



Appeal Decision

Site visit made on 16 October 2025

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 OCTOBER 2025

Appeal Ref: APP/U2235/C/24/3345463

Land at The Old Dairy, Bedminton Lane, Wormshill, Kent, ME9 0EH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Ms Grace Shilling against an enforcement notice issued by Maidstone Borough Council.
 - The notice was issued on 30 April 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use from agricultural land to land being used for residential purposes facilitated by the stationing of a mobile home, a tourer and associated development including concrete bases, laying of hardcore to form a track and subterranean features such as oil tanks and sewage treatment tanks.
 - The requirements of the notice are to 1) permanently cease the use of the 'Land' for residential purposes; 2) permanently remove from the 'Land' all caravans and mobile homes; 3) permanently break up and remove from the 'Land' the 3 concrete bases and remove all hardcore from the 'Land'; 4) permanently remove from the 'Land' all subterranean features such as oil tanks, sewage treatment tanks and utilities used in connection with the residential use from the 'Land'.
 - The period for compliance with the requirements is three months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended). Since 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.
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Decision

1. It is directed that the enforcement notice is varied by the deletion of the words *"Time for Compliance: Three (3) months after this notice takes effect"* in all parts of section 5, and the deletion of the words *"Three (3) months from when the notice takes effect for steps (i) to (iv)"* in section 6, and their substitution with the words *"Twelve months from the when the notice takes effect for steps (i) to (iv)"*. Subject to the variations, the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. The National Planning Policy Framework was revised in December 2024 (the 2024 Framework) and was subsequently amended on 7 February 2025 to correct cross-references from footnotes 7 and 8 and to amend the end of the first sentence of paragraph 155 to make its intent clear. The 2024 Framework replaces the previous version of the National Planning Policy Framework published in December 2023. Moreover, the Government's Planning Policy for Traveller Sites was also revised in December 2024 (PPTS) and this replaces Planning Policy for Travellers Sites dated August 2015 (amended December 2023).
3. The notice refers in section 4 to policies SS1, SP17, DM1, DM3, DM15 and DM30 of the Maidstone Local Plan 2017 (2017 LP). However, the Maidstone Borough Council Local Plan Review 2021-2038 was adopted in March 2024 (LP). The

Council has confirmed, including details in its questionnaire, that the policies referenced in the notice in respect of the 2017 LP have been superseded by policies in the LP. For the avoidance of doubt, the relevant development plan policies for the purposes of considering the main issues for the deemed planning application are LPRSS1, LPRSP9, LPRHOU8, LPRQD4, LPRSP15 and LPRSP14(A) of the LP.

Ground (a) appeal and the deemed planning application

Main Issues

4. The appeal made on ground (a) of section 174(2) of the Act is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice.
5. I have considered the reasons for issuing the notice, as well as matters outlined in the Council's delegated officer report and statement of case, and representations made by other interested parties. In this context, the main issues are i) whether the unauthorised development conserves and enhances the landscape and scenic beauty of the Kent Downs National Landscape, and (ii), whether the breach of planning control comprises a sustainable form of development with particular reference to accessibility, biodiversity and highway safety considerations as outlined in policy LPRHOU8 of the LP.

Reasons

Kent Downs National Landscape

6. The appeal site falls within a countryside location which is designated as the Kent Downs National Landscape (previously known as the Kent Downs Area of Outstanding Natural Beauty). The evidence indicates that much of the land previously included vegetation, although there is also a building on part of the land which is devoid of a roof and significant parts of the walls are missing. The site now includes the formation of an access, hardstanding areas, the siting of a tourer caravan, the siting of a mobile home and other associated sub-terranean development. There are the remains of a former building on the land. The nearby dwelling of Bedminton House is a grade II listed building.
7. The Kent Downs Natural Landscape is a visually prominent landscape that contributes significantly to the borough's high quality of life. It is an important amenity and recreation resource for both Maidstone residents and visitors and forms an attractive backdrop to settlements along the base of the Kent Downs scarp. It also contains a wide range of natural habitats and biodiversity. Designation as a National Landscape awards the highest level of landscape protection.
8. The Kent Downs AONB Management Plan 2021 – 2026 (Management Plan) provides a framework for conserving and enhancing the natural beauty of the area. It is a material consideration of considerable weight in decision making terms. In summary, the landscape components of the Kent Downs National Landscape are identified in the Management Plan as a dramatic landform and views; a distinctive landscape character with biodiversity rich habitats (including chalk grassland/scrub and with hedgerows, trees and woodlands (including ancient woodlands) being a key feature; a farmed landscape; broadleaf and mixed woodland covering about

23% of the Kent Downs; a rich legacy of historic and cultural heritage; heritage coast; a significant aquifer providing 75% of Kent's drinking water, and much of the area providing a tranquil and remote countryside including dark night skies, space, beauty and peace.

9. Moreover, it is identified that the Kent Downs National Landscape has a rich tradition of half-timbered and weather-boarded buildings and a legacy of locally distinctive architecture in locally derived building materials such as Ragstone, flint and chalk. The predominance of local materials helps to establish the distinctive character of the built environment.
10. The Management Plan identifies several issues, opportunities and threats. Of relevance is the cumulative loss of landscape features, biodiversity, tranquillity and character. It identifies that suburbanisation has been experienced in the Kent Downs as a whole due to incremental poorly located, designed and badly screened development, visitor pressure and leisure uses, intensive agricultural and forestry and woodland management practices, pressure from traffic, and significant levels of urban growth and development. The Management Plan states that *'the choice of design and materials in restoration, new development and landscape management are recognised as critical when seeking to conserve and enhance the landscape of the Kent Downs AONB'*.
11. The site lies within the Mid Kent Downs Local Character Assessment as identified in the Landscape Character Assessment Update 2020. In summary, the landscape characteristics comprise of rolling chalk plateaux, large blocks of woodland, predominantly arable farmland, narrow lanes, a sparsely settled landscape with a scattering of villages and hamlets and isolated farms, and an overall experience of peacefulness.
12. While the appeal development is not visible from long distance views, owing to intervening land topography and woodland, it can nonetheless be seen from more localised viewpoints including the lane which passes the site, and which leads to a scattering of buildings further afield. The evidence indicates that prior to the unauthorised development occurring, the land had a more peaceful or tranquil character. While I acknowledge that there are the remains of a building on the site, this is not habitable and in essence it has blended into what was otherwise a disused site surrounded by vegetation.
13. In the context of the above, I find that the extensive hardstanding areas, access road, and the provision of a stark white caravan and a mobile home, coupled with the associated domestic paraphernalia, fails, overall, to assimilate well into the surrounding environment and landscape character. The degree of day-to-day domestic activity on the site is such that this part of the National Landscape is no longer appreciated in the same peaceful and tranquil manner. Moreover, the mobile home and tourer are not reflective of the type of traditional building materials which are prevalent in the locality, including the scattering of buildings nearby in the locality.
14. The development neither has an agricultural character nor a sympathetic domestic character. It is not a form of development which is therefore sensitive to the landscape character of this part of the National Landscape and is materially at odds with the Management Plan which states that the choice of design and materials in restoration, new development and landscape management are recognised as

critical when seeking to conserve and enhance the landscape of the Kent Downs National Landscape.

15. The appellant asserts that if I were to find that there was harm to the National Landscape, such harm could be mitigated by planning condition in the form of additional planting/landscaping. While it may be possible to soften the harmful impact of the development to some limited degree through additional planting, I have not been provided with a landscaping scheme from the appellant as part of the ground (a) appeal. In this case, this is a matter that goes to heart of the acceptability of the development, and it would not be appropriate to leave this to condition as some sort of afterthought.
16. In any event, any new landscaping would take some time to reach maturity and would not endure forever. In my judgement, it is very unlikely that it would be possible to fully screen all components of the development, and, in any event, landscaping would not overcome the harm caused by the development to the otherwise more tranquil and peaceful National Landscape environment, particularly when experienced by users of the adjacent lane.
17. For the above reasons, I conclude that the development does not/would not conserve or enhance the landscape and scenic beauty of the Kent Downs National Landscape. Moreover, harm has been caused to the character and appearance of the countryside. Furthermore, I do not find that the development furthers the purpose of conserving or enhancing the natural beauty of the area. In particular, the appellant has not appropriately explored what might also be possible, in addition to avoiding and mitigating the harmful effects of the development, from suggested landscaping. It is noteworthy that criterion 1(c) of policy LPRHOU8 of the LP states that *'additional planting should be used to supplement existing landscaping but should not be the sole means of mitigating the impact of development'*.
18. Consequently, the development does not/would not accord with the landscape character and design requirements of policies LPRSP9, LPRHOU8, LPRQD4 and LPRSP15 of the LP, paragraphs 131 and 189 of the 2024 Framework, and the Management Plan. I afford great weight to the identified harm caused to the Kent Downs National Landscape.

Policy LPRHOU8 of the 2024 LP - accessibility

19. It is necessary that I consider whether the proposal accords with the accessibility requirements of policy LPRHOU8 of the LP, the biodiversity requirements of policies LPRHOU8 and LPRSP14(A) of the LP, and paragraph 187 of the 2024 Framework.
20. Criterion 1(b) of policy LPRHOU8 of the LP states that in respect of Traveller sites *'local services, in particular school, health and shopping facilities, are accessible from the site preferably on foot, by cycle or on public transport'*. The evidence is that the site is not easily and conveniently accessible to such facilities on foot, by bicycle or on public transport given the distances involved, the relatively narrow lanes which are mainly unlit and without footpaths and given the absence of bus services/bus stops in the locality.
21. To the extent that the site is in a relatively remote countryside location and where the nearest school, health and shopping facilities are not reasonably accessible from the site on foot, by cycle or on public transport, I conclude that the

development does not accord with criterion 1(b) of policy LPRHOU8. In this regard, I also find conflict with paragraph 26 of the PPTS which states that local planning authorities should very strictly limit new Traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. These are matters to which I afford significant adverse weight in decision making terms.

Policy LPRHOU8 of the 2024 LP - biodiversity

22. The evidence in the form of photographs indicates that a significant amount of vegetation was cleared from the land to form the hardstanding areas associated with the breach of planning control. The appellant asserts that the practicality of now establishing a baseline biodiversity position prior to the unauthorised development occurring is difficult. I do not find that it would be impossible or necessarily difficult to establish a baseline biodiversity position using historic aerial/other photographs and indeed any other information that may be available to the local planning authority (e.g. historic planning application information/data).
23. Policy LPRHOU8 states that to grant planning permission for a Traveller site it is necessary that *'the ecological impact of the development has been assessed through appropriate survey and a scheme for any necessary mitigation and enhancement measures confirmed'*. The appellant has not submitted any surveys of the site, including a baseline survey of the site prior to the unauthorised development occurring on the land. In addition, and following on from this, I do not have details of any mitigation and enhancement measures. Given the clear requirements of policy LPRHOU8 1(f), the development conflicts with this policy.
24. In the absence of a clear understanding of the baseline biodiversity position on the site, and the implications arising from the breach of planning control on both the biodiversity of the site and its surroundings, I cannot conclude with certainty that the development would be capable of meeting the biodiversity requirements of policies LPRHOU8 and LPRSP14(A) of the LP, and paragraph 187 of the 2024 Framework which states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.
25. It is important that I also emphasise that the site is in a nationally protected landscape and where the conservation and enhancement of wildlife is also an important consideration. In this case, I have no survey information before me (including baseline information) to reach a conclusion in terms of the implications of the unauthorised development on wildlife. The absence of biodiversity survey information is a matter to which I afford significant adverse weight in decision making terms. It is a matter that is central to the consideration of the acceptability of the development and hence the imposition of a planning condition would not be appropriate in this case.

Policy LPRHOU8 of the 2024 LP - highway safety

26. While not forming a reason for issuing the notice, the Council has stated in its final comments that *'whilst there is an existing road leading to the site and Bedmorton House, this road is a narrow single lane road with visibility splays that in the Council's view would not meet Kent County Councils highways visibility requirements'*. It is necessary that I consider this matter as it is of relevance from the point of view of my assessment of the development against policy LPRHOU8

(1)(d) of the LP which states that planning permission will be granted if *'the site can be safely accessed to and from the highway by all vehicles using the site on a regular basis'*. I afforded both the appellant and the Council an opportunity to provide comments in respect of this matter as part of the appeal. The appellant provided comments, but the Council did not.

27. As part of my site visit, I was able to experience the lane leading to the site and which serves other residential properties. I acknowledge that the lane is narrow. However, I do not find that the evidence supports the contention that one additional family living off it has resulted in a significant intensification in its overall use or indeed surrounding roads. Hence, I do not find that the development has led to severe residual cumulative impacts on the road network.
28. While the vehicular sightline to the right when leaving the site access and onto the lane is not quite to an acceptable standard, I was nonetheless able to see most of the lane when sat in my car at the junction. Given the likely low traffic speeds and the limited number of additional dwellinghouse served from the lane at this point, coupled with the fact that such a lane terminates for anything other than 4x4 vehicles beyond the other nearby dwellinghouses, I do not find that the development has resulted in unacceptable highway safety impacts relative to this sightline. In other words, and with a degree of caution and care, it is possible to safely view on-coming vehicles when leaving the site access onto the lane.
29. The Council states that additional vehicles from the development on the *'current road network is likely to exacerbate any pre-existing safety issues and traffic issues neighbouring properties will experience'*. I am not certain what the Council means by this, and it has provided no objective evidence of any pre-existing safety issues. The appellant's crash map data demonstrates that there are no noted incidents of any severity within the nearby road network in the last twenty-five years.
30. Notwithstanding the above, the junction of the private lane with Bedmonton Lane includes tall hedges on either side. There is no evidence to indicate that the appellant has control or ownership of these hedges. I was able to use this junction in my car as part of the site visit. Even when proceeding with some caution, it was very difficult to see in either direction when pulling out of the junction. Even if vehicles were to travel at relatively low speeds along the main road, I nonetheless find that the sightlines are so poor that an accident could happen. I recognise that the private lane is used by existing residents. However, this does not justify a more intensified use of the private lane when the evidence is that the junction with Bedmonton Lane is not safe. In this respect, I conclude that the development has had an unacceptable impact on highway safety.
31. Given the above, I therefore conclude that the evidence indicates that the development does not accord with the highway safety requirements of policies LPRHOU8(1)(d) of the LP and paragraph 116 of the 2024 Framework. This weighs against allowing the appeal.

Other Considerations

Previously developed land

32. The appellant claims that the building on the land was previously a dwellinghouse. There is an absence of precise and unambiguous evidence from the appellant to substantiate this claim other than the comment that the site features *'the remains*

of a residential dwelling that previously existed in full pre-2000'. This claim is not supported by the Council who state that the building was historically used in connection with an agricultural dairy and that there is no planning permission in place for a dwelling on the land.

33. There is no dispute between the main parties that the existing structure on the site is uninhabitable. Indeed, I was able to see on my site visit that it was without a roof and that significant parts of the walls were missing. The structure was not in use and there was no evidence of any historic residential use. I was able to see on my site visit what appeared to be a drainage type facility adjacent to the structure. I do not know the specific circumstances which led to this facility being provided on the land.
34. As a matter of fact and degree, I find that even if a dwellinghouse had existed on the land historically, the evidence indicates that such a use has now been abandoned given the passage of time. Moreover, the structure can no longer be used for such a use. The structure has no roof and in parts is without walls. The evidence is that the former building has remained unused for a considerable time, and, in this case, the evidence indicates that a reasonable person would conclude that the previous use had been abandoned. Moreover, the appellant does not dispute that the land has been more recently used for agricultural purposes. An appeal is not lodged on ground (b) of section 174(2) of the Act.
35. I do not therefore find that the evidence supports the contention that prior to the unauthorised development taking place, the land was previously developed land (PDL) with reference to the definition of PDL in annex 2 of the glossary of the 2024 Framework. In reaching this conclusion, I would also emphasise that even if the evidence had precisely and unambiguously demonstrated that the structure was lawfully residential, as distinct from agricultural (i.e., land excluded from the definition), the definition of PDL in the 2024 Framework states that *'it should not be assumed that the whole of the curtilage should be developed'*.
36. I do not have any information before me about any perceived residential curtilage, and, furthermore, the evidence indicates that prior to the unauthorised hard standings and caravans occurring on part of the land, such land was vegetated. Even if the appellant had advanced a justified case in respect of curtilage, I find that the land to which the unauthorised development relates cannot reasonably be considered to fall within the curtilage of former dwellinghouse on the evidence submitted and as a matter of fact and degree.

Whether occupiers are Travellers

37. Article 8 of the European Convention on Human Rights as incorporated into the Human Rights Act 1998 (HRA) 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.
38. 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 and to advance equality of opportunity. 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.

39. While the evidence before me is relatively limited, I nonetheless find that the appellant and her mother are Travellers. They do appear to have ceased Travelling, but I have no reason to doubt that they were born into the Travelling community and have attended horse fairs. The Council do not provide any contrary evidence in this regard.

Gypsy and Traveller pitch need and provision

40. There is no dispute between the parties that the local planning authority cannot demonstrate a five-year supply of deliverable Gypsy and Traveller sites. There is unmet need for Gypsy and Traveller pitches in the area based on the most up-to-date assessment of need which is the Gypsy and Traveller Accommodation Assessment April 2025 (the 2025 GTAA). The latter identifies a total need for 529 pitches between 2023 and 2040 of which 407 are needed for those that meet the PPTS definition of a Traveller, and 122 from undetermined households. For the period 2023-2027 there is a total need for 333 pitches and for the period 2028-2032 there is a total need for 70 pitches.
41. In December 2023, the Council's monitoring report confirmed that the local planning authority (LPA) could demonstrate 1.2 years supply of deliverable Gypsy and Traveller pitches. This related to a 2023 GTAA. The need position is now different.
42. On the evidence that is before me, I conclude that LPA has failed to demonstrate that it can demonstrate an up-to-date five-year supply of deliverable Traveller sites based on the most up to date need position (i.e., the 2025 GTAA). There is a need for a new strategy to be prepared for the area, including Traveller allocations, which will provide for the requisite number of pitches relative to the up-to-date need position. The Council's updated statement of case states '*it is accepted there is unmet need for Gypsy and Traveller accommodation within the Borough*'.
43. The Traveller pitch undersupply position, and associated failure of existing development plan policy, are matters which weigh positively in favour of allowing the appeal. Paragraph 28 of the PPTS states that if a LPA cannot demonstrate an up-to-date five-year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply. I return to this matter later in the decision.
44. Policy LPRSS1 of the LP states that the LPA will seek to ensure that the accommodation needs of the Gypsy, Traveller and Travelling Showpeople community over the plan period will be met in full and that further details will be set out in a Gypsy, Traveller and Travelling Showpeople Development Plan Document (DPD). There has been some slippage in terms of the preparation of such a DPD and the latest local development scheme estimates that it will not be adopted until January 2028.
45. Given the above, it is acknowledged that there will be some delay in terms of the provision of a new strategy which will seek to address up to date Traveller need, including allocations. That said, policy LPRHOU8 remains relevant in respect of windfall sites and there is no objective evidence before me to suggest that it would not be possible for the appellant to consider securing an alternative/private site

elsewhere that would meet the requirements of all the criteria in such a policy. I acknowledge, however, that this would be difficult based on a compliance period of just three months. I return to this matter again later in the decision.

Availability of alternative sites

46. There is no requirement for the appellant to demonstrate that there are no alternative available Traveller sites in the area. However, it is noteworthy that the Council has not indicated that any alternative Traveller sites are available to accommodate the needs of the occupiers of the site. In this regard, I have determined this appeal on the basis that there are currently no suitable and alternative available Traveller pitches in the area for those that occupy the appeal site. This weighs in favour of allowing the deemed planning application.
47. The above is, however, tempered somewhat by the fact that the appellant submitted a planning application for a bricks and mortar dwelling on the appeal site in 2022¹. Planning permission was refused for the proposed dwelling. I do not know from the evidence why the appellant applied for planning permission for a dwelling on the land. While it is possible that she may have applied for planning permission for a dwelling on the land to simply sell it on to another party, it is also possible that it may have been for her to live in. In this regard, and given the evidence that is before me, I must conclude that there is at least the possibility that the appellant does not have an aversion to bricks and mortar accommodation. In this regard, it remains possible that if the notice were to be upheld, one option might be for the appellant to consider occupying a bricks and mortar property, at least in the short term. Consequently, and, in this regard, the claim of an otherwise roadside existence is not reasonably substantiated by the appellant.
48. Notwithstanding the above, I note the reasons why the appellant had to leave a previous Traveller site and why it may prove to be difficult for her to occupy an alternative existing pitch elsewhere if one were to become available. I afford the current lack of suitable and available Traveller pitches weight in favour of allowing the appeal although this finding is tempered slightly by my assessment relating to the potential to occupy bricks and mortar accommodation.

Intentional Unauthorised Development

49. The Department for Communities and Local Government policy statement 2015 introduced planning policy to make intentional unauthorised development (IUD) a material consideration that would be weighed in the determination of planning applications and appeals from 31 August 2015.
50. In respect of IUD, planning permission should not be refused simply on the basis that the development was carried out without planning permission or is unlawful. A finding of IUD must be supported by evidence of something more than this, i.e., that the appellant intended the development to be unauthorised or actively sought to harmfully flout the rules.
51. The evidence is that the LPA undertook various site visits prior to the notice being issued. This included a site visit on 11 April 2024 where it was evident from the photographs that vegetation had been cleared (a digger is shown) and three concrete bases had been created. The appellant does not dispute that Mr Michael

¹ Planning application reference 21/506043/FULL

Shilling claimed at this time that he was the owner of the land and that he had no intention of stationing caravans on it. The evidence is that at this time, the LPA *'clearly outlined to Mr Shilling if further operational development or the stationing of caravans were to occur on the and what the consequences would be'*.

52. Despite the above, the evidence demonstrates that the LPA warning was not heeded and that there was intention to undertake unauthorised development. In my judgement, there was an intention to flout the rules in terms of the need to first obtain planning permission. I therefore find that IUD did take place on the land.
53. I am mindful that neither the appellant nor the Council have been able to refer me to the availability of any alternative available Gypsy/Traveller pitches in the area or elsewhere. There is nothing before me to suggest that the position was different when residential occupation of the site took place. Moreover, I do not doubt the need for the occupiers of the site to find some accommodation quickly and that the stability of a settled base was important given existing health conditions, and that the support of family close by, coupled with ownership of the site, were important factors in terms of what led to the site being occupied. These matters temper somewhat the adverse weight that I afford to IUD. I therefore conclude that my finding of IUD carries limited adverse weight in decision making terms.

Listed building setting

54. I have considered the position of the grade II listed building (Bedmorton House) relative the appeal site. Given the separation distance between the listed building and its grounds, coupled with the position and screening of the intervening vegetation, I find that the development has preserved the setting of the listed building and hence it has not caused harm to its significance. My conclusion on this matter is of neutral consequence in the overall planning balance.

Zone 3 of Ground Source Protection Zone

55. The Council has referred to the site being within a Zone 3 of a Ground Source Protection Zone. It comments that owing to the sloping nature of the site, it would not be in an area at risk of surface water flooding. The Council assert that there is potential for surface water run off to neighbouring plots. It has not been necessary for me to pursue this matter any further with the parties given my conclusions on the other main issues. In other words, a finding in respect of this matter would not make a difference to the outcome of the ground (a) appeal. It is possible, in any event, that if the development of the site had or could result in surface water flooding issues off site, the matter would be capable of being addressed by the imposition of a planning condition.

Personal circumstances of occupiers of the site

56. The appellant has submitted a 'statement of personal circumstances' (SPC), although she has redacted the names of the individuals within such a document. Initially, the appellant requested that personal circumstances be considered on a confidential basis. Following confirmation that it was not possible to do this in respect of an appeal, the appellant then submitted a redacted version. This has also been considered by the Council. It is important that I emphasise that where personal circumstances are claimed, these should be outlined in full, and at statement of case stage. In the interests of procedural fairness, this is a requirement of all appeals of this kind irrespective of the chosen procedure.

57. While the names of individuals are redacted in the SPC, it is nonetheless clear that two people are living on the site. Indeed, it states at paragraph 1.1 of the redacted SPC that the *'appeal site is occupied by XXXX and her mother, XXXX'*. There is no evidence of any children living on the site.
58. I note the comments made about the health conditions of the occupiers of the site. I have treated these conditions as having an adverse impact on the ability of the individuals to undertake day to day activities. Hence, I find that the occupiers each have a disability. In this regard, I have had due regard to the PSED contained in section 149 of the Equality Act 2010. I do not doubt that the stability of a residential base, the support of nearby family, and the interdependency and support provided between the appellant and her mother, and the advantages of a permanent address in terms of access to health and other services, is advantageous for the wellbeing of the occupiers of the site. Moreover, I do not doubt that a settled base helps to alleviate and control some of the symptoms associated with the identified disabilities.
59. I do not doubt that a refusal of planning permission, and upholding the notice, would have the effect of causing some anxiety and distress to those that occupy the site and who would be required to leave. Such distress and anxiety could arise from a possible roadside existence. Indeed, such anxiety and distress may have the potential to result in further adverse health consequences. This is a matter which weighs in favour of allowing the appeal and it is necessary that it is balanced against the identified planning harm.

Other Matters

60. The appellant has submitted four appeal decisions², and she considers that they support allowing the deemed planning application. Two of the appeal decisions are in different local authority areas. Different development plan policies were in consideration, including Traveller policies, as well as different circumstances and environmental conditions. Unlike this appeal development, it was necessary for the inspectors to consider the best interests of children on the sites.
61. Of those appeal decisions that relate to the Maidstone Borough Council administrative area, one did not relate to a National Landscape Area and was within an acceptable proximity to local services and pre-existing traveller sites. The other appeal decision benefited from a lawful use for the storage of caravans, the hardstanding and fencing on the land were pre-existing, and the site did not fall within the National Landscape (no harm to its setting was identified).
62. I am satisfied that the four appeal decisions are distinguishable from the deemed planning application development which is the subject of this appeal. Moreover, and, in any event, I emphasise that I have determined this appeal on its individual planning merits and have exercised my own planning judgement. The appeal decisions do not alter or outweigh my planning balance and conclusion below.

Ground (a) Appeal Planning Balance and Conclusion

63. The unauthorised development does not preserve or enhance the Kent Downs National Landscape. This is an adverse matter to which I afford great weight in decision making terms. Moreover, the breach of planning control fails to accord

² Appeals APP/Y95071/C/22/3292440; APP/W0340/W/22/3292939; APP/U2235/C/19/3243809 & APP/U2335/W/19/3241823; APP/U2235/W/24/3339812

with policies LPRHOU8 and LPRSP14(A) of the 2024 LP, paragraphs 116 and 187 of the 2024 Framework, and paragraph 26 of the PPTS, in respect of accessibility, highway safety and biodiversity matters. These are adverse matters which also weigh significantly against allowing the appeal. In addition, I afford some limited adverse weight to IUD.

64. I recognise that the LPA cannot demonstrate a five-year supply of deliverable Traveller sites based on up to date and objectively assessed Traveller need. In this regard, paragraph 11d of the Framework is engaged. However, given my conclusion in respect of the Kent Downs National Landscape main issue, which is a strong reason for refusing development, paragraph 11d(i) is of relevance which states that the presumption in favour of sustainable development does not apply where *'the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed'*. I have found that the development does not/would not accord with paragraph 189 of the 2024 Framework which seeks to protect National Landscape areas.
65. On balance, I find that the harm caused to the Kent Downs National Landscape, and the conflict with the biodiversity, highway safety and accessibility requirements of development plan and national planning policy, and my finding of IUD, is not outweighed by the other material considerations outlined above. Consequently, permanent planning permission is not justified. I acknowledge the dispute about whether the site comprises PDL, but even if I had decided that it was PDL it would not have altered my conclusion that permanent planning permission is not justified.
66. I have considered whether a temporary planning permission would be justified. The appellant has requested five years if I was to consider that permanent planning permission was not justified. I recognise that a five-year permission would not result in the same degree of harm that would be caused from a permanent planning permission. Nonetheless, five years is a significant length of time, and, on balance, I find that the harm would still be material and that it would not be outweighed by the other material considerations outlined above. I acknowledge the dispute about whether the site comprises PDL, but even if I had decided that it was PDL it would not have altered my conclusion that temporary planning permission is not justified.
67. For the above reasons, and, on the evidence that is before me, I conclude that whether it relates to permanent or temporary planning permission, the development would not be capable of according with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. I find that the breach of planning control does not therefore comprise a sustainable form of development. Therefore, the ground (a) appeal fails.
68. Notwithstanding the above conclusion, it is open to me to consider whether the compliance period in the notice is reasonable and proportionate based on the facts of the case. I consider this matter below as part of the ground (g) appeal.

Ground (g) appeal

69. The appeal on ground (g) is that the period specified in the notice in accordance with section 173(9) of the Act falls short of what should reasonably be allowed.

70. The period specified in the notice is three months for all the requirements. The appellant considers that this is too short and that twelve months should be allowed.
71. While I find that the evidence indicates that three months is reasonable and proportionate in terms of complying with the physical requirements of the notice, I find that a compliance period of twelve months would reasonably afford the occupiers of the site some necessary additional time to secure alternative accommodation, and hence to afford some stability in terms of health and disability related matters.
72. This extended time would afford the occupiers of the site more time to either find alternative accommodation elsewhere in bricks and mortar accommodation, or to secure an alternative/private Traveller pitch elsewhere (including obtaining planning permission if necessary) in accordance with the requirements of policy LPRHOU8 of the LP.
73. I therefore find that a compliance period of twelve months instead of three months strikes a reasonable and proportionate balance between bringing the unauthorised development to an end, while also recognising the need for the occupants of the site to find alternative accommodation and to minimise adverse impacts on health and wellbeing. I find that upholding the enforcement notice with variations is a legitimate and proportionate response to addressing the breach of planning control in the public interest. This outweighs the loss of homes on the site considering the rights of the individuals under Article 8 of the HRA. This conclusion also recognises the potential for the occupiers of the site to have to live a roadside existence if the extended period does not afford enough time to secure an alternative and private Traveller pitch elsewhere and/or the opportunity to occupy available bricks and mortar accommodation elsewhere even if that were simply on a temporary basis.
74. I conclude that I shall vary the compliance period to twelve months. In this regard, the ground (g) appeal succeeds.

Overall Conclusion

75. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

D Hartley

INSPECTOR