Planning Inspectorate

Appeal Decision

Hearing held on 25 September 2024

Site visit made on 25 September 2024

by Chris Preston BA (Hons) Town and Country Planning, Bachelor of Planning (BPI), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2025

Appeal Ref: APP/K2230/C/23/3328720
White Post Farm White Post Lane, Sole Street, Cobham, GRAVESEND, DA13 9AX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr William Smith against an enforcement notice issued by Gravesham Borough Council.
- The notice was issued on 2 August 2023.
- The breach of planning control as alleged in the notice is The material change of use of the land from an equestrian use including the use of one caravan for security purposes and a stable building (in accordance with planning permission reference 20070228) to the unauthorised residential use of the land with the stationing of mobile homes for residential use and associated touring caravans, and the construction of an amenity day room, hardstanding and brick wall enclosures associated with the unauthorised change of use.
- The requirements of the notice are to:
  (i) Cease the use of the Land for residential purposes;
  (ii) Remove from the Land the unauthorised mobile homes and the touring caravans, including all associated hardstanding and hardcore that has been laid to facilitate the unauthorised use;
  (iii) Remove from the Land and vehicles and paraphernalia associated with the unauthorised use;
  (iv) Demolish and remove from the Land all buildings and structures associated with the unauthorised use, including the utility/ amenity room;
  (v) Remove from the Land all lighting, CCTV/security cameras associated with the unauthorised use;
  (vi) Remove in its entirety the brick built wall adjacent to the highway known as Whitepost Lane and reinstate the previous wooden fencing and gate, as illustrated on Appendix 1 attached to the notice; and
  (vii) Remove all resultant debris and waste in relation to the performance of the above steps and associated materials from the Land.
- The period for compliance with the requirements is within 12 calendar months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (f) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. It is directed that the enforcement notice is corrected and varied by:

   (i) The deletion of the words “the unauthorised residential use of the Land” within the description of the alleged breach at section 3 and the substitution with the words “to a mixed residential and equine use”;

   (ii) The deletion of the words “an amenity day room,” from the description of the breach at section 3;

(iii) The deletion of requirement 5(i) and its substitution with a new requirement 5(i) containing the words “Cease the use of the Land for a mixed use of residential and equine purposes”;

(iv) The deletion of the words “,including the utility/ amenity room” from the requirement 5(iv).

2. Subject to those corrections and variations, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. The plan attached to the enforcement notice encompasses a wide area, including the land on which the residential caravan has been sited and surrounding paddocks which were clearly still in equine related use at the time of my site visit. It is clear that the whole of the land identified has not been used solely for residential purposes but that the land is effectively in a mixed use for residential and equine use, with the keeping of horses closely associated with the residential element. I have corrected the description of the alleged breach accordingly, as discussed at the accompanied site visit.

4. I have also varied the requirements to identify that the mixed use shall cease, along with the removal of the residential caravans, structures and paraphernalia etc. I am satisfied that no injustice will arise as a result of me doing so because the changes do not have any bearing on the merits of the appeal and simply reflect the agreed factual position that there is an ongoing element of equine use, in addition to the residential element.

5. The notice also refers to the erection of a dayroom/ utility room. However, it was evident at the site visit that no such structure exists. There is no evidence that one ever has. The Council indicated that this was included because they had been unable to access the site and had proceeded on the assumption that such structures were commonly associated with residential use by Gypsies/ Travellers. It seems strange to refer to the erection of a building in an enforcement notice without firm evidence that such a structure existed. Therefore, I shall correct the enforcement notice, including the description of the breach and associated requirements, to remove reference to it.

6. Following the Hearing the Government published the revised National Planning Policy Framework (the Framework) in December 2024, as well as a revised Planning Policy for Traveller Sites (PPTS). Given the potential implications for the appeal on ground (a) I gave the parties the opportunity to comment on those revisions and have taken the submissions into account in reaching my decision.

The Appeal on Ground (c)

7. The appeal on ground (c) relates solely to the construction of the wall which is located at the end of the driveway leading to the site. The appellant contends that the construction of a mean of enclosure up to 2m in height amounts to permitted development.

8. Under Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) the

erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure is classed as permitted development, subject to the limitations set out in paragraph A.1.

9. Paragraph A.1(a)(ii) limits the height of any gate, fence, wall or enclosure adjacent to a highway used by vehicular traffic to 1m above ground level. In any other case, the height limitation is 2m above ground level, as specified by paragraph A.1(b). The Council maintains that the wall in this case is adjacent to the public highway at White Post Lane. Having viewed the structure on site I concur with that assessment. The highway is a metalled road with no pavement at either side, such that the carriageway runs directly into the verge.

10. The precise point at which the highway ends and the land owned by the appellant begins isn't entirely clear from the information provided but there appears to be a thin strip of tarmac between the road and the wall which may well be on the appellant's land. However, ownership is not decisive in the determination of whether something is adjacent to the highway. Even if that narrow strip is not technically part of the highway, the wall, which runs up to the edge of it remains in close proximity to the back edge of the road/ highway.

11. It may not directly abut the highway but remains adjacent to it in my view given its proximity, scale and the lack of intervening space or distinguishing features. The height of the enclosure is substantially over 1m and it therefore contravenes the limitation at paragraph A.1(a)(ii) of Class A, Part 2, Schedule 2 of the GPDO. As such, it does not benefit from planning permission granted by the GPDO. No other planning permission has been granted for the structure by the Council and it amounts to a breach of planning control. Therefore, the appeal on ground (c) fails.

The Appeal on Ground (a)

Background and Main Issues

12. The appeal before me follows the dismissal of a previous appeal against the refusal of the Council to grant planning permission for the change of use of land to form a Gypsy and Traveller caravan site for two pitches, with two static caravans, two associated touring units and a proposed amenity room. That appeal was determined under the written procedure. The Inspector concluded that he would have been minded to grant a temporary planning permission based on the personal and family circumstances of the occupants but for the issue of the potential impact on the Thames Estuary and Marshes Special Protection Area (the SPA). In the absence of any advice from Natural England he was unable to carry out the required Appropriate Assessment and no formal legal mechanism was before him to ensure a financial contribution to mitigate any likely effects.

13. The appeal statement from the appellant (submitted through his agent) for the current appeal was brief. The case put forward on ground (a) was that a financial contribution towards mitigating any impact on the SPA has now been made such that, all other things being equal, a temporary permission for 3 years should be granted, following the logic of the previous Inspector.

14. However, in response, the Council suggested that the circumstances had changed in that the appellant was no longer together with his wife and that there was doubt as to whether either of them were still living at the site. The Council thought that his daughter and her immediate family may be residing there but there was a lack

of evidence as to the precise circumstances. The appellant did not respond to those claims at the final comments stage.

15. That resulted in a difficult position because there was no clear written evidence prior to the Hearing in terms of who was occupying the site and their personal circumstances. The Council was concerned that it may be at a disadvantage because it would be hearing any evidence first hand at the Hearing and may not be in a position to respond. I was very mindful of that but also mindful of my obligations to understand the circumstances involved, given the clear interference with the home lives of those residing there resulting from the requirements of the notice. I therefore continued with the Hearing but gave the Council an opportunity to respond in writing after the event, once they had heard the evidence. The status of the occupants of the site and their circumstances remains an issue in dispute.

16. At the time of the Hearing it was common ground that the proposal would be inappropriate development within the Green Belt; that it would adversely effect the openness of the Green Belt; that the site was in an unsustainable location and that there has been harm to the character and appearance of the area[1]. Following the changes to the National Planning Policy Framework (the Framework) in December 2024 the appellant contends that the land constitutes "Grey Belt", with reference to the definition in Annex 2 and that the development is not "inappropriate", having regard to paragraphs 153 & 155. The Council responded to state that the changes to the Framework do not have any implications in terms of whether the development is inappropriate but didn't elaborate as to why.

17. In view of the above, the main issues in the determination of the appeal on ground (a) are:

    i) Whether the development amounts to inappropriate development in the Green Belt;

    ii) Whether the occupants of the site are of Gypsy or Traveller status;

    iii) If so, the extent of any unmet needs for Gypsy and Traveller sites in the area;

    iv) The weight that should be afforded to any personal circumstances, having particular regard to the best interests of the child;

    v) The effect on the Thames Estuary and Marshes SPA;

    vi) If the development does amount to inappropriate development in the Green Belt, if the harm by way of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances needed to justify a grant of permission.

Whether the Development Amounts to Inappropriate Development Within the Green Belt

18. Grey belt is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143, excluding land where the application

[1] The findings of the previous Inspector were not disputed on those points as set out to the parties in my pre-Hearing letter, dated 13 September 2024

of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.

19. There is no suggestion that the land strongly contributes to the setting of any historic town, with reference to paragraph 143(d). The purposes listed at paragraph 143(a) and (b) are to check the unrestricted sprawl of large built up areas and to prevent neighbouring towns from merging into one another.

20. On a wider level, the site lies to the south of the A2 and west of the M2. To the north and east of those highways are the large built up areas of Gravesend, Strood, Rochester and Chatham. I haven't been provided with any evidence relating to the rationale for the designation but judging by the settlement pattern and geography of the area it seems likely that one of the key purposes of the Green Belt in this location is to contain the expansion of those large urban areas. The land in question sits within a belt of land close to those large urban areas and plays an integral part in containing the expansion and sprawl, at a strategic level, making a strong contribution to that purpose.

21. The land in this case is also situated between Meopham/ Hook Green, which is a short distance to the south and west and Sole Street which is a similarly short distance to the east. The gap between those settlements is narrow – the width of a few fields – and the intervening land therefore plays a very important role in preventing the two from merging into one another. Purpose 143(b) refers to preventing neighbouring towns from merging into one another. It is not readily clear if that applies to settlements more generally or what the definition of a town, as opposed to a village may be.

22. Meopham in particular is quite a large settlement, strung out along the A427, with all the facilities of a small town including schools, shops, railway station and church. Sole Street has a more residential character but has its own railway station, public house and is sizeable in terms of the number of dwellings. Both settlements have a distinct character and the narrow gap between them is very important to avoid the two merging into one another. On balance I am of the view that the purpose at 143(b) is relevant and the land in question contributes strongly to that purpose given its location, equidistant between the two settlements.

23. For those reasons, the land does not constitute Grey Belt land and the exception listed at paragraph 155 of the Framework does not apply. As was common ground at the time of the Hearing, the development does not meet any other of the exceptions listed within the Framework and therefore amounts to inappropriate development within the Green Belt.

Gypsy and Traveller Status of Those Residing at the Site

24. The way in which oral evidence was presented by the appellant with regard to precisely who occupies the site and their circumstances was erratic. That made it very difficult to get a full picture of precisely who was residing at the site and their circumstances. He appeared reluctant to answer questions relating to the above, to a point where he left the Hearing midway through the morning having said that he had listened to enough. That led to an adjournment to allow his agent the time to find him and discuss matters, after which he returned and we resumed proceedings.

25. I am very mindful that presenting evidence regarding personal matters can be stressful for those involved. However, if an appellant wishes to put forward personal circumstances as part of the rationale for granting planning permission it is incumbent upon them to provide clear evidence regarding who is occupying a site and their circumstances. In this case the oral evidence was far from clear and was not supported by any notable written evidence. That makes it difficult to assess the status and needs of those who may reside there.

26. The appellant initially suggested that his sister would reside on one pitch with her three children, noting that she was separated from her husband and in need of accommodation. However, whether that separation was permanent seemed uncertain and the appellant noted that the couple had a habit of splitting up then reconciling. It appears that prior to living on the site the family resided in the West Country but precise details were not provided. The appellant thought that the children might be about to start attending school but suggested that they hadn't done so to date.

27. The appellant contends that a second pitch is required for his daughter and child who was said to be home schooled. She was also said to be separated from her partner, albeit that it was suggested that he comes and goes. At the time of the Hearing it appears that he was living elsewhere but the precise details were not provided. His parents were said to reside in bricks and mortar accommodation in Southampton.

28. Thus, the information provided in respect of both families was vague and it wasn't clear if any separations were temporary, such that any accommodation needs on the appeal site were only temporary in nature. The situation seemed fluid. Details about where the families previously lived is also limited and it is not readily apparent if the former partners lived on sites elsewhere.

29. It also appears that the appellant himself has been residing in the security "chalet" which was previously approved, with a specific condition preventing residential use. The extent of stays were said to range from a week to six weeks, although it was suggested that family tension has kept him away from the site more than would usually be the case and that he has therefore been away travelling with work more often.

30. Thus, despite the appellant's initial appeal statement suggesting that permission was sought for two pitches, the oral evidence appeared to describe three units of occupation. After some discussion, the appellant, through his agent conceded that there was some uncertainty regarding the appellant's sister's situation to an extent that he would struggle to justify a permission for a third pitch. It was therefore requested that I consider granting permission for two pitches, one for the appellant and one for his daughter and child. He did not wish to make a case for residential occupation of the security caravan.

31. It became apparent once I conducted an accompanied site visit after the Hearing that there was only one static unit on site, in addition to the static which has permission to be used as a security building. That adds further doubt to the appellant's sister's situation and whether they are, in fact, living on site or the extent to which they have been. Based on what I was told at the Hearing and what I witnessed at the site visit, I shall proceed on the basis that permission is being

sought for two pitches, one for the appellant and one for his daughter and her child.

32. The previous Inspector accepted that the appellant was of Gypsy heritage but found that insufficient evidence had been submitted with regard to his nomadic habit of life. Accordingly, he concluded that the appellant did not meet the definition of a Gypsy or Traveller, as it stood in the PPTS at that time. Since then, the definition has been amended to reflect the outcome of the *Lisa Smith* court judgment.

33. The current definition in Annex 1 of the PPTS includes persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan.

34. Somewhat surprisingly, given the findings of the previous Inspector, no further written information was submitted within the appellant's statement with regard to his pattern of travel. At the Hearing he suggested that he travels for work carrying out roofing jobs in winter with tarmacking and block paving in summer, also selling carpets. He also referred to selling horses, whips, sulkys and trolleys at horse fairs such as Stowe, Appleby, Yarm and Epsom.

35. The Council points to a lack of anything to corroborate that oral evidence, such as bills, invoices or flyers detailing services provided. The lack of such information doesn't help the appellant's case. Nonetheless, on the information presented I see no reason to disagree with the previous Inspector that he is of Gypsy/ Traveller heritage and the level of detail provided in relation to his work-related travel at the Hearing was just about enough to satisfy me that he is of nomadic lifestyle.

36. He would also appear to associated with the cultural tradition of nomadism and living in a caravan and expressed an aversion to bricks and mortar accommodation. On that basis I am satisfied that the appellant meets the definition within the PPTS. His adult daughter is clearly of the same heritage and even if she doesn't travel at the moment that is due to her parental responsibilities such that I am also satisfied that she meets the definition.

The Need for and Supply of Gypsy and Traveller Sites

37. The Council accepts that it can't demonstrate a five-year supply of sites, as required by paragraph 10 of the PPTS, referring to an under-supply of 13 pitches based on the need identified in the 2018 Gypsy and Traveller Accommodation Assessment (GTAA). That assessment is now a number of years old and was produced prior to the change in the definition of Gypsies and Travellers within the PPTS. The Council acknowledged that the Covid pandemic had made it difficult to update the needs assessment and that further work in that regard would be needed[2].

38. Thus, it is possible that the 2018 GTAA represents an under-estimate of the precise level of need, albeit that no alternative figures have been provided. The absence of a deliverable supply of sites is a matter that weighs in favour of a grant of permission.

[2] Gravesham Gypsy and Traveller Background Paper (October 2020), para. 3.1.7

39. There has also been significant delay to the Local Plan Core Strategy Partial Review. Within its statement the Council anticipated the Regulation 19 Consultation to commence in September/ October 2023 but I understand that is now not likely to happen until later in 2025, such that the earliest the plan and any site allocations could be adopted would be into 2026. That follows a pattern highlighted by the Inspector in the Heron Hill appeal[3] who noted a "persistent and grave failure to plan for the needs of Gypsies and Travellers in the borough". The failure of policy in that regard is also a matter that weighs strongly in favour of the development.

40. The Inspector in the Heron Hill appeal also noted a lack of alternative site provision within the Borough and there is nothing to indicate that situation has changed. Even if the Local Plan and site allocations document is adopted as early as 2026 it would take some time before sites could be purchased and developed. The appellant's agent noted similar issues in adjoining authorities, albeit that I have no written evidence to corroborate that statement. Nonetheless, the absence of any alternative sites is a material consideration that weighs in favour, especially given the consequences of the enforcement notice and the effect on the home lives of those residing at the site.

Personal Circumstances

41. The implications of the enforcement notice would have significant consequences for the home and family life of those residing at the site and it is clearly a circumstance where Article 8 Convention Rights are engaged[4]. Article 8 imposes a positive obligation to facilitate the Gypsy way of life and, as a minority group, special consideration should be given to their needs and lifestyle.

42. In addition, Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of children must be a primary consideration in all actions made by public authorities. I must consider the Article 8 rights of the child in that context. No other consideration can be treated as inherently more important than the best interests of the children. However, such matters are not necessarily determinative and may be outweighed by other considerations.

43. In other words, rights under Article 8(1) are qualified rights and, in appropriate circumstances, interference may be justified in the public interest. Regulation of land use through development control measures is recognised as an important function of Government and is necessary to ensure the economic well-being of the country. In that sense, the regulation of development for legitimate planning aims can be said to be in the public interest. The aim is to strike the right balance between the general interests and rights of the wider community and the requirement to protect an individual's private rights. Central to the principle of a fair balance is the doctrine of proportionality.

44. I must also have due regard to the protected characteristics of Gypsies in relation to the PSED when applying the duties of section 149 of the Equality Act 2010.

45. Given the absence of alternative sites in the area I cannot rule out the possibility that the occupants of the site would have to resort to roadside living if the appeal was dismissed and the enforcement notice upheld. However, whether that is likely

[3] APP/K2230/W/19/3223958
[4] Article 8 of the European Convention on Human Rights, enshrined into UK law by the Human Rights Act 1998

is far from certain given the lack of clarity provided regarding the circumstances of those residing at the site, as set out above. The appellant already appears to have been spending significant amounts of time away from the site to a point where he resides in the security building when he does return to the site as opposed to on one of the new pitches. Whilst he maintains that he still requires a permanent base at the site it is not clear where he resides when he is away from the site or whether he has access to alternative accommodation.

46. A doctor's letter was submitted in relation to the previous appeal outlining various medical conditions suffered by the appellant. A settled base providing access to health appointments would clearly be beneficial and I also recognise that the stress and uncertainty relating to the appeal site may add to those conditions. However, as noted, it appears that the appellant has already been staying away from the site more than was previously the case and whether he has access to any other accommodation is unclear. That doctor's letter dates from 2020 and was sent to a dwelling in Northfleet.

47. Similarly, there is uncertainty regarding his daughter and her relationship with her partner whose family were said to be from the Southampton area where the couple also resided at one time. Whilst they weren't together at the time of the Hearing the situation seemed to be in a state of flux from the information provided. Whether any alternative accommodation would be available for them, with or without her partner, is not clear. Clearly, a settled base would be in the best interests of the child to provide stability. However, it does not appear that the child is enrolled in school locally, nor if there are any plans to do so. It has not been demonstrated that the appeal site is essential to providing a settled base

48. The absence of clear information makes it very difficult to ascertain the degree of disruption that would be caused to the home lives of those involved. In a worst-case scenario of having to result to roadside living it would clearly be disruptive to all parties and against the best interests of the child. If alternative accommodation is available elsewhere the degree of disruption would be less and the weight I would afford to the harmful impact reduced. Whether any interference is proportionate in the circumstances is a matter to which I will return in the planning balance at the end of my decision on the ground (a) appeal.

Effect on the Thames Estuary and Marshes SPA

49. The Thames Estuary and Marshes SPA/ Ramsar Site comprises a complex of brackish, floodplain grazing marsh ditches, saline lagoons and intertidal saltmarsh and mudflat along the River Thames between Gravesend and Sheerness in Essex and Kent. The habitats support internationally important numbers of wintering waterfowl, and the saltmarsh and grazing marsh are of international importance for their diverse assemblages of wetland plants and invertebrates.

50. Without mitigation, increased visitor numbers associated with new residential development would be likely to have harmful effects on the integrity of the SPA as a result of increased disturbance of wildlife. The appeal site is within a zone of influence where such development would be likely to have negative impacts on account of proximity to the habitat in question. The development in question has resulted in the creation of new residential pitches and significant harmful effects are therefore likely, in combination with other planned residential development.

51. In such circumstances, I could not lawfully grant planning permission for the development without first having carried out an Appropriate Assessment under the Habitat Regulations.

52. In response to the impact of development on the SPA, the Council, along with neighbouring authorities and relevant statutory bodies, has developed the North Kent Strategic Access Management and Monitoring Strategy (2018) (SAMMS), which built on an earlier SAMMS strategy from 2014. The SAMMS identifies a series of measures to mitigate the disturbance to birds caused by an increase in visitor numbers and provides a mechanism to secure funding from new residential development to contribute towards that necessary mitigation. I have been provided with comments from Natural England which endorse that approach.

53. The appellant has made the necessary contribution, in line with the SAMMS, on the basis of new residential development for 2 pitches. Whilst no formal legal agreement has been submitted which commits the Council to spending the money on that specific purpose, sufficient certainty is built into the SAMMS strategy to be satisfied that the contributions would be utilised for the intended purpose. Subject to the SAMMS measures being implemented, the Council and Natural England are satisfied that the harmful effects on the SPA can be mitigated and I have no reason to doubt that position.

54. Accordingly, the impact upon the SPA would not be a reason to withhold permission, having undertaken the necessary Appropriate Assessment.

Other Matters

55. The previous Inspector concluded that the site was located in an unsustainable location due to its location away from the nearest settlements and services, even accounting for the fact that the Framework recognises that sustainable transport options will vary between rural and urban areas. He found it was contrary to policy CS19 of the Gravesham Local Plan Core Strategy (2014) (the CS) for the same reason. Although the Framework has since been updated, section 9 and paragraph 110 still require the planning system to actively manage patterns of growth and there is no substantive change in the policy position. Similarly, paragraph 26 of the PPTS requires that traveller sites in the countryside, away from existing settlements should be strictly limited. Whilst the site is part way between Sole Street and Meopham, as the crow flies, the road network of rural lanes is circuitous and the location of the site therefore weighs against the development in terms of accessibility to local services.

56. Similarly, the Inspector concluded that the development would have a moderate adverse impact on the openness of the Green Belt, in conflict with section 13 of the Framework and policy CS02 of the CS. Although the appeal before me differs slightly in that no dayroom is included, the broad impact is similar in terms of mobile home and touring units and associated paraphernalia. The wall and gates at the entrance to the site, which did not appear to form part of the previous scheme, add to the visual sense of enclosure, reducing the open feel. Accordingly, the degree of harm is broadly the same as found previously.

57. Likewise, the effect on the character and appearance of the area and the Meopham Downs Landscape Character Area was considered to be moderately harmful on account of the incursion of residential features, notwithstanding the

partial screening that exists. This was found to be contrary to policy CS12 of the CS and I find no reason to depart from that conclusion.

Whether Very Special Circumstances Exist

58. The breach of planning control amounts to inappropriate development within the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt by way of inappropriateness and any other harm is clearly outweighed by other material considerations. In addition to harm by way of inappropriateness, the development has also caused moderate harm to the openness of the Green Belt. As required by paragraph 153 of the Framework I must attach substantial weight to any harm to the Green Belt.

59. In addition, the proposal has caused harm to the character and appearance of the area and is poorly located in terms of the distance from shops and services with limited travel choices beyond the private car. Those matters attract moderate weight of themselves. Consequently, there are a range of factors weighing against the grant of permission and the combined weight is considerable.

60. On the opposite side, I am satisfied, albeit that evidence was limited, that the appellant and his daughter fall within the definition of Gypsies/ Travellers set out within the PPTS. There is a clear need for more traveller sites, the Council is unable to demonstrate a five year supply and there has been a persistent failure of policy to plan for the needs of Gypsies and travellers over a number of years. Those matters carry significant weight. It is also likely that sites will need to be found within the Green Belt given that a large part of the Council's administrative area is covered by the designation.

61. However, even if that is the case, the site is poorly located in transport terms and causes harm to the character and appearance of the area, such that it would not make a suitable traveller site when assessed against the policies of the PPTS. Nor am I satisfied that balance alters when one considers the personal circumstances advanced. The evidence presented was unconvincing in that respect and did not demonstrate a clear need for a site in this particular location.

62. The appellant himself appears to have been living away from the site for extended periods and it is unclear if alternative accommodation is available to him. I recognise his health-related conditions but the only evidence relating to that was a doctor's letter from 2020 which was addressed to a residential property in Northfleet which itself adds some uncertainty to his previous access to alternative accommodation. No written evidence was provided in relation to his daughter and her child and the oral evidence indicated an off/on relationship with her former partner. Whilst they may temporarily have broken up it seems that may be a temporary state of affairs and they have lived together elsewhere in the past. There was no obvious connection with the local area and the child was said to be home schooled.

63. Therefore, whilst the personal circumstances do carry weight, especially given the consequences of the enforcement notice, I find that the combined weight of those factors, when added to matters of need, supply and policy failure do not clearly outweigh the harm that I have identified in terms of the Green Belt, location and character and appearance of the area. It follows that the very special circumstances needed to justify a grant of permission on a permanent basis do not exist.

64. The appellant's case is largely centred around the fact that the previous Inspector indicated that he would have been minded to grant a temporary permission had the issue of the SPA been resolved. However, as set out, I am not satisfied that "all things are equal" on account of the significant uncertainty regarding the personal circumstances of those living at the site. Given that the Council raised this within its statement it was clearly a matter in contention but no written evidence was provided by the appellant. The oral evidence provided at the Hearing was unconvincing and nowhere near sufficient to present a demonstrable need for the occupants to live on this particular site. There is also uncertainty regarding alternative accommodation options that may be available.

65. The balance when considering a temporary permission is clearly different in that the harm would only endure for a temporary period. However, the Framework requires that I give substantial weight to any harm to the Green Belt, temporary or otherwise. The weight I attach to the other harm is slightly reduced on account of its temporary nature. The site would still remain unsuitable in locational terms, even for a temporary period.

66. A temporary permission would help to address the shortfall in site provision in respect of the need for local sites and policy failure and would lessen the impact on those residing at the site. However, the case presented in respect of personal circumstances was not sufficient to demonstrate that the weight of those matters clearly outweighs the harm, even on a temporary basis. Accordingly, the very special circumstances needed to justify a temporary grant of permission have not been demonstrated.

Overall Conclusion on Ground (a) and Proportionality Assessment

67. For the reasons given, the development is contrary to the policies of the development plan, taken as a whole and represents inappropriate development within the Green Belt. In the absence of very special circumstances there are no material considerations to indicate that a decision should be taken other than in accordance with the development plan and planning permission should be refused. No conditions can overcome the harm to an extent that would warrant a grant of permission on a permanent or temporary basis. In relation to paragraph 11 and footnote 7 of the Framework, the conflict with Green Belt policy provides a strong reason to refuse permission.

68. The proportionality assessment required by Article 8 necessitates a balancing exercise to ascertain whether the rights of the occupiers would be disproportionately interfered with should planning permission be refused. In making that assessment I have had regard to the personal circumstances described and the positive obligation to facilitate the gypsy way of life. Weighed against that is the public and community interest. Regulation of land through the planning system can be said to be in the public interest with the legitimate aims of protecting the economic well-being of the country and public safety.

69. Economic well-being would encompass protection of the environment through the avoidance development that would cause harm to the character and appearance of the countryside, the protection of the Green Belt and the need to regulate the use of land to ensure that development is located in suitable proximity of shops and services. For the reasons set out above, the harm arising from the

development in respect of those matters is significant and the legitimate aims of protecting the environment and public safety attract great weight.

70. Whilst I accord significant weight to the personal circumstances and other matters relating to the need and supply of sites there is ambiguity in relation to the circumstances of those residing at the site and whether the enforcement notice would result in them having to resort to roadside living. I can only determine the appeal on the basis of the evidence presented and that leads me to conclude that the interference in this case would be a proportionate response and is necessary having regard to legitimate land use planning objectives.

71. My conclusions in that regard would apply equally to a temporary planning permission. I recognise that the harm would be temporary but the development would remain contrary to the aims of the development plan and inappropriate within the Green Belt. Whilst the balance is slightly different, I remain of the view that the interference would be necessary and proportionate having regard to legitimate land use objectives. Even if my conclusion may be different to that of the previous Inspector, that is based on the information provided, including at the Hearing. Given the multiple factors weighing against the grant of permission for the site, even in a worst case scenario of roadside living would represent a proportionate response in my view.

72. Accordingly, to dismiss Appeal on ground (a) and uphold the enforcement notice would not result in a violation of their rights under Article 8.

The Appeal on Ground (f)

73. The ground (f) appeal relates only to the wall at the front of the site. The appellant maintains that a scheme of planting would be sufficient to soften the appearance of the wall. However, the purpose of the enforcement notice is clearly to remedy the breach of planning control and not merely to remedy the injury to amenity. In that respect, the requirements of the notice go no further than is necessary to remedy the breach.

74. In any event, given that I have decided to refuse to grant permission for the caravan site on ground (a) there would seem to be no justification for retaining the wall to the front of the site. It has a significantly urbanising impact, completely at odds with the rural character of the area and that could not easily be mitigated given the limited room for any planting between the wall and the highway. Accordingly, it would not be appropriate to grant permission for the wall under ground (a) and the requirements do not go beyond what is required to remedy the breach under ground (f). It follows that the appeal on ground (f) must fail.

Conclusion

75. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Chris Preston

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Phil Rowe	Agent, PROwe Planning Solutions.
Mr William Smith	Appellant.

FOR THE LOCAL PLANNING AUTHORITY:

Mr Shazad Ghani	Head of Planning
Mr Richard Hart	Team Leader, Development Management
Mrs Sikdeep Coyle	Enforcement Manager
Ms Alison Webster	Senior Planner