
Appeal Decision

Site visit made on 29 May 2025

by **David Murray** BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2025

Appeal Ref: APP/M2270/W/25/3361716

The Meadows, Pastheap Farm, Hastings Road, Pembury, TUNBRIDGE WELLS, TN2 4BL

- 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 Ms Teresa Cash against the decision of Tunbridge Wells Borough Council.
 - The application Ref is 24/02697/FULL.
 - The development proposed is the change of use and the stationing of 12 mobile homes, 5 touring caravans, 1 portacabin for residential use, 3 containers, 1 static caravan for storage, and septic tank.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although the application forms refer to a retrospective change of use to residential for the stationing of 12 mobile homes, 3 touring caravans, 1 portacabin and 3 containers, I note that an alternative description was agreed with the Council which was based on the actual use taking place at that time. I have therefore used the updated and agreed description as set out in the first bullet point above and considered the appeal on this basis.
3. The proposal is put forward as a Gypsy and/or Traveller site.

Main issues

4. The main issues are (in no order of importance):
 - Whether the proposal constitutes ‘inappropriate development’ in the Green Belt and the effect on its openness or falls within the scope of ‘grey belt’ as defined in the National Planning Policy Framework (the Framework);
 - The effect on the character and appearance of the area and whether the proposal would conserve and enhance the landscape and scenic beauty of the High Weald National Landscape (HWNL);
 - Whether the scale of the development proposed would dominate the nearest settled community;
 - The effect on biodiversity including protected species;
 - Whether the living conditions of the occupiers of the residential mobile homes/caravans would be subject to excessive noise and poor air quality from traffic on the A21;

- Whether the development would make proper arrangements for the disposal of surface water run-off or increase the risk of flooding elsewhere;
- The effect on the setting and significance of the non-designated heritage assets of Pastheap Farm and Pastheap Oast;
- Whether the Council can demonstrate a five-year supply of Gypsy and Traveller pitches;
- The appellant's and other families' personal circumstances; and
- Whether other considerations clearly outweigh the harm to the Green Belt and any other harm so as to amount to very special circumstances.

Reasons

Background

5. The appeal site comprises a large area of land about 2 hectares in extent which lies immediately to the south of the A21 on the edge of the village of Pembury. Access to the site is off a minor lane (Hastings Road) which joins the main road and there are a few residential properties and a farmstead along this lane. The appeal site forms part of the High Weald National Landscape and the Green Belt.
6. Access to the appeal site is limited by a large, solid, electric gate and the various mobile homes, caravans and containers are located in two main areas generally as shown on the submitted site plan. At the time of my visit there was also a double decker bus. There are a few permanent buildings on the land including a large utilitarian shed and lean-to extension and the hard standings around the caravans and manoeuvring space was surfaced with loose material/chippings.

Policy context

7. The development plan comprises the Tunbridge Wells Borough Local Plan 2006 (TWBLP); the Core Strategy DPD 2010 (CS); the site Allocations Local Plan 2016 (SALP) and the Pembury Neighbourhood Development Plan (PNDP). The Council also advises that a new local plan is being prepared. It has reached an advanced stage involving consultation on Modifications post Examination and therefore carries some weight as a material consideration.
8. I also note that the Council agrees that at the moment it cannot demonstrate an adequate 5 year supply of Gypsy and Traveller sites with only a 3.24 year supply of new pitches. Accordingly, the provisions of paragraph 28 of the Planning Policy for Traveller Sites (PPTS) applies together with paragraph 11(d) of the Framework. This indicates that policies that are the most important for determining the application are out of date, and planning permission should be granted unless parts 11(d) (i) or (ii) of the Framework apply.
9. The development plan policies that are the most important for the determination of the application relate to the consideration of Gypsy and Traveller sites, and development in the Green Belt and HWNL. However, only limited weight can be given to TWBLP Policy H4 as it relates to an assessment of Gypsy and Traveller needs which is now outdated and different tests apply to development in the HWNL. Likewise, Policy MGB1 is now inconsistent with the Framework. I have

therefore used national policy as the starting point for the consideration of each main issue.

Whether inappropriate development and effect on its openness or within scope of 'grey belt'

10. The site lies in the Metropolitan Green Belt. Paragraph 153 of the Framework indicates that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Various forms of development which are not inappropriate are set out in paragraphs 54 but the proposed use does not fall within any of the exceptions. Paragraph 155 sets out other exceptions subject to three criteria all being met where (a) refers to utilising 'grey belt' land provided that this would not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan.
11. The term 'grey belt' is defined in the Glossary to the Framework and while this refers to previously developed land, the definition makes clear that the term excludes land where the application of the policies related to areas or assets in Footnote 7 would provide a strong reason for refusing or restricting development. Footnote 7 relates to land with a special national designation including National Landscapes.
12. Given the guidance applying in section 15 of the Framework about the high level of protection applying in the national landscape and my conclusions in the second issue, about the harm that the proposal would cause to the landscape character and appearance of the HWNL, I find that the appeal site should not be regarded as grey belt land.
13. In relation to the other criteria set out in paragraph 155, while it has been demonstrated that there is an unmet need for this type of development under (b) (see paragraphs 39 & 40 below) the appeal site should not be regarded as being a sustainable location as required by criterion (c). Although the site lies quite close to the village of Pembury, in practical terms it is isolated by the A21. At the visit I attempted to cross this road from the footway adjacent to the appeal site but found that the speed and short visibility of approaching traffic rendered it unsafe to do so. Such crossing to services and facilities in Pembury on foot or by cycle would therefore not be appropriate for the young, elderly or infirm. The location of the appeal site for residential purposes would therefore not help secure a sustainable pattern of growth or safe access for all users, as mentioned in paragraphs 110 and 115 of the Framework.
14. On this basis I find that the proposal does not accord with paragraph 155 of the Framework and constitutes 'inappropriate development' as set out in paragraph 153.
15. In terms of the effect on the openness of the Green Belt, I have taken account of the existing buildings and structures which appear to have related to the previous use for agriculture and livery purposes. The proposed mobile homes, caravans, portacabin and containers would be the equivalent of single storey structures. Visually these would not be very prominent from outside the site because of the screening effect of the boundary trees and hedges along the lane and also the screen acoustic fence along the A21 frontage. However there is also a spatial dimension to openness and the scale and extent of mobile homes, caravans, portacabin and containers, as well as the associated vehicles and domestic

paraphernalia, spread across this large site would have a moderate to high harmful effect on the openness of the Green Belt. Such harm would conflict with the purpose of designation.

The effect on character and appearance and the HWNL

16. The Landscape Character Assessment (LCA) identifies the local area as Bayhill Open Farmland landscape characterised as an open arable landscape along a high broad ridge. The High Weald Management Plan also describes the particular characteristics of the local landscape which the area around the appeal site is consistent with apart from the main route of the A21.
17. As the application is retrospective it is not clear what the lawful use of the land involved on the ground. The submitted site plan refers to 'The Meadows' site as being for 'livery' which is likely to have involved structures and paraphernalia used in the keeping and exercise of horses. Equestrian is also in evidence in the planning history of the site and the Council also refers to agricultural use. The extent of the fields within and around the site as at 2018 is shown in the aerial photograph submitted with the Council's Final Comments. Taking account of the lawful use, the proposed use based on residential caravans, when viewed within the site itself, gives rise to a sprawling array of caravans and related structures. These together with the large extent of hard surfacing with chippings, produces a stark and visually imposing form which does not contribute positively to the landscape character of the HWNL. Some of this visual impact within the site could be reduced by the introduction of trees and landscaping but this would take some time to become established.
18. Viewed from outside of the site along the lane, there is a strong belt of landscaping and mature trees along the southern edge of the site and the proposed mobile homes and other structures were well screened from the lane at the time of the visit when the vegetation was in full leaf. It is likely that a few caravans and other structures would be seen on a partial basis in the winter months when the deciduous trees are bare of leaves.
19. I also considered the visual impact of the proposed use from the footway which runs on the grass verge alongside the west bound carriageway and from the north side of the A21 at the junction leading into Pembury. Locally the presence of the mobile homes/caravans and other structures is reduced by the difference in the height of the land and by the 1.8m high close boarded acoustic fence along the road frontage. From these public viewpoints only the tips of some of the roofs of the mobile homes, chimneys and aerials are visible above the fence which nevertheless suggests the presence of residential habitation. Moreover, the length and height of the acoustic fence itself is also a stark and intrusive feature in the landscape which is not ameliorated by the natural vegetation on the verge.
20. Overall, while some of the views of the mobile homes and caravans proposed in the use would be screened by the trees and vegetation around the southern edge of the site, the presence of the residential units and extent of the screen fence along the A21 have a moderate to high visually harmful effect on the local landscape. Further the extent of hard surfaced area within the site and the spread of the units over a large area creates a space of poor visual quality which does not contribute positively to the character of the area.

21. I find that the proposal would not conserve and enhance the landscape and scenic beauty of the HWNL but would materially harm it. The proposal would conflict with the guidance in paragraph 189 of the Framework which indicates that the scale and extent of development in such a designated area should be limited.
22. For a similar reason, I find that the proposal would conflict with Core Policy 4 of the CS and Policy C3 of the PNDP.

Whether the scale of development would dominate the settled community

23. Guidance in paragraph 26 of the PPTS says that Gypsy and Traveller sites in rural areas should respect the scale of and not dominate the nearest settled community. The guidance does not indicate how such an issue should be assessed and I have considered it on its individual merits.
24. In terms of the nearest community, I disagree with the conclusions of the main parties that it is Pembury because of the position of the appeal site to the south of the A21 and this separates it from the community in Pembury in practical terms. The assessment is therefore with the few dwellings along the lane around Pastheap Farm. The Council says that there are four dwellings in this hamlet and the 12 residential mobile homes proposed would greatly exceed that number in simple relative scales of development.
25. However, the actual effect of the use is not likely to be that imposing. The access into the site from the A21 goes past two of the properties but otherwise the appeal site is relatively isolated from its neighbours. At the time of my visit the boundary trees and shrubs along the southern edge of the site provide reasonable screening of the appeal site from the lane and the neighbouring houses are also generally set in well landscaped grounds. This minimises any visual appreciation of the relative scales of development.
26. Considered in the round, I am satisfied that the residential caravan use proposed would not be unduly large to the extent that it would dominate the settled community.

The effect on biodiversity including protected species

27. The main parties agree that the development is not subject to mandatory Biodiversity Net Gain (BNG). Nevertheless, the PNDP and emerging local plan require 10% improvement in biodiversity for this development. The appellant's agent suggests that this can be addressed by a suitably worded condition on any approval. However, the guidance in Circular 06/2005 is that an ecological issue, especially one that could involve protected species, should be assessed before planning permission is granted. Moreover, the Council advises that prior to the use commencing and site works being carried out, a large area of the site comprised primary grassland but this has now been removed for the creation of the hard standing put down. It would therefore be difficult for an ecological assessment to consider the effect on species from the lawful baseline as opposed to how the site exists now.
28. As it stands, I am not satisfied that the proposal has included a proper assessment of the effects on biodiversity, nor can this be properly left to be addressed by a subsequent condition. Therefore, there is a conflict with the general principles set out in paragraphs 187(d) and 193 (a) of the Framework.

Effect on living conditions of the occupiers of the residential caravans from noise and poor air quality

29. The Council, on the advice of the Environmental Protection Unit, indicates that the close proximity of the appeal site to the A21 is likely to lead to the occupiers of the residential mobile homes and touring caravans being subject to road traffic noise. There is a similar concern about air quality affecting the site from the road. No Noise Impact Assessment or Air Quality Assessment has been submitted. The appellant's agent says that such assessments can be conditioned on an approval and puts forward a draft wording for these.
30. At the visit, I noted that more than half of the mobile homes proposed are sited less than 15m away from the edge of the A21 carriageway although there is the 1.8m high acoustic fence along the frontage and a drop in land levels in between. Throughout the appeal site I experienced the noise level of traffic on the A21 which was very noticeable and persistent. I have considerable doubt over whether the construction and fabric of the mobile homes or touring caravans would be likely to achieve the satisfactory internal noise levels set out in British Standards and industry guidance for residential occupation. Also there is no evidence before me on the likely effect of air pollution on the residential units and the recreational space around them.
31. I conclude that it has not been demonstrated that the residential use of the site with mobile homes and touring caravans would be likely to achieve a suitable standard of amenity that promotes health and well-being in accordance with paragraphs 135(f) and 199 of the Framework. Moreover, these concerns about health and well-being cannot reasonably be left to subsequent conditions after the principle of the change of use has been established.

Drainage and flood risk

32. The application form indicate that foul sewage is proposed to be disposed off to a mains sewer but the details given in the application also say it is 'unknown' as to whether there would be a connection to an existing drainage system. Despite this, the amended description of the proposal now includes the construction of a septic tank and this appears to have been installed in the site. There is no mention of the disposal of surface water in the application form but the agent suggests that the arrangements for this can be addressed by a suitable condition and puts forward a draft wording.
33. Initially, it was assumed by the parties that the site fell outside any Flood Zone or Area of Surface Water Flood Risk but the Council advises that the southern part of the site is now shown on Environment Agency updated maps as having a low surface water flood risk.
34. In terms of the disposal of foul drainage it appears to me that there is no reason in principle why the residential units cannot be drained to a public sewer or suitable septic tank and I am satisfied that these can be addressed by conditions. Regarding the disposal of surface water from the site, although extensive areas of hardstanding have been created these generally appear to be porous. Moreover, there is no evidence that the underlying soil structure is of an unusual form that cannot accept soakaways and the like. I therefore agree with the agent that

appropriate conditions could be imposed to properly deal with these technical aspects.

Effect on the setting of heritage assets

35. The Council refers to the setting of Pastheap Farm Historic Farmstead inclusive of Pastheap Oast (a non-designated heritage asset (NDHA)) & Past Heap Farm (a Grade II Listed Building) which lie to the south of the lane on the southern and eastern edges of the appeal site. The Council accepts that the proposal is not within the setting of the listed building but indicates that the historic setting of the Farmstead included a number of fields, including part of the appeal site, which contributed to its setting. The Council says that the proposed use would diminish the setting of the historic farmstead and no Heritage Assessment has been submitted to show that the proposal has had regard to this historic setting.
36. The appellant's agent queries the designations of the NDHAs and that their setting and significance has not been referred to in recent applications for development on these sites or shown on the map of such assets in the PNDP. Even so the agent considers that any harm to the NDHA is outweighed by the public benefit of securing 13 pitches and at a time when there is a deficiency of such supply.
37. At the visit I considered the relationship of the appeal proposals with Pastheap Farm Historic Farmstead, Pastheap Oast and Pastbheap Farm. These properties are set in their own landscaped grounds with the lane of Hasting Road lying between them and the appeal site. This also contains mature trees and shrubs along the boundary. Consequently, both areas were screened from each other and there would only be limited intervisibility in winter months.
38. However, the visual relationship is not the sole criteria for considering the setting of the listed building and NDHA and the historic context is also relevant. Guidance in paragraph 207 of the Framework indicates that applicants should describe the significance of the heritage asset and the effects of a proposal, provided the level of details is proportionate to the importance of the asset. Even the minimum requirements set out in this guidance have not been met and I have to conclude that it has not been demonstrated that the proposal would not harm the historic significance and setting of these heritage assets.

Whether a five year supply of Gypsy and Traveller sites

39. As mentioned in paragraph 8 above the Council accepts that it can only demonstrate a 3.24 year supply of new Gypsy and Traveller pitches as at 1st April 2024. The parties say this is based on a supply of 24 pitches against a five year need for 37 pitches. Therefore, the requirements of paragraph 10 and 28 of the PPTS for a five year supply of pitches to be identified are not met at the moment and the procedure set out in paragraph 11(d) of the NPPF has to be applied in this case. Significant weight has to be given to this lack of proper supply of Gypsy and Traveller sites and the proposal would provide for all of the shortfall of sites.
40. The Council advises that the emerging Local Plan positively plans to meet Gypsy and Travellers' needs over the plan period (2017-2038). Policy H9 of that plan identifies existing and proposed Gypsy and Traveller sites which may have potential for accommodating additional pitches, amounting to 24-27 in total.

However, from the representations made it is not clear to me when the established need for sites is likely to be met.

The appellant's and families' personal circumstances

41. The appellant has submitted various documents which set out her personal circumstances together with those of a number of the other families and individuals who occupy the mobile homes and caravans proposed on the site. These include details of medical conditions and character references. From these it is clear that one of the inhabitants has a long standing and chronic health condition and others have on-going health issues. The site provides a stable base from where appropriate medical care can be secured for these people. Living with other family members in the group means they can care for each other and help maintain a Gypsy and Traveller way of life. The appeal site provides personal safety and a safe place to bring up children.
42. The individual letters state that the family and other members have had difficulty in finding other accommodation as established sites are full, and there are no other sites available. The people say that they will be made homeless if they have to vacate the appeal site. A life on the roadside is also likely to have similar noise and air quality issues.

Other Matters

43. The Parish Council also raises safety concerns about the increased use of the access to the site and the lack of proper sight lines at the junction of Hastings Road with the A21. However, I note that National Highways and Kent County Council, as highway authority, do not object to the proposal. Whilst I noted at the site visit that visibility at this junction is limited there is no detailed evidence before me to establish that the proposal is unacceptable on this ground.
44. The main parties have referred to other appeal decisions in support of their cases. However, these do not appear to have the same circumstances that arise in this case or involve similar issues in terms of Green Belt, National Landscape or siting adjoining a principal road. I have therefore not placed much weight on these appeals and have considered this appeal on its individual merits and in relation national and local policy.

Planning and Green Belt balance

45. At the start of the planning balance, I have borne in mind the requirements of the Public Sector Equality Duty to have due regard to its aims, and also sought to further the purpose of conserving and enhancing the natural beauty of the HWNL.
46. On the main issues I have found that the proposed change of use would constitute inappropriate development in the Green Belt and would have a moderate to high harmful effect on its openness in spatial terms. Substantial weight has to be given to this harm. I have also found that the proposal would have a moderate visually harmful effect on the landscape character of the HWNL and would not conserve or enhance it. Great weight has to be given to conserving and enhancing the landscape and scenic beauty of this designated area.
47. Although I have found that the proposed use would not be of a scale which would dominate the nearest settled community, the location of the residential mobile homes and caravans close to the A21 means that the occupiers of these units

would be likely to suffer from noise and poor air quality and it has not been demonstrated that the proposal would achieve a suitable standard of amenity that promotes health and wellbeing. Neither has it been properly demonstrated that the proposal would not harm the significance and setting of nearby heritage assets and it has not involved a proper assessment of the effects of the development on biodiversity. I have to proceed on the basis that the development would cause less than substantial harm to the setting of the heritage assets in the context of paragraphs 215 and 216 of the Framework. This harm, although likely to be minor carries significant weight, and it is not outweighed by the public benefit of helping to address the undersupply of Gypsy and Traveller pitches.

48. Taking all of these aspects together the proposed change of use conflicts with the Framework when this is read as a whole and the proposal is not sustainable development. There would be harm to areas and assets of particular importance and this provides strong reasons for refusing the development in the context of paragraph 11(d)(i).
49. In terms of the development plan, although policy H4 has reduced weight, the proposal conflicts with criterion (3) in that the development, including the acoustic fence, would be in an exposed position in the HWNL. Neither would criterion (5) be met as the site is isolated in practical sustainable transport terms from services and facilities by its position south of the A21. The conflict with other policies in the development plan is set out above in the issues. Taking the various strands of the development plan as a whole I find that the proposal conflicts with the balance of provisions.
50. These conclusions on the development plan and national policy have to be balanced with other considerations.
51. Significant weight has to be given to the lack of Gypsy and Traveller sites available at the moment and the proposal would meet the shortfall directly. Neither does the evidence submitted demonstrate that the shortfall will otherwise be rectified soon through the emerging local plan.
52. The lack of alternative accommodation is also put forward by the residents of the site as a main reason for carrying out the development already. Being able to live on the site would give the appellant and the other families stability and a settled base from where they can access medical facilities and other services as well as being able to live together for mutual support. They would be able to sustain a Gypsy and Traveller way of life. If the appeal is dismissed there is a clear risk that the occupiers would have to leave the site and they would be homeless and/or have to live on the roadside. This would also be likely to have noise and air quality issues.
53. However, I find that the location of the site is inherently unsuitable because of the effect on the Green Belt, the sensitive landscape and the close proximity to traffic noise and pollution on the A21 and these aspects greatly outweigh the personal circumstances put forward as other considerations.
54. I conclude that the other considerations do not outweigh the harm to the Green Belt and other harm, and therefore very special circumstances do not arise in this case. The other considerations do not justify a departure from the development plan or national guidance.

55. The proposal is put forward on a permanent basis but I have also considered whether the personal circumstances justify allowing the proposal on a temporary basis. However, the harm to the Green Belt and the HWNL would be perpetuated and most of the residents of the site would still be likely to suffer from the effects of the close proximity to the A21. A temporary permission is therefore not appropriate.
56. Dismissing the appeal would be likely to lead to circumstances where the appellant and other families are required to leave the site. This would be an interference with their rights under Article 8 of the European Convention on Human Right, as incorporated into the Human Rights Act 1998. Article 8 affords the right to respect for private and family life and home. However, it is a qualified right and interference may be justified where that is lawful, in the public interest and is proportionate.
57. In this case the need to avoid harm to the Green Belt; the protection of a nationally recognised special landscape, and avoid harmful living conditions, are well established planning aims in the public interest. Interference would therefore be in accordance with the law.
58. The protection of the public interest cannot be achieved by means that are less intervening with the appellant and other families and individual's rights. The dismissal of the appeal is proportionate and necessary and therefore would not result in a violation of rights under Article 8.

Conclusion

59. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR