
Appeal Decision

Hearing held on 3 September 2025

Site visit made on 3 September 2025

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2025

Appeal Ref: APP/C3620/W/25/3365225

Pinewood Park, Capel Road, Rusper, HORSHAM, RH12 4PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mrs Margaret Meloney against Mole Valley District Council.
 - The application Ref is MO/2024/1535.
 - The development proposed is the change of use of land to 12 gypsy/traveller pitches and associated works including retention of vehicle access, wildflower meadow and tree planting.
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Decision

1. The appeal is dismissed.

Application for costs

2. The appellant had intended to make an application for costs against the Council but this had not been clear from the written representations and the Council was not in a position to respond to it at the hearing. Accordingly, a written application was made in the week following the hearing and the Council was given an appropriate period to respond. The costs application is the subject of a separate decision.

Preliminary Matters

3. Just before the hearing the parties referred to the Judgment in the case of Mole Valley District Council v SSHCLG and Margaret Meloney [2025] EWHC 2127 (Admin) which was handed down on the 15 August 2025. In summary, the case involved the stationing of residential and touring caravans on a site at Cidermill Hatch in the Green Belt near Newdigate. The appellant in that case is the same as the current appeal case. The Council challenged the inspector's decision to quash an enforcement notice and grant planning permission for a two-pitch site. On the specific grounds of challenge, in summary, the High Court found that the inspector had not erred in law in misinterpreting Green Belt policy; had not misinterpreted policy in deciding whether sites forming part of the supply side were likely to be deliverable; and the inspector had not failed to take into account material evidence which had not been brought to his attention. I will take account of the High Court judgement in the present appeal particularly over the issue of the need and supply of gypsy and traveller sites.

Main Issues

4. The main issues are:

- Whether the principle of the development accords with the development plan strategy;
- The effect on the rural character of the area;
- The effect on the living conditions of the intended occupiers;
- Whether there would be proper provision for the disposal of foul sewerage from the development;
- Whether the site lies in a sustainable location with good accessibility to a range of services and modes of transport (issue raised by Capel Parish Council);
- Whether the Council can demonstrate an adequate supply of Gypsy and Traveller sites at the moment; and
- The personal circumstances involved including the best interests of children.

Reasons

Background

5. The appeal site lies in an area of countryside to the north of Horsham and the district boundary with Horsham District Council runs adjacent to Capel Road to the front of the site. The eastern part of the appeal site has planning permission for three gypsy and traveller pitches and there are other similar pitches on land further to the east along Capel Road, as set out in the Council's revised statement submitted at the hearing, together with scattered houses and commercial concerns.
6. It is proposed to develop the overall site with 12 residential mobile homes and each pitch would also have space for a touring caravan, parking and a semi-detached amenity/utility building adjoining the neighbouring pitch. There would also be a communal amenity area and play area in the centre of the site.
7. At the time of the site visit there were some 24 static caravans sited mostly within the eastern part of the appeal site. Mr Meloney said that these were stored and mainly unoccupied as the families were away travelling. There were also two access points to Capel Road with large wooden clad sliding gates set back into the site.

Policy context

8. The development plan relevant to this appeal comprises the Council's Local Plan 2020-2039 (now referred to as LP) which was adopted in October 2024 following examination. This adoption was just before the re-issue of the National Planning Policy Framework (the Framework) in December 2024 however the parties consider that the changes then made to that national policy do not have a bearing on the relevant LP policies, with the exception of Policy EN2, and I agree.
9. Regarding EN2, Mr Whale for the appellant said that the wording of part 1 of that policy refers to the rural character and undeveloped nature of the countryside being protected for its own sake, which no longer forms part of the National Planning Policy Framework (2024) (the Framework) and is inconsistent with it.

Nevertheless, paragraph 187 of the Framework 2024 recognises that planning policies and decisions should contribute to and enhance the natural and local environment by (b) recognising the intrinsic character and beauty of the countryside. In terms of the intention of the first part of Policy EN2 the change to national policy is not material and I am satisfied that overall the policy is not inconsistent with present government advice. The provisions of the LP are therefore up to date.

10. However, changes were made to the national Planning Policy for Traveller Sites (PPTS) (2024) at the same time as the Framework. Paragraph 28 of the PPTS indicates that where a Council cannot demonstrate an adequate supply of deliverable sites (to meet the established need) then paragraph 11(d) of the Framework should apply in the planning decision. This may have a bearing on the application of the LP policies.

Principle of the development

11. LP Policy EN2 relates to the countryside beyond the Green Belt which includes the appeal site. The policy sets out a general restriction on development with some types permitted on an exceptional basis. This does not explicitly include the principle of development for gypsies and travellers. However, Mr Gardener agreed that if such development was acceptable under Policy H5 (see below) this would accord with Policy EN2 subject to the general provisions set out in the last paragraph of the policy.
12. Policy H5 is the critical policy concerning the development of land for gypsies and travellers. The proposal does not fall within part 2 of the policy as it is not on an allocated site nor does it form part of a housing allocation, therefore it must be assessed as a 'Windfall Site'. Amongst other aspects, this generally permits sites in the countryside beyond the Green Belt provided various factors are met. Part (a) refers to evidence of need which I will conclude on in a subsequent issue. Likewise part (c) deals with whether it would cause unacceptable harm to the character of the countryside, which is considered below. The main relevant criterion is (b) which limits sites to ones of small scale with a maximum of four pitches.
13. Even taking account of the outstanding permission for three pitches on part of the site as a separate commitment, the 12 pitches proposed would greatly exceed the small scale and specific limitation set out in the LP. I have also noted the Council's assessment that the site could accommodate seven pitches, but this appears to me to be an informal 'desk-top' assessment to see what may be available as an input into the preparation of the LP and is not a formal part of the policy.
14. Overall on this issue I find that the principle of the development of a 12-pitch site in this area of countryside would not accord with LP Policy H5 as it would not be small in scale and it would greatly exceed the limitation of 4 pitches set out in the policy.

Effect on the rural character of the area

15. The whole appeal site of some 0.4 hectares has been surfaced with a loose material of stone chippings/ road scrapings in readiness for the development proposed. This surfacing is in stark contrast with the previous state of the site

which was said by the Council to be an open grass field. This results in a bleak and imposing form which is alien to the general rural character of the area.

16. I have taken account of the permitted scheme for three pitches on the eastern part of the site and the proposal includes a central core of amenity space and play area, together with the proposed landscaping. Nevertheless, the spread and scale of the site and the introduction of 9 additional mobile homes and related buildings, caravans and vehicles, would result in a widespread and intensive urbanising form which would be harmful to the previous verdant character of the site.
17. In terms of the wider locality, there is a woodland of mature trees to the west and north of the site which partly enclose it in visual terms. Views of the development proposed from Capel Road would be restricted by the existing roadside hedge, boundary fence and solid gates. To the east along Capel Road, the appeal site is seen in the context of other development and views of the proposed development would not be extensive.
18. I conclude on this issue that the development proposed would have a moderately harmful effect on the countryside character of the area although the extent of visual harm would be limited to the local environs of the site. This harm to the countryside renders the proposal to conflict with Policy EN2, particularly the provisions set out in the final paragraph. The proposal would also harm and not make a positive contribution to local character and so conflict with part 1 of Policy EN4.

The effect on the living conditions

19. LP Policy H5 sets out 'Site Requirements' for Gypsy and Traveller sites and part 7 (f) of these indicates that each pitch should be at least 400 sq.m in size. The Council submits that each pitch would be about 325 sq.m in area and from the measurements that the parties examined at the hearing, this appears to be the case. On the face of it, this specific requirement of the policy would not be met.
20. Mr Rowe said he had designed the layout of the proposed site before Policy H5 had been formally adopted in the LP in October 2024. At that time he had decided to introduce a communal amenity area and play area in the centre of the site rather than have much more limited facilities incorporated into individual pitches. He calculated that the total area of the play area and amenity space would be about 1875 sq.m which amounts to 156 sq.m per pitch. Further, the parties agreed that the layout proposed and the siting and spacing of the mobile units would be likely to meet the minimum separation distances that are required under a Caravan Site Licence.
21. I am satisfied that the communal amenity and play areas would perform the same function as if the land was included within individual plots and would be likely to provide a more useable and interesting space particularly for childrens' play. The areas would contribute positively to the living conditions of the occupiers of the site. Considered in the round, the layout of the site proposed would not result in inadequate pitch sizes or harm the occupiers' living conditions. There is no conflict with part 7 of Policy H5.

Disposal of foul sewerage

22. The application form indicates that foul sewerage from the proposed development would be disposed of to a septic tank/package treatment works/ and/or a cess pit. The appellant clarified that two treatment plants have already been installed and which would cope with the scale of residential occupation envisaged with the 12 pitches.
23. The Council confirmed that the site does not lie in a sensitive ground water area and, in the absence of a main drainage system to connect to, it would not be inappropriate in principle for the site to be served by a sewerage treatment plant. I am therefore satisfied that this issue can be addressed by a condition requiring the submission and agreement of appropriate drainage details and which should be implemented, or the existing plants checked, before any residential mobile home is occupied. This would satisfy the requirements of LP Policy EN12 and avoid pollution.

Whether sustainable location

24. Concern over this aspect was raised in representations by Capel Parish Council. Although the site is relatively remote in the countryside the parties advise that it is within about 1.5 miles of the village of Rusper which has some basic 'day to day' facilities and services including a shop and a primary school. There are other local schools and a medical surgery in Capel about two miles away. Local roads tended to be unlit and with no footways but generally they had grass verges and reasonable visibility for users. They are therefore not inappropriate for walking and cycling.
25. Bearing in mind the guidance in paragraph 110 of the Framework that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that gypsies and travellers tend to travel by vehicle to sustain a nomadic habit of life, the location of the appeal site is not at odds with the need to secure a sustainable pattern of development. As such there is no conflict with the provisions of chapter 9 of the Framework in securing sustainable transport.

Whether an adequate supply of Gypsy and Traveller sites for the identified need

26. The starting point for this assessment is the adopted Local Plan. LP Policy H5 indicates that in order to meet the Gypsy and Traveller pitch need the Council will deliver 34 pitches for them by appropriate intensification of pitches on allocated existing sites and by the delivery of new pitches on the allocation of housing sites exceeding 100 dwellings.

Background to Need

27. This provision stems from the Mole Valley Gypsy and Traveller Accommodation Assessment (GTAA) 2021 which identified a need for 32 Gypsy and Traveller pitches by 2037 based on the definition in the 2015 PPTS. The GTAA also identified an additional need for 20 pitches for gypsies and travellers who were not expected to maintain a nomadic lifestyle. However, following the Court of Appeal ruling in 2022 that the definition used in the 2015 PPTS was discriminatory and unlawful, the Council agree that the pitch requirements should be 52 in the period to 2037.

28. The Council's Five-Year Traveller Sites Supply Review (February 2025) (now referred to as the 2025 Review) indicates that at the start of 2024 the existing commitments and site allocations would deliver 45 pitches against the revised need figure of 52 pitches. This issue and the shortfall of pitches were addressed by the Local Plan Examining Inspector who concluded, in summary, that even taking a small proportion of the allowance for historic 'windfalls' and intensification of existing gypsy and traveller sites into account, the outstanding need would be met.
29. Overall, the Local Plan was found to be sound and this establishes the level of need. From this the 2025 Review indicates that 12 pitches are needed over the five-year period 2025-2029 together with an additional 11 pitches to account for delivery in the period between 2021 and 2024. This gives a total present five-year requirement of 23 pitches.

Supply

30. The 2025 Review indicates that the pitch requirement will be met by a combination of developments with planning permission; Local Plan development sites; and 'windfalls' which are said to be deliverable. Current planning applications are not included which appears to be a material change in approach to the form of the evidence put to the Cidermill Hatch appeal inspector. The 2025 Review considers that 35 pitches are deliverable over the next five years. Taken with the under-delivery of some 11 pitches over the first five years of the plan period, the 2025 Review concludes that there is a five-year need requirement for 23 pitches compared with an anticipated supply of 35 pitches over the same period. The 2025 Review therefore concludes that it can demonstrate a 7.6 year's supply of deliverable pitches.
31. The Council's position is contested by the appellant and in particular the status, methodology, reasoning and outcome of the 2025 Review. This is said to be at odds with the Council's land supply position put forward at the Cidermill Hatch appeal and the subsequent High Court Judgement.
32. Following the discussion at the hearing for the current appeal the components of the 2025 Review are assessed below in order:

Developments with permission

33. The sites with planning permission set out in Table 1 are said to be deliverable and there was little evidence from the appellant's team to dispute this. Moreover, the total number of 11 pitches permitted is now increased to 13 pitches because of the Cidermill Hatch appeal decision.

Local Plan development sites

34. In Table 2: Site DS1 was reported by the Council to now have planning permission although this was said by the appellant to only be a 'resolution to grant' and Mr Rowe felt it was unlikely that the three pitches would come forward in time. Regarding Site DS7, while noting that the total number would exceed the 4-pitch limitation set out in Policy H5, the appellant understood that the existing planning permission had a personal restriction and so should not be counted as a general addition. Re Site DS54 the parties said that there was no application yet and the appellant again questioned the sites' deliverability.

35. In total, of the 9 pitches identified by the Council the appellant disputes that any of them will be delivered in the next five-year period or should be counted in the supply side. However, much of the updated oral information about these sites lacks clear and verifiable evidence and I am not persuaded that the supply side in this component should be reduced by the amount claimed. At best the amount should be considered as 6 pitches to account for the pitches on site DS7 possibly being subject to a personal occupancy restriction.

Windfall sites

36. In identifying land for homes paragraph 75 of the Framework indicates that where an allowance is made for windfall sites as part of an anticipated supply this should be based on compelling and reliable evidence. The Council relies on the historic delivery rates being extrapolated and this approach was considered sound and justified by the examining inspector. I acknowledge the paragraph in the Judgement on the Cidermill Hatch case that the context, purpose and evidence base of the examining inspector's role is far removed from an inspector's role in a section 78 appeal. Nevertheless, the Local Plan was adopted on this basis of the submitted level of need and supply and the policy provision for windfalls is now set out in Policy H5.
37. The extrapolation of historic rates is not an unusual method of assessing future provision and there is no explicit evidence before me that in this district the anticipated levels have not been realised yet.
38. Mr Rowe for the appellant said that the changes made to the Framework in December 2024 may lead to the delivery of windfall sites, particularly in the Green Belt, from drying up. However, I agree with the Council that this effect is conjecture at the moment and is not borne out by clear evidence. Alternatively, as the Council suggested the enabling provisions of Policy H5 and the revised Framework may lead to more gypsy and traveller sites coming forward.
39. Overall on the issue of 'windfalls' and on the evidence put to me, I find that the Council's estimate of 3 pitches per year coming forward has not been shown to be an unreasonable one. I am not aware of what other evidence could be put forward to give greater certainty on what windfall sites will be delivered in the next five years.
40. There was discussion at the hearing over Table 6 (Delivery since 2021) about whether case MO/2023/0462 should be counted as three pitches as it refers to New Age Travellers who may or may not fall within the definition set out in the Glossary to PPTS 2024. Evidence on this status is not clear, however even if this figure was discounted from the supply side, I am satisfied that it would not have a material bearing on the overall five-year figure.
41. Taking all of these components together, the Council's delivery supply shown on table 4 of the 2025 Review, even if the delivery supply is reduced by three pitches (as per para 35 above), it would be increased by 2 pitches for the Cidermill Hatch case and the supply above requirement would be 11 pitches rather than 12 pitches. This would result in a minor change to the Council's stated five-year supply in Table 8 of below 7.6 years but it would still exceed the five-year supply requirement.

42. I have taken account of the change in approach by the Council in counting planning applications, as opposed to planning permissions, as commitments, and to the flaws identified by the High Court Judgement on Cidermill Hatch. Nevertheless, it appears to me that in assessing the need/supply issue most weight has to be given to the now adopted Local Plan, the GTAA 2021 which fed into it, and the Examining Inspector's assessment which led to the adoption of the plan. These are clearly set out in the 2025 Review and I do not find the methodology or status of this monitoring document unusual.
43. Overall on this issue I find on the written and oral evidence put to me that the Council can demonstrate at least a five-year supply of sites for gypsies and travellers in accordance with the requirements of the PPTS.

Personal circumstances and best interests of children.

44. The 12 residential pitches proposed would be occupied by families and individuals in the appellant's wider family. Mr Rowe listed the people involved and their children, and their relationship with the appellant, although he said that this list had been prepared at the time of the submission of the application in October 2024 and the detailed circumstances may have changed in the meantime. In particular, the children would have become older by about a year and possibly new ones born. Mr Rowe described 9 children, aged between two months and 16 years old whose families were intending to live at the developed site.
45. Such residential occupation would give these travellers a settled base from which they could access medical facilities and lead a traveller way of life. The occupiers would have a high degree of safety and security and would be able to look after one another. A permanent site would also be likely to enable the children to have a settled and continuing education, together with the social benefits from living in an extended family, which would be in their best interests.
46. Apart from the decision referred to in paragraph 3 above, Mr Meloney said that there were no other alternative sites available in the district at the moment that the intended occupiers could turn to. He said that most of the families involved would be homeless and faced with a life on the roadside if the appeal was dismissed.
47. The Council officers agreed that they were not aware of alternative sites that were currently available other than the permitted sites mentioned in the land supply issue.
48. Even though the majority of the intended inhabitants do not live on the site at the moment, I recognise that they would greatly benefit from having a site with permanent occupation together with access to medical and educational facilities. I also acknowledge that there are very limited alternative sites available for the number of people involved. However, it has not been shown that these potential occupiers have any connection to this particular site nor a clearly established personal need to be near to the essential local facilities. For this reason I attach only moderate weight to these circumstances.

Planning balance

49. At the start of the planning balance I have borne in mind the requirements of the Public Sector Equality Duty and placed no single factor above the best interests of any child.

50. On the main issues I have found that the proposal for a 12 pitch gypsy and traveller site would greatly exceed the small scale limitation set out in LP Policy H5 even taking account of the existing permission on the site. I have also found that the proposal would have a moderately harmful effect on the countryside character of the area although the extent of visual harm would be limited to the local environs of the site. This is contrary to LP Policies EN2 and EN4.
51. Notwithstanding these findings, the proposed layout of the site, including the communal amenity and play space, would provide reasonable living conditions for the occupiers and the location of the site and its use would not conflict with sustainable transport objectives in the Framework. The disposal of foul sewerage can be disposed of in an appropriate manner with details secured by conditions.
52. Overall I find that the proposal conflicts with the provisions of the development plan when this is read as a whole.
53. This has to be balanced with other considerations. The appellant puts forward some personal circumstances for the intended occupiers of the 12 pitches to live on the site in a way that would provide a safe and secure family environment enabling mutual support, and also provide access to educational and social facilities and having these would be in the best interests of the children whose families intend to live on the site.
54. There are very few alternative sites available for the families to turn to if the appeal is dismissed and I have no reason to doubt the appellant's indication that the people would be homeless and have to live on the roadside.
55. Balancing these competing considerations I find that they do not outweigh the harm I have identified or the conflict with the development plan which is up-to-date. The appeal should therefore not be allowed on a permanent basis.
56. I have also considered whether a temporary permission is justified given that some development has commenced on the site, however the local harm to the countryside character would still be present and the scale of the proposal would remain well in excess of being small-scale. A temporary permission is therefore not appropriate.

Conclusion

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

David Murray

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

S Whale	Barrister
P Rowe, MRTPI	Planning Consultant
J Meloney	Appellant's husband

FOR THE LOCAL PLANNING AUTHORITY:

A Gardener MRTPI, Dip TP, BA (Hons)	Principal Planning Officer, MVDC
S Read	Senior Planning Officer MVDC
D Clarke	Planning Policy Manager, MVDC
A Barber	Planning Policy Officer, MVDC

Documents submitted at or after the Hearing

1. Revised Council Statement with planning history added.
2. Appellants written application for costs - 5 September 2025.
3. Council's response to costs application - 12 September 2025
4. Appellants costs reply - 17 September 2025.