



Appeal Decisions

Inquiry held on 24, 25 and 27 September 2024

Site visit made on 26 September 2024

by Jessica Graham BA (Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 3 December 2024

Appeal A ("The Enforcement Appeal") Ref: APP/T2215/C/23/3335107 Land east of M25/south of Clement Street, Swanley, Kent, BR8 7PQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr John Bailey and family and colleagues ("the Appellant Group") against an enforcement notice issued by Dartford Borough Council.
 - The notice was issued on 16 November 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the land as a Travelling Showpeoples site for the stationing of caravans/mobile homes and generators and parking and storage of vehicles including HGVs, fairground equipment, and trailers and associated facilitating works including the laying of hardstanding, pole-mounted lighting, Heras fencing, sewage treatment plant and associated operational development.
 - The requirements of the notice are to:
 - (i) Cease the use of the land as a Travelling Showpeoples Site for the stationing of caravans/mobile homes and generators and parking and storage of vehicles including HGVs, trailers and fairground equipment, machinery and materials.
 - (ii) Remove all caravans/mobile homes, generators, sewage tank and associated infrastructure, Heras fencing, domestic paraphernalia, pergola, lighting mounted on poles and decking from the land.
 - (iii) Remove from the land all items, vehicles and materials that relate to the Travelling Showpeople's commercial enterprise.
 - (iv) Remove from the land all hardstandings and other materials used to form areas of hardstanding with the exception of the central trackway approved under planning permission 21/00406/COU
 - (v) Restore the land to its previous condition and reseed with grass seed.
 - The period for compliance with the requirements is nine months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (g) of the Town and Country Planning Act 1990 (as amended).
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Appeal B ("The Planning Appeal") Ref: APP/T2215/W/24/3342477 Land east of M25/south of Clement Street, Swanley, Kent, BR8 7PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr John Bailey and family and colleagues against the decision of Dartford Borough Council.
 - The application Ref is DA/23/01346/COU.
 - The development proposed is: change of use of land for a Showpeople's Family Quarters to form 7 permanent plots for Travelling Showpeople with associated equipment storage, equipment washing and testing area, access, amenity space, SUDs, engineering works and landscaping.
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Summary of Decisions

1. The Planning Appeal is allowed, and planning permission for the change of use of the land to Showpeople's Family Quarters, with associated operational development, is granted in the terms set out in the Formal Decision below.
2. The Enforcement Appeal is dismissed and the notice is upheld, with corrections as set out in the Formal Decision below, but the notice ceases to have effect so far as it is inconsistent with the permission granted on the Planning Appeal.¹

Procedural matters

3. An Inquiry to determine the Enforcement Appeal was originally scheduled for May 2024. However, at a Case Management Conference (CMC) held on 4 March 2024 to discuss the procedural arrangements for that Inquiry, the parties informed me that the Appellants' re-submitted application for planning permission was due to be determined before the Inquiry opened. In the event that permission was refused, the Appellants intended to appeal. This would have resulted in two separate appeals concerning the same unauthorised change of use on the same area of land, but with the difficulty that the operational development which would be the subject of ground (a) of the Enforcement Appeal (that is, the works described in the enforcement notice) would not be that for which the Appellants seek permission (that is, the landscaped layout described in the submitted plans).
4. To resolve this difficulty, and to prevent the need for two separate Inquiries covering much of the same ground, it was agreed that the Inquiry should be postponed so that both appeals could be determined together. The Appellants subsequently withdrew their ground (a) appeal, enabling the Inquiry to focus primarily on the development that is the subject of the Planning Appeal.
5. The Inquiry opened on 24 September, and also sat on 25 and 27 September. On 26 September I made an accompanied site visit to the Appeal Site; an unaccompanied visit to the surrounding area, which included walking local roads and footpaths and visiting viewpoints discussed in evidence; and unaccompanied visits to the Travelling Showpeople's Sites at Buckles Lane (Thurrock) and Keston Showmen's Park (Bromley).
6. All of the witnesses gave evidence to the Inquiry on oath.
7. The Council's notice of refusal of planning permission, and the enforcement notice, refer to the relevant policies of the Dartford Core Strategy (2011) and the Dartford Development Policies Plan (2017). These have since been replaced, on its adoption in April 2024, by the policies of the Dartford Local Plan to 2037 ("the Local Plan"). My determination of the appeals proceeds on the basis of the Development Plan as it stands at today's date.
8. In the course of its evidence, the Council requested that the description of development in the Planning Appeal be amended to include reference to the engineering operations involved in the proposed removal of earth to effect changes in the level of the land. The Appellants raised no objection, and I agree that this would help to clarify the scope of the development. I have amended the description accordingly.

¹ S.180(1)(a) of the 1990 Act

The Planning Appeal

9. The Appellant Group is an extended family of Travelling Showpeople, and it is common ground that they meet the definition of “travelling showpeople” contained in Annex 1 of the Government’s *Planning Policy for Traveller Sites* (“the PPTS”).
10. It is also common ground that the proposed development would constitute inappropriate development in the Green Belt, in the terms set out in the Government’s *National Planning Policy Framework* (“the NPPF”) and the PPTS. The PPTS states that Traveller sites in the Green Belt, whether temporary or permanent, are inappropriate development. The NPPF explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. “Very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Main issues

11. The main issues for this appeal, then, are:
 - 1) The effect of the development on the openness and purposes of the Green Belt;
 - 2) The effect of the development on the character and appearance of the area;
 - 3) The effect of the development on the living conditions of local residents;
 - 4) Whether the proposal constitutes a sustainable form of development in terms of its location and accessibility; and
 - 5) Whether any considerations exist that would clearly outweigh the harm by reason of inappropriateness in the Green Belt, and any other harm, such that very special circumstances would exist to justify the grant of Planning Permission.

The effect on the openness and purposes of the Green Belt

12. Paragraph 142 of the NPPF explains that the essential characteristics of Green Belts are their openness and permanence. The Government’s *Planning Practice Guidance* advises that when assessing any impact on openness, circumstances will vary depending on the case. Matters to be considered include spatial and visual aspects, the duration of the development and the degree of activity generated.
13. The Appeal Site is some 6.05ha in size, and is part of a field which occupies an elevated position within the undulating landscape, on a ridge forming the western side of the Darent Valley. The villages of Sutton at Hone to the east, and Clement Street to the west, are located on lower lying land and the M25, which runs alongside the northwestern boundary of the Appeal Site, is set down in a cutting with steep embankments. The existing lawful use of the field is for agriculture, apart from an area near the entrance, which does not form part of the Appeal Site and has planning permission for the keeping and

exercising of horses.² These equestrian paddocks lie between the Appeal Site and the road, on either side of the access track authorised by the same grant of permission.

14. The proposed use as family quarters for Travelling Showpeople would involve the stationing of static residential caravans, as well as touring caravans, the storage of fairground rides and other equipment (some of it very large), and the parking of lorries and other vehicles. It would also involve works such as the laying of hardstanding, alterations to the land levels and the installation of new boundary treatments. The amount of equipment and vehicles present on the land, and driving to and from it, would fluctuate according to season; but the static caravans would remain all year round.
15. It is clear then that the proposed change of use, and associated operational development, would intensify the use of the Appeal Site and increase the degree of activity generated. It would also result in a permanent loss of openness in spatial terms, albeit that would be confined to the Appeal Site itself.
16. As to the visual aspect of openness, I saw at my site visit that there are long range views across the valley toward the Appeal Site from Barn End Lane, Shirehall Road and the footpaths running south from them, in which the current unauthorised development on the Appeal Site is a readily identifiable feature. However, the proposed works include lowering the level of the site by cutting into the slope of the land, to a maximum of around 3.8m in the south, and creating a vegetated embankment along the southern boundary. A 15m deep woodland buffer, incorporating native trees and understorey, would be planted around the perimeter of the Appeal Site.
17. I also saw that the views of the wider Green Belt include other readily identifiable development, such as the gantries and lights of the M25 in the foreground and the polytunnels of Homefield Farm to the south, but still allow an appreciation of its overall openness. That sense of openness would be reduced, in the early years of the development, by views of the levelled Appeal Site sub-divided into distinct plots containing caravans and equipment. Even after 15 years, when the woodland buffer around the site boundaries had matured, there would still be some glimpses available of the taller items of equipment.
18. Taken in the round, I consider that the proposed development would cause moderate, though localised, harm to the openness of the Green Belt.
19. Paragraph 143 of the NPPF lists the five purposes served by the Green Belt. They are (a) to check the unrestricted sprawl of large built up areas; (b) to prevent neighbouring towns merging; (c) to assist in safeguarding the countryside from encroachment; (d) to preserve the setting and special character of historic towns; and (e) to assist in urban regeneration. It is common ground that there would be harm, by reason of encroachment, to purpose (c) but no harm to purposes (a), (b), (d) or (e).
20. The introduction of built development on a site in open agricultural use would inevitably result in encroachment. In this particular case, the proposed landscaping would, when mature, enable the development to be assimilated

² Ref 21/00406/COU

with the surrounding landscape and I return to this below, in the context of its effect upon the character and appearance of the area. Nevertheless, there would still be encroachment into the countryside even if it could not readily be seen. I therefore consider there would be some harm, albeit limited, to purpose (c) of the Green Belt.

21. In summary, I conclude that as the proposal constitutes inappropriate development, it would by definition be harmful to the Green Belt. There would also be moderate, though localised, harm to openness and limited harm to Green Belt purpose (c). The totality of this harm to the Green Belt carries substantial weight against granting planning permission for the proposed development.

The effect on the character and appearance of the area

22. The proposed development would provide seven plots for Travelling Showpeople, arranged either side of a crushed-limestone access track, and separated by hedgerows. Each plot would contain a residential area, laid to grass with block paving beneath the chalets, and an area for the storage of rides and equipment, surfaced with grass-infilled cellular paving and separated from the residential area by a hedge. Connection to the public highway would be through the paddocks adjoining the eastern end of the Appeal Site, via the existing access, which would be widened to accommodate the Appellants' vehicles and equipment. A short section of the access track would be surfaced with tarmac, where it joined the public highway, and a similarly sized area of tarmac-surfaced hardstanding would be provided at its other end, to act as a communal vehicle and equipment washing area. Next to this would be a dedicated parking area for local providers of mobile services, such as library or fish and chip vans.
23. At the western end of the Appeal Site, an area of mown grass would be reserved for equipment testing and recreation. A children's multi-use equipment area and an outdoor gym would adjoin this space, and an informal cycle track and jogging circuit would be created around the edge of the Appeal Site, just inside the line of the 2m high perimeter fence. On the other side of the fence, retained boundary trees would be supplemented with new native broadleaved trees, and native understorey shrub species, to create a 15m deep buffer of woodland around the site. Trees would also be planted alongside the internal access track, within the residential areas, and within the internal hedgerows. Wildflower meadows would be planted at the eastern end of the Appeal Site in the area between the paddocks and the highway, and around the margins of the grassed area at the western end.
24. The proposed development would completely change the character and appearance of the Appeal Site. But it is evident that a great deal of careful thought has gone into the design and landscaping of the proposed scheme, in order to minimise adverse impacts on the surrounding countryside.
25. The proposed levelling of the Appeal Site would involve the creation of an embankment of up to 3.8m high on the southern boundary, and this engineered land form would be at odds with the gentle undulation of the surrounding fields. However, the engineering works would be undertaken in conjunction with the planting of a perimeter woodland buffer. Over the longer term, as this planting matured, the Appeal Site would appear as a small woodland parcel typical of the local area.

26. This approach to the visual containment of the development on the Appeal Site would also help in the prevention of light spill. Lights from inside the caravans and chalets, and the headlights of vehicles, would be set at the lowered land levels and screened by the perimeter fence and planting. Lighting specialists commissioned by the Appellants have designed a lighting plan using 1m high bollards with a downward beam; the accompanying Technical Report advises that this scheme would have no impacts outside the boundaries of the Appeal Site. At the Inquiry the Council confirmed that concerns about light spill could be satisfactorily addressed by conditions limiting external lighting to that detailed on the lighting plan, and restricting the testing of lights on any fairground equipment to between the hours of 10am and 3pm. I share that view. For the avoidance of doubt the approved scheme of lighting would replace the current security lights, which are visible at some distance from a number of viewpoints.
27. The proposed widening of the existing access on to Clement Street, and the creation of the necessary visibility splays, would include the laying of tarmac and the removal of some of the existing roadside vegetation. This would result in a more engineered and noticeable junction than exists at present, which would have a somewhat adverse impact on the character of Clement Street as a rural road. However, the extent to which this stretch of Clement Street is experienced as having the character of a rural road (and consequently, the extent to which that character would be harmed by the development) is diminished by the close proximity of the M25, which it crosses by bridge a short distance from the access to the Appeal Site.
28. The topography of the land is such that there are very few close-range views of the Appeal Site; there are no public rights of way through it, and it cannot be seen from the M25. It is however readily visible in longer views from elevated locations to the north/northwest and southwest, including some of the residential properties on the edge of Hawley, and the network of footpaths running south from Shirehall Road. These elevated views of the wider landscape include detracting features, such as the gantries and lights of the M25 in the foreground, but still allow an appreciation of its overall character and appearance as rural farmland. It would be five or six years before the proposed new planting became a meaningful visual element in the landscape, and at least ten years before it started to reach mature heights. So while the adverse visual impacts would reduce over time, with views of the development limited after 15 years to glimpses of the tops of some of the fairground equipment, there would be a number of years during which the development appeared as an incongruous and intrusive element within its agricultural surroundings.
29. Drawing all of this together, I find that over the longer term, the proposed landscaping measures would enable the development to assimilate satisfactorily with its surroundings; once the planting matured, the appearance of the Appeal Site as a small area of woodland would be accommodated within the rural landscape, with little adverse impact on the character of the wider countryside. When mature the planting would also provide an effective and appropriate screen, but in the earlier years there would be a noticeable adverse visual impact in views from the northwest.
30. I conclude that on the whole, the proposed development would accord with the aims of criterion (g) of Local Plan Policy M11, which requires Traveller

Sites to be screened and visually integrated into the local and wider landscape. There would however be some harmful visual impacts during the early years, before the woodland buffer matured; the level of harm to the character and appearance of the area would be modest, but still carries some weight against permitting the proposed development.

The effect on living conditions of local residents

31. The development would increase vehicle movements to and from the Appeal Site, and since many of these movements would include the transportation of fairground equipment, the vehicles involved would be large. To the west of the access to the Appeal Site, after crossing a bridge over the M25, Clement Street narrows to single carriageway width. This is plainly not a suitable route for large vehicles.
32. The Highway Authority has no objection to the development proposals on the basis that large vehicles and HGVs accessing the site can be routed via the east, which has sufficient width throughout, using Arnolds Lane to join the A255 at Hawley Road. This route would involve passing residential properties, and when assessing the application for planning permission, the Council was concerned that the additional vehicle movements would increase the level of activity and disturbance experienced in this rural area.
33. At the Inquiry, Mr Smith gave evidence as to the number and pattern of vehicle movements likely to occur. He explained that for Travelling Showpeople, the season now runs from March until January. Traditionally it used to end in October, but in recent years, Christmas Fairs and Markets have become popular all over the UK. His evidence was that Travelling Showpeople try to keep out on the road as much as possible between March and October/November, moving their equipment on directly from one event to the next, because if they bring it back to their base it means they are not making any money. He estimated that a fairground ride would be brought back maybe three to four times across the season; lorries may have to come back more frequently, if there was not space for them to be parked at the event. In October/November, the rides would come back to have their livery changed, ready to go out again to Christmas events in November/December.
34. Mr Smith explained that the Travelling Showpeople who would be occupying the seven proposed plots do not all attend the same fairs, so it would never be the case that a convoy of up to seven large vehicles would enter or leave the Appeal Site. Rather, when the season began in March, the rides and equipment would be brought off the Appeal Site over the course of about a week: on the busiest days, there would be a maximum of 2-3 HGVs going out, with touring caravans behind. The mobile homes, and the trailers used for storage, would remain on the site all year round. During the season most of the children travel with their parents, and where events are reasonably close, they are driven to and from school each day. When events are further away, the schools provide education packs for the children.
35. In the light of this evidence, the Council confirmed at the Inquiry that it no longer had any objection to the proposed development in connection with the impact of large vehicle movements on residential amenity. In my judgment, the volume and magnitude of the vehicle movements associated with the proposed development would not be such as would adversely affect the

operation of the local highway network, and would not add significantly to the existing levels of traffic noise and disturbance experienced by local residents.

36. As discussed above, it is now common ground that subject to appropriate conditions, the lighting scheme designed for the proposed development would have no impacts outside the boundaries of the Appeal Site; it would not, therefore, cause any visual nuisance to the occupiers of local dwellings, or users of the area's road and footpath network. Similarly, conditions are proposed which would prevent the use of any generators; limit the numbers of caravans permitted on site; prevent the use or testing of any public address or musical sound systems; restrict the hours during which maintenance and repair work may be carried out; and restrict such maintenance and repair work to the equipment, machinery and vehicles used by the residents of the Appeal Site. Subject to these conditions, I share the Council's view that the proposed development would not result in any significant increase to noise levels experienced at any residential properties.
37. In summary, I am satisfied that the development would not have any objectively adverse effects upon living conditions at nearby dwellings. It would therefore meet the aim of Local Plan Policy M2, which seeks to ensure that development is designed and located so as not to result in unacceptable material impacts on neighbouring uses. It would also accord with criterion (c) of Local Plan Policy M11, which requires proposals for Traveller Sites to be of a scale compatible with the ability of the surrounding community to accommodate the development without significant detriment to neighbouring residential amenity.

Whether the development is sustainable, in terms of location and accessibility

38. The PPTS states that decision makers should "very strictly limit" new Traveller Site development in open countryside that is away from existing settlements, or outside areas allocated in the Development Plan. It also advises that locally specific criteria should be used to assess applications that may come forward on unallocated sites.
39. Criterion (e) of Local Plan Policy M11 is that proposals for Traveller Site development on unallocated sites should be located "in reasonable proximity to a range of services and facilities." No further guidance is provided as to what might be considered reasonable, but the supporting text advises that sites should "so far as possible" be located close to education, health and community facilities, and be accessible by public transport. As the Council confirmed in its closing submissions to the Inquiry, the aim of the policy is to encourage the use of sustainable modes of transport.
40. The Appeal Site is within 1km of the village of Sutton at Hone, which has a primary school. However, it is 2.4km from the nearest healthcare facility, over 2.5km from the nearest food shop, and 3km from Farningham Road train station. The Sustainable Transport Report compiled by the Appellants' Transport Consultants notes that these facilities are within the 5km distance established by the 2019 National Travel Survey as the average length of a cycle journey. But they are considerably further than the "preferred maximum" walking distance of 1.2km suggested by the Chartered Institution of Highways and Transportation. The widely adopted standard for walking distance to a bus stop is 400m, but here the nearest bus stops are around 1.1km from the Appeal Site, on the A225 in Sutton at Hone.

41. The extent to which people might be willing to walk or cycle, as an alternative to travelling by private car, will depend not only on the purpose and distance of the journey but also the convenience of the route. Clement Street has no pedestrian footways, so anyone travelling on foot from the Appeal Site would need to walk in the carriageway for some 175m before either turning down Church Street, where there is also no footway, or using the public footpath which cuts across the field and rejoins Church Street further down. Clement Street and Church Street are lightly trafficked, but there is no dedicated cycle infrastructure, and the absence of footways and lighting may discourage potential pedestrians, for example those with young children and pushchairs.
42. I conclude that opportunities for the occupiers of the proposed development to travel by sustainable modes of transport would be limited. However, it is important to bear in mind the particular and specific details of how Travelling Showpeople live and work. Their yards provide a secure base, where they live and store their equipment when not travelling, but for much of the year they are away at events. This means there are no daily journeys to work. During the travelling season, the school run for most of the households is to and from the fairs and showgrounds where they are currently working. As a consequence, during the travelling season the proximity of the site to services and facilities would have very little influence on the number and pattern of vehicle movements made by its occupiers.
43. There are other important locational considerations to be taken into account. The considerable size of many of the rides and associated equipment, and the vehicles needed to transport them, necessitates storage in a location from which they can be manoeuvred safely out on to main roads for onward travel, without compromising the safety of the local road network. Also, a Travelling Showpeople's yard needs to be located where rides and equipment can be repaired and tested when not at shows, without causing unacceptable noise and disturbance for people living nearby. The Appeal Site meets both of these requirements. The Highway Authority has advised that the proposed access and visibility splays are acceptable, as is the anticipated impact on local highways: for the reasons set out above, I have concluded that subject to conditions, the proposed development would not appreciably increase noise levels at any residential properties.
44. There is, then, a degree of tension between the two primary functions of a Travelling Showpeople's yard. The residential use (that is, the siting of static caravans) would benefit from being closer to shops and services; but this would make it more likely that the business use (that is, the storage and testing of rides and equipment) would have an adverse impact in terms of noise and disturbance for local residents, and the need for access by large vehicles. Bearing in mind these conflicting needs, I consider that the location of this particular Appeal Site has a reasonable level of accessibility. The distances from services and facilities are not ideal, but nor are they excessive, and there would be some (albeit limited) opportunity for the occupiers to make sustainable transport choices. It is also within easy and safe reach of the motorway network.
45. I conclude that when considered in the round, the Appeal Site is a reasonably accessible and sustainable location for this specific type of use. While options for occupiers of the plots to use sustainable modes of transport would be

somewhat limited this is not, in my judgment, a consideration which should weigh against the proposed development.

Other considerations

46. There are various other considerations which need to be weighed in the overall planning balance.

The existing level of local provision and need for sites

47. The recently adopted Dartford Local Plan was informed by a Gypsy and Traveller Accommodation Assessment (GTAA), commissioned by the Council to determine the current and future need for sites. This included surveys of Gypsies, Travellers and Travelling Showpeople living in the Borough in May 2019. The GTAA found that there would be a need for one additional plot for Travelling Showpeople arising over the plan period to 2035, and advised that this could be met at the existing Travelling Showpeople's yard at the Forrest Amusements site on Darenth Wood road. On that basis, the Inspector's report on the examination of the new Local Plan concluded that there was no unmet need for Travelling Showpeople.
48. I make no criticism of the GTAA - which I am told sought to engage with residents on all occupied Traveller pitches and Travelling Showpeople plots, and achieved a response rate of 90% - nor of the Council for relying on it. But it is worth noting that if engagement is limited to those already living within the Borough, the needs of others presently unable to do so may be overlooked. The PPTS advises local planning authorities to work collaboratively with neighbouring Councils, and to consider production of joint development plans that set targets on a cross-authority basis.
49. Most of the Appellants either originally hail from, or have strong family ties to, Dartford. But when the Dartford GTAA was carried out in 2019 all of them were living outside the Borough, on overcrowded plots either at Keston Showmen's Park in Bromley, or the Buckles Lane site in Thurrock, and so their needs for a plot in Dartford were not recorded in the GTAA or acknowledged in the new Local Plan. The Council now accepts that the Appellants have demonstrated their need for seven plots in Dartford, and it is common ground that if a GTAA were to be carried out now, this would be recognised and recorded as an existing unmet need. It has also been established that the one additional pitch identified in the Local Plan is not, and will not become, available to any of the Appellants.
50. The Council contends that while the development of the Appeal Site would be meeting an unmet need, it is a modest level of need which has arisen only recently, and so should be afforded moderate weight in the planning balance. But in my judgement that takes too narrow a view of need, in terms of both scale and duration.
51. An unmet need for seven plots may sound modest, but the needs of this particular Appellant Group are only part of the wider picture for the area. The neighbouring authority of Thurrock contains the Travelling Showpeople's site known as Buckles Lane, which consists of nine sub-yards, some of which are authorised and others not. The site is so large, and its planning history so complex, that it has its own GTAA which sits alongside the GTAA for the rest of the Borough. The Buckles Lane GTAA of 2022 identified a need for 215

additional plots for Travelling Showpeople by 2040. There is no realistic prospect of this need being met at the Buckles Lane site in the foreseeable future, either through the extension of existing plots, or through re-homing occupiers who are not Travelling Showpeople; many such residents will have been in occupation for sufficient time to gain immunity from enforcement, and new accommodation would need to be found for those who have not.

52. This means that Thurrock will be reliant on adjoining authorities, such as Dartford and Bromley, to help share the burden of meeting the accommodation needs of its resident Travelling Showpeople. Paragraph 12 of the PPTS advises that in exceptional cases, where a local planning authority is burdened by a large-scale unauthorised site that has significantly increased their need, and their area is subject to strict and special planning constraints, then there is no assumption that that authority is required to plan to meet their Traveller site needs in full. Thurrock, like Bromley (and, of course, Dartford), is heavily constrained by Green Belt.
53. As to the duration of the need, it did not just begin when the Appellants moved off the overcrowded sites they had been occupying in other Boroughs, and took up their unauthorised occupation of the Appeal Site in March 2023. There is clear and convincing evidence that many of the Appellants have been enduring insecure and unsatisfactory living conditions for many years, due to the absence of any alternative available plots.
54. Some have grown up on family plots, with siblings who have also grown up and started their own families, such that the original plot has become dangerously overcrowded, with no space left to work on rides and equipment. Others, having been moved on from the Bullace Lane site in the 1980s when it was Compulsorily Purchased by the Council to make way for the Orchard shopping centre, were able to live temporarily at the Darenth Wood road Site before having to move on again when that plot was needed by the owner's family; they have latterly been staying on someone else's site at Buckles Lane, but knew this to be a short fix and not a permanent solution. Mr Smith had been informally renting space for 24 years, with no security of tenure, on a site at Buckles Lane where there were already three families living on a plot intended for a single family; until he was given 8 weeks notice to leave when the owner needed the space back for his own family.
55. In these circumstances, having regard to the enormous scale of the need in the adjoining Borough, and the many years during which members of the Appellant Group have needed a plot of their own but have instead been sharing precariously with others, I consider that the Appeal Site's contribution toward addressing unmet need should carry considerable weight in the planning balance.

The availability of suitable alternative sites

56. It is common ground that no suitable and available alternative sites can currently be identified.
57. Outside the urban areas, the Borough of Dartford is wholly within the Green Belt. The Council accepts that any potential alternative site would, therefore, almost inevitably be in the Green Belt. The situation is similar in adjoining Boroughs. The Inspector's Report on the recently adopted Dartford Local Plan records that discussions with neighbouring authorities, under the "duty to

cooperate” provisions, indicated that meeting their own need for Traveller sites in their respective areas would require the release of land from the Green Belt.

58. Since any alternative site would almost certainly be in the Green Belt, it follows that harm to the Green Belt is largely inevitable. This is not to say that there may not be other sites, as yet unidentified, the development of which would cause lesser harm to the Green Belt: nor does it in any way reduce the substantial weight that must be given to that harm as a matter of national policy. But it is nevertheless a material consideration, which needs to be recognised within the overall planning balance. After all, if there were any evidence that an alternative site could potentially be located on land that was not within the Green Belt, that would reduce the extent to which the present lack of any alternative sites weighs in favour of permitting the proposed development. In my view, the fact that there are presently no identifiable alternatives to the Appeal Site, and the consideration that any future alternative site would almost inevitably be on Green Belt land, together carry substantial weight in favour of the proposal.

The efficacy of planning policy in addressing unmet need

59. The question of whether there has been a failure of policy, and if so what weight that should carry in the planning balance, usually arises in situations where there has been a persistent failure by a local planning authority to put policies in place to meet the needs of Travellers, and a corresponding long-standing unmet need for sites.
60. That is not the case here. The Local Plan was examined, found sound and adopted on the basis that the need for Travelling Showpeople’s plots identified by the Dartford GTAA would be met during the plan period, so the Council cannot fairly be criticised for proceeding on that basis. However, the clear evidence that the Appellant Group have a longstanding need for plots of their own, yet have for many years been living doubled-up on overcrowded yards due to the lack of any alternatives, indicates that the accommodation needs of Travelling Showpeople are not being met.
61. The historic context for this is informative. Travelling Showpeople were excluded from the definition of Gypsies under the Caravan Sites Act 1968, and so have never benefitted from the duty which once lay on local authorities to provide accommodation for Travellers. In terms of their ability to find land for themselves, any derelict land that was within or close to settlements, such as the post-war bomb sites which many Travelling Showpeople used to use, has largely been developed for other purposes. Many of the traditional yards owned by Travelling Showpeople have been the subject of Compulsory Purchase Orders, to make way for other uses. For example, Mr Smith was born on a Travelling Showpeople’s yard in Whitechapel, but when that yard was redeveloped for housing in 1989, his family had to move on to a rented site near the Blackwall Tunnel; when that site was needed for development of the Millenium Dome (now the O2 Arena), they were obliged to move on again.
62. The loss of so many traditional yards has meant that most of the surviving established Travelling Showpeople’s yards in the south-east of England are severely overcrowded, as existing occupiers have made room for friends and relatives who have nowhere else to go. Where fairground rides, electrical equipment and caravans are packed in tightly together, conditions are not only unsatisfactory but dangerous. Despite this, the fear that they might be moved

on again because of the overcrowding on such sites has made many Travelling Showpeople reluctant to draw attention to their situation: a cramped and dangerous home is better than no home at all.

63. Published some 24 years ago, Circular 22/91 was the first statement of national policy to deal specifically with Travelling Showpeople. Its stated aim was "to help the showpeople to help themselves" by "allow[ing] them to secure the kind of sites they require and help to avoid the use of sites in breach of planning control". As a consequence of having failed to deliver adequate sites, it was replaced after 16 years by Circular 04/2007. The stated purposes of that Circular included increasing the number of Travelling Showpeople's sites with planning permission in order to "address current under-provision over the next 3-5 years"; to maintain an appropriate level of site provision through Regional Spatial Strategies and Local Development Frameworks; and to underline the importance of assessing needs at regional and sub-regional level.
64. Those purposes were not achieved. The approach of assessing need and providing sites through Regional Spatial Strategies was repealed as part of the Localism Act of 2011, and in 2012 Circular 04/2007 was replaced by the PPTS. The PPTS sets out the Government's aims in respect of Traveller sites (which includes both pitches for Gypsies and Travellers, and plots for Travelling Showpeople). The first of the listed aims is that local planning authorities should make their own assessment of need for the purposes of planning.
65. I have noted above the difficulties that can arise when a GTAA assesses need on a Borough-centric basis: the evidence in this case shows that the Appellant Group had a long-standing need for pitches of their own, which was not recognised by the methodology used for the Dartford GTAA and so was not addressed in the Local Plan. In the adjoining Borough of Thurrock, the scale of the need for Travelling Showpeople's plots identified by the Buckles Lane GTAA is huge, has persisted for many years, and evidently cannot be met within the confines of that Borough; yet no steps appear to have been taken toward addressing some of this need in neighbouring Boroughs.
66. In Dartford, having identified a need for 55 plots for Gypsies and Travellers in the first five years of the new Local Plan, the Council was only able – despite its best efforts, including a call for sites – to find sufficient land to accommodate 12 of them.³ In order to meet the remaining need, then, the Council is reliant on windfall proposals coming forward. This is addressed by Policy M11, which provides a criteria-based approach to proposals for Gypsy and Traveller pitches and Travelling Showpeople's plots outside of the allocated sites, as recommended by the PPTS.
67. The Appellants drew my attention to the Report written by the Inspector who examined the Dartford Local Plan, in which he concluded that it was necessary to modify the policy that is now M11 to provide a "highly positive" approach to windfall proposals for Gypsy and Travellers. They contend that as the Inspector clearly understood that meeting the need through the development management process would almost certainly involve windfall sites in the Green Belt, he must have intended this "highly positive" approach to extend to such applications: since he could not decree that the unmet need would always

³ Its search did not specifically include land suitable to accommodate Travelling Showpeople, since at that time there was considered to be no unmet need for such sites, but their locational requirements are broadly similar.

amount to “very special circumstances”, the only way he could secure a more positive approach was to ensure that the policy required the unmet need to be given additional weight. Be that as it may, the Inspector’s Report makes it very clear he was mindful that the approach to windfall sites must still require accordance with national policy. That is what adopted policy M11 does.

68. Policy M11 confirms that applications must be determined in accordance with national policy, which of course includes the Green Belt policies contained in the NPPF, and the provisions of the PPTS. As the Council rightly points out, it follows that the efficacy of this policy in addressing unmet need is dependent to a very large extent on the application of national policy, which in turn makes clear that Traveller sites are inappropriate in the Green Belt, and that unmet need is unlikely to constitute the very special circumstances necessary to justify inappropriate development in the Green Belt.
69. This suggests, as it was put in closing submissions for the Council, that the Local Plan policy will not be highly effective in addressing unmet need, as a result of the national policy position. I agree. The constraints faced by the Borough are such that any proposed development that could assist in addressing its unmet need for Traveller sites will almost inevitably be on land in the Green Belt, and yet it was not open to the Council (or the Inspector who examined the Local Plan) to recognise this by taking a more permissive approach to such sites in its windfall policy, because that would have brought the Local Plan into conflict with national policy.
70. Drawing all of this together, I find that the long-term failure of national planning policy to provide sufficient plots for Travelling Showpeople is likely to be compounded by the acknowledged inefficacy of current Local Plan policy in terms of addressing the issue in the foreseeable future. I consider this a material consideration that carries weight in favour of granting planning permission for the proposed development of the Appeal Site.

The personal circumstances of the Appellants

71. Seven households are identified as the proposed occupiers of the plots at the Appeal Site. They are part of the same extended family, and include children and elderly people. Only one of the Appellants has ever owned their own yard, and he is now reliant on his family for care. All of them have a history of being forced to move from one site to another, and all of them were last living, prior to moving on to the Appeal Site, in cramped conditions on existing Travelling Showpeople’s sites that are overcrowded.
72. The evidence of the Appellants is that if planning permission for the proposed development is refused, they have nowhere else to go. They would be made homeless, and would have nowhere to store the equipment on which their livelihoods depend.
73. The Council accepts that the proposed occupiers of the Appeal Site could not remain on their previous sites and needed to move, and that refusing planning permission would leave the Appellants, as a group, without a permanent and secure home. However, it suggests that since they have relatives living on other existing Travelling Showpeople’s sites, space might be found on their plots if necessary, as a temporary measure to mitigate the immediate hardship of being made homeless.

74. Even if that were possible, it would be very far from an acceptable outcome. Mr Smith's evidence is that Buckles Lane, where his family were last living informally on a plot shared with others, is grossly and dangerously overcrowded; with caravans, rides and equipment being squeezed far too tightly together on authorised sites, but also on other sites that have never been granted permission, and often having to spill out on to the road outside. There are similar overcrowding problems at Keston Showmen's Park. He explained that the fear of fire, with its potentially lethal consequences, is an ever present concern. I share his view that this is no way to live, or to raise a family.
75. In any event, the evidence before me is that those members of the Appellant Group who were previously staying on plots owned by relatives were asked by them to leave, in order to make space for more immediate family members. In these circumstances, there is little if any real prospect of them being permitted to return. I am told that all enquiries made of other Travelling Showpeople as to the availability of space on any other sites have drawn a blank, because all of them are struggling with the same issue of the lack of room.
76. I conclude that if planning permission for the proposed development were refused, there is a very strong likelihood that all of the Appellants would not only be rendered homeless but would as a consequence struggle to retain their rides and equipment, and thereby their livelihoods. In my judgment this is a consideration which weighs heavily in favour of allowing the appeal.

The best interests of the children

77. It is common ground that the best interests of the children is a primary consideration.
78. The seven households have a total of 13 children of school, and pre-school, age. Two of them are currently being educated in Dartford, but the others are still at the schools they were attending before the Appellant Group moved on to the Appeal Site. Their parents intend to move them to local schools if planning permission for them to live on the Appeal Site is granted, but do not wish to risk disrupting their education by moving them before they know the outcome of these appeals: the Appeal Site is close enough to their current schools to maintain continuity of education in the meantime.
79. The Council points out that four of the family groups, which include all but four of the 13 children, would spend limited time living at the Appeal Site during the travelling season; the evidence is that the children receive work packs from their schools while they are travelling with their parents. Since they are not physically attending school on a regular basis, they have been able to remain registered in schools some distance away, despite having been required to leave their previous sites. On that basis, the Council contends there is no evidence that the education of these children is reliant on having a permanent home on the Appeal Site.
80. The lack of a permanent home may not preclude the children from receiving an education, but it seems to me that having a permanent home would considerably improve the quality of that education. The evidence of Mr Smith is that as a consequence of being moved on from site to site, he and his siblings rarely got to attend primary school on any consistent or meaningful basis. He left school at 12 to work with his family, and having missed out on a

formal education, cannot read or write properly. Having a settled and permanent home on the Appeal Site would enable all of the children living there to attend local schools outside the travelling season, and build relationships with teachers and other children from the settled community. While the children of the four households who travel further afield during the season would still be reliant on work packs, they would have the security and continuity of returning to the same school at the end of the travelling season.

81. The provision of a permanent home on the Appeal Site would have other benefits. The proposed landscaping, and the provision of play areas, fitness areas and a cycle/running track would provide a safer and healthier environment than any of the overcrowded sites on which the children have lived to date.
82. Conversely, refusing planning permission for the proposed development would make it very likely that the children would, along with their parents, be rendered homeless. Clearly there would be serious adverse impacts in terms of the stability of their home life, and the conditions in which they would be living if they had to leave the Appeal Site with nowhere to go. There would also be serious adverse impacts on the continuity of their education if, as a result of having to leave the Appeal Site, their parents had to move further from their current schools and so were no longer able to keep them there.
83. In my judgment, given the evidence that there are no suitable or available alternatives to the Appeal Site which could provide these children with a settled home base, granting permission for the proposed development would clearly be in their best interests. This carries considerable weight.

Whether the site would function as an exemplar

84. The Appellants contend that the proposed development is an exemplar site, which would help to raise significantly the standard of new Travelling Showpeople's sites across the country. They point out that the approach to the design and layout of the Appeal Site goes significantly beyond the model template published by the Showmen's Guild, and incorporates landscaping and sustainability measures as well as features to promote the health and wellbeing of the site occupiers.
85. While I agree that the scheme is well-designed, I am not persuaded that it can properly be characterised as innovative. Landscaping proposals such as the levelling of ground and the planting of woodland are a response to the landscape context of the Appeal Site, and are necessary to reduce the extent of harm to the character and appearance of the area. The provision of a straight and central access road, with plots grouped on either side, is a functional layout common to other existing yards. The proposed plots are considerably more spacious, but that is due to the size of the Appeal Site.
86. Other elements, such as the provision of water butts and the orientation of the caravans to take advantage of solar gain, are beneficial although not particularly innovative. I appreciate that features such as the outdoor gym and cycling/jogging track, the communal vehicle washing area and the dedicated parking space for visiting service providers would all be worthwhile additions to any Travelling Showpeople's site. But while others might well see them, and seek to emulate them, their ability to do so will be largely dependent upon the space and funding available to them. The extent to which this development

could influence existing sites is negligible, given the overcrowded conditions which prevail, and the extent to which proposals for new sites would seek to replicate it would be dependent upon factors such as cost, personal preference and the constraints of the site.

87. In my judgment, the proposition that this proposal would serve as an exemplar to raise the standard of other Travelling Showpeople's sites is not a consideration which carries any appreciable weight in the planning balance.

Biodiversity

88. There is no dispute that the proposed development of the Appeal Site would deliver net biodiversity gains. While this is a positive factor, which needs to be considered in the overall planning balance, the extent of the gains has not been quantified. It is a consideration which therefore carries only very limited weight.

The Written Ministerial Statement on "Intentional Unauthorised Development"

89. The Written Ministerial Statement of 17 December 2015, which remains in force, made intentional unauthorised development a material consideration in planning applications and appeals. It explains that the reason for this is the Government's concern about the harm caused where the development of land has been undertaken in advance of obtaining planning permission. It states that in such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place.
90. In this case, Mr Smith and his brother purchased the land on which the Appeal Site lies in October 2020, and on 6 February 2023 submitted an application for planning permission for the change of use of the land to seven plots for Travelling Showpeople. Having been asked to leave their existing sites, the Appellant Group moved on to the Appeal Site over the weekend of 11th and 12th March 2023.
91. The undisputed evidence of Mr Smith is that had the Appellants been able to remain where they were, or to move on to somewhere else, they would not have chosen to put themselves and their families through the ordeal of occupying the site before they had got planning permission. He explains that they are not living on the site comfortably, or how they would if permission were granted: they are living close to each other and on hardcore, with no outdoor space, so as not to take up too much of the land. Until they know whether they can stay on the site their electricity is being provided, at significant cost, by generators and in the absence of security gates, they have had their possessions stolen when they were not on site.
92. Knowingly acting in breach of planning control is a factor which weighs against the grant of planning permission. But in this case, the evidence shows that the Appellants had nowhere else to go, and did not carry out works beyond the minimum necessary to station caravans and create a habitable environment. They clearly did not intend that the development should remain unauthorised, having made a planning application before moving on to the site, and have made continued efforts to regularise the situation by submitting a revised application when the original was refused. That application contained proposals to limit or mitigate the harm that has already taken place, and those proposals can be secured by condition.

93. In these circumstances, the Council accepts that the intentional breach of planning control carries only limited weight in the planning balance. I agree.

The planning balance

94. The proposal would constitute inappropriate development in the Green Belt. It would cause moderate harm to the openness of the Green Belt, and limited harm to one of the five purposes of including land in the Green Belt. The totality of this harm to the Green Belt carries substantial weight against the proposed development. There would also be harm to the character and appearance of the area which, while modest, carries some added weight against the proposal; to this must be added the limited weight I have attached, in the particular circumstances of this case, to the fact that the Appellants moved on to the site without first obtaining planning permission.
95. On the other side of the balance is the consideration that allowing the proposed development would help to address unmet need, in circumstances where no available alternative sites can be identified and any alternative site would almost inevitably also involve harm to the Green Belt, and in the light of convincing evidence that the adopted Local Plan is unlikely to be effective in addressing unmet need. In my judgment, this combination of factors carries a great deal of weight in favour of the proposal. I have found, for the reasons set out above, that the personal circumstances of the Appellants, including the consequences to them of refusing planning permission, weighs heavily in favour of allowing the development. I have also found that permitting the proposed development of the Appeal Site would be in the best interests of the children of the Appellants, given that the evidence shows there is no other available alternative that would provide them with a settled home base, and this carries considerable weight. To this must be added the very limited weight that attaches to the unquantified net gains to biodiversity.
96. PPTS guidance concerning Traveller Sites in the Green Belt 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. In the specific circumstances of this particular case, I consider that the combined weight of unmet need, the lack of availability of alternative sites, policy failure, a net gain in biodiversity, the personal circumstances of the Appellants and the best interests of their children clearly and significantly outweigh the harm to the Green Belt and the other harm identified. That being the case, I conclude that the very special circumstances necessary to justify inappropriate development in the Green Belt exist.
97. Local Plan Policy M12 contains the same approach and tests for development in the Green Belt as are set out in national planning policy. It follows that since the very special circumstances necessary to justify development in the Green Belt have been established, the proposed development would accord with Policy M12. Similarly, Policy M11 states that proposals for Traveller Sites outside of the allocated sites will be determined in accordance with national planning policy and having regard to relevant material considerations; it also includes seven criteria that must be met for windfall sites. Since I have determined that the proposed development would be justified on the terms of the national policy contained in the NPPF and the PPTS, and I am satisfied that

it would meet all of the seven criteria, I conclude that it accords with Local Plan Policy M11.

Conditions

98. The Appellants have established a personal need for the seven plots proposed on the Appeal Site, so it is common ground that the grant of planning permission should be made personal to them. Condition (2) specifies by name the adult occupiers of each plot, and also includes their dependants and descendants, since some of the children are teenagers and, in accordance with the traditional way of life for Travelling Showpeople, may soon marry and need a caravan of their own. The wording of the personal condition is flexible enough to accommodate that, but at the same time it is important to ensure that it does not over time lead to an unacceptable number of caravans on the site. For this reason, it is necessary also to impose conditions specifying that the maximum number of caravans that may be occupied on the site as dwellings is sixteen (9), and clarifying that all occupiers must meet the Government's definition of Travelling Showpeople (1).
99. There are some matters of such fundamental importance to the acceptability of the proposed development that it would be usual to impose a condition requiring them to be put in place before the proposed new use began. Since in this case the change of use has already occurred, it is necessary to frame the condition in such a way as to require the use to cease, and the associated operational development and equipment to be removed, if the requirements are not dealt with within a specified timetable. Condition (4) does this by setting a five month time limit for the submission of a Site Development Scheme, which must provide details of (and a timetable for) the location of the residential caravans; the landscaping and engineering works, including planting and maintenance details; biodiversity enhancements; provision for the protection of retained trees and hedgerows; surface water and foul water drainage schemes; and archaeological evaluation works.
100. The condition goes on to provide time limits in the case of any appeal or legal challenge, and to ensure the future retention of the approved details. Condition (5) takes the same approach to the provision, within 12 months, of the approved site access and visibility splays.
101. To ensure that the development is properly and adequately drained, and that no water run-off or other pollutants adversely affect the M25, watercourses or other land uses, there are conditions which require verification that the surface water drainage system has been constructed as approved (6) and prevent any other unauthorised drainage taking place (7).
102. There are a number of conditions which are necessary to ensure the living conditions of nearby residential occupiers are protected. These prevent the use of any part of the site as a fairground (10); restrict the installation and use of external lighting to that shown on the approved lighting plan (11) and the testing of lights on rides and equipment to daylight hours only (12); ensure that the development is securely connected to the electricity supply within six months, after which no generators may be used on the site (8); ensure that maintenance and repair work is only carried out between 8am and 6pm Monday to Friday, and between 8am and 1pm on Saturdays (13); prevent the testing or use on site of any musical, sound or public address systems (15); ensure that the only vehicles, rides and equipment stored or worked on at the

site are those which belongs to the occupiers (16); and prevent the stationing (other than for testing) or storage of equipment or vehicles over 4.5m in height (14).

103. Condition (17) makes provision for what must happen if site contamination is discovered during construction, and (18) for what must happen if vegetation, exceptionally, needs to be removed during the bird nesting season. I have also imposed, at (3), the standard condition requiring the development to be carried out in accordance with the approved plans.

Conclusion on the Planning Appeal

104. The very special circumstances necessary to justify inappropriate development in the Green Belt have been established. I therefore conclude that planning permission should be granted for the proposed development.

The Enforcement Appeal

Correcting the Notice

105. The final part of requirement (v) of the enforcement notice – that is, to re-seed the land with grass – goes beyond what that notice can reasonably require. I shall delete this part, so that the restoration of the land to its former condition remains as the correct requirement. I am satisfied that this will not cause injustice to either party.

The appeal on ground (b)

106. The ground of appeal is that the matters stated in the enforcement notice have not occurred. The Appellants accept that the breach of planning control alleged by the notice has taken place: their case on this ground is simply that it does not extend to the entirety of the land that is the subject of the notice, as shown edged red on the plan attached to the notice, because part of that land consists of paddocks used and occupied in accordance with planning permission ref 21/00406/COU.
107. The Council accepts this to be the case, and suggests that I use my powers under S.176(1)(a) of the 1990 Act to amend the plan attached to the notice so as to exclude the authorised paddocks. I am satisfied that correcting the terms of the notice in this way would not cause any injustice to either party, and so will replace the plan originally attached to the notice with the revised plan drawn up and agreed by the parties at the Inquiry [Document 5].

108. This disposes of the appeal on ground (b).

The appeal on ground (g)

109. The ground of appeal is that the compliance period specified by the notice falls short of what should reasonably be allowed. The Appellants' case on this ground is that the nine months provided by the notice for compliance with its requirements would not give them sufficient time to identify, and secure planning permission for, alternative accommodation.
110. I have determined that planning permission should be granted for the application that is the subject of the concurrent planning appeal, which means

that by operation of s.180 of the 1990 Act, the notice will cease to have effect so far as it is inconsistent with that permission. S.180(1) provides that *Where, after the service of ... an enforcement notice ... planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.*

111. However, as set out in paragraph 3 above, there are differences between the actual development that was the subject of the enforcement notice, and the proposed development that is the subject of the (now permitted) planning application. Both involved the change of use of the same area of land, but with various differences between the associated operational development.

112. It could be argued that technically, development of the site pursuant to the permission would be different to the development of the site as enforced against, such that the enforcement notice continued to have effect against the whole. But since the change of use is the same in each case – that is, from agriculture to a Travelling Showpeople's Site – it seems to me that in practical terms, the notice will only continue to apply in so far as it relates to operational development which is not included in the grant of planning permission (for example, the pole-mounted security lighting).

113. The planning permission granted by this Decision Letter is governed by a set of agreed conditions, which will effectively ensure the replacement of the unauthorised operational development with that which has been authorised, within the nine month compliance period specified by the notice. If for any reason any of the unauthorised operational development remains on site after nine months, the Council has the comfort that its removal can be required under the terms of the enforcement notice.

114. In these circumstances, I consider the nine month compliance period reasonable and appropriate. The appeal on ground (g) is dismissed.

Conclusion on the Enforcement Appeal

115. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the notice with corrections.

Formal Decisions

The Planning Appeal

116. The appeal is allowed and planning permission is granted for the change of use of land for a Showpeople's Family Quarters to form 7 permanent plots for Travelling Showpeople with associated equipment storage, equipment washing and testing area, access, amenity space, SUDs, engineering works and landscaping on land East of M25/South of Clement Street, Swanley, BR8 7PQ in accordance with the terms of the application Ref DA/23/01346/COU, and the plans submitted with it, subject to the conditions in the schedule attached to this Decision Letter.

The Enforcement Appeal

117. It is directed that the enforcement notice is corrected by:

- at paragraph 5(v), the deletion of the words “and reseed with grass seed”; and
- the substitution of the plan annexed to this decision for the plan attached to the enforcement notice.

Subject to these corrections, the appeal is dismissed and the enforcement notice is upheld.

Jessica Graham

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Paul Brown KC, who called:

Mr Joseph Smith	Member of the Appellant Group
Mr Nick Baseley MA(Hons)TP MRTPI	Director, IBA Planning Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Emma Dring, Counsel, who called:

Mr Neill Whittaker BSc(Hons) MA MRTPI
Senior Planning Associate at Ivy Legal Ltd, instructed by Dartford Council

INTERESTED PARTIES:

Mrs Whitehead	Local resident and Dartford Lion
Mr Shufflebottom	Representing the London Section of The Showmen's Guild of Great Britain
Mr Butler	Local resident

LIST OF DOCUMENTS SUBMITTED AT THE INQUIRY

1. Statement of Common Ground, signed and dated by both parties
2. Opening Statement made on behalf of the Appellants
3. Opening Statement made on behalf of the Council
4. Mrs Whitehead's Statement to the Inquiry
5. Proposed substitute plan for the enforcement notice, agreed by both parties
6. Plan showing suggested route and viewpoints for Inspector's site visit, agreed by both parties
7. Set of amended agreed conditions for a grant of permanent planning permission
8. Set of amended agreed conditions for a grant of temporary planning permission
9. Closing Submissions made on behalf of the Council (with copies of legal authorities referred to therein)
10. Closing Submissions made on behalf of the Appellants

SCHEDULE OF CONDITIONS

1. The site shall not be occupied by any persons other than Travelling Showpeople as defined within Annex 1(3) of *Planning Policy for Traveller Sites* (amended December 2023) or its subsequent replacement.
2. The development of the site hereby permitted shall be occupied only by the following and their dependants and descendants:

Plot 1:	Jordan Smith, Lauren Smith, Louise Bailey
Plot 2:	Joseph Smith, Sadie Smith, Caroline Wilkins
Plot 3:	Lawrence Lorenzo-Crick, Sadie Lorenzo-Crick, Cherie Lorenzo-Crick
Plot 4:	Joseph Smith Snr, Alison Smith, Alice Smith
Plot 5:	Michael Price, Danielle Price, Aaron Price
Plot 6:	Ryan Bond, Caroline Bond, John Bailey, June Bailey, Cain Bailey
Plot 7:	Swales Elliott, Lauren Elliott, David Drake, Jane Drake, Swales Forrist

Should the site cease to be occupied by those permitted in this condition, the use hereby permitted shall cease and all caravans, fairground rides, vehicles, materials and equipment brought on to or erected on the land, and works undertaken to it in connection with the use, shall be removed.

3. The development hereby permitted shall (subject to the provisions of condition no. 4 below) be carried out in accordance with the following approved plans:

• Location Plan	23.388.1000
• Layout Plan	22/388-1001D
• Weldmesh Fence	23.388.1003A
• Timber Fence	23.388.1004A
• G1 Gate	23.388.1005
• G2 Gate	23.388.1006
• G3 Gate	23.388.1007
• G4 Gate	23.388.1008
• G5 Gate	23.388.1021
• Proposed Topography	23.388.1011A
• Proposed Sections	23.388.1012A
• Acoustic Fence	23.388.1012A

- Horizontal Illuminance Plan 3186-DFL-ELG-XX-LD-EO-1300 RevP01
- Internal Swept Path - HGV ADC2823-DR-003-P1
- Internal Swept Path – Refuse ADC2823-DR-004-P1
- Swept Path Assessment – Fire Engine ADC2823-DR-005-P1
- Proposed Site Access Layout ADC2823-DR-001 P7

4. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought on to the site for the purposes of such use, and the hardstanding, shall be removed within 28 days of the failure to meet one of the requirements set out in (i) to (vii) below:

- (i) Within five months of the date of this decision a Site Development Scheme shall be submitted, and shall include the following details:
 - (a) A site layout plan showing the location of the residential caravans;
 - (b) A landscaping scheme for the site, clearly identifying details of the engineering works to lower the site land levels, all tree, hedge and shrub planting including details of species, plant sizes and proposed numbers as well as the material and height detail of any boundary treatment. Also a schedule of maintenance for a period of ten years, to include provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within ten 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;
 - (c) A scheme to demonstrate how the site will enhance biodiversity, including ecological enhancement features such as bird/bat boxes, and native species planting;
 - (d) A scheme for the protection of retained trees and hedgerows. The scheme shall provide that no excavation, storage of materials or machinery, parking of vehicles, deposit of soil or rubble, lighting of fires or disposal of liquids will take place within the protected areas; it shall also provide that if any retained tree or hedgerow is cut down, uprooted, destroyed or dies within a period of five years from completion of the development, it shall be replaced in the next planting season with another of a size and species to be first approved in writing by the local planning authority;
 - (e) A detailed sustainable surface water drainage scheme for the site. The detailed drainage scheme shall be based upon the Flood Risk and Drainage Strategy Report prepared by Neoflood Ltd (November 2023) and shall demonstrate that the surface water generated by the development (for rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood

risk on or off site. The drainage scheme shall also demonstrate, with reference to published guidance:

- The management of silt and pollutants resulting from the site, to ensure there is no pollution risk to receiving waters
- Appropriate operational, maintenance and access requirements for each drainage feature or SuDs component, including any proposed arrangements for future adoption by any public body or statutory undertaker.

- (f) A strategy to deal with foul water drainage;
- (g) A written scheme of investigation and timetable for archaeological field evaluation works with provision, following on from the evaluation, for any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a written scheme of investigation and timetable to be submitted to and approved in writing by the local planning authority;
- (h) A timetable for the implementation of each element of the scheme.

- (ii) If within 11 months of the date of this decision the local planning authority refuses to approve the Site Development Scheme or fails 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 details and timetable.

Upon implementation of the approved Site Development Scheme specified in this condition its provisions 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.

5. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought on to the site for the purposes of such use, and the hardstanding, shall be removed within 28 days of the failure to meet either of the following requirements:

Within 12 months of the date of this decision, the provision of the site access and vehicular visibility splays shown on the approved plans (ref

ADC2823-DR-001 P7) with no obstructions over 0.9 metres above the carriageway level within the splays.

The site access and vehicular visibility splays that are so provided shall thereafter be permanently retained.

6. Within one month of the completion of the Surface Water Drainage System a Verification Report, pertaining to the Surface Water Drainage System and prepared by a suitably competent person, shall be submitted to and approved by the local planning authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as-built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the drainage scheme as constructed.
7. No drainage systems or infiltration of surface water drainage into the ground, save for the drainage system permitted in accordance with condition no. 4 above, is permitted without the prior written consent of the local planning authority.
8. Within six months of the date of this decision, a secure electricity supply/connection to the site will be made. Following connection of the site to a secure electricity supply/connection, there shall be no use of generators on any part of the site.
9. No more than sixteen caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, shall be stationed and occupied as a dwelling on the site at any time.
10. There shall be no use of any part of the site as a fairground.
11. No external lighting shall be put in place or (subject to the provisions of condition no. 12 below) operated on the site at any time other than as shown on plan no. 3186-DFL-ELG-XX-LD-EO-1300 Rev P01 and the Technical Report by Designs for Lighting Ltd (fifth issue 15.11.23).
12. Testing of lights on and associated with fairground equipment and rides shall not take place outside the period of 1000 to 1500 hours on any day.
13. Maintenance and repair work on vehicles and equipment shall not take place outside the periods of 0800 to 1800 hours Monday to Friday and 0800 to 1300 hours on Saturday, nor at any time on Sundays and Public Holidays.
14. No fairground equipment or vehicles over 4.5m in height shall be stationed (except when being tested) or stored on the site.
15. No musical sound systems or public address systems shall be tested or used on the site.

16. No equipment, machinery or vehicles shall be stored at the site, or brought on to the site for maintenance and repair, other than equipment, machinery and vehicles used by those residing at the site in accordance with condition no. 2 above.
17. If, during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall then be implemented as approved.
18. Any work to vegetation that may provide suitable nesting habits shall be carried out outside of the bird breeding season (March to August) to avoid destroying or damaging bird nests. If vegetation needs to be removed during the breeding season then mitigation measures must be implemented in order to protect breeding birds. This includes examination by a suitable qualified and experienced ecologist immediately prior to the commencement of the necessary work and if any nesting birds are found during the work, development must cease until after the birds have fledged.

Plan

This is the plan referred to in my decision dated: 3 December 2024

by Jessica Graham BA (Hons) PgDipL

Land east of M25/south of Clement Street, Swanley, Kent BR8 7PQ

Reference: APP/T2215/C/23/3335107

Scale: Not to Scale

