



Appeal Decisions

Hearing held on 5 August 2025

Site visit made on 5 August 2025

by R Merrett BSc(Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2025

Appeal A Ref: APP/U2750/C/25/3365114

The Oaks Stables, Forest Moor Road, Knaresborough, HG5 8LT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Caleb Howard against an enforcement notice issued by North Yorkshire Council.
- The notice was issued on 4 April 2025.
- The breach of planning control as alleged in the notice is Without planning permission, the material change of use of the Land to a Gypsy and Traveller site, including the stationing of caravans for residential use, creation of hardstanding, and residential paraphernalia associated with the residential use. Along with the erection of a single storey building (stable/amenity use) and associated hardstanding without the benefit of planning permission.
- The requirements of the notice are Step 1 Cease the use of the Land for residential use; Step 2 Cease the use of the Land for the stationing of caravans and demolish the building and all associated paraphernalia including but not exclusively the hardstanding, storage container, gates, fencing and children's play equipment, remove all materials from the land; Step 3 Return the land to its previous paddock use as open grazing fields.
- The period for compliance with the requirements is 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) 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 allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B Ref: APP/U2750/W/25/3365116

The Oaks Stables, Forest Moor Road, Knaresborough, HG5 8LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Caleb Howard against the decision of North Yorkshire Council.
- The application reference is ZC25/00173/COU.
- The development proposed is Change of use of land to be used as a gypsy-traveller site with pitches for 2 No touring caravans (retrospective).

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Application for costs

1. An application for costs was made by Mr Caleb Howard against North Yorkshire Council. This application is the subject of a separate Decision.

Preliminary Matters

Whether the appeal on ground (a) is barred

2. Where an enforcement notice is issued on or after 25 April 2024, a ground (a) appeal, namely that planning permission should be granted for the alleged

development, is barred if the notice was issued at a time after the making of an application for planning permission that was related to the notice¹. It is argued by interested parties², that these circumstances apply in this case.

3. The government's planning practice guidance (PPG) notes that a 'related application' is one where, if planning permission were granted for the development specified in the application, it would grant planning permission for the development which is the subject of the enforcement notice.
4. However, in this case the scope of the refused planning application is for less development than that covered by the enforcement notice. This is because the planning application did not include the erection of the single storey building and associated hardstanding, which is referred to in the notice. This means that if the appellant was barred from making a ground (a) appeal, they would be denied the opportunity of applying for planning permission for these elements of development. This would therefore result in injustice, and accordingly I conclude that it would not be correct to regard the ground (a) appeal as barred in this case.

Proposed change to planning application description

5. The appellant confirmed that he now proposes to station two, rather than three, caravans on the site. I am satisfied this alteration would not prejudice the Council's case. The proposed amendment is reflected accordingly in the banner heading above.

Appeal A on grounds (b) and (c)

6. The appeals are respectively that the matters alleged to constitute the breach of planning control have not occurred as a matter of fact (ground b); and that those matters (if they occurred) do not constitute a breach of planning control (ground c). There is a degree of overlap between these grounds in the appellant's case.
7. The enforcement notice alleges a material change of use, together with operational development, including the erection of a building and associated hardstanding. However, a key part of the appellant's case is that the building enforced against is lawful, having previously benefitted from planning permission³. They acknowledge the finished form of this structure has deviated from the approved plans, however say this means there has been a breach of condition, by failure to comply with the plans, rather than an unauthorised building operation. Accordingly, they say the notice in this regard should have cited a breach of condition, the alleged unauthorised building operation not having occurred.
8. That the structure has been built larger than what was approved, together with the nature and extent of the difference, is not contentious between the main parties.
9. What is disputed is whether the deviation amounts to a breach of condition or is substantial enough to have resulted in development without planning permission. It is the Council's case, as set out at the Hearing, that the discrepancy is so great that the approved building has not even been commenced, and that the resulting structure is therefore unlawful.

¹ Levelling-up and Regeneration Act 2023, s118.

² Association of the Friends of Forest Moor Road.

³ Planning permission reference 20/04018/FUL for 'Erection of single storey L shaped stable block and associated hardstanding to form parking using existing field access' granted 29 March 2021.

10. The structure is an L-shaped building. As constructed, it essentially adheres to the approved position of the north-east and south-east elevations (although it is around 38 centimetres longer at one end). However, the footprint of the building, including overhang, has been widened throughout its length, by between 1.6 metres and 1.87 metres. This has added some 22 square metres to the overall footprint (just under a quarter of the approved area). The overall height of the building is some 36 centimetres greater than approved (an increase of approximately 11 per cent).
11. The building has not been constructed in a completely different position to that approved. As set out above, two of its elevations are substantially in the correct position, and I have no reason to doubt that once excavation works had taken place, to accommodate footings in relation to these elevations, such a material operation would have been sufficient to commence the approved building⁴.
12. However, when considering the cumulative extent of the differences, as set out above, it seems to me there has been substantial deviation from the approved plans during the construction of the building. As such, as a matter of fact and degree, I conclude there has been development without planning permission, and thus the building as a whole is unlawful. The notice therefore correctly refers to the erection of a building without planning permission.
13. The appellant has drawn my attention to previous appeal decisions where the development under consideration had deviated from approved plans and yet, in contrast to this case, the Inspector accepted that a breach of condition had occurred⁵. The deviations in those appeals involved design, materials and ground levels. However, there is no suggestion that the circumstances in those cases were similar to the present appeal, and I am mindful that each case must be assessed on its own merits.
14. Aside from this, hardstanding has also been laid over a more significant area than was approved by the 2021 planning permission. I consider this serves to compound the above assessment, that there has been development without planning permission, which is unlawful.
15. Secondly the appellant says that in identifying a stable use, the Council must be seeking to enforce against a mixed use comprising residential and horse keeping. However, the notice fails to identify this mixed use, instead erroneously identifying a material change of use to residential use alone.
16. However, the Council indicated within the Statement of Common Ground, and confirmed at the Hearing, that it was intending to target a mixed use comprising residential use and horse keeping on the site; also that the building targeted by the notice helped to facilitate both uses. The Council accepted that the notice could be corrected to refer to the mixed use, without resulting in injustice. It seems to me that the appellant has had the opportunity to argue their case in this regard, and I concur the correction may be made without resulting in injustice.
17. Drawing the above considerations together, I conclude that the ground (b) appeal succeeds in part, insofar as the material change of use described fails to identify a mixed use having occurred. However, I am satisfied that the notice may be

⁴ *Commercial Land Ltd v Secretary of State for Transport Local Government and the Regions* [2002] EWHC 1264 (Admin).

⁵ Appeal references APP/X1545/C/18/3206386 and APP/H1840/W/24/3351881.

corrected accordingly, without resulting in prejudice. I have found the building and hardstanding areas targeted by the notice to be unlawful. Therefore, the reference to these developments, within the alleged breach of planning control, as being without the benefit of planning permission was correct. Accordingly, the ground (b) and ground (c) appeals fail in this respect.

Appeal A on ground (a) and Appeal B

Main Issues

18. The main issues are:

- Whether the development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework);
- the effect of the development on the character and appearance of the landscape;
- whether the development is compliant with criteria in the development plan and the Planning policy for traveller sites (PPTS) for the assessment of new gypsy and traveller sites;
- the question of the need for gypsy and traveller sites;
- the personal circumstances of the site occupiers;
- whether there has been intentional unauthorised development;
- if the development is inappropriate, whether the harm to the Green Belt by way of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

The site and its surroundings

19. The appeal site comprises a rectangular field on the south-eastern side of Forest Moor Road. The proposed residential use is currently focused around two touring caravans and ancillary facilities for washing, storage and children's play, provided by part of the single storey building. These structures are sited upon an area of hardstanding, within the south-east corner of the field. The remainder of the site comprises a paddock, which together with some stabling and equipment storage in the building, facilitates the horse keeping use.
20. The site is bounded to the north-east and south-west by existing residential buildings, and to the south-east by open fields. The north-western boundary, adjacent to the road, is densely planted with mature trees, that are subject to a Tree Preservation Order.
21. Forest Moor Road crosses a relatively short gap separating the towns of Harrogate and Knaresborough. Sporadic buildings, interspersed with dense pockets of mature planting and open fields, are situated on both sides of the road.

Green Belt

22. Paragraph 142 of the Framework sets out that the essential characteristics of Green Belts are their openness and their permanence. It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 143 notes that the Green Belt has five purposes which include a) checking the unrestricted sprawl of large built up areas; b) preventing neighbouring towns from merging into one another and d) preserving the setting and special character of historic towns. Paragraph 153 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

The proposed residential use

23. The PPTS states that traveller sites in the Green Belt are inappropriate development, unless exceptions set out in the Framework apply. Included within these exceptions are various development types and scenarios.
24. Paragraph 155 of the Framework states that development in the Green Belt should not be regarded as inappropriate where it can be ascertained the development would utilise 'grey belt' land and would not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan (paragraph 155a); where there is demonstrable unmet need for the type of development proposed (paragraph 155b); and where the development would be in a sustainable location (paragraph 155c).
25. To begin with, it is therefore necessary to consider whether the development, in this case, meets these various paragraph 155 criteria.

Grey belt

26. Grey belt land is defined in the Framework as land in the Green Belt comprising previously developed land and / or other land that does not strongly contribute to any of purposes a), b) or d) in paragraph 143.
27. The Framework sets out the definition of previously developed land, a pre-requisite for which is that it must have been lawfully developed. I have concluded above that the building constructed on the site did not constitute lawful development. It follows the site does not constitute previously developed land.
28. It is therefore necessary to consider whether the site comprises land that strongly contributes to the various paragraph 143 purposes. In making this assessment I have had regard to the PPG. I note the Council raises the concern that it would not be reasonable to apply this guidance to individual sites, as it is intended for larger 'assessment areas'. However such assessment areas are yet to be formally defined by the Council. Furthermore, the grey belt definition does not establish a minimum assessment area for the process of identifying whether a specific portion of land strongly contributes to the various Green Belt purposes. Notwithstanding this, the PPG specifically indicates that where grey belt sites are not identified in existing plans or Green Belt assessments, it is expected that, for development management purposes, sites [my emphasis] will be assessed as to their grey belt attributes⁶.

⁶ Paragraph: 009 Reference ID: 64-009-20250225.

29. In terms of checking unrestricted sprawl, the PPG advises that assessment areas that contribute strongly are likely to lack physical features in reasonable proximity that could restrict and contain development and are also likely, if developed, to result in an incongruous pattern of development, such as an extended finger of development into the Green Belt. In this case the site is bounded on two sides by existing development that would serve to limit the spread of any development within the appeal site. Furthermore, I do not consider the form of development, proposed in this case, could reasonably be regarded as incongruous, in the context of varied and sporadic existing developments along Forest Moor Road. I am also mindful the Council has accepted, within the enforcement notice, that the building and hardstanding do not result in urban sprawl.
30. Regarding the question of merging, although situated in a relatively narrow gap between towns, the site itself is relatively small and does not form a substantial part of that gap. As set out above the site is substantially screened from the adjacent road by dense boundary planting, which itself comprises protected trees, and accordingly means the interior of the site makes little or no contribution to the visual separation of the towns. The site does not therefore contribute strongly to preventing neighbouring towns from merging. Visually, the proposal in this case would not result in significant alteration to the existing pattern and representation of development along Forest Moor Road.
31. The main parties agreed that the site does not form part of the setting of historic towns and by implication does not therefore contribute strongly to the purpose of preserving their setting or special character. I have no reason to take a different view.
32. I therefore conclude the appeal site does not make a strong contribution to the aforementioned Green Belt purposes. It follows the site is 'grey belt' land.
33. The proposed development which includes two caravans, a relatively small single storey building and hardstanding area, would result in a small degree of encroachment into the countryside. However notwithstanding this, I am not persuaded the proposed development in this case would affect the ability of the remaining Green Belt across the area of the plan to serve all five of the Green Belt purposes in a meaningful way, and thus that it would fundamentally undermine the purposes of the remaining Green Belt. The requirements of paragraph 155a are therefore met.
34. In terms of paragraph 155b of the Framework, the Council does not dispute that it lacks a five year supply of deliverable traveller sites assessed in line with Planning Policy for Traveller sites. It therefore accepts there is a demonstrable unmet need for the development. There is no evidence before me that leads me to disagree.
35. Having regard to paragraph 155c, in terms of connectivity, the site is in close proximity to the built up area of Harrogate. It seems to me that a local supermarket and primary school would be within walking distance for some. However, it would be realistic to conclude that for convenience and distance reasons, significant reliance on private vehicles in order to gain access to everyday services and facilities would remain likely.
36. Notwithstanding this, when considering the relative proximity of Harrogate and the limited scale of development involved, I consider the length, duration and number of journeys necessary to access essential services and facilities, even if taken by

car, would not be excessive in this case. I therefore concur with the Council, and the Inspector who previously considered a different development here, that the site has reasonable access to services and facilities.

37. I have had regard to the PPTS objective of ensuring that traveller sites are sustainable, economically, socially and environmentally, and to the various related criteria in paragraph 13 of that document. These include that a settled base may serve to reduce possible environmental damage resulting from unauthorised encampment. I also acknowledge that a settled base would tend to promote access to appropriate health services and ensure that children can attend school on a regular basis. Drawing the above considerations together I conclude, on balance, that the appeal site is in a sustainable location, even if, as is the Council's case, there are traveller sites that are closer to settlement boundaries.
38. I conclude the various applicable criteria set out in paragraph 155 of the Framework are met, and that the proposed gypsy and traveller residential development should not be regarded as inappropriate within the Green Belt. Accordingly, as the development is not inappropriate it should not be regarded as harmful to the openness of the Green Belt.
39. The Council has referred to two previously dismissed appeal decisions, involving this site. The most recent decision involved a change of use of the existing building to a two-bedroom house⁷. The second, much earlier decision, involved a proposal for a temporary timber-framed dwelling on grounds agricultural need⁸. The proposed developments, were in both cases, found to be inappropriate development in the Green Belt. However, since these decisions were issued, the revised Framework has established changes to national Green Belt policy, and I am not duty bound to find the residential development in this case to be similarly inappropriate.

The proposed horse keeping use

40. Paragraph 154 of the Framework establishes that development within the Green Belt is 'inappropriate' unless, amongst other things, it involves the provision of appropriate facilities (in connection with the existing use of land or a change of use) including buildings... for outdoor recreation, ... as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
41. The keeping of horses is part and parcel of the Gypsy and Traveller lifestyle, and I can find no good reason why this should not be regarded as akin to keeping and looking after a domestic pet for recreation purposes. I find the keeping of horses on the land would not be harmful to the openness of the Green Belt, or to conflict with the purposes of including land within it. I therefore conclude that this change in the use of the land would not amount to inappropriate development and would accord with the Green Belt protection aims of the Framework.
42. Insofar as the existing building facilitates the residential use of the site, I have found it not to be inappropriate development for the above reasons. This building would also allow for a small amount of stabling, along with storage of equipment related to horse keeping. Therefore, to the extent the building is larger than it

⁷ Appeal reference APP/E2734/W/22/3312997.

⁸ Appeal reference T/APP/A2715/A/91/188400/P8.

might otherwise have been, if purely dedicated to the residential use, its impact on the Green Belt should be considered.

43. The horse-keeping related elements of the existing building (and associated hardstanding) would result in a small degree of additional encroachment, which would be at odds with one of the Green Belt purposes⁹. It would fail to preserve openness, both in spatial and visual terms. However, because of the screening of the site, any visual harm to openness would be very limited. Nevertheless, for these reasons, the provision of the building for horse keeping related purposes is inappropriate development, a matter which I therefore return to, when considering the 'planning balance' later in my decision.

Character and Appearance

44. As referenced above, the appeal site comprises a rectangular field, situated adjacent to Forest Moor Road, which is characterised by various frontage developments, interspersed with open fields and dense vegetation.
45. Having regard to the visibility of the site from publicly accessible areas, the key viewing location is from the main road, which passes to the front. However, views of the interior of the site from here are very substantially screened due to the presence of dense, mature boundary trees along the north-western boundary. I am mindful that these trees benefit from the protection of a tree preservation order. Whilst the site would become more visible due to seasonal leaf fall, it seems to me that views would still be heavily filtered.
46. The site is entered via gates that are constructed from a combination of ornate black metalwork and solid panelling, painted a subtle shade of green. When opened, this inevitably results in a channel through which the interior of the site becomes partially visible. However, such views, would for the most part comprise of only very fleeting glimpses by passing motorists. These views would be towards the front of the building, which has been constructed in traditional materials, including stone and slate, with timber doors, and which appear sympathetic to this rural location. The gates themselves, though relatively tall, are somewhat recessive in appearance against the dense and mature line of boundary planting on either side. They do not appear to me as an obtrusive feature.
47. The main parties agreed at the Hearing, that a public footpath route to the east and south of the site is too far away to allow for any meaningful visibility of development there.
48. I have taken into consideration the landscape character assessment referred to within the Council's representations¹⁰. This highlights the sensitivity of the area to encroachment from built development. However, when considering the limited scale of development involved in this case, and the relative seclusion of the site, I conclude it does not harm the character and appearance of the area, as experienced from public spaces.
49. The site would be visible from the private residential properties which border its north-eastern and south-western boundaries. From here it would be possible to see various structures, vehicles and paraphernalia associated with the residential

⁹ For the avoidance of doubt I do not consider this element of development, due to its limited scale, to be in conflict with the remaining Green Belt purposes.

¹⁰ Area 54 – Harrogate Knaresborough Corridor – approved February 2004.

use. However, the nature and limited scale of development, the layout of which (along with the colour of the metal storage container) could be controlled by planning conditions, would not result in an excessive sense of urbanisation. Accordingly, it would not result in harm to the character and appearance of the area from this perspective.

50. Furthermore, I have concluded that the planning permission previously granted by the Council for the stable building was not lawfully implemented, due to its construction deviating significantly from approved plans¹¹. However, I nevertheless consider the approved design to have been sufficiently similar to the constructed building, both in appearance and position, for the grant of that planning permission, in itself, to count as a significant material consideration in favour of the development in this case.
51. I therefore conclude the development would conform with Policies NE4 and HP3 of the Harrogate District Local Plan 2020 (LP), which seek high quality building and landscape design and require the character, appearance and local distinctiveness of the landscape to be protected.

Policy criteria

52. The Council's reasons for refusing planning permission include that compliance with Policy HS10 of the LP and Policy H of the PPTS has not been demonstrated.
53. Policy HS10 sets out criteria against which proposals for new gypsy and traveller sites are to be assessed. They include avoiding detrimental impact in terms of highway safety, landscape character, residential amenity, flood risk and sites not dominating the nearest settled community; ensuring appropriate living conditions, good access to local services and avoiding a Green Belt location except in very special circumstances.
54. The Council's position, as clarified at the Hearing, is that the site is in conflict with only two of these criteria, namely that it is inappropriate development in the Green Belt, without very special circumstances having been demonstrated, and it is harmful to landscape character.
55. However, with regard to the Green Belt I have set out above how, in accordance with the most recent version of the Framework, it is now possible for gypsy and traveller site development in the Green Belt to be not inappropriate, and therefore not in need of demonstrating the existence of very special circumstances. This inconsistency with national policy serves to render this particular limb of Policy HS10 out of date. With regard to landscape character, I have concluded above the development would not be harmful.
56. The Council also set out in their representations that the appellant had failed to provide a statement justifying why an existing site cannot be extended, and a new site is needed, as required by Policy HS10. However, at the Hearing it accepted the appellant's explanation they did not have control over the necessary land to facilitate any such extension.
57. There have been objections to the development, made by local residents, on grounds of harm to their living conditions, due to loss of privacy, and in terms of highway safety.

¹¹ Planning permission reference 20/04018/FUL.

58. With regard to privacy, the north-eastern site boundary adjoins the neighbouring residential property, known as Arlington Cottage. However, it was evident from my visit that caravans are sited so as not to result in this property being overlooked. Furthermore, the windows and openings in the appeal site building are substantially confined to the elevations facing into the site, and thus away from the immediate neighbour, such that direct overlooking is avoided. I am also mindful that conditions could be imposed to control the number and position of caravans on the site, and future alterations to the building.
59. The residential properties, adjacent to the south-western boundary of the site, are too far from the pitch to be adversely affected by overlooking. I am not persuaded the proximity of the site to an adjacent paddock, to the south-east, can reasonably be said to harm the enjoyment of that area for leisure activities.
60. Aside from this, the proposed residential use of the land, together with horse keeping, would in principle, be compatible with the residential uses taking place on either side.
61. With regard to highway safety, I note that the highway authority raises no objection in principle subject to appropriate conditions, which include visibility splays at the site egress of 120 metres in both directions not being obstructed. From my visit it was evident that driver visibility benefits from the straight alignment of Forest Moor Road and that the requisite distance can comfortably be achieved in a south-westerly direction. I also consider that driver visibility to the north-east is satisfactory, despite long distance visibility being constrained by the presence of a crest in the road.
62. I therefore conclude the proposed development would comply with the site assessment criteria set out in Policy HS10, insofar as those criteria are consistent with national policy. Where there is inconsistency in relation to the Green Belt, this is a material consideration that overcomes the development plan policy conflict.
63. Policy H of the PPTS states that local planning authorities should attach weight to various matters, including the effective use of previously developed land; sites being soft landscaped so as to positively enhance the environment; promoting opportunities for children's play and not enclosing the site with excessive hard landscaping. In this context the opportunity afforded for the appellant's children to play on the site attracts positive weight. However, it seems to me the other factors neither way in favour of, nor against the development in this case.

Need for gypsy and traveller sites

64. Paragraph 7(b) of the PPTS states that local planning authorities should prepare and maintain an up-to-date understanding of the likely accommodation needs of their areas over the lifespan of the development plan. The Council's most recent Gypsy and Traveller Accommodation Assessment (GTAA) was produced in June 2017, therefore more than eight years ago, with the Council conceding at the Hearing that it would be reasonable to consider the assessment to be out-of-date. As set out above, there is no dispute between the main parties that there is a demonstrable unmet need for the development, on the basis that the Council lacks a five-year supply of deliverable traveller sites.
65. The Council also accepted at the Hearing that a small number of pitches, in the pipeline on previously allocated sites, were likely to be taken up to meet the

individual needs of families already present there. This appears to emphasise the earlier point regarding the appellant lacking control and influence over the occupation of these areas. Although the Council referred to sites in the wider North Yorkshire area where it was aware some vacancies existed, it accepted there was unmet need for sites in the Harrogate area. I conclude that the current level of need is unknown, and cannot rule out the need is immediate.

66. These considerations weigh in favour of the development.
67. It is also the appellant's case there has been a failure of policy due to the Council's poor past performance in the delivery of traveller sites. The appellant has referred to the previous GTAA under-estimating the level of need.
68. However, I am mindful the Council has set out criteria within Policy HS10 of the LP to provide a basis for decisions so as to facilitate the traditional and nomadic life of travellers. I am not persuaded there is evidence of a persistent failure to put policies in place to meet accommodation needs, and that there is a long-standing unmet need. This specific point does not therefore attract weight in favour of the development.
69. The appellant also argues that a large proportion of the Harrogate District is subject to Green Belt coverage, or is within a sensitive landscape designation (Nidderdale AONB), such that site allocations and permissions are likely to be within the Green Belt in any event. However, I am mindful that each development must be considered on its own merits, and therefore this factor does not in itself weigh in favour of the development in this case.

Personal circumstances of the site occupiers

70. The appellant lives on the appeal site with his wife and three young children. From his witness statement, it appears that prior to living here, the family had been homeless, resorting to living on the roadside. Since moving to the site, they have registered their children at a local nursery, with the intention that when old enough, they will attend a nearby primary school, a short distance away.
71. The appellant has acknowledged the existence of a Council owned traveller site nearby. However, they are opposed to seeking a potential alternative site there, for reasons that include family members previously being involved in feuds. I also note from the appellant's father's own witness statement, it appears this conflict issue may prevent the appellant being accepted for a place at that site in any event.
72. Several third parties have referred to the existence of a site in the Bradford area, known to be in the control of the appellant's father, where planning permission was recently granted for change of use of a building to a dwelling. Whilst this was confirmed to be the case, there is no suggestion a new traveller pitch for the appellant could be accommodated there.
73. There can be no doubt that if the appeal was unsuccessful, it would take away a settled base for the family, who may potentially need to resort to living on the roadside again and face disruption to their general healthcare and 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 if they have no fixed address.

74. The appellant's personal circumstances are not disputed by the Council, and I have no reason to take a contrary view. The circumstances weigh in favour of the development.

Intentional Unauthorised Development (IUD)

75. Many residents have expressed concern that the site was occupied for residential purposes, without planning permission first being sought, such that due process was not followed. However, I have no reason to doubt, for the reasons set out above, there is an absence of readily accessible alternative sites, and that the family were seeking to avoid a roadside existence.
76. A ground (a) appeal was made, and an application for planning permission was sought, albeit retrospectively. I am also mindful that it is possible to impose planning conditions to mitigate the development in this case. The 1990 Act makes provision for a grant of retrospective planning permission, including the imposition of planning conditions, and planning enforcement that is remedial rather than punitive. I therefore attach only limited weight to the intentional unauthorised nature of the residential development in this case.
77. With regard to the horse keeping use, I accept that insofar as the existing building is used for this purpose, it was in the belief that planning permission for the stables existed. This element of the development does not therefore amount to IUD.
78. I have been referred to an appeal decision, in relation to which the Inspector gave significant adverse weight in relation to IUD¹². However, in that case the development was found to be significantly harmful, and thus the circumstances are not comparable to the present appeal.

Other Matters

79. The Council's reasons for refusing the planning application included that there was a lack of information to determine whether the proposal complied with Policy CC4 of the LP, insofar as this is concerned with achieving sustainable design and reducing the extent and impact of climate change; also with the Framework insofar as it is concerned with these matters.
80. However, during the Hearing the Council accepted that its opposition on these grounds would be overcome by the imposition of a condition to require the installation of an electric vehicle charging point. This is not opposed by the appellant.
81. It seems to me that this would serve to facilitate and promote, albeit not guarantee, the use of more sustainable transportation. I agree that subject to the imposition of a planning condition, the development would not be in conflict with the aforementioned policies.
82. The government's planning practice guidance sets out which planning permissions are in scope and which are exempt from biodiversity net gain. It confirms that biodiversity net gain does not apply to retrospective applications for planning permission made under section 73A of the 1990 Act. The application in this case is retrospective and accordingly the biodiversity net gain requirement does not

¹² Appeal reference APP/W0340/W/24/3346878.

apply. The guidance also confirms that biodiversity net gain has not been commenced yet in relation to successful enforcement appeals.

83. I have considered the argument that the grant of planning permission would set a precedent for other similar developments. However, each application and appeal must be determined on its own individual merits and a generalised concern of this nature would not in itself justify withholding planning permission in this case.
84. The existence of private covenants restricting the use of the land has been referred to. However, such covenants, should they exist, would not be enforceable through the planning system and would not therefore be a matter for my consideration.
85. With regard to concerns raised about the impact of the development on property value and private views, it is not the purpose of the planning system to protect the private interests of individual parties, and as such these considerations would not attract weight in the planning balance.

Planning Balance

86. For the above reasons I attach only limited weight to the intentional unauthorised nature of the residential development.
87. I acknowledge that national planning policy attaches great importance to Green Belts. Therefore, when considering any planning application substantial weight should be given to any harm to the Green Belt. I have found the proposed residential use as a gypsy and traveller site to be not inappropriate development, and therefore not harmful to the Green Belt.
88. Consequently, this element of the proposed development accords with the strategy for the protection of Green Belt land, as set out in the Framework. In this context, whilst I have not considered the development in relation to the Green Belt site criterion in Policy HS10 of the LP, I do not find conflict with Policy GS4 of the LP, which seeks to protect the Green Belt in accordance with national policy.
89. I have found that the development would not result in harm to the character and appearance of the landscape, or due to sustainable design considerations. The proposed residential use would also comply with the site assessment criteria set out in Policy HS10, insofar as those criteria are consistent with national policy. These 'absences of harm' are neutral in the planning balance and do not weigh in favour of the appeals.
90. There are considerations which support the appeals. I attach significant weight to the lack of an up-to-date 5-year supply of deliverable traveller sites; and significant weight also to the present unmet need for sites locally, as demonstrated by the lack of a suitable alternative site being available to accommodate the site occupiers. I also attach significant weight to the appellant's personal circumstances, including the opportunity for children's play on the site.
91. Having regard to the above, I find the proposed residential use to be acceptable, without resorting to the additional weight I have ascribed to present unmet need and to the site occupiers' personal circumstances. Notwithstanding this, a condition will be justified restricting the occupation of the appeal site to gypsies and travellers.

92. In keeping with national policy, substantial weight is attached to the Green Belt harm caused by the parts of the existing building (and associated hardstanding) specifically linked with horse stabling / keeping. However, I nevertheless consider the existing building, as a whole, to be sufficiently similar to the previously approved design of the stable block, both in appearance and position, for the grant of that planning permission, in itself, to count as a significant material consideration in favour of the development in this case. Whilst the existing building is larger than that previously approved, I am mindful it is only partially utilised in connection with horse keeping, with the remainder providing ancillary amenity facilities in support of the residential use, and thus avoiding the need to provide a separate dayroom.
93. I conclude the harm to the Green Belt by way of inappropriateness, in relation to the horse keeping elements of the building (and associated hardstanding)¹³, would be clearly outweighed by these other considerations so as to amount to the very special circumstances necessary to justify this element of the development. Accordingly it is in compliance with Policy GS4.
94. 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.
95. Given the circumstances overall I find that granting planning permission would be proportionate and necessary. Since I have decided to allow the appeals and grant full planning permission for the proposed development there will be no interference with the appellant's rights to a private and family life and home.
96. 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, to advance equality of opportunity and to foster good relations. 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.
97. The grant of planning permission would go some way towards advancing equality of opportunity by recognising a need for gypsy and traveller accommodation and by recognising the personal circumstances of the appellant's family.
98. I conclude the development would not be in conflict with the development plan when read as a whole. On balance I find the development to be acceptable.
99. Given that I have found the development to be acceptable on the basis of the above considerations, there is no need for me to go on to apply the provisions of paragraph 11(d) of the Framework, and the so-called 'tilted balance', which is

¹³ There would be no additional non-Green Belt harm.

undisputed to be engaged in this case. This is because I have already found the development on balance to be acceptable.

Conditions

100. I have considered the conditions suggested by the Council, and discussed with the parties at the Hearing. A condition confirming that planning permission is restricted for residential use by gypsies and travellers is required, in order to safeguard the supply of the site for this purpose. Because permission is justified without recourse to personal circumstances, it is not made personal to the appellant.
101. A condition limiting the development to a single pitch, and the number of caravans stationed there, and a condition withdrawing permitted development rights in relation to means of enclosure, are both needed in order to protect the character and appearance of the area. Conditions prohibiting commercial activity on the site and restricting the size of vehicles there, are required in the interests of helping to safeguard the character and appearance of the area and the living conditions of residents. A condition (in relation to Appeal A) prohibiting the construction of windows in certain elevations of the building, is needed in order to safeguard the living conditions of residents.
102. Conditions controlling the design of the site access road and safeguarding visibility splays, as advocated by the highway authority, are required in the interests of highway safety.
103. A condition confirming the loss of the permission unless details are submitted for approval (including a timetable for implementation) concerning the site layout, boundary treatments, external colouring of the storage container, external lighting arrangements, electric vehicle charging and soft landscaping works including their maintenance, is required in order to help safeguard the character and appearance of the area and the living conditions of the site occupiers and nearby residents, and in the interests of sustainable design.
104. The form of this condition is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matters before the development takes place. The condition will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.
105. A condition is required specifically in relation to Appeal B to confirm the approved plans in the interests of certainty.
106. Because of space available within the site, details of turning arrangements for vehicles are not required. Furthermore, there is no need for a condition withdrawing permitted development rights in relation to additional buildings, as no such rights exist in relation to gypsy and traveller sites.

Conclusion

Appeal A

107. For the reasons given above, I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the use as described in the notice, as corrected.

108. The appeals on grounds (f) and (g) do not fall to be considered.

Appeal B

109. For the reasons given above I conclude that the appeal should be allowed.

Formal Decisions

Appeal A

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

Deleting the wording at Section 3, describing the alleged breach of planning control, in its entirety, and substituting the following wording instead:

“Without planning permission, the material change of use of the Land to a mixed use comprising gypsy and traveller site and horse keeping, including the stationing of caravans for residential use, creation of hardstanding, and residential paraphernalia, along with the erection of a single storey building and associated hardstanding.”

111. Subject to the correction the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use of the Land to a mixed use comprising gypsy and traveller site and horse keeping, including the stationing of caravans for residential use, creation of hardstanding, and residential paraphernalia, along with the erection of a single storey building and associated hardstanding at The Oaks Stables, Forest Moor Road, Knaresborough, HG5 8LT as shown on the plan attached to the notice, and subject to the conditions in the schedule below.

Appeal B

112. The appeal is allowed and planning permission is granted for Change of use of land to be used as a gypsy-traveller site with pitches for 2 No touring caravans at The Oaks Stables, Forest Moor Road, Knaresborough, HG5 8LT in accordance with the terms of the application, Ref ZC25/00173/COU, subject to the conditions in the schedule below.

R Merrett

INSPECTOR

SCHEDULE OF CONDITIONS IN RELATION TO APPEALS A and B

- 1) The site shall not be occupied by any persons other than Gypsies and Travellers, defined 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 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, but excluding members of an organised group of travelling showpeople or circus people travelling together as such, in accordance with the Planning Policy for Traveller Sites or replacement planning policy or guidance.
- 2) There shall be no more than **one** pitch on the site. On the pitch hereby approved no more than **two** caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, (of which no more than **one** shall be a static caravan), shall be stationed at any time.
- 3) The residential use (and, in relation to Appeal A, horse keeping use) hereby permitted shall cease and all caravans, structures, vehicles, equipment and materials brought onto the land for the purposes of such use shall be removed, and the land restored to its condition before the development took place within **30 days** of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within **3 months** of the date of this decision a scheme with details for:
 - (a) the internal layout of the site including the extent of the residential pitch, and the location of the caravans, vehicle parking and hardstandings and the storage container;
 - (b) all boundary treatments, including gates (but excluding electric fencing);
 - (c) the external colouring of the storage container;
 - (d) proposed and existing external lighting within the site;
 - (e) an electric vehicle charging point;
 - (f) soft landscaping including details of species, plant sizes and proposed numbers and densities and details of a schedule of maintenance for a period of 5 years;(hereafter referred to as the 'site development scheme') shall have been submitted for the written approval of the local planning authority and the site development scheme shall include a timetable for its implementation.
 - ii) If within **11 months** of the date of this decision the local planning authority refuse to approve the site development scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) The approved site development scheme shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 5) No commercial activities shall take place on the land, including the storage of materials.
- 6) The access to the site must be set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements, within 3 months of the date of this decision:
The crossing of the highway verge must be constructed in accordance with the Standard Detail number E10;
Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the existing highway and must not be able to swing over the highway;
Provision to prevent surface water from the site discharging onto the highway must be constructed in accordance with the approved details shown on drawing E10, and maintained thereafter to prevent such discharges;
The final surfacing of any private access within 8 metres of the public highway must not contain any loose material that is capable of being drawn on to the public highway.
- 7) Within 3 months of the date of this decision the access between the highway and the site shall have visibility splays that provide clear visibility of 120 metres measured along both channel lines of the major road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no walls, gates, fences or other means of enclosure, under Schedule 2, Part 2, Class A, shall be erected.

ADDITIONAL CONDITION IN RELATION TO APPEAL A ONLY

- 9) No windows or other openings shall at any time be inserted in the north-east or south-east elevations of the building hereby permitted.

ADDITIONAL CONDITION IN RELATION TO APPEAL B ONLY

- 10) The development hereby permitted shall be carried out in accordance with drawing references: 'Location Plan', dated 21 January 2025 and 'Site Plan Proposed' ref: LS-0131-100 Rev C, dated 19/03/25, except in respect of fencing details and subject to the aforementioned conditions.

END OF SCHEDULE OF CONDITIONS

APPEARANCES

FOR THE APPELLANT:

Matthew Green	Planning Consultant (Green Planning Studio)
Caleb Howard Jnr	Appellant
Caleb Howard Snr	Appellant's father

FOR THE LOCAL PLANNING AUTHORITY:

Amelia Critchlow	Barrister
Chris Keddle	Senior Planning Enforcement Officer
Aimee McKenzie	Planning Officer
Emma Howson	Development Management Team Manager
Joe Varga	Senior Planning Policy Officer
Rachael Hutton	Planning Policy and Place Manager

INTERESTED PARTIES:

Alison Iles	Local resident
Nick Iles	Local resident
Nevil Muncaster	Local resident
Craig Waddington	Local resident
Aaron Smith	Association of Friends of Forest Moor Road

Documents submitted at the Hearing:

1. Witness statement of Mr Caleb Howard Junior.
2. Witness statement of Mr Caleb Howard Senior.

Documents submitted after the Hearing:

1. Council's response to appellant's costs application.
2. Appellant's final comments regarding Council's costs application response.