiversity value and could achieve good biodiversity value in the future through the enforcement notice through natural regeneration

(whether or not additional tree planting is secured). Furthermore, a significant proportion of the proposed scheme includes hardstanding and development and it would take a number of years for planting and landscaping to mature and biodiversity to establish. Off-site mitigation measures are not proposed.

32. Therefore, based on the evidence before me, on balance I consider that it is likely that the proposed scheme would result in some net loss of biodiversity. The scheme would therefore fail to accord with Policies 30 and 27 in the Local Plan and Policies G6 and G7 in the London Plan (2021) insofar as they seek to protect and enhance biodiversity and/or natural habitats and trees. Having regard to the modest scale of development and potential scope for mitigation measures, I conclude that the net loss and harm to biodiversity is likely to be limited/moderate rather than significant.

Intentional unauthorised development

33. At the hearing John O'Driscoll confirmed that he and his family have been resident on Plot 10 for just over a year. The appeal decision on the ten-pitch enforcement case indicates that Plot 10 was cleared and laid to hardstanding in 2020 and was occupied at the time of the site visit in 2022. The decision concludes that intentional unauthorised development occurred. I see no reason to disagree with this.
34. The Written Ministerial Statement dated December 2015 confirms that intentional unauthorised development is a material consideration. The policy was in response to the harm caused, particularly in the Green Belt, where development takes place in advance of planning permission.
35. The appellant's personal statement in 2020 indicates that he did not have anywhere to live and wished to discontinue his reliance on roadside camping and secure a permanent base for his family. John O'Driscoll has confirmed that his circumstances are similar. Later in this decision I conclude that there is a lack of alternative accommodation in the borough. The Council has also confirmed that there is unlikely to be capacity within built-up areas of the borough for future Gypsy provision.
36. However, visual and environmental harm has been caused by development on Plot 10 being carried out without consideration of planning issues. Some mitigation is now proposed on the site through the planning application. However, I have concluded above that there is some residual harm in this regard. Harm has also occurred to openness and Green Belt purposes. The Council has also incurred time and resources taking enforcement and legal action against the unauthorised ten-pitch scheme, which includes the current appeal site.
37. Nonetheless, the Planning Act 1990 allows planning permission to be sought and granted retrospectively. Plot 10 is modest in scale and much of the development is reversible and could easily be removed. This includes the caravans and the timber constructed dayroom. The site is also surfaced in loose hardcore.
38. The enforcement appeal decision states that the extent of works undertaken was excessive to overcome immediate hardship for the families. However, the case before me concerns one pitch only and does not include the access road through the site or development that may have been present on other pitches.

Having regard to the specific circumstances of this case, I am not persuaded that the site size or the extent of works undertaken is excessive or atypical for Gypsy and Traveller accommodation.

39. Therefore overall, taking account of all factors, I consider the intentional unauthorised development weighs against the scheme, but not significantly due to the scale and nature of development undertaken on Plot 10 and lack of other options for the appellant. I have therefore attributed limited weight to this issue.

Need for and supply of Gypsy sites

40. The Council's Gypsy and Traveller Accommodation Assessment Update Report (GTAA) (2019) identifies a need for 220 pitches between 2016 and 2031. Total need is broken down into five year periods comprising 171 pitches between 2016 and 2021, 23 pitches between 2021 and 2026 and a further 26 pitches between 2026 and 2031.
41. Policy 11 in the Local Plan allocates 162 pitches for Gypsies and Travellers and also refers to 'additional capacity' on a number of existing sites. I note that the Local Plan Inspector's report raises concerns about the deliverability of some of this 'additional capacity'. At the hearing the Council indicated that it was unable to provide further information on this additional supply source, although it was stated it amounts to 27 pitches. If it is accepted that these sites are deliverable and available, there would be a total supply of 189 pitches over the Plan period.
42. The need figures in the GTAA and the Local Plan (2021) are based on Gypsies and Travellers who have ceased to travel either permanently or temporarily due to educational or health needs or old age, and the Plan seeks to make provision accordingly. In this respect the Council's approach to provision is consistent with the updated definition in the NPPF and PPTS.
43. Many of the allocations have yet to come forward and at the hearing the Council suggested that some sites may have further capacity. However, full details are not before me and the Council referred to a recent application where it sought to restrict pitch numbers to the figure identified in the Plan. In the absence of clear and compelling alternative evidence I have applied the allocation capacity figures in the Plan.
44. Based on a supply of 189 pitches, there would be a shortfall of 31 pitches up to 2031. Notwithstanding that a planned review of the GTAA will confirm future identified needs, there are several factors which indicate that the shortfall of 31 could be seen as a minimum figure. The GTAA was reviewed in 2019 but includes baseline data from 2016. It is therefore based on evidence from a number of years ago and, having regard to the demographic profile and assuming significant net out-migration has not occurred, the Gypsy and Traveller population is likely to have grown. There is also evidence before me of unauthorised encampments and unmet need in the borough including the remainder of the ten-pitch scheme plus the pitches at Westwood Park.
45. The Local Plan seeks to deliver the shortfall in pitches through windfall development, with criteria set out in Policy 11. However, there are clear challenges in this approach. Most of the borough outside urban areas is Green Belt where Gypsy and Traveller development is defined as inappropriate

development. The Plan also states that, due to other land-use pressures, there is unlikely to be scope in the urban area to meet accommodation needs for Gypsies and Travellers. The Council confirmed at the hearing that this position is still valid. The Local Plan therefore sets out a commitment to commence an immediate update of the Plan after adoption and to review the GTAA as part of this process.

46. This immediate Local Plan review did not take place. It was confirmed at the hearing that initial work with a call for sites process commenced in 2023 and work on the GTAA update will commence later this year. No specific timelines were provided for the GTAA work. However, given that survey work will need to be carried out during Winter months when Gypsies and Travellers are present on sites, it appears unlikely to be completed until 2025. The Council indicated at the hearing that Regulation 19 consultation on the draft Local Plan will take place in Spring 2025. However, this does not appear to leave sufficient time to allow the results of the GTAA to be fed into the process and for potential sites to be identified, appraised and incorporated into a draft Plan. As such I consider the Regulation 19 timeline is optimistic. The Council was unable to provide me with an estimated date for adoption of the Plan. However, even with a fair passage it will be a number of years before the Plan is adopted and any additional Gypsy and Traveller allocations are secured.
47. The Council indicated at the hearing that it has not undertaken a recent assessment of five-year supply of pitches or sought to monitor or update the position. Consequently, the Council conceded at the hearing that it does not have a five-year supply of Gypsy and Traveller pitches for the period 2023/24 to 2027/28. Having regard to the low number of completions since 2016, the lack of progress with many of the allocation sites and existence of an overall shortfall, I have no reason to doubt this. However, in the absence of comprehensive monitoring data I am unable to ascertain the degree of shortfall against the target and exact number of years of available supply.
48. Overall, the evidence before me indicates there are current and future needs for additional Gypsy and Traveller sites in the borough. A pitch on the appeal site would provide additional Gypsy and Traveller accommodation to help meet unmet needs in the area. This is a benefit to which I attribute significant weight, particularly given the length of time before any new allocation sites come forward and taking account of the challenges in securing windfall development in urban areas and the Green Belt. The Council has conceded that it does not have five-year supply and I attach significant weight to this matter.
49. The Council has suggested that as the appellant/intended occupants were not included in the GTAA survey work and are incomers to the borough since 2016, less weight should be attached to their needs and to the existing level of provision and need for sites. However, this approach is not supported in local or national policy. Paragraph 24 in PPTS, which is reflected in Policy 11 in the Local Plan, also specifies that Council's should determine applications for sites from any Travellers. Therefore, I have not attached weight to the Council's argument.

Alternative accommodation

50. At the hearing John O'Driscoll confirmed that he spent several years looking for alternative accommodation but was unable to identify any suitable, available

and affordable sites in either Havering or other nearby local authority areas. Prior to occupation of the appeal site he, his wife and young children were living on the roadside or moving between other unauthorised locations. Three of the children attend the local primary school and one is due to start at nursery there later this year. A secure settled base would allow attendance to continue without interruption. Other benefits are outlined in the personal circumstances section below.

51. At the hearing the Council conceded that there are no suitable and available alternative sites to meet the accommodation needs of John O'Driscoll and his family, either on sites identified in the Local Plan or in the urban area of Havering. There are also no public sites in the borough. The Council suggested there may be some brownfield sites in the countryside area of Havering that could be suitable and could come forward for Gypsy and Traveller accommodation. However, they were unable to identify any specific options.
52. The Council were unable to point to any alternative available sites in neighbouring authority areas. John O'Driscoll confirmed he had not applied to join the waiting list for public sites in other nearby areas due to long waiting times. No specific evidence was provided but this position was not disputed by the Council. The appellant's consultants undertake cases in other nearby authorities and indicated there are significant unmet needs for additional pitches in these areas, albeit no specific evidence was submitted. It is also too early to predict the effect that the revised definition of Gypsies and Travellers may have on levels of need and the approach to provision in any nearby authorities who do not currently plan for all Travellers.
53. In summary, no suitable, available and affordable alternative sites have been identified in the short term to meet the accommodation needs of the current/intended occupants. The Council has commenced a review of the Local Plan which could offer potential for additional allocations to be made. However, as outlined above, it will be a number of years before any new allocations come forward and there is no guarantee they would be available to meet the needs of John O'Driscoll and his family. Land use pressures in urban areas within and around London plus Green Belt constraints also indicate that windfall development in Havering and other nearby areas may be a challenge. As such I attach considerable benefit to the provision of a pitch on Plot 10 for John O'Driscoll and his family.

Policy failure

54. The immediate review of the Local Plan required in Policy 11 has not taken place and the evidence indicates that the Council has not sought to monitor five year supply. However, the Local Plan was only adopted three years ago and includes a significant number of allocated sites as well as a criteria-based policy. The GTAA was also updated in 2019. The approach in the Plan appears to have had some success with a number of allocation sites gaining planning permission or with applications pending.
55. There is an identified shortfall of pitches and a current lack of five-year supply. The Inspector's Report on the Local Plan indicates there was also a shortfall at the time of Local Plan adoption in 2021. However, there is no evidence before me relating to levels of need and supply prior to the Plan's adoption. As such it is unclear how long and to what extent under-supply has existed.

56. The planned update of the GTAA and review of the Local Plan will provide an opportunity to appraise the latest evidence on unmet need and determine an appropriate strategy for delivering sites.
57. Therefore, taking account of all factors I am not persuaded that policy failure has occurred.

Personal circumstances

58. There are five children living on the site, aged between 0 and 7 years. A letter confirms that two of the children attend the nearby infant school in Harold Hill and another attends the linked junior school. It was indicated at the hearing that another child is due to start in the nursery section of the school later this year. The family is registered with a local Doctors surgery.
59. Prior to settling on the site, the family lived an unsettled existence on the roadside or moving between other temporary places. This meant that the older children were sometimes unable to attend school. A secure settled base would allow the three older children to continue attending schools where they have settled. One of the children receives special assistance with reading at school. It would also provide the younger children with steady access to school and nursery in due course. A secure base also allows the whole family to gain access to medical care more readily.
60. John O'Driscoll breeds and trades horses and undertakes general maintenance work. It sometimes involves travelling for work although much of the recent maintenance work has been in the local area. When living on the roadside or other temporary sites with his family, John O'Driscoll had to spend time finding and securing new accommodation, which decreased his ability to work. A settled base increases the amount of time available for work as well as providing well-being benefits for the family by providing access to basic amenities. The family also has established connections and a range of friends and support network in the local area.
61. In summary, a secure settled base would allow the family to access education, health, welfare and employment infrastructure in line with the PPTS. This would be advantageous to all the occupants and would be in the best interests of the children. The best interests of the child, although not determinative, is a primary consideration and no other factor in this appeal is inherently more important.
62. My attention is also drawn to human rights considerations as set out in the Human Rights Act 1998. This includes respect for the home and family life, as covered in Article 8. I have had regard to human rights matters in the planning balance below. As the proposed use is for a Gypsy site and the intended occupants are Irish Travellers, I have also taken account of the public duty to eliminate discrimination, promote equality of opportunity and foster good relations where there are protected characteristics, as set out in the Equality Act 2010.

Planning balance

63. The NPPF requires that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, or any other harm, is clearly outweighed by other considerations.

64. The proposal would be inappropriate development in the Green Belt and as such would cause substantial harm. It would also cause moderate harm to openness and to the Green Belt purpose of avoiding urban sprawl, and limited harm to the Green Belt purpose of safeguarding the countryside from encroachment. Taken together, these factors attract substantial weight against the proposal. I have also found that there would be harm to the character and appearance of the area and biodiversity on the appeal site, to which I attach moderate and limited/moderate weight respectively. I also attach some limited weight to the fact that intentional unauthorised development has taken place.
65. Factors which weigh in favour of the proposal include the unmet need for traveller sites, the lack of alternative sites and the absence of five-year supply. All of these merit significant weight.
66. The scheme would facilitate access to school/nursery and healthcare for the children. Given the importance of the best needs of the child and the number of children, this is a matter of substantial weight.
67. A settled secure base would provide access to healthcare for the other occupants and access to basic amenities. It would provide John O'Driscoll with more opportunity and time to undertake employment. These are matters to which I attribute moderate weight. It would also meet requirements in Article 8 of the Human Rights Act regarding the right to a home and a private and family life. In the context of unmet need for Gypsies and Traveller pitches and lack of alternative accommodation, a secure settled base would also help to advance equality of opportunity and support this aspect of the public sector equality duty.
68. The case against the proposal involves harm to character and appearance and biodiversity, as well as loss of openness, effect on Green Belt purposes and inappropriate development in the Green Belt. However, there are a range of other considerations which, when added together, strongly favour the granting of planning permission. Looking at the case as a whole, and balancing the factors for and against the proposal, overall I conclude that the identified harm is clearly outweighed by the other considerations – these being unmet need, the lack of alternative sites, the absence of five year supply, and the personal circumstances of the occupants. These considerations are sufficient to constitute the very special circumstances to justify the proposal. Therefore the proposal accords with Green Belt policy in the NPPF and Policy G2 in the London Plan (2021).
69. Paragraph 16 of PPTS states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. However, there are strong personal circumstances in this case involving the best interests of the child which carry substantial weight, as well as unmet need. As set out above, I have concluded that very special circumstances exist, and I am satisfied that paragraph 16 is met.
70. I have considered whether a temporary permission would be appropriate in the circumstances of this case. The Council has made limited progress to date in reviewing the Plan, updating the GTAA or identifying any additional Gypsy and Traveller sites. Any Gypsy and Traveller allocations which are identified in the emerging Plan would be unlikely to be delivered for a number of years, and it is not clear if these would benefit John O'Driscoll and his family. Furthermore, a

temporary permission would fail to provide long-term stability for the family and the children. Accordingly, based on personal circumstances and the above balancing exercise I conclude that a permanent personal permission should be granted.

71. In reaching the above conclusions I have had full regard to human rights, the best interests of the child and the public sector equality duty.

Other matters

72. The parties have referred to a number of other planning appeals, including the 2022 planning and enforcement notice appeal on the site. However, the appeals allowed in the Green Belt are based on very special circumstances and the weight attached to different factors depends on the specifics of the case and the judgement of the decision maker. I have assessed the scheme before me on its own planning merits, having regard to the particular circumstances of the case. The scheme before me is considerably smaller than the 2022 scheme and is different in other respects as outlined above.
73. Concerns have been raised about precedent for further traveller sites or other development in the locality. However, the area is currently Green Belt where development is restricted, and each case needs to be treated on its own merits. There is also no evidence before me that allowing the appeal would prevent the Council applying the enforcement notice on the remainder of the site. Plot 10 is self-contained and has a separate site access directly onto Benskins Lane.

Conditions

74. An agreed draft set of planning conditions were submitted by the Council and the appellant and discussed at the hearing. I have amended some of them slightly, in line with those discussions, for clarity.
75. I have attached a plans condition in order to provide certainty about the proposed scheme and protect the character and appearance of the local area.
76. Given the circumstances of the case and the weight attributed to personal circumstances in the overall balance, the permission needs to be made personal and limited to Gypsies and Travellers.
77. The number and type of caravans and size of vehicles kept at the site and the extent of commercial activities on the site are restricted through condition in order to limit visual impact and protect the character and appearance of the area.
78. Since works have already commenced on site a condition is necessary to ensure that various matters are approved and implemented in a timely manner such as ecological management and enhancement, lighting and landscaping. An additional condition is necessary to ensure the landscaping is maintained for a period of five years so it can become established. The conditions relate to land within the site and I am satisfied they are reasonable and capable of being enforced. The timescales in the conditions would provide sufficient time for compliance and are reasonable.
79. The parties agreed that it was not necessary to have a condition relating to drainage/flood risk as necessary measures were already in place.

Conclusion

80. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be allowed.

Katie Child

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Brian Woods Managing Director, WS Planning and Architecture

Alan Masters Barrister

John O'Driscoll Appellant's son

FOR THE LOCAL PLANNING AUTHORITY:

Habib Neshat Deputy Team Leader, Development Management Team, London Borough of Havering

DOCUMENTS RECEIVED AT THE HEARING

1. Signed Statement of Common Ground between the Council and the appellant (dated 15 February 2024).
2. Signed statement from the appellant confirming ownership of the site and future intentions regarding transfer to son.
3. Extract from Inspector's Local Plan Report dated 14 October 2021 (pages 22 to 27) – submitted by the appellant.

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved plans, except where details are required to be submitted under condition 8: J004558-DD-01, J004558-DD-02, J004558-DD-03, J004558-DD-04, J004558-DD-05, J004558-DD-06 and J004558-DD-07.
2. The use hereby permitted shall be carried on only by John O'Driscoll and/or Julie O'Reilly and their resident dependents. When the land ceases to be occupied by John O'Driscoll and/or Julie O'Reilly and their resident dependents

the use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto the land in connection with the use shall be removed, and the land shall be restored to its condition before development took place or as otherwise agreed in writing by the Local Planning Authority.

3. The site shall not be occupied by any persons other than Gypsies and Travellers as defined in Annex 1 of Planning Policy for Traveller Sites December 2023 (or its equivalent in replacement national policy).
4. The use hereby permitted shall be limited to one pitch. No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended) shall be stationed on the pitch at any time and no more than one caravan shall be a static caravan.
5. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
6. No commercial activity shall take place on the land, including the storage of materials, plant or equipment.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that Order with or without modifications), no additional gates, walls or fences or other means of enclosure, including bunding, shall be erected or placed within/to the boundaries of the site, unless details of their size, materials and location shall have previously been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
8. 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 and the land restored to its condition before the development took place within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within four months of the date of this decision, submit a scheme for:
 - (a) Ecological management and enhancement;
 - (b) External lighting on the boundary and within the site;
 - (c) Hard and soft landscaping, based on the plans hereby approved including details of species, plant sizes, proposed numbers and densities and to include ecological enhancements and measures for protection throughout the course of the development.
 - (d) The restoration of the site to its condition before development took place (or as otherwise agreed by the Local Planning Authority) at the end of the period for which planning permission is granted for the use or the site is occupied by those permitted to do so, as appropriate.

The scheme (thereafter referred to as the site development scheme) shall have been submitted for the written approval of the Local Planning Authority and shall include a timetable for its implementation.

- (ii) If within 11 months of the date of this decision, the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal should 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 should 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, the scheme be retained for the duration of the use of the site and development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

9. At the same time as the site development scheme required by condition 8 above is submitted to the Local Planning Authority there shall be submitted a schedule of maintenance for a period of five years of the proposed planting, beginning at the completion of the final phase of implementation as required by that condition. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within five years of planting or, in the opinion of the Local Planning Authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

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