



Appeal Decision

Hearing held on 17 June 2025

Site visit made on 17 June 2025

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2025

Appeal Ref: APP/J2210/C/25/3362152

**Land at Romany Green Acre, Well Lane, Fordwich, Canterbury,
Kent CT2 0DU**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Tom Anderson against an enforcement notice issued by Canterbury City Council.
- The enforcement notice was issued on 11 February 2025.
- The breach of planning control as alleged in the notice is: Without planning permission, the stationing of caravans for residential use in excess of the numbers permitted by condition 2 of planning permission CA/20/01794 granted on 24 March 2021.
- Condition 2 of planning permission CA/20/01794 granted on 24 March 2021 is in these terms:
'No more caravans, beyond those shown on the approved drawings, shall be stationed on the site. All of the caravans shall be defined in Part 1 of the Caravan Sites and Control of Development Act 1960 and Section 13 of the Caravan Sites Act 1960 as amended by Statutory Instrument 2006 no 2374: The Caravan Sites Act 1968 and Social Landlords Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendments) (England) Order 2006'.
- The requirements of the notice are to:
 - 1) Permanently remove from the Land the caravans/mobile homes stationed in excess of the four static and four touring caravans, being the number permitted under condition 2 of planning permission CA/20/01794.
 - 2) Permanently remove any materials, debris and paraphernalia from the land associated with the compliance of requirement 1 above.
- The period for compliance is six calendar months after 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 the prescribed fee has been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.

Formal Decision

1. It is directed that the enforcement notice be corrected by deleting the plan attached. Subject to this correction 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 and the Enforcement Notice

2. The appellant has not lodged any appeal under ground (b) and it follows, therefore, that he accepts the breach, as alleged in the enforcement notice, has occurred as a matter of fact.

3. Having appealed on non-legal grounds the evidence to suggest that planning permission should be granted for the identified breach is very limited due to a lack of information as to the occupiers of the many additional caravans present on the land, and their personal circumstances. Indeed, it is clear to me, both from the representations submitted at the outset and then at the Hearing, that the appellant's case was hindered due to a lack of convincing evidence available to support the appeal. Accordingly, his agent had little information at his disposal to address matters raised, and I sympathise to this extent.
4. At the outset of the Hearing the appellant's agent drew my attention a discrepancy between the plan attached to the enforcement notice and the Block Plan, which was approved under planning permission CA/20/01794 in March 2021, that shows the limitations of the use permitted. However, having examined the attached plan closely I consider that the discrepancy is very marginal and appears to likely exclude a narrow, tapering strip of land adjacent to Well Lane, labelled on the Block Plan as containing screening and anti-climb fencing, and a small area at the south-west corner of the site, shown on the plan as containing a cess pit.
5. The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 under Part 2, 4C specifies that notices shall show the precise boundaries of the land to which it relates, whether by plan or otherwise. However, in the judgement of *Wiesenfeld v SSE & Brent LBC* [1992] JPL 556 it was held that an inaccurate plan can be deleted without offending the said legislation so long as the site is or can precisely be described in words alone. Accordingly, an attached plan is not essential to the validity of the enforcement notice.
6. I consider this to be a case in point and, as the boundaries of the appeal site are obvious from the Block Plan - which the enforcement notice hangs off - I am satisfied that, in order to avoid any confusion, the plan attached to the notice can be deleted.
7. At the Hearing the appellant advanced a feasibility plan (ref J005216-IN-01) which shows an indicative layout with eleven mobile homes accommodated within the site. Having had regard to the judgement of *Ahmed v SSCLG & Guildford BC* [2017] EWCA Civ 231, which brought to the fore the consideration of alternative schemes, I have accepted the said plan for consideration.

Background

8. The approved Block Plan effectively extended an existing travellers site, showed 4 static and 4 touring caravans on the land, along with a single dayroom which, given condition 2's wording, represents the limit of the development approved. However, when Council officials visited the site on 15 October 2024, following a complaint received that additional caravans had been brought onto the land and were being advertised for sale, it is understood from the authority's statement of case, that 21 static vans and 3 tourers were present within the plan's boundaries.
9. At my site visit the approved dayroom was not evident, at least not in the position labelled on the Block Plan, but this might be indicative of the actual breach occurring, and I discuss this matter later in the decision letter.

10. The Council says that, save for the names registered with the Land Registry as the proprietors of the land, the occupiers of the additional caravans were unknown. As such, given the considered resultant visual harm, compounded by the associated hardstanding and paraphernalia, along with the consequent increase in the number of vehicles entering and leaving the site, and also the considered adverse effect on the integrity of the Stodmarsh Nature Reserve, being a Special Protection Area (SPA), a Special Area of Conservation (SAC) and being a European Designated Site, the Council saw it expedient to issue an enforcement notice in an attempt to remedy the breach of planning control.

The appeal on ground (a) and the deemed planning application (DPA)

Main Issues

11. On the basis of the above, these are:

- 1) the need, and provision made, for gypsy and traveller sites within the Canterbury City Council area;
- 2) the effect of the development on the character and appearance of the surrounding area, with particular regard to its conservation area location and that the site also falls within a locally designated Woodlands Landscape Character Area;
- 3) the development's effect on highway safety; and
- 4) its effect on the Stodmarsh Nature Reserve.

Reasons

Need and provision

12. In order to inform the emerging Local Plan Review, covering the period 2020 to 2040, a new Gypsy and Traveller Accommodation Assessment (GTAA) was commissioned. The findings were published in 2024 and, from these, it was concluded that there is a five year requirement (2023/24 to 2027/28) of 34 pitches, and a longer term need for 54 additional pitches within the Canterbury City Council area over the period 2023/24 to 2040/41.
13. The Council acknowledges that it cannot currently demonstrate a five year supply of land for gypsy and traveller accommodation purposes. To compound this, at the present time, there are no site allocations earmarked by the Council for gypsy and traveller accommodation. There is therefore a demonstrable unmet need for this type of development.
14. As mentioned, though, due to the unknown provenance or status of occupiers additional to those that can reasonably be considered as occupying the four static caravans permitted I must turn to the latest iteration of the government's Planning Policy for Traveller Sites document (PPTS). Published in December 2024, this defines gypsies and travellers as:

'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 dependents' 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...'

15. On the basis of this definition the appellant makes the point that this excludes a significant number of people residing in bricks and mortar who identify as gypsies and travellers, and whose needs have not been considered. As such, the appellant asserts that the need figure reached is a substantial underestimate.
16. Condition 3 of planning permission CA/20/01794 requires that only gypsies and travellers, as defined in Annex 1 of the PPTS, should occupy the site. Admittedly, this would have related to the definition in the 2015 version of the document, which is slightly different, but nonetheless the requirement is clear.
17. That aside, when considering applications for gypsy and traveller purposes, policy HD10 of the Canterbury Local Plan (LP) sets out criteria that must be met. In other words, each application for such is dealt with having regard to its own individual merits and impacts. Given that the Council accepts that it cannot demonstrate a five year land supply for such I must regard the current situation as a failure of policy. Accordingly, I must give this considerable weight.
18. Nevertheless, when taking into account the above and weighing this against the actual breach occurring, along with the requirements of the enforcement notice, these are all matters which have to be factored into the planning balance. The balance must also, of course, take into account the other substantive main issues and other considerations that can be seen to apply here.

Character and appearance

19. The appeal site, which is effectively divided into three compounds, lies adjacent to a gypsy and traveller site immediately beyond the western boundary and also a considerably larger such settlement visible to the south west of the access driveway.
20. The amount of caravans now stationed within the appeal site greatly exceed the number permitted under planning permission ref CA/20/01794 to the point where, in parts, the usual pitch arrangement has been abandoned with certain caravans positioned very close to one another so as to give the impression that the land is being used for the storage of caravans. At the Hearing I was told that it would not be possible for me to access the various caravans stationed on the land, so it was not possible to assess the current degree of residential occupation at the site.
21. The Council refers to the number of static and touring caravans at the site resulting in an incongruous, cramped and prominent form of development. Indeed, at my site visit, the impression given is an intention, or at least, perhaps, an ongoing intention, to accommodate as many caravans on the land as might be possible.
22. The site lies within the Fordwich Conservation Area which extends across the site. This was established in 1969 with its original boundary drawn around the historic core of the village, but in 1993 it was expanded to include the surrounding areas, taking in the appeal site and its surroundings, which were considered to positively contribute to the setting of Fordwich.
23. When assessing the 2020 planning application the Council considered that the additional three pitches and caravans would have only a neutral effect on the

Conservation Area due to the established use of the surrounding land and its distance from the Conservation Area's historic core. I also acknowledge that the Council, in now issuing the enforcement notice, despite the many additional caravans stationed on the land, has not mentioned the conservation area status in the stated reasons for issue.

24. The appeal site is largely screened from Well Lane by trees and hedging adjacent to the lane. Whilst it is arguable whether the screened development can be said to preserve either the character or appearance of the Conservation Area – and I have had regard to the statutory duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 – given the Council's previous stance on this, along with the fact that the caravan sites in the immediate area are an anomaly in the context of the wider area and its character, I will concentrate instead on the development's effect on the rural locality.
25. The site falls within the locally designated Trenley Park Woodlands Landscape Character Area (LCA), as identified in the Canterbury Landscape Character and Biodiversity Appraisal. The general aim here is to protect and enhance the woodland habitat and guard against the introduction of incongruous elements. The document says that this LCA is characterised by coppice woodland which contributes towards the setting of the surrounding settlement including the village of Fordwich. It also provides valuable habitat and contributes towards the setting of the Fordwich Conservation Area amongst others nearby.
26. LP policy LB4 says that regard should be had to the LCA Appraisal document, the final version of which was published in 2020, subsequent to the adoption of the current Local Plan. More specifically, it indicates that development should be sympathetic to the landscape character of the locality, should safeguard tranquility, and it should maintain biodiversity. This policy is not mentioned by the Council in its reasons for issuing the enforcement notice but it is pertinent to the effect on the immediate rural locality. As my remit is to determine planning appeals with due regard to the development plan for the area, I must take account this policy's aims and requirements. LP policy HD10, the main reference for gypsy and traveller proposals, also requires, amongst other things, that landscapes should be preserved.
27. In addition, LP policy LB9 says that all development should avoid a net loss of biodiversity/nature conservation value and actively pursue opportunities to achieve a net gain. It is usually required that developers demonstrate how they would achieve a 10% BNG, yet I have not been provided with any detailed information in this regard. Indeed, it is a legally binding requirement that can be enforced if not met.
28. In the above connection paragraph 187(a) of the Framework, which states that planning decisions should provide net gains for biodiversity, also highlights the importance of protecting and enhancing landscapes in a manner commensurate – not only where they have statutory status – but also where they have identified quality in the development plan, as is the case here.
29. Turning to the said indicative layout plan, submitted only at the opening of the Hearing, this shows, in two-dimensional form, the footprints of eleven static caravans arranged within the site. Admittedly, the caravans are better spaced than is the case currently, but there are no dayrooms proposed.

30. I find it doubtful that only one day-room would be sufficient for such a level of occupation by gypsies and travellers but, more so, given the extant planning permission has been flagrantly breached, there is no realistic guarantee that such an arrangement would be either acceptable to persons occupying the site or, alternatively, any persons storing their caravans within.
31. As I consider that the degree of development would most likely exceed the layout which is indicatively proposed here, I therefore consider that granting planning permission for a scheme without detail, and relying only on a very basic drawing showing a layout based merely on the site's area, would perpetuate the breach.
32. The fact that the development is screened and contained within the appeal site does not justify the continuation of this intensified use. I find, therefore, that the development is in direct conflict with the objectives and relevant requirements of LP policies HD10, DBE3, LB4, LB9 and SP1, and is harmful to the character and appearance of the surrounding area.

Highway safety

33. Paragraph 26 of the PPTS says that Councils should very strictly limit new traveller development in open countryside that is away from existing settlements or outside areas allocated in the development plan. However, it is generally accepted that gypsies and travellers – if this appeal directly and fully concerns these people – primarily look to locate in rural areas and, as a result, there is always heavy reliance on the private motor vehicle.
34. Well Lane is a narrow lane which, starting at its northern end, is two-way, and rises until it flattens out alongside the entrance to the appeal site, at which point it becomes one-way to its southern end. Accordingly, all traffic entering the site will be turning right, and traffic leaving the site can turn either way. A splayed wall has been erected at the entrance which will aid visibility and, in the circumstances, my concerns lie more with an inevitable increase in two-way traffic and vehicular and/or pedestrian conflict along the narrow northern stretch of Well Lane which bends and climbs progressively southwards.
35. In the absence of any transport assessment produced by the appellant concerning the potential implications of a consequent increase in vehicular traffic I conclude that the development will, to some degree, be prejudicial to highway safety, and contrary to the aims and requirements of LP policy T17.

Stodmarsh

36. In recent years Natural England (NE) has issued water quality advice which effects planning applications for new residential development in large parts of the Canterbury City Council area. This means that an assessment must be carried out before NE can agree to new such development which discharges waste water to the Stour Valley river catchment area, so as to ensure that new development does not cause any further deterioration of the water quality at Stodmarsh.
37. The standing advice from NE is to object to new residential development coming forward within the catchment of the Stour Valley River as significant effects on its conservation status cannot be ruled out. It is understood that wastewater is currently contained within a cesspit(s) on the site, but I have not

- been provided within any firm details as to these being emptied or where the wastewater is taken and discharged.
38. The Stodmarsh Nature Reserve is protected under European Law and is managed by NE. Due to the discharge of wastewater from residential development into the wastewater treatment works within the Stour Valley river catchment area the development could have a potential significant effect on the integrity of the Stodmarsh Special Area of Conservation/Ramsar site.
 39. The basis of nutrient neutrality is that there should be no increase from the existing nutrient contribution at a Habitats site as a result of a plan or project. Where a Habitats site is already at risk, there is the potential that making a fresh decision under the Habitats Regulation Assessment (HRA) process to sustain the current nutrient contribution could mean that development would inadvertently undermine the achievement of the restoration objective.
 40. In September 2021 NE produced guidance which advised that any new development taking place must not add to this negative impact, and to prevent any further such impact all new development should demonstrate water neutrality. This advice was further updated in March 2022 to reinforce the directive.
 41. The correct approach to be taken, as applied by NE, is that the development needs to be assessed against the requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017. The consideration of any measures to avoid or reduce the harmful effects upon Stodmarsh and achieve water neutrality can only be taken into account at the Appropriate Assessment stage of Habitats Regulation Assessment. The general advice is that mitigation measures within such a development site should be considered first by the competent authority to minimise the contribution from the development itself. Where it is not possible to provide or secure the necessary mitigation in this way, then mitigation on land outside the development can be considered.
 42. Attempts to secure a water neutrality strategy by way of a condition imposed on a planning permission is not considered to be acceptable by NE as it does not provide for the necessary certainty that the impacts of a development can be mitigated. Any grant of planning permission without the up-front certainty that the impact on Stodmarsh can be mitigated would therefore be contrary to the Habitat Regulations.
 43. LP policy LB5 says that development or land-use changes likely to have an adverse effect, either directly or indirectly on designated sites, such as Stodmarsh, will be expected to demonstrate enhancement measures to benefit biodiversity. Notwithstanding this, as mentioned, no measures of mitigation have here been put forward.
 44. At the time of the 2020 planning application the then applicant – not the current appellant – said that the site does not have a mains connection and that a cesspit was proposed. On this basis – and in my view wrongly, as there was no proper assurance or conditional requirement as to its installation – no Appropriate Assessment was undertaken at the application stage.
 45. The appellant confirmed at the Hearing that a cesspit has been installed but the explanation as to the disposal of the wastewater and the assertion that the

River Stour is not affected was somewhat vague. In the absence of information as to the number of persons occupying the site no details were provided as to the capacity required commensurate with any resultant increase, nor any upgrades that may be needed to offset nutrients and phosphates.

46. For the appellant to rely on the 2021 case report, and merely say the current arrangements are acceptable, can be put down to convenience, and is a less than diligent approach.
47. NE says that the appellant should provide a strategy for achieving nutrient neutrality, using the March 2022 guidance and nutrient calculator, and will also need to provide evidence for its treatment efficiency as well as a management and maintenance strategy, to protect against potential malfunction/failure and ensure its efficiency is maintained in perpetuity.
48. In the absence of any assessment in this regard I must conclude that the development has an adverse effect on the integrity of the Stodmarsh nature reserve, and conflicts with the aims and requirements of LP policies LB5 and SP1.

Other Considerations

Public Sector Equality Duty (PSED), Human Rights and the Best Interests of the Child

49. In instances where unauthorised gypsy and traveller accommodation is at issue and targeted by planning enforcement action I am required to have regard to persons with protected characteristics when applying the duties under s49 of the Equality Act 2010. There is also a positive duty by virtue of Article 8 of the Human Rights Act to facilitate the traditional and nomadic way of life of travellers. However, in considering the proportionality of a requirement to leave one's home it is relevant whether or not the home was established unlawfully.
50. Article 8 of the European Convention on Human Rights provides that there should be respect for private and family life, home and correspondence. In this regard there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and necessary, amongst other things, for the protection of the rights and freedoms of others.
51. Accordingly, if Article 8 is engaged, then interference with those rights can be justified by the Council if it is for a legitimate aim, in accordance with the law and necessary in the public interest. In this particular instance I am firmly of the view – and I have illustrated why – the Council's remedial actions serve a clear and justifiable planning purpose.
52. Article 3(1) of the United Nations Conventions 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. In this regard the appellant has requested that a temporary permission of at least five years should be granted, citing the presence of children and the alternative of having to resort to a roadside existence. In the current appeal, whilst the appellant says that children are present at the site, I was not provided with any convincing evidence or detailed and independent confirmation of such.

53. Accordingly, on the basis of the evidence adduced, and its obvious limitations there is nothing of substance to suggest that the above criteria directly apply in this particular instance.

Planning Balance

54. Whilst I would attach substantial weight to the absence of a five year land supply for gypsy and traveller purposes in the Medway area there are also other factors which must be considered here. Firstly, it is not certain – and no compelling information was put forward by the appellant, nor statutory declarations sworn by the various occupiers – that they hold gypsy and traveller status, or that their respective dependents reside here.
55. If not, then this would represent a breach of two of the conditions imposed on the extant planning permission namely that the number of caravans shall not exceed a maximum of eight (four statics and four tourers) at any one time, and also that the land be occupied only by gypsies and travellers. In this connection, as mentioned, it could be the case that there is a significant element of caravan storage as opposed to them being occupied for residential purposes. Nonetheless, Condition 2 cited, does not differentiate between caravans that are being lived in and those that might not be.
56. It seems likely to me that the degree of intensification having taken place has effectively brought about a perceived coalescence of land used for the stationing of caravans. This, along with the manner in which the land is now being used compounds so as to have given rise to resultant on and off site impacts. The former relates to visual impact and the latter is due to the inevitable increase in the number of movements from vehicles entering and leaving the site, and the consequences of such, and also the water neutrality issue. Accordingly, I am satisfied, in the circumstances, that the enforcement notice is justified as it serves a particular planning purpose.
57. I have discussed the adverse effect on the character and appearance of the LCA and the local policy objections. The development also flies in the face of relevant advice within the Framework, and the updated PPTS does not give proper support to the scheme.
58. In such circumstances, and in the absence of details to show otherwise, it cannot be said with certainty that the tilted balance should here apply. Even if it did I find that although the relevant policies can be seen as out-of-date the adverse effects of granting planning permission significantly and demonstrably outweigh the benefits.
59. Although no evidence was offered by the Council to expound on the information in paragraph 3.6 of its Written Statement I have borne in mind that the complaint received by the Council in October 2024 apparently related to an allegation that mobile homes were being brought on to the land and advertised for sale and investment. That aside, though, in the absence of a proper schedule of accommodation there remains a fundamental uncertainty as to merits that might apply to this appeal, and the supporting evidence lacks precision and certainty.
60. As such, a temporary permission by way of a time limitation condition is not appropriate here. Also, as it is not clear who any planning permission would

realistically provide on-site benefits for and why, any permission made personal to the appellant is similarly not a justifiable option.

61. I find that the development is in conflict with the development plan as a whole and there is little to convince me that there are any clear material considerations which should override the policy objections. Further, the representations made by interested parties, and those put forward on behalf of Fordwich Town Council at the Hearing, only reinforce my conclusions.

Conclusion on the DPA

62. For the above reasons given above I conclude that the appeal should not succeed. I shall uphold the corrected enforcement notice and refuse to grant planning permission on the deemed application.

The appeal on ground (g)

63. An appeal under ground (g) is that the time period given to comply with the requirements of the enforcement notice is unreasonably short. The appellant feels that the stipulated period of six months is 'woefully short' and requests that twelve months should be given to provide time for families to explore and consider their options.
64. However, as discussed above, in the absence of detailed information as to who exactly is occupying the site, and the related uncertainties, I am not prepared to extend the compliance period. This appeal, similarly, does not, therefore, succeed.

Timothy C King

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Brian Woods – Director, WS Planning & Architecture

FOR THE LOCAL PLANNING AUTHORITY:

Vic Hester – Consultant

INTERESTED PARTIES

Claire Nevin (of Counsel) representing Fordwich Town Council
Jules Burke
Roger Green