



Appeal Decisions

Site visit made on 29 May 2025

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 September 2025

Appeals A to K - Land known as Parcel 3300, Kayte Lane, Southam, Cheltenham, GL52 3PD

- The appeals are made against an enforcement notice issued by Tewkesbury Borough Council.
- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The notice was issued on 24 July 2024.
- The breach of planning control as alleged in the notice is, without planning permission, the material change of use of the Land from agricultural use to use for the stationing of caravans for human habitation as a gypsy and traveller site.
- The requirements of the notice are to:
 - (1) Cease the use of the Land as a Gypsy/Traveller site.
 - (2) Remove all caravans (including any static caravans, touring caravans and motorhomes).
 - (3) Remove all sheds, containers and portable toilets.
 - (4) Remove all fencing and gates within the Land.
 - (5) Remove perimeter fencing and gates delineated with a blue line on the site identification plan.
 - (6) Remove all residential paraphernalia including but not limited to:
 - (a) Tables and chairs
 - (b) Washing lines
 - (c) Decorative sculptures/ornaments
 - (d) Gas bottles
 - (e) Domestic waste bins
 - (7) Excavate and remove all hard surfacing, lay with 300mm of topsoil and re-seed with grass.
 - (8) Remove all CCTV columns.
 - (9) Remove all debris/waste materials resultant from compliance with the above steps.
- The period for compliance with the requirements is: Twelve months.
- The appeals are proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decisions - The appeals are dismissed, and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decisions.

Appeal A Ref: APP/G1630/C/24/3350803

- The appeal is made by Mr Ruben Giles.
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Appeal B Ref: APP/G1630/C/24/3350804

- The appeal is made by Mr Henry Loveridge.
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Appeal C Ref: APP/G1630/C/24/3350805

- The appeal is made by Mr Miles Maughan.
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Appeal D Ref: APP/G1630/C/24/3350806

- The appeal is made by Mr John Norris.
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Appeal E Ref: APP/G1630/C/24/3350807

- The appeal is made by Ms Georgina Wilson.
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Appeal F Ref: APP/G1630/C/24/3350808

- The appeal is made by Ms Beryl Lee.
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Appeal G Ref: APP/G1630/C/24/3350809

- The appeal is made by Mr Jimmy Evans.
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Appeal H Ref: APP/G1630/C/24/3350810

- The appeal is made by Mr Nathan Smith.
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Appeal I Ref: APP/G1630/C/24/3350811

- The appeal is made by Mr Brian Roberts.
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Appeal J Ref: APP/G1630/C/24/3350812

- The appeal is made by Mr Joe Smith.
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Appeal K Ref: APP/G1630/C/24/3350813

- The appeal is made by Mr Cash Loveridge.
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Appeal L Ref: APP/G1630/W/24/3336834

Land east of Kayte Lane, Southam, Cheltenham, Gloucestershire GL52 3PD

- 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 L Hughes against the decision of Tewkesbury Borough Council.
- The application Ref is 23/00641/FUL.
- The development proposed is the Change of use of land to use as a Gypsy/Traveller site comprising 11 pitches, of which 11 static mobile homes for residential purposes shall be stationed alongside the stationing of 7 ancillary touring caravans, and ancillary works.

Summary of Decision - The appeal is dismissed.

Preliminary Matters

1. The Council queries the validity of the appeals against the enforcement notice and the refusal of planning permission. In relation to the enforcement appeal, it is well established that having an interest in the land, i.e. a legal or equitable interest in the land, can include a licence to occupy, granted expressly or impliedly. The circumstances of the occupants, including the length of time they have been in occupation, together with the lack of any owner opposing the occupation, suggest it is likely that at least an implied licence to occupy has arisen. Therefore, the appellants qualify as relevant occupiers for the purposes of Section 174 of the Act, and benefit from the right of appeal.
2. As to the appeal against the refusal of planning permission, the information provided by the Council is incomplete. The appellant states that at the time of the application they owned the land, and the Council has not provided substantive documentary evidence to demonstrate otherwise. Considering the matter in the round, there would be no prejudice caused to any party as a result of any failure in

the certificate of ownership process, given my decisions to dismiss the appeals and uphold the enforcement notice.

3. At the time of the site visit I observed that there were more pitches laid out within the appeal site than is stated on the plans submitted for the appeal on ground (a), as well as the S78 appeal. For the avoidance of doubt, my considerations are based on the submitted plans.
4. I note from the submitted Statement of Common Ground that the Council no longer sustain objections to the development on the matters of flood risk and the effect on the living conditions of nearby occupiers, being satisfied that appropriately worded planning conditions would address these issues. While they are not stated as main issues, given that interested parties have made comments I nonetheless address them below.
5. Revised versions of the National Planning Policy Framework (the Framework) and the government's Planning Policy for Traveller Sites (PPTS) have been issued since the appeal was lodged. The main parties have provided comments on these revisions, and I have taken them into account when making my decision.

The Notice – the allegation and requirements

6. The Notice sets out the alleged breach of planning control as:

“Without planning permission, the material change of use of the Land from agricultural use to use for the stationing of caravans for human habitation as a gypsy and traveller site.”

While the first of the requirements states:

“Cease the use of the Land as a Gypsy/Traveller site.”

7. There is some disparity between the allegation and this requirement, in that the requirement does not seek the cessation of the use of the site for human habitation, just the use as a gypsy traveller site. If I were to uphold the notice, it could be argued that permission had been granted for the use of the site for the stationing of caravans for human habitation. There is no indication that the Council are seeking to under-enforce the alleged breach and as such the requirement should address the entirety of the breach that is alleged.
8. Under Section 176(1) of the Act, I have the power to correct the notice to address any error, provided that this causes no injustice. I am conscious that the appeal was initially submitted some time ago and it is only within the submission of the addendum statement that the appellant raises issue with the framing of the requirement. Until this point, it seems clear that the appellant proceeded on the basis of the entirety of the change of use being required to cease. Given this position, I am satisfied that there would be no prejudice in amending the requirement to refer to the cessation of the entire development as set out in the allegation.

Ground (a), that planning permission should be granted, and the linked planning appeal

Main issues

9. The main issues in all appeals are:

- Whether or not the development is inappropriate development in the Green Belt,
- The effect of the development on the character and appearance of the area, including the effect on trees,
- The effect of the development on highway safety,
- The effect of the development on biodiversity, and
- If the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether or not inappropriate development

10. Paragraph 155 of the Framework explains that the development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate where:

- a. It would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
- b. There is a demonstrable unmet need for the type of development proposed; and
- c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework.

11. Grey belt is defined within the glossary to the Framework as, “land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. ‘Grey belt’ excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.”

12. Thus, the question to be asked is whether or not the site strongly contributes to any of purposes (a), (b), or (d) in paragraph 143, and these are:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another; and
- d) to preserve the setting and special character of historic towns.

11. *Purpose (a) - Check the unrestricted sprawl of large built-up areas* - The appeal site lies between the built-up areas of Cheltenham to the south and Bishops Cleeve to the north. The Council refers me to its Green Belt Study which identifies that the site lies within assessment parcel NE19, which overall is assessed as making a significant contribution to all of the Green Belt purposes. I have no reason to disagree with this assessment. However, I am conscious that this is a generalised assessment relating to the assessment parcel as a whole and is not a specific assessment of the appeal site.
13. The appeal site is located some distance from the extent of both Cheltenham and Bishops Cleeve, and, while previous to the unauthorised development taking place it was free from development, given its location away from both these settlements it does not contribute to checking sprawl by acting to contain existing development. I am mindful that the Planning Practice Guidance (the PPG) guides that villages should not be considered to be large built-up areas, and the appellant contends that Bishops Cleeve is a village. Nonetheless, given its size, population and range of service provision, I consider that it is more akin to a town, particularly given its categorisation as a service centre. Nonetheless, I have found that the site does not strongly contribute towards checking unrestricted sprawl.
14. For these reasons, the appeal site is not one which strongly contributes to purpose (a) of paragraph 143.
15. *Purpose (b) - Prevent neighbouring towns merging into one another* - As I set out above, the site is located between Cheltenham and Bishops Cleeve. It sits within a larger area of land, which as a whole provides a gap between the settlements. However, the appeal site itself given its location and size, does little in isolation to prevent these towns from merging. As such, the appeal site does not contribute to preventing neighbouring towns from merging into one another and thus cannot strongly contribute to purpose (b).
16. *Purpose (d) - Preserve the setting and special character of historic towns* - The Council have set out that it considers the site strongly contributes to purposes (a) and (b), however for the reasons I set out above I disagree. The Council do not contend that the site strongly contributes to purpose (d) and, given its distance from Cheltenham, I find that the site does not strongly contribute to preserving the setting and special character of historic towns.
17. As a result of my findings on purposes (a), (b) and (d) of the Green Belt, as established in paragraph 143, the site is grey belt land.
18. It is then necessary to consider whether the development would undermine all of the purposes set out in paragraph 143 of the remaining Green Belt across the area of the development plan, taken together.
19. In terms of encroachment into the countryside, this would be limited by the extent of the development that has already taken place, together with the extent of existing physical boundaries around the site which includes a railway line and substantial hedge boundaries between field parcels. There is nothing before me to show that the development undermines urban regeneration through not using derelict or other urban land. While there may be some conflict with the purposes of

the Green Belt, this would not be fundamental across its coverage and therefore there is no conflict with paragraph 155(a).

20. Turning to paragraphs 155 (b) and (c), these require there to be a demonstrable need for the development that is proposed and that it be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework. It is also required that in the case of development involving the provision of traveller sites, particular reference should be made to PPTS paragraph 13. The appellant and the Council have submitted an agreed Statement of Common Ground in which they agree that there is a demonstrable unmet need for gypsy traveller pitches, and the location is sustainable in respect of PPTS paragraph 13 and paragraph 110 of the Framework. From what I have seen, I have no reason to disagree with this.
21. Nonetheless, there is also paragraph 115 of the Framework to consider. This sets out that in assessing specific applications for development, it should be ensured that, among other things safe and suitable access to the site can be achieved for all users. As I find below when considering highway safety, the development does not benefit from a safe and suitable vehicular access, and this results in harm to highway safety at this location. There is thus conflict with paragraph 115.
22. Accordingly, while I have found that the appeal site comprises grey belt land, that the development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan and that there is a demonstrable unmet need for the type of development proposed, the harm to highway safety results in the development not being at a sustainable location. Therefore, the development is inappropriate development in the Green Belt further to paragraph 155.
23. The development therefore conflicts with policy SD5 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (adopted December 2017) (the Core Strategy), insofar as it seeks to ensure that development in the Green Belt accords with the provisions of the Framework. There would be some conflict with policy GBR4 of the Tewkesbury Borough Plan (the Borough Plan), in that the development does not fall within one of the categories of development that is stated to not be inappropriate. However, this policy pre-dates the revisions to the Framework and I accord it little weight given its lack of consistency with the Framework.

Character and appearance

24. The appeal site comprises a parcel of land that is located along Kayte Lane, from which it is served by a vehicular access. From the information that is before me, prior to the unauthorised development taking place the site was laid to grass and enclosed by substantial trees and hedging along much of its boundaries. The site is variously bordered by a railway line, fields and a road. On the opposite side of Kayte Lane, there is a row of residential dwellings. While there is development present in the locality, the predominant quality of the area is that of a rural environment interspersed with small-scale sporadic development.
25. The development of the site with pitches covers the entirety of its extent, to all boundaries. As a result of its extent, it is at odds with the scale of residential

development that is present within the surrounding locality, and such is its scale that it is a discordant addition at this location. I acknowledge that views of the site are not numerous from within the immediate vicinity, nonetheless where it is visible, particularly from the vehicular access point and the public right of way that abuts the site, it would be an obviously overly large and intrusive addition to the landscape. Moreover, given that the site has changed from a grassed field, to what is an intensively developed parcel there is an inevitable urbanising effect, which when considered within the context of this site is harmful.

26. In respect of the point of vehicular access, it is apparent from the information before me that a significant length of trees and hedging have been removed. This has had the effect of opening a swathe of land that borders the road, where it was previously well-enclosed by the vegetation, similarly to that which can be seen when travelling further north along the road. In particular, the trees enclosed the lane and together with the surrounding trees, created an attractive streetscene. Therefore, their removal together with the other landscaping has diminished the rural appearance of the road and results in a stark and harsh intervention into the countryside location. I note the appellant's comments that unknown parties undertook these works, nonetheless it would appear that they facilitate the development and thus the effect should be considered.
27. In addition to the vantage points to which I refer to above, there are also views of the development when travelling along Kayte Lane, most notably of the fencing that has been erected to enclose the site. However, in my view there is the capability of including landscaping along the boundary of the site that would mitigate the effect of the development along this boundary and as such I do not consider there would be any unacceptable effect from this vantage point.
28. My findings above concur with that of the submitted Landscape and Visual Impact Assessment (LVIA), which concludes that the development of the site has resulted in an adverse landscape effect. The LVIA concludes that from Kayte Lane and some footpaths in the area, the significance of the effect would be moderately adverse, whereas I would categorise this as significantly adverse. The LVIA further highlights that even with mitigation planting, the openness of the countryside and the open intrinsic quality of the landscape character may be adversely affected. A Landscape Strategy was also part of the LVIA which shows the provision of native planting to the majority of the boundaries of the site, with further planting proposed among all the pitches. While this is noted, it would not in my view mitigate the adverse effects that I have identified above as it does not diminish the actual scale of the development within the appeal site. Moreover, given that at the point of access, the land that has been cleared is not within the ownership or control of any of the appellants and that the clearance has been undertaken in order to try to obtain visibility along the road, there is little likelihood of mitigation planting being able to be achieved here.
29. My attention was drawn to possible longer distance views of the site from the nearby Cleeve Hill. I observed that there are expansive and far-reaching views of the surrounding landscape from this vantage point, from where it is possible to view nearby settlements of Southam, Bishops Cleeve, as well as Cheltenham. While these views were extremely expansive, given the proximity of the appeal site

it was possible to have clear views towards it. Notwithstanding that it appears as a relatively small element in these extensive views, it remains clearly appreciable as it envelops an entire field parcel. The development therefore also has an adverse effect on views from this location, albeit to a lesser extent than from closer vantage points.

30. I am also conscious that the appellants have submitted a proposed alternative site layout (in order to attempt to allay biodiversity concerns, which I address below) which would result in all the pitches being located along the boundary of the site with Kayte Lane, and the remainder of the site being dedicated as a Biodiversity enhancement area. This would result in a more condensed form of development, but in my view would not eliminate the concerns of the visual and landscape effect that would occur. It would result in a more densely arranged and intense form of development that would also be at odds with the character of the surrounding area. As such, this does not alter my findings above.
31. Accordingly, the development has a substantially harmful effect on the character and appearance of the area, this includes through the loss of trees and would conflict with policy SD13 of the Core Strategy and policy NAT1 of the Borough Plan. Together, and amongst other things, these seek to ensure that the development of sites does not have an unacceptable impact on the character and appearance of a landscape, and that features of landscape quality are protected.

Highway safety

32. The site is served by an existing, but modified, vehicular access from Kayte Lane. The appellants have submitted a Highways Technical Note (the HTN) that concludes that following the undertaking of a speed survey, at the point of access a visibility splay of 55.40 metres (m) to the north is required, while to the south a splay of 54.30m is required. The visibility to the north can be achieved, while to the south it is highlighted that the visibility is impinged on by the presence of trees within the roadside. Nonetheless, the appellants assert that this is not unacceptable and that there would remain adequate visibility of oncoming vehicles.
33. In respect of the details that have been provided, firstly dealing with the provision of the visibility splay to the south, the submitted details show that the splay is over part of the land that lies alongside the road. This is part of the land that has already been altered, removing a large swathe of roadside vegetation. This area of land is not within the ownership or control of the appellants, being excluded from the red outlined application site that was submitted with the S78 planning application. There would therefore be an inability to control what works take place within the area. In particular, visibility splays are required to be kept free from obstruction to ensure that they remain available. In this case, the appellants are not able to exert sufficient control over this matter, and it is not appropriate to use a planning condition to secure the visibility in this instance. Moreover, there remains the possibility that the landowner may seek to replace the trees and vegetation that have been removed which would severely restrict visibility for vehicles.

34. The HTN relies on the undertaking of a speed survey for its derivation of the required visibility splays, noting 85th percentile speeds of 35.3 miles per hour (mph) for northbound traffic and 35.8 mph for southbound traffic. However, the Council have raised concern over the methodology used for these calculations, highlighting that the measurement device was not placed on the approaches to the site entrance, but near to the entrance, where there is a “horizontal deflection in the road alignment which results in vehicles reducing their speed at this point”. I note that the specific point is to the north of the access point and as such, northbound traffic will have already passed the site access when the speed measurement was taken.
35. In my view, it is likely that such vehicles at this point would have reduced their speed on seeing the entrance to the development as well as due to the change in alignment of the road. As a result, it is likely that the vehicle speed when approaching the site would be in excess of the measured 85th percentile speed. Also of concern is that even when taking this into account, the speed survey measured speeds in excess of the 40mph speed limit that applies at this location, recording speeds at times in excess of 50mph.
36. The appellants draw my attention to a previous appeal decision where an Inspector considered that despite a substandard provision of visibility that an appeal should be allowed. However, I am particularly conscious that this cited case was in respect of a site for two gypsy traveller pitches. The scheme before me involves eleven pitches and as such would involve a considerably higher number of vehicle movements onto and off the site. As such, that cited scheme is not directly comparable and does little to persuade me that this development would be acceptable from a highway safety point of view.
37. Accordingly, I find that the development results in substantial harm to highway safety at this location. Thus, the development conflicts with policies INF1 and SD13 of the Core Strategy. Together, and amongst other things, these policies seek to ensure that development provides a safe and efficient access to the highway network and new gypsy and traveller sites have safe and satisfactory vehicular access to the highway network. Paragraphs 115 and 116 of the Framework also indicate that the development should be prevented on highways grounds, as there is not a safe and suitable access to the site and there would be an unacceptable impact on highway safety.

Biodiversity

38. The development has taken place over a significant area of land, with the planning application indicating that the site extends to over 2 hectares. While the site was previously a parcel of land laid to grass and there may have been some agricultural use of it, the development on site comprises significant areas of hardstanding and little of the grassed area remains. There has also been the loss of trees around the access of the site. In light of this, there has been a loss of a substantial amount of habitat.
39. None of the appeals have included information in respect of the likely biodiversity value of the site prior to the development taking place and as such there is no baseline in order to be able to assess the effect that the development has had on

matters of biodiversity value. Notwithstanding this, I am also conscious of the Inspector's findings when considering an appeal on a nearby site, in that there may be effects on bats. Given the extent of the site and the presence of nearby trees, the use of the site for foraging habitat for bats for example cannot be ruled out.

40. The appellants have submitted a revised site layout which shows that a large portion of the appeal site could be set aside for a biodiversity enhancement area, with the development of pitches restricted to the western boundary. However, without an assessment of the baseline ecological value of the site it is difficult to see how an enhancement could be quantified.
41. In respect of biodiversity net gain (BNG), policy NAT1 of the Borough Plan requires new development to provide for a net gain. The appellants argue that the policy requires only "a" net gain, and that a simple improvement would suffice. However, the reasoned justification to the policy clearly states that prior to enactment of the Environment Bill and during any statutory transition period, the Council expects major development to deliver a minimum net gain of 10%. Given the site area of the appeal site, the development comprises major development, as set out in The Town and Country Planning (Development Management Procedure) (England) Order 2015, and thus is required to demonstrate the requisite 10% gain, as required by the policy.
42. The appellants assert that if the net gain is required that a planning condition could be imposed to secure this, as is done within the statutory BNG scheme. However, the condition imposed by the statutory scheme follows the submission of information to meet the minimum information required in order to provide confidence that the required BNG can be achieved. There is no such baseline information in this case and as such little confidence that such a condition could be successfully complied with and discharged.
43. As such, it is not possible to conclude that the development of the site has not had a deleterious effect on matters of biodiversity importance, including the delivery of necessary BNG. Accordingly, the development has not been shown to accord with policy SD9 of the Core Strategy or policy NAT1 of the Borough Plan. Together, and amongst other things, these policies seek to ensure that the biological resource of the area is protected and that development conserves and enhances biodiversity.

Other considerations

Need and supply of sites and failure of policy

44. The Statement of Common Ground that has been agreed between the parties outlines that the Council is currently unable to demonstrate a five-year supply of gypsy traveller pitches and consequently there is a demonstrable unmet need. The Council's committee report on the planning application outlines that following an update to the Gypsy and Traveller Accommodation Assessment in 2022 there is a need for 29 pitches before the end of 2026, with a further 21 being required between 2026-2031. Given the need that exists there has also been a lack of policy to deliver the necessary supply of sites.

Likely location of alternate sites

45. The appellants assert that it is likely that alternate sites will be located outside of defined settlements, in the countryside, as well as within the Green Belt given the extent of it within the Borough, which it is stated extends to some 390 hectares. While this is noted, the appellants also acknowledge that it is not inevitable that new sites will be in the Green Belt.

Availability of alternate sites

46. I have not been provided with information to show that there are currently any available, alternative sites that would meet the need of the occupiers of the appeal site.

Personal circumstances

47. The site is currently occupied, and I have been provided with details of the personal circumstances of a number of the occupants, these include details of the number of children that occupy the site as well as that there will be further children who will occupy the site due to there being expectant mothers living at the development. I have therefore had regard to the Best Interests of the Children. The provided details include particulars of health conditions that are experienced by both adults and children.

Intentional unauthorised development

48. A Planning Policy Statement issued in 2015 makes it clear that intentional unauthorised development (IUD) is a material consideration and a factor to be weighed in the determination of appeals. The appellants accept that the development was undertaken knowing that the necessary authorisation had not been secured and which I note was undertaken in breach of an Injunction Order granted by the High Court. The appellants also accept that this is a material consideration.

Other matters

49. Concerns have been raised in respect of flooding that can occur at this location, I have been provided with photographs showing the extent of this on certain occasions. There has also been concern over the effect of the development on the living conditions of nearby residents. The Council initially expressed concern in these regards however subsequent to the submission of the appeals it has been agreed by the Council that appropriately worded planning conditions are capable of resolving these matters. While I am mindful of the concerns expressed by local residents, there is no substantive evidence before me to conclude that these matters are not capable of being resolved or mitigated by condition.
50. While not mentioned as a reason for issuing the enforcement notice or refusing planning permission, comments have been made in respect of the sustainability of the location and the accessibility of services by means other than the private car. I am particularly conscious of the findings of other Inspectors who found that a nearby site was a suitable location for gypsy traveller development in terms of its

accessibility to facilities. Given the proximity of that site, I see no reason for finding differently when considering this development site.

Planning Balance

51. While the Council is not able to demonstrate a five-year supply of deliverable housing sites, I have found that the development is inappropriate development in the Green Belt and thus the policies of the Framework in this regard provide a strong reason for refusing the development. As a result, the presumption in favour of sustainable development, as envisaged by paragraph 11 of the Framework is not engaged.
52. The Framework requires that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The scheme, taken as a whole, is inappropriate development in the Green Belt, which is by definition harmful. This harm is accorded substantial weight.
53. I have found that the development results in harm to the character and appearance of the area and that the effect in this regard would be severe. It has also not been demonstrated that the development has not resulted in an unacceptable effect on biodiversity, which can be satisfactorily mitigated. These harms attract significant weight.
54. In addition, I have found that the development results in a risk to highway safety at this location, due to the lack of ability to achieve and protect necessary visibility splays at the point of vehicular access. Due to the scale of the development, together with the substantial volume of traffic that utilises this part of the highway as well as the likely speed of vehicles travelling along it, I find that this risk would be major, and I accord it the fullest possible weight. The development comprises intentional unauthorised development. This matter also weighs moderately against the grant of permission.
55. To be balanced against these harms are factors in favour of the development and the benefits that would accrue. It is not disputed that there is a need for gypsy traveller pitches in the borough. The development would make a not insignificant contribution towards meeting the need, and I have identified a failure of policy. I accord these factors significant weight. While it is contended that alternate sites are likely to be in the countryside and the Green Belt, there is no detailed assessment of any other sites that would serve as an alternative, and I accord this matter only limited weight.
56. In respect of the personal circumstances of the site occupiers, I have reviewed the details that have been provided by the appellant. I have considered the circumstances of each party. I am also particularly conscious of the Best Interests of the Children, in respect of the children that do and will occupy the site and the benefits such occupation brings. These include benefitting from a stable home in a safe environment, with stable access to education and health services among them. I have had regard to these best interests, and I have treated no other consideration as being inherently more important or, in advance of the subsequent

assessment of the individual circumstances, I have given none greater weight. I am also mindful of the consequences of the development not being allowed to continue in terms of there being no other suitable accommodation currently available and the likely consequences for the occupiers being required to vacate the site.

57. Overall, I consider that the package of benefits that would result from the development should be given significant weight in the planning balance, particularly as the appeal scheme would provide accommodation where there is currently no alternative available. Nonetheless, as I have identified above, I accord the fullest possible weight to the harm to highway safety that would result, and the harm to the Green Belt by way of inappropriate development must carry substantial weight. The other harms also attract significant weight.
58. Accordingly, in my judgement the negative factors resulting from the development, which include, harm to the character and appearance of the area, harm to biodiversity and most significantly harm to the Green Belt by reason of inappropriateness and harm to highway safety, clearly outweigh the benefits. Thus, the very special circumstances necessary to justify the development do not exist.
59. I have considered whether it would be appropriate to grant a temporary permission. The families on the site would benefit from a longer period of stability with access to nearby facilities including access to education and health services for themselves and their children. However, the dangers posed to the occupants of the site as well as other road users, by the unacceptable condition of the highway access, lead me to conclude that a temporary permission of any length cannot be justified
60. I am conscious that in dismissing this appeal there would be interference with the appellants' rights under Article 8 of the *European Convention on Human Rights*, as it would deny them the opportunity to establish a home on this site. However, such rights are qualified, and interference may be permissible when the rights of the individual are balanced against those of the community. In this instance such interference would be proportionate given the public aim of preventing harm to the public as well as the site occupants from the severe risk to highway safety, as well as protecting the countryside and biodiversity from harm.
61. In exercising my function on behalf of a public authority I am also aware of my duties under the Public Sector Equality Duty (PSED), contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Since the appeal involves the use of land as a gypsy site and the appellants are gypsy travellers, they have a protected characteristic for the purposes of the PSED. In concluding on the balance between these requirements I am satisfied that the harms identified outweigh the benefits in terms of eliminating discrimination, advancing equality of opportunity and fostering good relations.

Conclusion on the ground (a) appeal and the linked planning appeal

62. The development conflicts with the development plan as whole and there no material considerations of sufficient weight to indicate that a decision should be taken otherwise that in accordance with it.
63. For the reasons given above, and having regard to all other matters raised, the appeal under ground (a) and the appeal against the refusal of planning permission are dismissed.

Ground (g)

64. An appeal under ground (g) is that the period for compliance with the notice falls short of what is reasonable.
65. The enforcement notice provides a period of 12 months to cease the use of the land, to remove all structures, paraphernalia and hard surfacing, re-seed with grass and remove all debris. The appellant asserts that 18 months would be a more appropriate period, in light of the need for occupiers of the site to secure alternate accommodation and having regard to the personal circumstances of the occupiers.
66. However, I am also conscious that the desire to extend the compliance period must be weighed against the persisting harm to highway safety that results from retention of the development for a longer period. On this basis, I consider that 12 months provides an appropriately balanced time to allow the occupiers to seek alternate accommodation arrangements.
67. The appeal on ground (g) therefore also fails.

FORMAL DECISIONS

Appeals A to K – the appeals against the Enforcement Notice

68. It is directed that the enforcement notice is corrected by:
- Substitute step (1) of “Section 5. Steps Required to Rectify the Breach” for:
“Cease the use of the Land for the stationing of caravans for human habitation as a gypsy and traveller site”.
69. Subject to the correction, the appeals are 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.

Appeal L - the appeal against the refusal of planning permission

70. The appeal is dismissed.

Martin Allen

INSPECTOR