



Appeal Decision

Hearing held and site visit on 15 April 2025

by M Madge Dip TP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2025

Appeal Ref: APP/T3725/C/24/3357094

Land south-west of Back Lane, Rowington, Warwick, Warwickshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
- The appeal is made by Mr Thomas Doran against an enforcement notice issued by Warwick District Council.
- The notice was issued on 15 November 2024.
- The breach of planning control as alleged in the notice is "Without planning permission, the material change of use of the Land to a residential caravan site by the stationing of caravans and mobile homes on the Land along with associated operational development consisting of the laying of hardstanding, septic tanks, water and electric hook ups."
- The requirements of the notice are:
 - (i) Cease the use of the Land as a residential caravan site.
 - (ii) Remove from the Land all caravans and mobile homes that were integral to and facilitated the breach of planning control that has taken place.
 - (iii) Remove from the Land all of the tarmac and hardstanding.
 - (iv) Remove from the Land all sanitary, water and electric hook up apparatus
 - (v) Remove all resultant debris from the Land
 - (vi) Restore the Land to its condition prior to the breach of planning control taking place.
- The periods for compliance with the requirements are: Steps (i) to (v) 12 months from the date this notice takes effect and Step (vi) 14 months from the date this notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is dismissed, and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.

Matters Concerning the Enforcement Notice

1. There is no dispute that the matter alleged has occurred as a matter of fact. The enforcement notice ("notice") sets out the steps required to be taken to remedy the breach of planning control at section 5 (ii) requires *"Removal from the land all caravans and mobile homes that were integral to and facilitated the breach of planning control that has taken place."* The appellant claims all these words are necessary so as not to prevent the stationing of a caravan in connection with some lawful use of the land. However, I disagree, as the notice can only require the removal of caravans and mobile homes used in connection with the use of the land as a caravan site. I shall therefore delete all the superfluous words after *"mobile homes"* in section 5 (ii).

Preliminary Matters and Background

2. It is a matter of common ground that the occupiers of the caravans and mobile home stationed on the appeal site meet the definition of Travellers set out in Annex 1 of the Planning Policy for Travellers Sites 2024 ("the PPTS").

3. The appellant has previously been granted planning permission for a residential caravan site on appeal in a nearby local authority area. That caravan site was located adjacent to and accessed through another gypsy and traveller caravan site. The appellant and his family are Irish Travellers whereas the caravan site adjacent to theirs was occupied by non-Irish Travellers. The Hearing was told the appellant sold their caravan site due to cultural differences. It is therefore no longer available to them.
4. Where a material change of use is alleged it is helpful to identify the extent of the planning unit and the last lawful use to which it was put. In this case, prior to the development taking place, the land edged red on the plan attached to the notice ("the EN plan") accommodated an 'L' shaped stable building and an area of hard standing, with the remaining land used for horse grazing. The land was in a single ownership and put to a single purpose. I therefore find the land edged red in the EN plan to be a single planning unit put to a single primary purpose.
5. A planning application for the use of part of the appeal site as a caravan site for 5 gypsy/traveller families with a total of 8 caravans including no more than 5 static caravans/mobile homes, together with laying of hard standing was submitted in September 2024¹. The application was accompanied by a Preliminary Ecological Assessment and Biodiversity Net Gain Small Sites Matrix. This application was withdrawn on 7 November 2024 as a requested Site-specific Flood Risk Assessment was not provided.

Ground (a) Appeal and the Deemed Planning Application

6. An appeal on this ground is that planning permission should be granted for the matter alleged. The appellant confirmed at the Hearing that they are seeking planning permission for a residential caravan site to accommodate 5 Gypsy and Traveller pitches. I am satisfied that what the appellant is seeking falls within the terms of the allegation.
7. The **main issues** are:
 - Whether the appeal site comprises grey belt land and whether the development is inappropriate in the Green Belt having regard to the National Planning Policy Framework ("the Framework") and relevant development plan policies;
 - The effect of the development on the openness and purposes of the Green Belt;
 - The effect of the development on character and appearance, residents living conditions, highway safety, flooding and drainage, and biodiversity; and
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify inappropriate development in the Green Belt.

¹ Appellation reference number W/24/1282

Reasons

8. The appeal site is in the countryside, outside any recognised settlement boundary. Policy DS18 of the Warwick District Local Plan (September 2017) (“the LP”) confirms the extent of the designated Green Belt is shown on its Policies Map, and that national planning policy will be applied to proposals within the Green Belt. There is no dispute that the appeal site is in the Green Belt.

Grey Belt Land

9. As established above the appeal site was formerly used for equestrian purposes. The stable building is a lawfully erected permanent building with associated fixed infrastructure. It is therefore previously developed land (“PDL”), although this does not mean that the entire planning unit should be developed.
10. Even if I had not found the site to be PDL, the main appeal parties agree that the appeal site does not strongly contribute to any of the purposes (a), (b) or (d) in paragraph 143 of the Framework. Given the land’s location, I agree that it would not contribute to checking the unrestricted sprawl of large built-up areas; preventing neighbouring towns merging into one another; or preserving the setting of a historic town.
11. While concern relating to risk from flooding has been raised, this relates to the lack of a detailed drainage strategy for the site as opposed to its location within a flood zone at risk from flooding. I therefore find there are no footnote 7 areas or assets that would provide a strong reason for refusing or restricting the development.
12. For these reasons I find the appeal site to be grey belt land.

Need for Gypsy and Traveller Sites

13. While the latest Gypsy and Traveller Accommodation Assessment (2024) may show that the need for pitches has fallen since the adoption of the LP, it does not show there is no need for pitches. The Council accepts it does not have a 5-year supply of specific deliverable traveller sites. There is also no dispute that there are no alternative sites that are reasonably available to the occupiers of the appeal site. There is therefore a demonstrable need for the development.

Access to Services and Facilities

14. Policy H8 of the LPA requires new gypsy and traveller sites to be within a reasonable distance of schools, GP surgeries, dentists, hospitals, emergency services, shops and community facilities. The Council does not have any adopted travel distances to services for new housing developments. The Hearing was told they would normally apply the recommended walking distances set out in the ‘Guidelines for Providing for Journeys on Foot’². While these standards apply to new built development, the Council argues the development should meet the same standards.
15. The nearest post office and convenience store is 1.2 km from the site in Shrewley; the nearest primary school is 3.3 km away from the site in Claverdon; the nearest supermarket and secondary school are approximately 8.5 km away from the site in Henley-In-Arden; and the nearest hospital is 10 km away from the site in Warwick.

² Chartered Institution of Highways and Transportation (2000)

While a bus service is available in Pinley Green, the service provided is limited, operating only 2 days per week. These distances may not be accessible walking distances, but they are established distances applicable to all residents in this locality, not just the occupiers of the appeal site. I do not therefore consider these distances to be excessive for development in a rural area.

16. The Council's main objection on this ground is that services are scattered and can only be accessed by private motor vehicle. The Framework is clear that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Moreover, the traveller way of life means that they travel for economic and other purposes. This unavoidably involves the use of a private vehicle irrespective of location.
17. The PPTS recognises that a settled base can reflect the extent to which traditional lifestyles, whereby travellers may live and work from the same location thereby omitting some travel to work journeys, can contribute to sustainability. Other family members, who have ceased to travel, either permanently or temporarily, would need to access services within a reasonable travelling distance. As identified above, many essential services are within a reasonable distance of the site, considering the traveller way of life.
18. Furthermore, a settled base can also reduce unauthorised encampments, reduce the need for continuous travel and facilitate consistent access to schools and medical services. Having a settled base therefore has wider sustainability benefits than just being accessible to a range of transport modes.
19. Taking these factors together, I find the development to have adequate access to services and facilities. The development therefore complies with relevant criteria found in policy H8 of the LP.

Whether the Development is Inappropriate in the Green Belt

20. The fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open. The essential characteristic of Green Belts are their openness and their permanence. The five purposes of Green Belt include safeguarding the countryside from encroachment.
21. Paragraph 155 of the Framework confirms that *"the development of homes, commercial and other forms of development in the Green Belt should also not be regarded as inappropriate where:*
 - a. *The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;*
 - b. *There is a demonstrable unmet need for the type of development proposed;*
 - c. *The development would be in a sustainable location, with particular regard to paragraphs 110 and 115 of [the] Framework; and*
 - d. *Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157."*
22. The development constitutes "other development" in the Green Belt. Paragraph 18 of the PPTS confirms that the Golden Rules do not apply to traveller sites. I have

already found the development to be sustainably located, and to be grey belt land. Furthermore, there is a demonstrable need for this type of development that accords with footnote 56 of the Framework. The scale of the development is such that it would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan.

23. For these reasons, the development is not inappropriate development in the Green Belt. As such, there is no need to assess the development's effect on openness. Nor is there any requirement for very special circumstances to be demonstrated.

Character and appearance of the locality

24. PPTS paragraphs 14 and 26 implicitly accept that Traveller sites, with all they include, may be located in rural areas. Where the use is acceptable in principle, that must encompass the stationing of caravans which are not uncommonly found across the countryside on farms and holiday caravan sites as well as established Traveller sites.
25. The appeal site is in a gently rolling landscape of fields defined by native species hedgerows incorporating trees and country lanes. The surrounding field network is interspersed with pockets of built development and woodlands. The M40 motorway is located to the east and runs in a roughly north/south direction. The appeal site is part of a rural agricultural landscape. However, it is not a remote location, given the presence of nearby buildings and other man-made features, including the M40 motorway.
26. The caravans, hard standing, close boarded fencing and other domestic paraphernalia associated with the caravan site is located predominantly to the southeastern end of the appeal site, adjacent to the pre-existing stable building. The land to the northwestern end of the appeal site remains in use as grassed paddock. I saw the two areas are separated from one another by post and rail fencing.
27. The area occupied by the development has a similar scale to other pockets of built development within the surrounding field network. Those pockets of development incorporate domestic characteristics, primarily being dwellinghouses and farmsteads. Mature hedgerows to the Back Lane frontage screen the site from passing traffic. Hedgerows in the wider locality restrict the availability of longer distance views of the appeal site. The development's visual impact is therefore very limited beyond the boundaries of the site.
28. For these reasons, the development does not cause harm to the character and appearance of the locality. Accordingly, there is no conflict with policy NE4, which seeks amongst other things for development to reduce its visual impact and to relate well with local topography.

Residents Living Conditions

29. The development is served by a mains water supply. The appellant confirmed that enquiries have been made in respect of having a mains electricity connection, and that the cost of installation is not prohibitive. Furthermore, the Hearing was told that other properties in the area are reliant on non-mains drainage.
30. It was agreed that the provision of appropriate foul and surface water disposal schemes, which meet the criteria in policies FW1 and FW2 of the LP, for the appeal

site could be developed. I see no reason to disagree, and these matters could all be adequately controlled by condition, if I find the appeal should be successful.

31. Of more concern to the Council was the impact of traffic noise arising from the proximity of the M40 motorway on the internal living conditions of the site occupiers. I heard traffic noise arising from the M40 motorway during my site visit as a low drone. Within the mobile home, with its windows closed, I could no longer hear the low drone of traffic noise. In my judgement the traffic noise arising from the proximity of the M40 motorway does not have a significantly detrimental effect on residents living conditions.
32. The alternative to living on the appeal site would, more likely than not, be a roadside existence. This would result in occupied caravans being in much closer proximity to road traffic noise than exists on the appeal site. This would cause a higher degree of detriment to the occupiers living conditions than what is experienced on the appeal site.
33. For the reasons given above, the development does not conflict with policy BE3 of the LP, which seeks to provide residents with adequate standards of amenity.

Highway Safety

34. There is no substantive evidence before me to support claims that there have been several road accidents in the area surrounding the site. I saw Back Lane to be a country lane of limited width. While it does accommodate two-way traffic, its winding nature and proximity of high hedgerows to the carriageway edge limits visibility. In my judgement, these factors contribute to vehicle speeds in the surrounding area being lower than the imposed speed limit.
35. Vegetation adjacent to the site entrance is unkempt and contributes to a reduction in visibility for vehicles leaving the site. Discussion at the Hearing established that any visibility issue at the site entrance can be addressed by condition, ensuring there is no conflict with policy TR1(a), which requires that development is not detrimental to highway safety.
36. Policy TR1 of the LP goes on to require developments to be accessible by a range of different modes of transport. I have already addressed this matter above in relation to access to services and facilities. The road network in the immediate vicinity of the site has no footways or street lighting and is of a configuration that does not readily lend itself to providing an encouraging environment for walkers and cyclists from a highway safety point of view. Given the rural nature and location of the development, I find there is no conflict with national planning policy in this regard.

Flooding and Drainage

37. The area edged red on the plan attached to the notice exceeds 1 hectare in size. As such, a Site-specific Flood Risk Assessment would normally be required to determine the effects of flooding on the development and whether it would cause flooding elsewhere. In this case however, the development is restricted to the southeastern end of the appeal site, which covers an area of less than 1 hectare. The appellant confirmed at the Hearing that there is no intention to expand the development beyond the area currently occupied. The Hearing heard how this could be controlled by condition, if the appeal is successful.

38. There is no dispute that the appeal site lies within Flood Zone 1 and is not therefore at risk from flooding. While a detailed drainage scheme for the development has not been provided, I have already established that a suitable scheme could be designed and secured by condition, if the appeal is successful.
39. For these reasons, the development does not conflict with policies FW1 and FW2 of the LP which seek to direct development to the areas with the lowest risk of flooding, restricting the rate of surface water run-off, promote the use of sustainable urban drainage schemes, and protect the surrounding water environment from pollutants.

Biodiversity

40. A Preliminary Ecological Appraisal was prepared in July 2024 (“the PEA”). The PEA records the site as being predominantly intensively semi-improved grassland, having close boarded fencing to the NW, SW and SE boundaries and recently planted Portuguese laurel hedging. It also identifies the Back Lane frontage hedgerow to be species poor native hedging.
41. The PEA is informed by a desk top study and site survey conducted by an ecologist on 15 July 2024. This single summer survey prevented the recording of winter visitor and spring herbaceous species. Desk top data was used to mitigate the data gaps. Furthermore, it confirms neighbouring properties were not accessible, so were not fully surveyed.
42. The PEA confirms the site, and surrounding areas, were assessed and found to contain suitable habitats for tree and shrub nesting birds, foraging and commuting bats, common amphibians, pollinators, badger and west European hedgehog. No protected species were recorded during the survey. However, I have been provided with independent evidence showing a badger sett near the appeal site. The desk top survey also shows the presence of several Great Crested Newt (GCN) populations within the surrounding area, and one pond adjoining the western site boundary with a recorded population of GCN³. It also confirms that other protected and priority species have been recorded within 1km of the site and 2 km for bats⁴.
43. The PEA recognises that the development, including the close boarded fencing, has the potential to cause a loss of habitat and to effect protected and priority species. However, the extent of the potential effects is not identified and, therefore, the need for mitigation or a licence from Natural England has not been established.
44. The development may provide opportunities to improve the quality of retained areas of grassland, increase the diversity of hedgerows, plant native trees, provide roost/nesting opportunities for birds and bats, and create buffer zones for small mammals. However, no scheme to show how this could be achieved has been provided.
45. Circular 06/2025 (“the circular”) states *“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the development, is established before planning permission can be granted, otherwise all relevant material considerations may not have been addressed in making the decision.”* In this case, the presence of badgers and GCN are known to be present in the immediate vicinity of the site. The PEA recognises that the development may affect

³ Paragraph 3.3 of the Preliminary Ecological Assessment

⁴ Paragraph 3.4 of the Preliminary Ecological Assessment

protected or priority species but does not quantify to what extent. Applying the precautionary principle, there is insufficient information before me to conclude with any certainty that protected, and priority species and their habitat will not be detrimentally affected by the development. Planning permission should not therefore be granted.

46. It was suggested that additional ecological survey work and/or mitigation can be secured by planning conditions. However, the circular confirms this should only occur in exceptional circumstances. Given the presence of badger and GCN near the site, and the other findings set out in the PEA, the need for additional survey work to be undertaken was reasonably apparent. However, no additional survey work was undertaken in advance of the notice being issued or before the Hearing took place. I am not therefore satisfied that exceptional circumstances exist to justify securing the additional survey work by planning condition.
47. For these reasons the development conflicts with policy NE3 of the LP, which seeks amongst other things to protect or enhance biodiversity assets and avoid negative impacts on existing biodiversity.

Intentional Unauthorised Development (IUD)

48. Given the context of the significant and immediate need for sites within the District and that the family were facing a roadside existence, the unauthorised development of the appeal site was an inevitable outcome. A ground (a) appeal was made and the 1990 Act makes provision for a grant of retrospective planning permission, including the imposition of conditions. Furthermore, planning enforcement is remedial rather than punitive. I therefore attach only very limited weight to the intentional unauthorised nature of the development.

Personal Circumstances

49. Article 8 of the Human Rights Act 1998 states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. Article 8(2) provides that interference may be justified where it is in the interests of, amongst other things, the economic well-being of the country, which has been held to include the protection of the environment and upholding planning policies. I am also mindful that Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children.
50. Furthermore, in exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity. The Act recognises that race constitutes a relevant protected characteristic for the purposes of PSED. Romany Gypsies and Irish Travellers are ethnic minorities and thus have the protected characteristic of race.
51. It is undisputed by the Council that two of the households present on the site include three young children aged five years, four years and three years. Reference was made at the Hearing to the eldest child attending primary school in Alcester,

approximately 10 miles from the site. The two younger children are of an age to be enrolled in nursery school but no evidence of this being the case was provided.

52. There can be no doubt that if the appeal is unsuccessful, it would take away a settled base for these households, who may potentially need to resort to living on the roadside and face the disruption to the children's educational provision as a result. I am mindful that it may be difficult to enrol children in school and/or maintain the children's attendance in school if they have no fixed address. I consider that because there is a clear benefit to the children of remaining on site, as part of a settled base, that this should attract significant weight in the planning balance. Furthermore, no other issue is intrinsically more important than this primary consideration.

Other Matters

53. The supporting text for policy BE1 of the LP identifies its purpose as being to promote and deliver high-quality built development and attractive environments. For the reasons given already, I find the development accords with this policy's relevant criteria.
54. There have been several representations received from neighbouring residents that raise concern that they are disturbed by the noise of a power generator operating on the site. This impact has been acknowledged and it is the appellant's intention to connect to mains electricity. I am satisfied that, in the event the appeal is successful, a condition could be imposed to secure adequate noise attenuation measures in the interests of protecting neighbouring occupier's living conditions.
55. Representations also raised concern relating to disturbance being caused by lorries delivering surfacing materials and mobile homes. These disturbances are integral to the carrying out of the development. They are temporary in nature and would only occur in the short term. Such disturbance would not therefore cause any significant harm to neighbouring occupier's living conditions or other road users. The development therefore accords with policy TR2 of the LP.
56. Several instances of anti-social behaviour and lack of control over domestic animals has caused distress to neighbouring residents and damage to property. The appellant acknowledged that such occurrences were unacceptable and confirmed that action had been taken to ensure they would not happen again. I am satisfied that appropriate action has been taken to address these matters. However, should they occur again, there are means of redress available to injured parties.

Planning Balance

57. The appellant has failed to demonstrate that the development would not have an adverse effect on protected species and their habitat. Planning permission should not therefore be granted, except in exceptional circumstances. I give very significant weight to this consideration.
58. Matters of highway safety and drainage can be addressed by condition. Therefore, they have neutral weight in the planning balance.
59. I attach significant weight to the need for and the under-supply of travellers' sites in the District, including the lack of any available, suitable alternative sites. I also attach significant weight to the personal circumstances.

60. However, for the reasons given, having regard to the PPTS and having the best interests of the children at the forefront of my mind, I find that the circumstances of this case are not exceptional, and these considerations do not therefore outweigh the need to apply a precautionary approach in respect of protected species. The grant of planning permission, whether permanent, temporary or personal, would not therefore be appropriate.

Conclusion on ground (a)

61. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a 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).

Ground (g) Appeal

62. For an appeal to succeed on this ground, the appellant should show that the compliance period specified in the notice falls short of what should reasonably be allowed. A period of 12 months is specified to cease the use and remove the caravans, hard standing and other paraphernalia, while a period of 14 months is specified to return the land to its former condition. The appellant seeks 18 months to comply with all the requirements, due to their previous difficulty in finding a site.
63. I do not doubt that finding a suitable alternative site may prove difficult. However, increasing the compliance period to 18 months is tantamount to a grant of temporary planning permission, which I have already established would be inappropriate for the reasons given above.
64. Furthermore, I find the compliance period specified in the notice to be sufficient to allow additional ecological survey work to be carried out or, at the very least, commenced. Such survey work could address the reason the ground (a) appeal should not succeed.

Overall Conclusion

65. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a 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).

Formal Decision

66. It is directed that the enforcement notice is varied by:

In section 5. WHAT YOU ARE REQUIRED TO DO step (ii), the deletion of the words “that were integral to and facilitated the breach of planning control that has taken place”.

Subject to the variation, the appeal is dismissed.

M Madge

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Philip Brown	Philip Brown Associates
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FOR THE LOCAL PLANNING AUTHORITY:

Dr Alex Williams	Cornerstone Barristers, Counsel for the Council
Mr Neill Whitaker	Ivy Legal
Mr Will Holloway	Planning Enforcement Manager, Warwick District Council

INTERESTED PARTIES:

Cllr Richard Hales

Mr Ian Henderson

Mrs B Saunders

Mr Jonathan Croxford

DOCUMENTS

HD1 Written copy of Mr Henderson's Statement to the Hearing