
Appeal Decision

Hearing held on 2 September 2025 and 21 October 2025

Site visits made on 2 September 2025 and 21 October 2025

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 20 November 2025

Appeal A Ref: APP/C3620/W/24/3347869

Riverdale Paddocks, Capel Road, Rusper, Surrey, RH12 4PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted
- The appeal is made by Mr Joe Maloney against the decision of Mole Valley District Council.
- The application Ref is MO/2024/0397/CC MAJOR.
- The application sought planning permission for part retrospective application of existing caravan site for the siting of 7 No. additional caravans; 2 No. additional utility buildings and associated hard standing, to allow changes to the site plan, plans and elevations of Utility Building, and access without complying with a condition attached to planning permission Ref MO/2017/0803, dated 12 November 2017.
- The condition in dispute is No 8 which state[s] that:

"The use hereby permitted shall cease and the caravans, hard surfaces and any structures, fences, materials and equipment brought on to or erected on the land shall be removed within 3 months of the date of the failure to meet any of the requirements set out in (i) to (iv) below:

i Prior to the commencement of the development, details of: (a) the internal layout of the site, the siting of the caravans and the layout of the vehicular access, parking and manoeuvring areas; (b) the size, layout and design of the amenity space, (c) all means of enclosure, including details of existing trees and hedgerow to be retained and the design, height and position of any boundary walls, fences and/or gates; (d) the landscaping of the site, including tree, hedge and shrub planting with details of species, plant sizes and proposed numbers and densities; (e) any external lighting on the boundaries of and within the site and any other minor domestic items and structures (e.g. furniture, play equipment, refuse or other storage units); (f) hard surfacing materials and external materials to be used to the dayrooms; (g) the means of foul drainage, including any septic tanks; and (h) timetables for implementation shall have been submitted for the written approval of the local planning authority.

ii within 11 months of the date of this decision, the details and schemes submitted in pursuance of (1) above shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

iii if an appeal is made in pursuance of (2) above, that appeal shall have been finally determined and the submitted site development plan scheme shall have been approved by the Secretary of State.

iv the approved scheme shall have been carried out and completed in accordance with

the approved timetable.

Appeal B Ref: APP/C3620/W/25/3368598

Riverdale Paddocks, Capel Road, Rusper, Surrey, RH12 4PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against the failure of Mole Valley District Council to give notice of its decision within the appropriate period on an application for planning permission.
 - The appeal is made by Mr Joe Maloney.
 - The application Ref is MO/2024/1917 and is dated 11 November 2024.
 - The application for which planning permission is sought is described as for the siting of additional static caravans (12 additional making a total of 20) at an existing Gypsy and Traveller caravan site to provide human habitation to family members, including day room (retrospective).
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Summary Decisions

Appeal A is dismissed

Appeal B is dismissed

Application for costs

1. In relation to Appeal B, an application for costs was made by Mr Joe Maloney against Mole Valley District Council. That is the subject of a separate Decision.

Procedural Matters

2. These two appeals were heard at the same Hearing together with a third appeal against an enforcement notice issued in relation to this site (APP/C3620/C/24/3351897). Because the issues raised in the latter were in some respects different to those raised by these appeals and there were additional grounds of appeal against the Enforcement Notice, that is the subject of a separate Decision.
3. The planning policies cited in the reasons for refusal of the application to which Appeal A relates were those contained in the Mole Valley Core Strategy and the Mole Valley Local Plan, which were part of the development plan for the area at the time. However, shortly after that, the Council adopted the Mole Valley Local Plan 2020-2039, which completely superseded those earlier documents. The policies in the new Local Plan were discussed at the Hearing, and I have determined both appeals having regard to the policies in the new Local Plan.
4. The development for which planning permission is sought in Appeal B is described as the siting of additional static caravans (12 additional making a total of 20) at an existing Gypsy and Traveller caravan site to provide human habitation to family members, including day room (retrospective). There is no dispute or misunderstanding as to what planning permission is sought for, but it appears to me that the description of development for which is sought could be clearer.

5. This was canvassed at the Hearing and the following description of development was agreed:

The stationing of 12 additional static caravans for the purpose of residential occupation (making a total of 20) at the existing Gypsy and Traveller caravan site, including a day room.

6. I have adopted that description for the purposes of my Decision.
7. Shortly before the Hearing, the appellant submitted a Block Plan that purported to show the layout of the site as proposed in Appeal B (Drawing Number: GP/03/24 Rev D). The plan showed a total of 20 individually numbered static caravans, consistent with the development that was proposed.
8. However, closer inspection revealed that in addition to those 20 static caravans, there were six other 'structures' shown on the plan. These included further static caravans (including the appellant's own home) and a building labelled as 'Annex' which I had been repeatedly assured was to be removed.
9. I queried this and in response the appellant submitted a revised Block Plan (Drawing Number: GP/03/24 Rev E). That plan shows the two additional static caravans shown on that plan that are stationed on the site and the Annex to be removed. I based my assessment of the site on the basis of that revised Block Plan. In doing so, I have assumed that the two static caravans and the Annex shown to be removed will in fact be removed.
10. There is no dispute that all the occupiers of the site meet the definition of Gypsies and Travellers as set out in Annex 1: Glossary of the Planning policy for travellers sites (PPTS).

Reasons

11. The baseline against which the appeals must be considered is common to both Appeal A and Appeal B. It is therefore convenient to set out this base line at the outset.

Baseline

12. The appeal site is located on the north side of Capel Lane within open countryside beyond the Green Belt. The key characteristics of the landscape within which the appeal site is located include large areas of woodland and small, irregular shaped fields enclosed by hedges and woodland. There is some built development fronting onto Capel Lane but this is widely spaced and separated by long stretches of open fields and patches of woodland. Where built development does occur, it tends to be in agricultural or industrial use and, whilst in some cases the buildings are substantial, they are typically confined to the road frontage. To the rear of that, the surrounding area is largely open countryside with the landscape being dominated by open fields and woodland.
13. The appellant acknowledges that the application site is located within the countryside but considers that the designation of countryside is of the lower level in the hierarchy of designations such as, for example, National Landscapes. However, paragraph 187 of the National Planning Policy Framework (Framework) indicates that planning policies and decisions should

contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside.

14. I note that policies in the development plan adopt broadly similar approach and provide that the rural character and largely undeveloped nature of the countryside will be protected for its own sake. Whilst that is not entirely consistent with the wording in the Framework, on my reading it amounts to essentially the same thing. Furthermore, the Local Plan has just emerged from examination, and it is reasonable to conclude that the Examining Inspector similarly found the policies to be consistent with the Framework.
15. Overall, the area surrounding the appeal site an attractive rural landscape with an overtly rural character. Residential development is limited and, whilst there are some examples of caravans outside of the appeal site itself (and visible from it), caravans are not a dominant feature of the wider landscape in which the appeal site is located.
16. In that context, I recognise that in June 2016 conditional planning permission was granted on appeal (the 2016 Appeal¹) for the change of use of land for the stationing of up to 5 caravans for residential occupation with associated development (Council Ref: MO/2015/0768). In allowing the appeal, the Inspector described the surrounding countryside as 'being characterised by undulating fields enclosed with hedges and interspersed with woodland and small copses. The area is dotted with farmsteads, stables and occasional houses'.
17. The Inspector goes on to note that the appeal site was formerly a paddock near to the complex of Riverdale Farm. I note that the Inspector's description of the surrounding landscape is broadly similar to my own but that the baseline against which he was considering the development then before him was very different to that existing now.
18. Planning permission was then granted in November 2017 for the siting of 7 No. additional caravans, together with additional utility buildings and associated hard standing (Council Ref: MO/2017/0803). Finally, in December 2019, conditional planning permission was granted for the Change of use of land to provide 2 No. additional pitches with associated hard standing, utility blocks, package treatment plant and fencing on land immediately to the west of the current appeal site (MO/2019/0369).
19. The above planning permissions represent the totality of the caravans/pitches with planning permission on the two sites. Other caravans stationed on the sites either do not have the benefit of planning permission and/or are subject to Breach of Condition Notices. This amount to a total of 16 caravans of which 8 are static caravans.
20. This total and the surrounding landscape represent the baseline for my consideration of the development on the appeal site itself. Consequently, whilst the appellant is correct to point out that is an established Gypsy and Traveller site that covers an extensive area of land with a neighbouring Gypsy Site directly adjacent, it is not correct to say that this provides the setting for the development subject to this appeal. It is necessary to consider the

¹ That Decision was in relation to a total of three appeals: APP/C3620/W/15/3137675; APP/C3620/C/15/3137676; and APP/C3620/C/15/3138321.

development in its wider setting, and that is in the context of an overtly rural landscape.

21. It is convenient to consider the development proposed in Appeal A separately in the first instance, because this then informs consideration of the development proposed in Appeal B.

Appeal A

22. The Council has stated one substantive reason for refusing planning permission, from which the main issue raised is the effect of the development, if any, on the character and appearance of the area.
23. The variation to planning permission Ref MO/2017/0803 sought is the erection of a single day room instead of the four smaller individual day rooms provided under that permission². The day room is a substantial building, with a total floor area of some 153.4m². The building measures some 17.5m in width, and between 8.25m to 11.2m in depth. The height to the eaves is some 2.4m with a maximum height of some 4.75m at the ridge.
24. Internally, the day room comprises a series of individual rooms that at the time of my first site visit were being used to provide play spaces suitable for children of various ages, together with a relaxation area for adults. There are also a kitchen and a utility room. Externally, the building has the scale, style and appearance akin to that of a large dwelling.
25. By reason of its size, height and design, the day room building is wholly incongruous in this rural setting. In reaching that conclusion, I am fully mindful that there is planning permission for a static caravan to be stationed in this location. I am also mindful that the definition of a twin-unit caravan for the purposes of Part I of the Caravan Sites and Control of Development Act 1960 (the 1960 Act) includes a caravan of up 20m in length and 6.8m in width. Moreover, the only restriction in terms of height is that the overall height of living accommodation must not exceed 3.05 metres.
26. There is no restriction in the 1960 Act relating to external finish of a caravan. Consequently, as the appellant points out, the external appearance of a static caravan can be adapted to mimic the appearance of a building. This can include, for example, a brickwork skin and decorative features such as quoins, bay windows, pilasters and pediments. Accordingly, it is the appellant's view that a static caravan thus finished externally and in the same position as the day room would have a similar impact on the character and appearance of the area as does the day room.
27. In my view, that is a false equivalency. The overall length of the day room may be less than that permitted for a twin-unit caravan, but it greatly exceeds the maximum permitted width of a twin-unit caravan. The width of the day room in turn dictates the height of the pitched roof and whilst in theory there is no restriction on the maximum height of a roof to a caravan in the 1960 Act, in practice design considerations would make it unlikely that a caravan would support a roof of the height of the day room.

² Although described as a variation, the effect of allowing this appeal would be to grant a new planning permission.

28. Moreover, the day room has an obvious solidity to the structure that is not replicated in a mobile home. As a building, the day room is articulated in a way that would be difficult to achieve with a caravan without taking it outside of the definition of a caravan in the 1960 Act in terms of retaining the capability to be physically moved by road from one place to another. For example, the depth of the forward-projecting gable feature on the front elevation of the day room could not be replicated on a caravan in such a way that it would then be capable of being moved.
29. For all the above reasons, I do not accept the appellant's premise that a caravan could be externally finished in such a way that it would have the same impact on the character and appearance of the area as the day room. By reason of its size, height and quasi-dwelling appearance, the day room has a very different and, in my view, a significantly more harmful effect on the character and appearance of this overtly rural landscape than would a static caravan in the same position, howsoever finished externally.
30. Neither do I accept the appellant's premise that the day room as built has a lesser impact than several smaller individual day rooms. An individual day room, or a smaller day room perhaps serving two static caravans, appears subordinate to that static caravan(s). The mathematical comparison of floor area produced by the appellant is therefore not a valid comparison. The individual and cumulative effect on the character and appearance is less harmful than the significant harm resulting from the day room as built.
31. I understand that the Council has previously accepted the principle of a single larger day room in lieu of a great number of smaller day rooms on other sites. I have not been provided with the details of the single day room(s) where that has occurred, but the salient point is the harm caused by the excessive scale and quasi-dwelling appearance of the day room as built on this site is not outweighed by the provision of a greater number of smaller outbuildings.
32. Moreover, the day room building was initially shown to be on the position of an approved mobile home, but that mobile home has been relocated elsewhere on the site. It follows that there has been no reduction of the number of caravans on the site to compensate (in visual terms) for the new day room. This reinforces my view that the day room building represents a significant and unacceptable increase in the visual impact of the site in this rural location when measured against the approved baseline.
33. The appellant makes the valid point that, in normal circumstances, the day room would not be visible from Capel Lane, given the presence of the entrance gates and boundary treatment fronting the lane. However, the day room is sited in a direct line with the entrance gates with no intervening development or features. It follows that the day room would be starkly apparent from the public highway whenever the gates were open.
34. Furthermore, the wider point is that there can be no guarantee that the entrance gates and/or the boundary treatment (on any boundary of the site) will be permanently retained in their current form. The removal or reduction in height of the entrance gates and/or the boundary treatment would cause the day room to become more visible from outside the site and therefore in the wider landscape. For that reason, it is not prudent to accept into this overtly rural landscape a building that by reason of its scale and quasi-dwelling appearance is intrinsically harmful to that landscape. For the same

reason, I do not consider that providing additional screening on the site boundary would overcome or mitigate the harm in this respect.

35. I conclude that the development sought by the variation of condition 8 of planning permission Ref MO/2017/0803 unacceptably harms the character and appearance of the area. I therefore conclude that the development is contrary to Policies EN2, EN4 and EN8 of the Mole Valley Local Plan 2020-2039 (Local Plan) which, amongst other things, encourages developments that are sensitive to their landscape context.

Other considerations

36. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. Having regard to the above, I conclude that the proposed variation of the condition fails to comply with the development plan when read as a whole. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.
37. I recognise that the day room building as constructed plays an important role in the social life and day-to-day activities of occupants of the site, particularly those occupants who have children. The best interests of those children are at the forefront of my mind. However, I must compare the existing situation with the development that was granted by the two planning permissions.
38. It is axiomatic that in granting those two planning permissions, the Inspector and then the Council were satisfied that the consented schemes made adequate provision for the children that live on the site (in terms of their ability to play and to learn). I have no doubt that the day room that has been constructed is superior to the consented schemes in those respects, in particular insofar as it provides a safe environment for children to play and to learn whilst under the supervision of adults.
39. However, the salient point is that the day room constitutes an improvement over a provision that was already considered to be adequate. As such, I do not consider the new day room to be essential to safeguard the best interests of the children residing on the site. For that reason, I only attach moderate weight to the provision of the new day room.
40. I have had regard to my responsibilities under the Public Sector Equality Duty (PSED). As described above, I consider the day room that has been constructed to be an improvement over the provision in the consented scheme(s) but I do not go as far as to say that the day room is essential for the occupants of the site to carry on their nomadic way of life.
41. I have considered whether the imposition of suitably worded conditions could overcome the harms that I have identified above and make the development acceptable in planning terms. This includes the provision of landscaping to 'soften' the appearance of the development in order that it may better assimilate into the rural landscape. However, in my view the harms identified are intrinsic to the development that is proposed (albeit retrospectively) and could not be overcome by the imposition of conditions.

Conclusion on Appeal A

42. In weighing the overall balance, I conclude that the harm caused by the day room to the character and appearance of the area outweighs any benefits that arise from the development. I have not been advised of any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan. I therefore conclude that planning permission ought not to be granted for the proposed variation of Condition 8 imposed on planning permission Ref MO/2017/0803.

Appeal B

43. The development that is proposed includes the same day room building that is subject to Appeal A. I do not repeat here my reasoning and conclusions in relation to that day room building, which remain exactly the same.
44. The development proposed in this appeal includes the stationing of up to 20 static caravans on the site. It is not proposed to station any touring caravans on the site: the appellant keeps the touring caravans used for travelling at storage facilities nearby, these being reasonably required to facilitate the nomadic habit of life of the occupiers of the site. The appellant would therefore accept a condition limiting the number of caravans on the site to 20 at any one time, all of which could be static caravans. By the very nature of static caravans, this number is unlikely to fluctuate. I shall therefore treat the 20 static caravans that are proposed as effectively being permanently stationed on the site whilst one or more family members use their touring caravans whilst travelling to find work.
45. The Block Plan for the proposed layout (Drawing Number: GP/03/24 Rev E) shows the 20 static caravans arranged around the site is a very linear and regimented pattern. Most of the static homes on the site are arranged in regimentally aligned and spaced rows. The site therefore immediately has a distinctly urban character to it.
46. This urban character is exacerbated by the tarmacadam internal road, complete with painted road markings, that runs through the site in a straight line between the entrance gates and day room. The internal road is delineated by a raised kerb with fencing to both sides. Adjacent to the internal road is a grassed area laid out in a rectangle and enclosed by a fence. There are also several lampposts spaced at regular intervals along the internal road and around the grassed area.
47. Adding to the urban character is the bulk, height, materials and articulated floorplan of the day room building at the end of the internal road. The combination of the internal road with the day room at one end, the tightly spaced rows of static caravans in a regimented pattern and the rectangular grassed area provide a series of geometric man-made shapes that are completely out of keeping with the natural landscape of the surrounding open countryside.
48. The 2016 Appeal granted permanent planning permission for the change of use of the land to the stationing of caravans for residential occupation with

associated development³. The number of caravans allowed to be stationed on the site was restricted by the imposition of conditions to a total of 5 caravans on two pitches. Of those 5 caravans, no more than 2 could be static caravans. This was the baseline against which the Inspector considered the effect of the development then before him on the character and appearance of the locality.

49. Assessing the development then before him against that character, the Inspector concluded that it “undoubtedly introduced a greater sense of urbanisation into the rural landscape as caravans, hard standings and domestic paraphernalia are now on what was previously a grassed paddock.” The Inspector went to conclude that the development caused harm to the character and appearance of the surrounding area.
50. Two points flow from that finding. Firstly, the Inspector was considering the effect of five caravans (of which only two were static caravans) on what he termed a rural landscape.
51. Secondly, in reaching that conclusion, the Inspector recognised that the site “is not in a location remote from built form or similar, as a farm complex is to the east, a stables is to the south, and in the fields around there are a number of caravans that I was not told with certainty were unlawful under planning legislation”.
52. I fully recognise that the baseline position has changed significantly since the Inspector’s Decision was issued in 2016, not least with the granting of planning permission by the Council for an additional 7 caravans to be stationed on the site just a year later. Nevertheless, it is instructive that the Inspector found that the stationing of just five caravans on the appeal site was harmful in this rural landscape. It follows that the appeal decision in June 2016 provide no justification for the stationing of a much larger number of caravans as now proposed.
53. The key point is that the Inspector for the 2016 Appeal found that a development comprising just 5 caravans (of which only 2 were static caravans) undoubtedly introduced a greater sense of urbanisation into the rural landscape. The Inspector reached that conclusion notwithstanding that he assessed the site as being ‘not as prominent’ as another site to which he had been referred.
54. The sense of urbanisation resulting from the development now before me is of a wholly different magnitude to that before the Inspector for the 2016 Appeal. One significant difference is the presence of the day room which, for the reasons set out above, in itself results in an urbanisation of the site.
55. I am mindful that paragraphs 14 and 26 of the PPTS implicitly accept that traveller sites, with all that they include, may be located in rural areas. However, those paragraphs must be read as a question of fact and degree. In this case, the urbanisation resulting from the proposed development is so fundamentally out of keeping with the surrounding open countryside that is not acceptable in this overtly rural location.

³ There was a total of 3 appeals before the Inspector, one against the refusal of planning permission (APP/C3620/W/15/3137675) and 2 against an Enforcement Notice issued by the Council (APP/C3620/C/15/3137676 & 3138321).

56. My conclusions in this respect are reinforced by the findings of the Inspector in relation to the appeal at Pinewood Park, just to the west of the Riverdale Paddocks (APP/C3620/W/25/3365225). The baseline position for that appeal (which I shall hereafter refer to as the 2025 Decision) in respect of the surrounding landscape was practically identical to that of this site and although not expressly stated in the Inspector's Decision would have included the presence of the static caravans and day room on the Riverdale Paddocks.
57. The Inspector in that case concluded that 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" (emphasis added). I note that the Inspector reached that conclusion notwithstanding that "Views of the development proposed from Capel Road would be restricted by the existing roadside hedge, boundary fence and solid gates." Consequently, whilst there are some differences between the two proposals, there are also some direct parallels with the proposal that is now before me.
58. I conclude that the proposed development unacceptably harms the character and appearance of the area. I therefore conclude that the development is contrary to Policies EN2, EN4, and EN8 of the Local Plan.

Other considerations

59. Some of these other considerations are covered in the Statement of Common ground. For example, it was agreed that matters relating to highway safety and the disposal of foul drainage could be dealt with through the imposition of suitably worded conditions. I see no reason to take a different view. I will therefore focus here on the other considerations that were discussed at the Hearing.

The need for/supply of sites for gypsies and travellers in the area

60. The Council set out its position in respect of the supply of Gypsy and Traveller sites in a Position Statement dated October 2025 and expanded upon that at the Hearing. In summary, the Council's Five-Year Traveller Sites Supply Review, published February 2015, identified a deliverable supply of 35 Gypsy and Traveller pitches from: developments with planning permission (11 pitches), Local Plan development sites (9 pitches) and an allowance for windfall sites based on historic delivery (15 pitches) ($11 + 9 + 15 = 35$ pitches). Since the Review was published, two planning applications have been determined but do not affect the overall provision.
61. The Five Year Traveller Sites Supply Review 2025 (the 2025 Review) identified need for 12 pitches over the next five years between 2025 and 2030, based on the identified need for 52 pitches between 2020 and 2037 set out in the Gypsy and Traveller Accommodation Assessment (GTAA). Combined with past under delivery of 11 pitches since 2020, this results in a total of 23 pitches being required over the next five years ($12 + 11 = 23$).
62. Comparing the deliverable supply of 35 pitches with the 5-year pitch requirement for 23 pitches between 2025 and 2030 gives a surplus supply of 12 pitches over the next five years ($35 - 23 = 12$). This is the equivalent of 8 years' supply of Gypsy and Traveller pitches ($(35 / 23) \times 5 = 7.6$ years). The

Council is therefore confident that it can demonstrate five-year supply of land for Gypsy and Traveller pitches.

63. This position was accepted by the Inspector in the 2025 Decision. In paragraph 42 of that Decision, the Inspector made it clear that he had 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 Hatch⁴. Nevertheless, the Inspector concluded 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".
64. The appellant takes a different view. Amongst the counterpoints made in a Position Statement submitted just prior to the Hearing is that the Council's 23 pitches figure derives from a 2021 GTAA, which was an update of the 2018 GTAA. The appellant points out that the 2021 GTAA derives from interviews during July 2020 and February 2021 and not from physical visits to the site(s).
65. I concur with the Inspector in the 2025 Decision insofar as 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. Consequently, whilst I recognise the criticisms made by the appellant in terms of the methodology of the GTAA, I am satisfied those criticisms were taken into account in the adoption of the Local Plan.
66. I do, however, take the appellant's point that relating to the Cidermill Hatch judgement, in which the High Court held that was little to no overlap between the tasks being undertaken by an Examining Inspector and that facing an Inspector in a section 78 appeal. It is here that I depart from the findings of the 2025 Inspector, specifically the reliance he placed on the Local Plan as identifying the level of need and supply of Gypsy & Traveller sites together with the policy provision for windfall sites
67. The key point in relation to this case, it seems to me, is that the material before the Examining Inspector dated from 2021, whereas I have to consider the position as at the date of the Hearing. In that context, there are to my knowledge at least two sites in the District where unauthorised caravans are sited: the appeal site (12 pitches) and the adjoining site at Pinewood Park (also 12 pitches). This constitutes an immediate and unmet need for 24 units that is not accounted for in the GTAA. To put that another way, the figure of 24 units is itself precisely double the identified need for 12 pitches over the next five years set out in the 2025 Review. Rather than a surplus of 12 units, in reality the Council has a shortfall of 12 units when measured against identified need.

⁴ This is reference to an Appeal Decision (APP/C3620/C/24/3347934) dated 18 February 2025 in relation to a Gypsy & Traveller site adjacent to Cidermill Hatch in Newdigate, with the same local authority as the current appeal site. The Council had challenged that Decision in the High Court.

68. Consequently, even before even considering whether the anticipated provision of windfall sites is realistic (there is already some evidence that it is not), on the evidence that is before me the Council cannot demonstrate an up-to-date five-year supply of deliverable gypsy and traveller sites as of the date of the Hearing.
69. Furthermore, Policy H5 of the Local Plan states in terms that up to 34 pitches will be provided through mechanisms that include (a) the appropriate intensification of pitches on allocated existing Gypsy & Traveller sites and (b) the delivery of new Gypsy & Traveller sites as part of the development of housing sites with a capacity exceeding 100 dwellings. The appellant questions whether the latter is a realistic prospect.
70. In that context, I heard evidence at the Hearing that a housing development site in Ashstead for 270 dwellings plus three Gypsy & Traveller pitches has received a resolution to grant outline planning permission (all matters reserved apart from access) from the Council. The outline permission is subject to a raft of pre-commencement conditions and, in the appellant's view, it could take some seven years before the build commences. Even if the appellant's prediction of seven years is on the pessimistic side, it could still take several years before the three Gypsy & Traveller pitches would become available. In any event, this would not fully address the shortfall of 12 pitches against the identified need for Gypsy & Traveller pitches.
71. Taken as a whole, the evidence before me is that the Council is not able to demonstrate five-year supply of land for Gypsy and Traveller pitches

Whether there any suitable alternative sites that are available

72. The Council is unable to point to any alternative sites that are suitable, and which are available. But it does not necessarily mean that the occupiers of the appeal site would be obliged to resort to a roadside existence in the short term, with all the disadvantages that would bring. There is no imperative for them to vacate the site at this time: for example, in order to comply with an Enforcement Notice. For that reason, this is a consideration to which I attach only limited weight.

Personal circumstances of the appellant and other occupiers of the site

73. The appellant explained at the Hearing that some occupiers of the site do have medical issues and are receiving treatment for those. However, on the basis of the evidence that I heard, I am satisfied that none of the occupiers on the site suffer from medical issues of overriding significance that would require occupation of this particular site.

The best interests of any children residing on the site

74. The appellant explained at the Hearing that two or possibly three of the children residing on the site attend a local primary school. Those children are doing well there and have made friends with children from the settled community. Indeed, I understand that on occasion children from the settled community visit the appeal site (presumably with their parents) to play with the children residing there. This clearly promotes the integration of the travelling and settled communities. The older children residing on the site are all home schooled.

75. It is clearly in the best interests of all the children residing on the site to remain there as a settled base from which they can access education and health facilities. As a starting point, that is a primary consideration.

Human Rights Act considerations

76. I am fully aware that the dismissal of this appeal could ultimately lead to the appellant and the occupiers of the appeal site losing their homes. This would interfere with their rights under the European Convention of Human Rights, as incorporated into domestic law by the Human Rights Act 1998 (HRA). In particular, their rights under Article 8 (right for respect for private and family life, home and correspondence) and Article 1 of the First Protocol (right to respect to property) would be interfered with. Both of the above are qualified rights, and interference with them may be justified where lawful and in the public interest.
77. However, that would not be an immediate consequence of the dismissal of this appeal. The Council would first need to issue an Enforcement Notice, should it be considered expedient to do so. The appellants would have a right of appeal against any Enforcement Notice that might be issued, of which there are several potential outcomes. Accordingly, any interference with the rights of the appellant and other occupiers of the site is only a possibility at this time.
78. It is also settled case law that where a dwelling has been established without the planning permission which is needed under the national law, there is a conflict of interest between the right of the individual under Article 8 of the Convention to respect for his or her home and the right of others in the community to environmental protection. I have also factored that into the overall planning balance.

Public Sector Equality Duty

79. The provision of a settled base from which to travel for work and from which to access education and medical facilities clearly facilitates the nomadic habit of life of the appellant and the other occupiers of the site. I fully recognise the positive obligation to facilitate the Gypsy way of life and have had regard to that in the overall planning balance.

Conditions and Unilateral Undertaking

80. I have considered whether the imposition of suitably worded conditions could overcome the harms that I have identified above and make the development acceptable in planning terms, including those discussed at the Hearing. I am satisfied some of those objections could be addressed by a condition requiring the submission and approval of a comprehensive Development Management Scheme to cover such matters the number of caravans that may be stationed on the site at any one time. However, in my view the harm to the character and appearance of the surrounding area identified is intrinsic to the development that is proposed (albeit retrospectively) and could not be overcome by the imposition of conditions.
81. The appellant as submitted a draft Unilateral Undertaking in which he covenants to remove the two structures marked 'Utility Block' and the structure marked 'Combined Utility' on a plan attached to the agreement. I am satisfied that the is necessary to make the development acceptable in

planning terms; is directly related to the development; and is fairly and reasonably related in scale and kind to the development. It does not, however, overcome the harms that I identified above. For that reason, I have not requested the submission of a signed and dated Unilateral Undertaking.

Temporary and/or personal permission

82. The Planning Practice Guidance (PPG) explains that planning permission usually runs with the land and it is rarely appropriate to provide otherwise. I am not persuaded that in this case the personal circumstances of the appellant and/or the other occupiers of the site individually or collectively qualify as one of the exceptional occasions contemplated in the PPG where a personal permission may be acceptable.
83. The courts have held that the grant of temporary permission would still result in the harm identified but the overall balance would necessarily be affected if a temporary permission is considered, given that any harm caused by the development would not be permanent and could be reversed. This would not of course apply to the day room, which is a permanent structure and could not be removed without complete demolition.
84. The PPG indicates circumstances where a temporary permission may be appropriate, including where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. In this case, the use of the site for the stationing of 20 static caravans and the associated operational development (including the day room) are already in place. A trial period is therefore not required to assess the effect of the development on the area: I have been able to do that at my visits to the site and have already come to the view that the development is significantly harmful to the character and appearance of the area. A temporary permission would not change that.
85. Neither is there any merit in granting a temporary planning permission in the expectation that the planning circumstances will change by the end of that period. The Council's Local Plan was only recently adopted, and it would take several years to produce a new GTAA. The appellant suggested (without prejudice to his primary permission that a permanent permission should be granted) a temporary permission of five years. Allowing for the necessary surveys and site searches, I am not persuaded that a new GTAA would be adopted within five years. Even then, there can be no guarantee that a suitable site would be identified and would become available to the appellant (and/or the others residing on the site) within that timescale.
86. Having regard to the guidance in the PPG, I therefore conclude that granting a temporary planning permission (of any duration) is not an option open to me.

The paragraph 11(d) balance

87. Paragraph 28 of PPTS indicates that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the Framework apply. Paragraph 11(d) of the Framework indicates that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless any adverse impacts of doing so

- would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
88. Here we have a development plan that was adopted relatively recently (October 2024). There are policies in the development plan that are relevant to the determination of this appeal. These are 'relevant policies' for the purposes of paragraph 11(d) of the Framework. The first three of those policies relate to character and appearance, whereas Policy H5 is a policy that relates specifically to Gypsy & Traveller development. These are the policies in the development plan are "most important" for determining the appeal.
 89. I do not consider that Policies EN2, EN4 and EN8 can be regarded as being out-of-date for the purposes of paragraph 11(d) of the Framework. However, Policy H5 is concerned in part with meeting Gypsy & Traveller need, including the provision of windfall sites. Policy H5 is already out-of-date insofar as the Council has clearly underestimated the defined need for Gypsy & Traveller pitches. At the same time, there is evidence that the mechanisms for delivering the supply of sites are not working as well as anticipated
 90. Taken as a whole, Policies EN2, EN4, EN8 and H5 must be regarded as constituting the 'basket' of the most important policies for the purposes of my Decision. Of these, only Policy H5 must be considered as being out-of-date. Furthermore, given that the main issue raised by this appeal is the effect of the development on the character and appearance of the area, in my judgement Policies EN2, EN4, EN8 must be considered as being the most important policies of the basket of relevant policies because of the bearing they have on the decision to be made. Those policies are generally consistent with the Framework and as such must be considered up to date.
 91. When assessed against the policies in the Framework as a whole, the starting point is that in my assessment the development subject to this appeal is significantly harmful to the character and appearance of the countryside. Paragraph 187 of the Framework indicates that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside. The proposed development manifestly fails to accord with that paragraph of the Framework, and by a significant margin.
 92. Paragraph 131 of the Framework indicates that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135(c) indicates that planning decisions should ensure that developments are sympathetic to local character and history, including landscape setting. The development subject to this appeal does not accord with either of these paragraphs in the Framework.
 93. It was agreed in the Statement of Common Ground that the appeal site is locationally sustainable for the proposed development. I also note that in the 2025 Appeal the Inspector in concluded that, 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.

94. Whilst I see no need to take a different view, in my opinion the appeal site is on the very margins in that respect. The appeal site 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. Medical facilities are available in Capel, about two miles away. The road on which the site is located is unlit with no footways. It is therefore likely that the majority of journeys for day-to-day purposes are by car. For those reasons, I attach only limited weight to any benefit arising from the location of the appeal site.
95. Paragraph 61 of the Framework indicates that to support the Government's objective of significantly boosting the supply of homes and it is important that a sufficient amount and variety of land can come forward where it is needed, including to meet the needs of groups with specific housing requirements. Paragraph 75 of the Framework indicates that where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. The evidence before me suggests that the above is not the case in relation to the supply of Gypsy & Traveller sites in the District.
96. Paragraph 124 of the Framework indicates that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. The proposal to station 20 static homes on this site would make efficient use of land but would do so at the cost of significant harm to the character and appearance of the surrounding area.
97. Paragraph 96(a) of the Framework indicates that planning decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other. Paragraph 98 of the Framework indicates that planning decisions should provide the social, recreational and cultural facilities and services the community needs, including the provision and use of shared spaces and meeting spaces.
98. The use of the land for the stationing of the 20 static caravans, together with the day room and the rectangular grassed area, is entirely consistent with these paragraphs. In particular, I note again the interaction of children from the travelling and settled communities is using the play space on the site, which is in my view is an exemplar of the objective sought in paragraph 96(a).
99. When assessed against the policies in the Framework as a whole, I conclude that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. It follows that the development does not benefit from the presumption in favour of sustainable development.

The section 38(6) balance

100. I have found that the development conflicts with Policies EN2, EN4 and EN8 of the Local Plan. It is therefore necessary for me to consider whether there are

any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.

101. The Council is not able to demonstrate five-year supply of land for Gypsy and Traveller pitches and there are no suitable sites that are available. However, there is no Enforcement Notice in place at this time requiring the stationing of the 12 caravans on the site without the benefit of planning permission to cease. Consequently, the dismissal of this appeal would not automatically mean the occupiers of those caravans will immediately lose their homes and be forced to adopt a roadside existence.
102. The day room provides a valuable resource which plays an important part in the social lives of the occupiers of the site, including the children residing on the site. In particular, it provides a suitable venue for the education of those children residing on the site who are home schooled. The best interest of the children residing on the site are at the forefront of my mind, but the dismissal of this appeal would have little or no impact on those children in the short term. This includes those children who attend a local school, who would be able to continue doing so.
103. I have found that the development does not benefit from the presumption in favour of sustainable development. This must be factored into the overall balance.
104. It is settled case law that where a dwelling has been established without the planning permission, there is a conflict of interest between the right of the individual under the HRA. Moreover, there is no immediate prospect that the occupiers of caravans on the site would lose their homes. Consequently, any potential interference with the of the occupiers of the site under the HRA is not a factor that weighs heavily in support of the development at this time.
105. I have had regard to my responsibilities under the PSED but, for the same reasons as above, dismissing this appeal would have no adverse effect on the ability of the occupiers of the site to pursue a nomadic habit of life at this time.
106. Having weighed the factors in support of the development, I am not persuaded that there are any material considerations of sufficient weight, either taken individually or cumulatively, to indicate that determination should be made otherwise than in accordance with the development plan. Accordingly, I conclude that planning permission (permanent or temporary) ought not to be granted for development subject to this appeal.

Conclusion

107. For the reasons given above I conclude that the appeals should be dismissed.

Paul Freer
INSPECTOR

APPEARANCES

On behalf of the appellant

Mr Joe Maloney	Appellant
Mr Stephen Whale	Of Counsel
Mr Tony White	White Planning & Enforcement

On behalf of the Local Planning Authority

Mr Aidan Gardner BA (Hons) Dip.TP MRTPI DMS	Principal Planning Officer
Mr Duncan Clarke	Planning Policy Manager
Mr Anthony Barber	Planning Policy Officer
Ms Fiona Lander	Planning Enforcement Manager

Documents submitted at the Hearing

- 1/ Signed and dated Statement of Common Ground
- 2/ Copies of planning permissions relating the appeal site
- 3/ Draft Unilateral Undertaking
- 4/ Copy of a Section 106 Agreement dated 13 November 2023 in relation to a housing development of a site at Sondes Place, Dorking
- 5/ Block Plan (Drawing Number: GP/03/24 Rev D)

Documents submitted after the Hearing

- 1/ Revised Block Plan (Drawing Number: GP/03/24 Rev E)