



Appeal Decision

Hearing Held on 30 April 2024

Site visit made on 30 April 2024

by Jonathan Edwards BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th May 2024

Appeal Ref: APP/G1630/W/23/3336130

Green Orchard, Kayte Lane, Bishops Cleeve, Cheltenham, Gloucestershire GL52 3PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Gilbert Smith against the decision of Tewkesbury Borough Council.
 - The application Ref 23/00757/FUL, dated 16 August 2023, was refused by notice dated 1 December 2023.
 - The development proposed is described as “change of use of land to use as a residential caravan site for an extended Gypsy/Traveller family with two caravans, including up to 2 static caravans/mobile homes, together with retention of existing hardstanding and dayroom”.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to use as a residential caravan site for an extended Gypsy/Traveller family with two caravans, including up to 2 static caravans/mobile homes, together with the provision of hardstanding and erection of dayroom at Green Orchard, Kayte Lane, Bishops Cleeve, Cheltenham, Gloucestershire GL52 3PD in accordance with the terms of the application, Ref 23/00757/FUL, dated 16 August 2023, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The description of development in the header is taken from the application form. In my decision I have replaced “retention of” with “provision” and “erection of” to include acts of development. The appellant’s and the Council’s representatives agreed to the revision at the hearing. No injustice would be caused by basing my assessment on the amended description.
3. Since the close of the hearing, plans have been submitted that are the same as those considered by the Council but which include drawing numbers for identification purposes. Basing my decision upon these plans would cause no prejudice to any party. As well as the various elements referred to in the description of development, the plans show a fence on or near the boundaries of the site, a toilet building and septic tank. The appellant’s representatives confirmed at the hearing that these elements form part of the appeal development. Therefore, I have taken these into account in my assessment.

4. The appellant and members of their family were living on the site at the time of my visit and the dayroom building, toilet, hardstanding and fences have been constructed. In these regards, the development has commenced. As agreed at the hearing, my determination is to be based on the proposed site layout plan numbered PBA3. An existing stable on the site is not shown on the proposed site layout plan and so this building has not been considered.
5. I am advised the works carried out are subject to an enforcement notice. Also, the appeal site forms part of a larger area of land that is subject to a High Court Injunction that prohibits the siting of caravans. However, this appeal and my assessment relates solely to the Council's decision to refuse planning permission.
6. A revised National Planning Policy Framework (the Framework) has been published since the appeal was lodged. On the same day, the government published an amendment to the national Planning Policy For Traveller Sites (PPTS) and the definition it contains for Gypsies and Travellers. I have had regard to these revised documents in my assessment. The Council accepts the occupants of the site meet the definition of Gypsies and Travellers as set out in the PPTS and my decision is made on this basis.
7. An emerging local plan to replace the current Tewkesbury Borough Plan adopted 8 June 2022 (BP) is at an early stage of production. No policies from this draft plan have been provided and so it is afforded very little weight in my consideration of this appeal.

Background

8. Planning permission was granted on 18 December 2017 for land at the appeal property to be used for the stationing of caravans for residential occupation by a Gypsy-Traveller family with associated hard standing and utility block (appeal reference number APP/G1630/W/16/3144176, hereafter referred to as the 2017 appeal). This permission is subject to a condition that limits occupancy to Mr Gilbert Smith, Mrs Siobhan Smith and their resident dependents as well as for a maximum period of 3 years. A condition requires the land to be restored to its previous condition at the end of the occupancy.
9. A subsequent appeal for the change of use of land at the appeal property to a Gypsy caravan site for 4 caravans as well as hardstanding, stable, utility buildings and fencing was dismissed in June 2022 (appeal reference APP/G1630/W/20/3264747, hereafter referred to as the 2022 appeal). The plans upon which this decision was made are not before me but the submissions indicate the development site was larger than that for the current appeal. I have had regard to these appeal decisions in my assessment.

Main Issues

10. It is agreed between the Council and the appellant that the change of use to a Gypsy and Traveller site represents inappropriate development in the Green Belt. In light of paragraph 16 of the PPTS, I find no reason to disagree with the parties on this matter. Given this context, the main issues are:-
 - the effect of the development on openness and on the purposes of Green Belt policy;
 - its effect on the character and appearance of the area;

- whether intentional unauthorised development (IUD) has taken place;
- the development's effect on biodiversity; and
- whether the harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Effect on openness and purposes of Green Belt policy.

11. The submissions indicate the appeal site was open agricultural land before the 2017 appeal. It is appropriate to use the site's previous agricultural use as a baseline in assessing the effects of the development on openness, particularly in light of the unfulfilled site restoration condition attached to the 2017 appeal decision. The main parties agreed to this approach at the hearing.
12. The introduction of caravans, a utility block, a toilet and fencing has eroded the spatial openness of the site. Domestic paraphernalia and parking in connection with the residential use would also reduce spatial openness.
13. In terms of visual openness, I saw that the roadside fencing as well as the top of the utility building and caravans could be seen from Kayte Lane when directly in front of the site. However, views from the highway to the north are interrupted by the adjoining residence (Newland View). Views from a public right of way leading off Kayte Lane further to the north are currently obstructed by an unauthorised caravan site but nonetheless there would only be distant views of the appeal property from the footpath. Also, roadside vegetation obstructs views into the site from the junction of Kayte Lane and Southam Lane. The site is seen from the nearby bridge over the adjacent railway line but vegetation on the banks of the railway cutting as well as the bridge itself give the plot a sense of enclosure. For these reasons, I find the development has a localised and limited effect on visual openness.
14. The introduction of the Gypsy and Traveller site represents development into the countryside. Therefore, it undermines the purpose of Green Belt set out at paragraph 143(c) of the Framework to assist in safeguarding the countryside from encroachment. The development also erodes the separation of Bishops Cleeve and Cheltenham but the perceived harm in these regards is very limited given the size of the site and its position between a road, railway and Newland View. Therefore, the scheme is slightly contrary to the purpose to prevent neighbouring towns from merging into one another as set out at paragraph 143(b) of the Framework.
15. Despite the 2022 appeal Inspector's comments on the issue, I consider the development does not represent urban sprawl as it is away from any large built up area. It is noteworthy that the Inspector for the 2017 appeal does not mention any conflict with the purpose of Green Belt to check the unrestricted sprawl of large built up areas (paragraph 143(a) of the Framework). Moreover, the 2017 and 2022 appeal Inspectors mention no conflict with the purpose at 143(e) of the Framework to assist and encourage the recycling of urban land. There is no convincing evidence to show that there are suitable alternative sites within urban areas which could accommodate the appeal development. As such, I find no conflict with these purposes of Green Belt.

16. Overall, I find the development causes harm to spatial and visual openness and that it would be contrary to 2 of the purposes of Green Belt policy. I would class this as a limited level of harm given the scale of the development and the particular context of the site. I note the Inspector for the 2022 appeal concluded moderate adverse effects would be caused to openness and the purposes of Green Belt. However, that decision relates to a larger Gypsy and Traveller site as well as the erection of a stable. As such, I am not bound to find the same level of harm would be caused.

Effect on character and appearance

17. The area has a rural feel as there are no roadside pavements on Kayte Lane and there are views of hedgerows, trees, fields and distant hills. Newland View and a cluster of houses just to the north as well as the railway, railway bridge and driveway entrance to Cheltenham racecourse on Southam Lane all have an influence on the area's character and appearance. Nonetheless, the site and its surroundings appear as part of the countryside, albeit the locality is not formally designated for its landscape value.
18. As open agricultural land, the site would have made a positive contribution towards the rural feel of the area. The roadside fencing is obvious from Kayte Lane and it does not fully screen the dayroom and caravans on the site. Also, there is clear views into the plot of the gravel surfacing, parking and domestic paraphernalia when the gates are open. The sight of these features and the residential use have all undermined the intrinsic rural qualities of the plot.
19. The development does not appear isolated given the nearby dwellings. Also, there is a close boarded fence to the front of Newland View, which is itself a single storey building similar in height to the dayroom and caravans on the site. Consequently, the development does not appear particularly unusual to the area. Even so, acceptability in these regards does not address nor override the harm to the area's rural qualities through the replacement of an open field with a Gypsy and Traveller site.
20. The appellant has suggested that harm caused by the development could be mitigated through the use of planting. I saw that bushes to the north of the site entrance and close to the Kayte Lane junction with Southam Lane help screen the roadside fencing and so reduce its visual effects. However, it would be unreasonable to insist on such planting in front of the wide gateway entrance to the site. Therefore, I am unconvinced additional planting would fully overcome or offset the harmful visual effects of the development.
21. It has been suggested that Gypsy and Travellers sites would inevitably cause detriment to rural landscapes as they are likely to be in countryside locations and are bound to include caravans and features associated with a residential use. In support of this view, I note that the PPTS and policy SD13 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2017 (JCS) do not preclude Gypsy and Travellers sites in the countryside. However, under the terms of JCS policy SD13, proposals for such development should not have an unacceptable impact on the character and appearance of the landscape. The inclusion of this criterion indicates that there could be situations where a Gypsy and Traveller site would indeed have an unacceptable adverse effect.
22. In this case, the site is located close to the road, near to a junction. As such, the development is highly noticeable from a public vantage point, particularly

the fence. The site has a fairly localised visual impact given the screening effects of existing buildings and features. Even so, the level of harm is unacceptable as the intrinsic character and beauty of the countryside has been damaged. In these regards the development would be contrary to paragraph 180(b) of the Framework. Also, the enclosure of the site with fencing goes against the advice provided at paragraph 26(d) of the PPTS.

23. Therefore, I conclude the development has harmed the character and appearance of the area and has had an unacceptable impact on the landscape. In these regards, it does not accord with JCS policies SD6 and SD13 part 2(i). Amongst other things, these look for development to protect intrinsic landscape character. I attach modest weight to the identified harm given the scale of the development as well as its particular context and fairly limited visibility.

Intentional unauthorised development

24. A written ministerial statement made on 17 December 2015 confirmed a policy issued by the Department for Communities and Local Government on 15 August 2015 in respect of Green Belt protection and IUD. From these, it is clear that IUD is a material factor to be weighed in the determination of appeals.
25. There is no dispute that the land has been used as a Gypsy and Traveller site contrary to the conditions attached to the 2017 appeal decision and so the existing development on the site is unauthorised. I note that the 2017 appeal condition allowed occupation until 18 December 2020 and that the planning application leading to the 2022 appeal was submitted before that date. This, as well as the lodging of the 2022 appeal shows an intent from the appellant not to allow the development to become unauthorised. However, since the 2022 appeal decision date, the appellant has continued to occupy the site despite knowing the requirement to cease.
26. It would appear that the site has not been developed to any significant extent over and above that allowed under the 2017 appeal decision. Also, the restoration condition attached to the 2017 decision ensures the impacts of the development could be remediated. Furthermore, the Council does not dispute the appellant's claim that there is nowhere else for the occupants to live.
27. Therefore, while I find that IUD has occurred, I also consider that the level of harm caused as a result attracts only modest weight against allowing the appeal. In coming to this view, I have had regard to the provisions of section 73A of the Act that allow for a grant of retrospective planning permission.

Effect on biodiversity

28. There is no assessment before me that describes the biodiversity value of the land before it was used as a Gypsy and Traveller site or how the development may have affected this value. The site and its surroundings are not subject to any nature conservation designation but, nonetheless, in the absence of an assessment the Council is concerned the development has caused harm to biodiversity. The Inspector for the 2022 appeal had similar concerns, particularly as the proposal included the hard surfacing of grazing land.
29. Unlike the 2022 appeal proposal, the development currently under consideration does not seek permission for changes to the paddock area to the north of the appeal site. The Inspector for the 2017 appeal noted that there

was no evidence of irreplaceable losses such as ecology or species on the site. This statement indicates the site subject of this appeal was not of significant biodiversity value before its use as a Gypsy and Traveller site. However, mitigation through restoration is mentioned by the 2017 appeal Inspector and so it would seem the development allowed under the 2017 appeal has reduced the ecological value of the parcel of land.

30. The appeal questionnaire provided by the Council indicates that protected species are likely to be affected by the development. At the hearing, it was explained that this concern relates to light sensitive species such as bats. The Inspector for the 2022 appeal also did not rule out the use of the site by such species. However, there is no indication that the development has required the removal or has affected trees or buildings that contain bat roosts. Furthermore, a planning condition could be reasonably imposed to ensure lighting on the site is designed so as to not unduly affect the adjacent land that may support bat foraging or commuting. Consequently, the evidence suggests that it is unlikely that bats have been, or would be, adversely affected by the development.
31. Under BP policy NAT1, proposals are required to deliver biodiversity net gain (BNG). However, the reasoned justification to the policy explains that, prior to enactment of the Environment Bill and during any statutory transition period, the Council only expects major development, and not minor development, to deliver BNG. It is accepted by the Council that BNG is not legally required for the appeal scheme and as a recognised minor development there are no substantive grounds to insist on BNG under the terms of BP policy NAT1.
32. In summary, I conclude the development has not harmed protected species and there is no requirement for it to secure BNG. However, the development has not protected the biodiversity value of the site compared to its previous condition as agricultural land. In these respects, it does not accord with JCS policy SD9 and BP policy NAT1. It is noted that under these policies, harm to features of biodiversity are allowed subject to the benefits of the proposal outweighing the impacts, there being no reasonable alternative site and suitable mitigation being secured. I assess these matters further on in this decision.

Other concerns raised.

33. At the hearing, the Council's representatives confirmed that they had no objections to the development on flood risk grounds. Interested parties have indicated that flooding occurs on Kayte Lane but there is no firm evidence such as Environment Agency maps that show the appeal site itself floods. Moreover, it would be reasonable to impose a condition that requires details of surface water disposal from the site to ensure it avoids flooding elsewhere. Therefore, I am satisfied the scheme does not cause harm in this respect and so it accords with JCS policy INF2. BP policy NAT2 is referred to in the Council's fourth refusal reason but this contains no provisions relevant to this issue.
34. The Council's representatives at the hearing explained the fourth refusal reason relates to the issue of foul water drainage and a lack of information to show whether the septic tank on the site provides adequate capacity for the development. The foul drainage system already provided on the site has been approved by the Council under the terms of the 2017 appeal decision. However, it is unclear as to whether it would be suitable to serve the level of

- intended occupancy. This matter could be reasonably addressed through the imposition of a planning condition as accepted by the Council at the hearing.
35. The Council is concerned that allowing this appeal would set a precedent for permitting the currently unauthorised caravan site just to the north. However, that site is much larger than this appeal development with different effects on the openness, the character and the appearance of the area. Also, my assessment on this appeal is based on the particular circumstances of the case and there is no evidence before me to indicate that these also apply to the site to the north. Therefore, I find that allowing this proposal would not set a precedent that is bound to be followed in the assessment of the planning merits of the other site.
36. Paragraph 17 of the PPTS states that alterations to Green Belt boundaries to meet an identified need for a Gypsy and Traveller site should be done through the plan-making process. However, allowing this appeal would have no effect on the Green Belt boundaries as defined in the development plan. Also, JCS policy SD13 potentially allows new sites on unallocated land and so I see no need for the appellant to advance the allocation of the appeal site through the emerging local plan process. It would be inappropriate to penalise the appellant in the assessment of this appeal for not making representations on the emerging local plan.
37. Interested parties have raised other concerns. Hills within the Cotswold Area of Outstanding Natural Beauty (the AONB) are seen from Kayte Lane and the appeal site. However, the separation distance and screening effects of intervening vegetation would ensure the development has no meaningful effect on the landscape, scenic beauty and the setting of the AONB.
38. The development is seen from Newlands View but the caravans, buildings and fencing are low level so as to ensure no unacceptable loss of outlook or light. The residential use of the site would not generate noise and disturbance so as to significantly undermine the living conditions at any residence.
39. The development is located away from the nearest settlements of Bishops Cleeve and Southam. However, these are only a short drive away and they contain a range of education, health and other services to address the needs of the site's occupants. The roads to the nearest settlements are not ideal for walking as there is no pavement and they are unlit. However, in line with the Inspectors for the 2017 and 2022 appeals, I consider the development is in a suitable location in terms of its accessibility to facilities. Moreover, the site is properly serviced in respect of water and power. As such, the development would accord with parts 2(iv) and 2(v) of JCS policy SD13.
40. As a fairly small scheme, the development would not dominate the nearby cluster of houses by reason of its scale. Also, the level of expected occupancy would avoid a significant additional demand on local education, medical or other services. The access to the site is close to the Kayte Lane and Southam Lane junction. However, it is wide and allows acceptable intervisibility between drivers leaving the development and those on the highway. In the interests of highway safety, it would be appropriate and reasonable to impose a condition that ensures sufficient visibility splays at the access are provided and retained.
41. None of the above concerns provide reason to refuse planning permission. As such, they do not affect my overall assessment of the appeal.

Considerations in favour of the development.

Need for and supply of pitches.

42. The PPTS promotes the provision of more private Gypsy and Traveller sites. The appeal development helps meet the government's aim in these regards.
43. Moreover, the Gloucestershire Gypsy, Traveller and Travelling Showpeople Accommodation Assessment dated November 2022 (GTAA) identifies a need for 96 additional residential site pitches in Tewkesbury between 2021 and 2041, with a requirement for 29 pitches between 2021 and 2026. The evidence clearly demonstrates a local need for more Gypsy and Traveller sites. I am advised that the GTAA takes into account the accommodation needs of the intended occupants and so allowing the appeal would help reduce the general need for pitches.
44. Under paragraph 10 of the PPTS, local authorities are required to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against local pitch targets. The Inspector in an appeal decision relating to a Gypsy and Traveller site in Badgeworth¹ states that existing allocations under BP policy GTTS1 do not address the need identified in the GTAA. This was also accepted by the Council's representatives at the hearing. In addition, the Council advised that only a single Gypsy and Traveller pitch had recently been granted planning permission within the Borough. In light of the figures on need identified in the GTAA, it is obvious there is a significant shortfall in the supply of deliverable sites against the 5 year requirement.
45. The GTAA and its findings on the issue of need indicate a level of new site provision is required above that anticipated under Table C4 of the JCS. This, together with the shortfall in the supply of sites demonstrates a significant unmet need. The development's contribution towards addressing this need would be fairly minor but nonetheless it attracts significant weight given the level of need identified.

Personal Circumstances.

46. The development would be occupied by the appellant, their spouse and 3 grown up children and 1 son still under 18 years of age. In addition, 3 young grandchildren of the appellant live on the site. The evidence provided includes personal details on the occupiers' medical, welfare and education circumstances which are supported by an independent social worker report. I have no reason to dispute any of the details provided.
47. Having a settled base allows the occupants to register at a local doctors' surgery and provides convenient access to other medical and welfare services. This is of particular benefit to those occupants that require regular treatment and care. The base would allow greater opportunity for the children to access education services. Also, it provides a level of security and safety for play, particularly as the extended family members can help support each other. Also, the appellant and their family members explained at the hearing how living on the site for a period of time has helped them form links with local community groups.

¹ Appeal decision reference number APP/G1630/W/19/3241428

48. In the 2017 appeal decision, the Inspector expressed a view that the family are in dire need of a settled base. To my mind, that need has not subsided in the intervening period. The benefits of the appeal development to the appellant and their family attracts substantial weight.

Availability of alternative sites.

49. The appellant advises that they are on the waiting list for pitches owned by Gloucestershire County Council but these are currently fully occupied and there is no evidence as to when a suitable site may become available. In the past, the appellant and his spouse have stayed in a caravan at a house near Cheltenham owned by a family member. However, I am advised that this site would be of an insufficient size to accommodate all of the intended occupants.
50. The Council is critical of the lack of evidence of any meaningful search by the appellant for alternative accommodation to the appeal site. However, at the same time it is unable to suggest any other property as being suitable. The aforementioned shortfall in the supply of deliverable sites against the need identified in the GTAA also suggests a lack of alternatives for the appellant.
51. Given this context, it would seem likely that the appellant and their family would be forced to live by the roadside or to temporarily occupy land without proper authorisation should the appeal be dismissed. It is likely that such living arrangements would be unsatisfactory, particularly in terms of providing a safe and suitable environment for children and allowing regular access to medical and education services. This factor attracts significant weight.

Other points made by the appellant in support of the development.

52. Part 2 of JCS policy SD13 sets out criteria against which proposals for new Gypsy and Traveller sites will be assessed. I have already found conflict under the second main issue against part 2(i) of the policy. However, I find the development accords with the other criteria. Acceptability in these regards is a neutral factor in my assessment.
53. At the hearing, the appellant's representatives suggested a failure of the Council to adopt local planning policies that satisfactorily address the issue of Gypsy and Traveller site provision. However, JCS policy SD13 sets out criteria against which proposals for new pitches are to be assessed. Also, the BP was found sound and adopted quite recently and it allocates land for pitches. The GTAA has now identified a higher level of need which was not anticipated in the lead up to the adoption of the JCS and the BP. However, the Council has put policies in place that seek to address the need for additional pitches as recognised at the time of adoption. There has been no persistent failure of the Council to have adopted local policies that seek to address the long term need for Gypsy and Traveller accommodation.
54. The appellant suggests that any further Gypsy and Traveller sites that come forward are likely to be within the Green Belt. In support of this case, they point to the fact that of the 29 pitches allocated under the BP, 22 are in the Green Belt. Given the competing interests in land use, it is fair to expect that any additional pitches would not be within settlements and so would be in the countryside. However, only 16% of the Council's administrative area is designated Green Belt. Other parts of the countryside fall within the AONB and within areas of high flood risk where new Gypsy and Traveller sites may also be

found to be unacceptable. However, the evidence before me fails to show that new pitches are bound to be required in Green Belt in order to address the identified need.

55. As such, these other points raised by the appellant add only limited weight in support of allowing the appeal.

Planning balance

56. The Framework and the PPTS state that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm as a result of the proposal is clearly outweighed by other considerations. BP policy GRB4 and JCS policy SD5 are generally consistent with this approach. The Council's first refusal reason also refers to JCS policy SD13 but this contains no provisions on the Green Belt.
57. The Framework dictates that substantial weight should be given to any harm to the Green Belt. In this instance, harm has been caused by reason of inappropriateness, loss of openness and failing to safeguard the countryside from encroachment. Also, the development causes a slight conflict with the Green Belt purpose to prevent towns from merging. Furthermore, the harm caused to the character and appearance of the area is a factor that weighs against allowing the scheme. Moreover, I attach limited weight to the fact that IUD has occurred.
58. The development has caused detriment to biodiversity. However, no alternative site has been identified and I find the aforementioned benefits of allowing the appeal would clearly outweigh the resulting detriment. In such circumstances, harm to biodiversity could be acceptable under the terms of BP policy NAT1, subject to suitable mitigation. It would be reasonable to secure by planning condition restoration of the plot to its previous agricultural use once the Gypsy and Traveller pitch use has ceased. However, while the site is occupied, mitigation would be minimal due to the hardstanding and features on the site. The harm caused in these respects attracts limited weight.
59. The PPTS states that, subject to the best interest of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and other harm so as to establish very special circumstances. Even so, it does not follow that this will always be the case.
60. The development helps meet the government's aim to increase the number of private Gypsy and Traveller sites and it adds to local provision at a time when there is a recognised need for more pitches and a significant under-supply of land coming forward. Moreover, the personal circumstances case is compelling, particularly as the intended occupants include children. Article 3 of the United Nations Convention on the Rights of the Child requires a child's best interests to be a primary consideration. The benefits of a permanent, safe residential base for the children are factors of substantial weight in favour of allowing the development. Additionally, the settled base would be of a benefit to all intended occupants in terms of regular access to medical and other services. The likely alternative of living by the roadside or on other land without permission also weighs heavily in support of allowing the appeal.

61. Planning permission runs with the land. However, I find the circumstances of this case represent an exceptional occasion where development that would not normally be permitted may be justified on grounds of who would benefit from the permission. As such, a condition limiting occupancy to the appellant and named persons and their resident dependents would be reasonable and justified. In effect, such a condition would allow a temporary permission, although the length of occupancy is unknown. Even so, a requirement for the restoration of the site at the end of the occupancy would ensure no permanent harm to the Green Belt and character and appearance of the area.
62. With this in mind, I conclude the total harm as a result of the development would be clearly outweighed by other factors. As such, very special circumstances exist to justify allowing the appeal. In these respects, the development accords with the Framework's and the PPTS's provisions on Green Belt as well as BP policy GRB4 and JCS policy SD5.
63. I note that my overall conclusion differs from that made by Inspectors for the 2017 and 2022 appeals. However, my views have been formed having regard to the evidence before me and the current circumstances faced by the appellant and their family. The case for allowing the development is now notably different, particularly in terms of the position on need in light of the GTAA and on the undersupply of sites. Also, I am conscious the 2022 appeal relates to a site larger than that currently under consideration. Therefore, I am not bound to arrive at the same conclusions to those arrived at under the previous appeal decisions.

Human rights and Public Sector Equality Duty

64. By allowing the appeal subject to a personal condition, my decision would not interfere with the appellant's and their family's rights to respect for private and family life and their home. As such, there would be no interference with the occupiers' human rights under Article 8 of the European Convention of Human Rights as enshrined in the Human Rights Act 1998 (Article 8).
65. I have considered whether it would be appropriate to impose a condition that allows the development for a temporary time period and thereafter requires cessation of the use, regardless as to whether the intended occupants still reside on the site. I note that such a condition was imposed by the Inspector for the 2017 appeal. However, at that time, the Inspector found that there was a 5 years' supply of sites and reliance could be placed on the JCS and emerging BP policies to address unmet need for pitches. The situation has now changed. It is unclear from the evidence before me how or when the GTAA need and shortfall in supply of pitches would be addressed. Given this context, I am uncertain whether the planning circumstances would have changed positively in terms of addressing unmet need following a temporary permission period.
66. Moreover, granting a temporary planning permission would be an interference under Article 8. To my mind, the uncertainty that would hang over the occupants' living arrangements would be a disproportionate response to the level of harm caused by the development. In arriving at this view, I have had regard to the particular merits of the case, the specific effects of the development and the occupiers' circumstances.
67. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010. This sets out the need to advance

equality of opportunity and foster good relations between people who share a protected characteristic and those who do not share it. This includes those of a particular race and so the occupants of the development. Granting planning permission would allow the opportunity for the site's residents to continue to foster good relationships with the local community. Therefore, my decision advances opportunity in line with the PSED.

Conditions

68. The Council's list of suggested conditions was discussed at the hearing. Where appropriate I have amended the wording in light of the comments made and for reasons of precision.
69. For clarity purposes, I attach a condition that lists the approved plans referring to those submitted with drawing numbers. There is no need for this condition to refer to the existing site layout plan.
70. The terms of condition 2 on surface and foul water drainage systems are needed to ensure water from the development does not cause flooding or pollution. The condition also requires visibility splays to be provided in the interest of highway safety. To help minimise the visual impact of the proposal, the condition requires a landscaping scheme to be submitted, approved and implemented. To reduce the effect of the development on the biodiversity value of the site whilst it is occupied, condition 2 requires an ecological enhancement plan. A lighting strategy is needed to minimise the effects on commuting bats. As discussed at the hearing, I have amended the time limits in parts of condition 2 to allow sufficient scope for the submission and consideration of the required details.
71. Condition 3 together with condition 4 requires restoration once occupancy by the intended residents ceases so as to ensure the site causes no permanent harm to Green Belt openness, the character and appearance of the area and biodiversity. The development is only acceptable due to the personal circumstances of the intended occupiers and so condition 4 limits occupancy accordingly. Conditions numbered 5, 6 and 7 have been imposed to preserve the openness of the Green Belt and the visual amenities of the area.

Conclusion

72. For the above reasons, I conclude the appeal should be allowed.

Jonathan Edwards

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Gilbert Smith	Appellant and appeal site occupant
Mrs Siobhan Smith	Appeal site occupant
Alan Masters	Counsel
Philip Brown	Planning agent

FOR THE LOCAL PLANNING AUTHORITY:

Odette Chalaby	Barrister, No 5 Chambers
Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS	Director, RCA Regeneration Limited
Emily McKenzie, BSc(Hons) MRTPI	Senior Planning Officer, Tewkesbury Borough Council

INTERESTED PARTIES

Nicholas Ralph	Supporter of the appeal development
Councillor Adcock	Objector to the appeal development

LIST OF DOCUMENTS SUBMITTED AT THE HEARING:

1. List of suggested conditions.

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved plans: PBA1, PBA3 and PBA4.
2. 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 failure to meet any one of the requirements set out in (i) to (iv) below:-
 - (i) Within 3 months of the date of this decision a scheme for (a) surface and foul water drainage; (b) visibility splays; (c) landscaping plan, (d) ecological enhancement plan, and (e) lighting strategy (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - (ii) If within 9 months of the date of this decision the local planning authority refuse to approve the site development scheme or fail to

give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

- (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
- (iv) The approved site development scheme shall have been carried out and completed in accordance with the approved timetable.

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

3. Unless within 3 months of the date of this decision a site restoration scheme is submitted to the local planning authority for approval in writing, the residential caravan site use shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such a time as a site restoration scheme has been approved in writing by the local planning authority.
4. The use hereby permitted shall be carried out only by the following persons and their resident dependents - Mr Gilbert Smith Senior, Mrs Siobhan Smith, Mr Gilbert Smith Junior, Mrs Annalise Smith, Whitney Smith, Priscilla Smith and Talus Smith. When the site ceases to be occupied by these named persons, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored in accordance with the site restoration scheme approved under condition 3 above.
5. There shall be no more than 1 pitch on the site, and no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the pitch at any one time.
6. No commercial activities shall take place on the land including the storage of materials.
7. At any one time, no more than 2 commercial vehicles shall be kept on the site for use by the occupiers of the caravans hereby permitted and these vehicles shall not exceed 3.5 tonnes in weight.