



Appeal Decision

Site visit made on 14 January 2026

by **Peter Willows BA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 March 2026

Appeal Ref: APP/K2230/C/24/3349903

Land north of Brecon, Heron Hill Lane, Culverstone, Meopham DA13 0DT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr L Mahon against an enforcement notice issued by Gravesham Borough Council.
- The notice was issued on 11 July 2024.
- The breach of planning control as alleged in the notice is *Without the benefit of planning permission the material change of use of the Land from vacant land in the Green Belt to a Gypsy and Traveller residential site, the stationing of a touring caravan and vehicles on the Land, installation of water treatment plant and utilities, and the carrying out of engineering operations, including the deposit of hard core materials, to create a site access and hardstanding.*
- The requirements of the notice are:
 - (i) Cease the use of the Land as a Gypsy and Traveller residential site
 - (ii) Remove all of the mobile structures from the Land
 - (iii) Remove the touring caravan from the Land
 - (iv) Remove all vehicles from the Land
 - (v) Remove all materials forming the hardstanding and kerbstones from the Land
 - (vi) Remove the waste water treatment plant from the Land
 - (vii) Disconnect all utilities from the Land
 - (viii) Remove all resultant debris and associated materials generated from the compliance with the above steps from the Land, including any other residential paraphernalia
 - (ix) Prepare the Land for planting so that there is sufficient top soil for planting (a total soil depth of 200mm with a pH level of 7.8-8.5 should be provided)
 - (x) Sow the Land with calcareous grassland seed mix in accordance with BPG Note 18 (https://cdn.forestresearch.gov.uk/2022/02/bpg_18.pdf)
- The period for compliance with requirements (i) to (ix) is 3 months.
- The period specified for Requirement (x) is stated as *28 days after the commencement of the next growing season (i.e. for any relevant year the period between 1 April and 30 September) subsequent to the date of compliance with the requirements in paragraph 5 steps (i) to (ix) inclusive*
- 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.

Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use of the land from vacant land in the Green Belt to a Gypsy and Traveller residential site, the stationing of a touring caravan and vehicles on the Land, installation of water treatment plant and utilities, and the carrying out of engineering operations, including the deposit of hard core materials, to create a site access and hardstanding at land north of Brecon, Heron Hill Lane, Culverstone, Meopham DA13 0DT, as shown on the plan attached to the notice and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The appellant previously sought planning permission for a Gypsy/Traveller pitch on this site. That proposal was supported with a site layout plan, and the appellant's initial statement of case indicates that the same plan is relied upon for the enforcement notice appeal. However, the previous proposal was somewhat different, and included a utility block/dayroom, which does not exist on the site and is not a matter referred to by the enforcement notice. Thus, it goes beyond the matters alleged in the notice. I have therefore disregarded the submitted site layout plan insofar as it shows the utility block, although it remains relevant insofar as it provides evidence of how the site might otherwise be laid out.
3. When I saw the site there were 2 mobile homes there. I am told that one of these is only in place temporarily and it is clear that planning permission is only sought for a single pitch and mobile home – a matter which can be controlled with planning conditions.

Ground (a)

Main issues

4. The main issues are:
 - Whether the development is inappropriate within the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the development on the openness of the Green Belt and its purposes;
 - The effect of the development on local landscape character;
 - The effect of the development on biodiversity;
 - Whether the site is suitably located in terms of access to necessary services, facilities and public transport; and
 - If the development is inappropriate, whether any harm to the Green Belt, and any other harm, is clearly outweighed by other considerations, including any need for the development and the personal circumstances of those living at the site, so as to amount to the very special circumstances necessary to justify the development.

The Green Belt

5. The site lies within the Green Belt. Policy CS02 of the Gravesham Local Plan Core Strategy seeks to apply national policy on Green Belts. Policy CS17 sets out how the Council will meet the site needs of Travellers. It generally directs such development away from the Green Belt, but does not explain how proposals within the Green Belt should be considered. National policy relating to the Green Belt has moved on significantly since CS17 was adopted, and I attach little weight to it in that regard.
6. The Framework advises at Paragraph 154 that development in the Green Belt is inappropriate unless one of the specified exceptions applies. None of the exceptions listed apply in this case. However, Paragraph 155 goes on to set out

circumstances where development on 'grey belt' land is 'not inappropriate'. It is common ground between the parties that this is a grey belt site, a view I share.

7. Paragraph 155 of the Framework advises that development in the Green Belt should not be regarded as inappropriate where:
 - (a) The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
 - (b) There is a demonstrable unmet need for the type of development proposed;
 - (c) The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework¹;
8. There is nothing before me to suggest that the development would fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. Consequently, since this is a grey belt site, criterion (a) is met. Since it is agreed that there is an unmet need for Gypsy and Traveller pitches within the Borough, criterion (b) is met as well.
9. The question of whether the site is a sustainable location is disputed. However, I consider the matter under a separate heading below, and conclude that it is sustainable in accordance with the approach set out in the Framework. Accordingly, the requirements of Paragraph 155 are met and this is not inappropriate development in the Green Belt.
10. I have had regard to the matters raised regarding the effect of the development in terms of openness. However, openness is one of the essential characteristics of Green Belts and, as a matter of policy, the aim of preserving the openness of the Green Belt cannot be compromised by development that is 'not inappropriate'. Similarly, since this is not inappropriate development in the Green Belt, it follows that the purposes of the Green Belt are not harmed.
11. I conclude that the Green Belt is not harmed. My findings on the Green Belt mean that it is not necessary to consider the question of whether there are very special circumstances to justify the development.

Landscape character

12. Policy CS19 of the Core Strategy seeks to ensure that new development is visually attractive and locally distinctive. The policy requires development to conserve and enhance the character of the local and built natural environment and integrate well into the surrounding area. Policy CS12 includes a general aim of conserving the landscape, and the Framework has similar objectives.
13. The appeal site lies within the Harvel Wooded Downs Landscape Character Area, which is described as having characteristics including a varied topography with steep valley sides and plateaux, ancient woodland, chestnut coppice and small paddocks and pasture, occasional traditional farmsteads and a mosaic of residential plots and small holdings set within the woodland. The Gravesham Landscape Character Assessment sets out various measures to conserve the landscape, which is described as having moderate condition and sensitivity. While I

¹ A further requirement – 155 d) – is not relevant in this case

accept that this can be properly described as a valued landscape, it is not a landscape that is characterised by freedom from development.

14. This character of residential plots set within woodland is evident in the locality of the appeal site. Despite its wider setting of woodland, much of the land in the immediate setting of the appeal site has been cleared, and there are a number of dwellings and mobile home plots nearby. To one side of the appeal site is 'Brecon', a house, while there is a fenced-off plot to the other side, which contained a mobile home when I saw it but did not appear to be in use. To the rear the land rises and dwellings can be glimpsed among the trees. On the opposite side of the lane the land rises, and some of the woodland has been cleared.
15. Clearly, the unauthorised use of this site has changed its character, due to the introduction of a hardstanding, mobile home and related items, together with the plainly residential use of the site. The site was previously undeveloped and appears to have contained trees and other vegetation until relatively recently. However, the visual effect on the locality as a whole is quite limited. The site is seen in the context of the adjacent Brecon. The other buildings and mobile home plots along this section of the lane provide further context such that the pitch does not appear incongruous. The local topography and trees significantly limit wider views of the plot.
16. I conclude that there is a degree of urbanisation resulting in harm to the largely rural character of the local landscape. Although limited by the factors highlighted above, this nevertheless leads to conflict with the aims for character, design and the landscape in Policies CS12 and CS19 and the Framework.

Biodiversity

17. The Council says that the site is located within the Happy Valley Local Wildlife site (LWS). However, this is disputed by the appellant. The appellant has provided a plan which appears to show the appeal site, together with various other plots of land, excluded from the LWS. The plan has no title, but I am told it is from the Kent County Council website. The Borough Council has not queried the veracity of the plan. In the absence of any firm evidence to the contrary, I have approached the appeal on the basis that the site is not within the LWS.
18. Policy CS12 seeks to prevent a net loss of biodiversity in the Borough. The Framework seeks to prevent significant loss of biodiversity. The Council says that there has been a loss of biodiversity on the site and that a detailed ecological report is needed to assess the extent of this. However, the need for the report seems to be based, at least in part, on the assumption that the site is within the LWS. Moreover, the appellant has, in fact, provided an Ecology Statement, which seeks to address biodiversity matters.
19. The Council has provided an aerial photograph from August 2022, showing the site with considerably more vegetation than when I saw it. However, I am told that the site was cleared by the previous owner, shortly before it was acquired by the appellant. Thus, it is said, the pre-development position was of a cleared site, free of trees. It is notable that the enforcement notice does not include any requirement for tree-planting, requiring it to be grassed instead. The apparent exclusion of the site from the LWS is consistent with the appellant's claim that the biodiversity interest of the site is likely to have been limited.

20. Even if trees were removed as part of the change of use, it does not appear to me that the intention of CS12 or the Framework is to prohibit any form of development that necessitates the removal of greenery. Rather, the approach should be to take such impacts into account in the planning balance. Indeed, CS12 recognises that it may be appropriate to address biodiversity harm with compensatory measures in some instances. In this instance, it does not appear to me that the site falls within any relevant ecological designation. The evidence does not show that any biodiversity loss was substantial. Both parties refer to the possibility of a condition to address biodiversity matters.
21. The enforcement notice refers to the site being in close proximity to ancient woodland, but it has not been shown that any harm arises from this. There is nothing to contradict the appellant's claim that there is no ancient woodland within 15m of the site.
22. I conclude that any loss of biodiversity arising from the development is likely to have been limited. Such harm could be addressed with a planning condition, which would ensure compliance with Policy CS12.

Services, facilities and public transport

23. The site is reached via Heron Hill Lane, a narrow, unlit lane without footways. There are no shops or public transport facilities within practical walking distance of the appeal site. There are facilities such as a shop, school and garage at Culverstone Green, roughly 1.5km away, with a greater range of services at Meopham, about 3km away. However, to reach those facilities, the occupiers of the appeal site need to travel along Heron Hill Lane. Pedestrians and cyclists using this lane are likely to feel vulnerable to passing vehicles due to its narrowness.
24. Consequently, occupiers of the site are likely to be highly dependent on private motorised vehicles to access shops and services. Paragraph 115 of the Framework requires that *'sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location'*.
25. Paragraph 155 and Footnote 57 of the Framework indicate that particular reference should be made to Paragraph 13 of *Planning Policy for Traveller Sites* (PPTS) when determining whether Traveller sites in the Green Belt would be in a sustainable location. Paragraph 13 advises that Local planning authorities should ensure that traveller sites are sustainable. However, it also recognises that providing a settled base can reduce both the need for long-distance travelling and possible environmental damage caused by unauthorised encampment.
26. It is clear from the above that sustainability in this context needs to be considered in the round. While the site is poorly located in terms of access to services by foot, there are sustainability benefits in providing a settled location for Travellers, and the availability of services at Culverstone Green and Meopham mean that many journeys by vehicle to reach services may be fairly short.
27. Moreover, there is no information before me to show that the appeal site would perform unduly poorly compared to other non-allocated sites that may come forward. This is relevant because, as discussed later, there is an agreed shortfall of traveller sites within the Borough. This is a rural area, with a large proportion of the Borough within the Green Belt, and a realistic view needs to be taken regarding the likelihood of genuinely more sustainable options coming forward. The Framework

advises at paragraph 110 that '*opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making*'.

28. I am mindful of the previous appeal decision referred to by the Council concerning a Gypsy and Traveller site at White Post Farm, Cobham², in which the inspector concluded that the scheme would not be sustainably located. There was a similar conclusion in subsequent appeals on this and an adjacent site³. However, such matters are fact-sensitive, and those sites are some distance from this appeal site.
29. Of more relevance, because of its location, is the earlier appeal decision relating to another site at Heron Hill Lane⁴, which shares the same postcode as the site of the current appeal. That proposal concerned a gypsy and traveller site with 5 pitches. The inspector considered the question of sustainability and concluded that the site was suitably located. Although there have been changes in national policy since then, the inspector's findings remain relevant. It also appears that the question of sustainability was not raised in the case of a more recent appeal decision very close to the site of this current appeal⁵.
30. The Council also refers to appeals concerning housing and holiday lets, but, given the different nature of those developments, and the specific national guidance concerning the approach to Traveller sites, those decisions are of little relevance.
31. With the above points in mind, I do not regard this as an unsuitable location for the particular development proposed in terms of access to services, facilities and public transport, and find no conflict with Policy CS19 as a result of this issue. This also means that I regard the location as *sustainable* for this development for the purposes of Paragraph 155 of the Framework.

Personal circumstances and need

32. The site is home to a family of 3, including a young child. The appellant's claim is that the family meet the Gypsy/Traveller definition within the PPTS. There is no evidence before me to cast genuine doubt on that claim.
33. The PPTS advises that local planning authorities should set pitch targets for Gypsies and Travellers which address the likely permanent and transit site accommodation needs of travellers in their area. Local planning authorities should, in producing their Local Plan, identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets.
34. In this case, the Council's Gypsy and Traveller Accommodation Assessment (GTAA) relies on an outdated Gypsy/Traveller definition, and the Council accepts that it is unable to demonstrate a 5 year supply of pitches. Consequently, it is common ground that there is a demonstrable unmet need for Gypsy and Traveller pitches within the Borough. This is an important material consideration. Moreover, there is no up to date criteria-based policy in place to allow windfall sites to be objectively assessed

² Ref: APP/K2230/W/20/3271514

³ Ref: APP/K2230/C/23/3328720 & APP/K2230/W/25/3363212

⁴ Ref: APP/K2230/W/19/3223958

⁵ Ref: APP/K2230/W/24/3336250

35. The appellant claims that the family has no alternative site available to them. There is little specific evidence to support that claim, but the agreement that there is a shortage of pitches in the area means that options for the family are likely to be limited.
36. I have been made aware of the tragic outcome of an incident last year, and the profound impact of this on the appellant and his family. The difficulties facing the family as a result of this reinforce their personal need for a settled home. I also accept that it would hinder their ability to move to another site, in the short term at least.

Other considerations

37. This is clearly a case of intentional unauthorised development. In a Written Ministerial Statement made on 17 December 2015, the Government confirmed that this is a material consideration. While the appellant says that the family had no other option but to occupy this site, this nevertheless weighs against the granting of planning permission.

Planning Balance

38. The Council is unable to demonstrate a 5-year supply of pitches for Gypsy and Traveller accommodation. The PPTS advises at paragraph 28 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 National Planning Policy Framework apply'. In this case it is common ground that the planning balance to apply is that set out at Paragraph 11(d)(ii), which is that planning permission should be granted unless: *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this 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.*
39. I have found that this is not inappropriate development in the Green Belt, and so very special circumstances are not needed to justify the development.
40. The harms arising from the development are limited. There is a degree of harm to the local landscape character, and consequent conflict with local plan policies CS12 and CS19. This leads me to conclude that there is conflict with the development plan as a whole. Additionally, this is a case of intentional unauthorised development, which also weighs against the development.
41. I have found no harm in respect of the sustainability of the location. The evidence does not show significant harm or conflict with relevant policies in respect of biodiversity. The Council refers to Core Strategy Policy CS01, but there is no conflict with that policy, which seeks to apply the presumption in favour of sustainable development set out in national policy.
42. The Council is unable to demonstrate a 5-year supply of pitches for Gypsy and Traveller accommodation. In accordance with local and national policy, this weighs in favour of the development. The need for a pitch at this site is reinforced by the personal need and circumstances of the appellant and his family.
43. Viewed as a whole, the adverse impacts of the development do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the

Framework. This leads me to conclude that, notwithstanding the conflict with the development plan, planning permission should be granted.

44. I have considered whether it would be appropriate to grant a temporary planning permission, which would allow the site to remain in use while the Council assesses and addresses the need for pitches in the area, either through planning permissions or the review of the local plan. However, given the limited harm in this case, the planning balance is not such as to justify that. For the same reason, a condition limiting permission to the appellant only is not justified.

Conclusion and conditions

45. For the reasons given above, I conclude that the appeal should succeed on ground (a). I shall grant planning permission for the development as described in the notice. The enforcement notice will be quashed. In these circumstances the appeal on ground (g) does not fall to be considered.
46. I have limited the occupancy of the unit to Gypsies and Travellers, since that forms the basis of the justification for the development. I have set out the specific, detailed definition that applies to provide long-term certainty.
47. I have attached a condition specifying the number of caravans to reflect the development before me and protect the amenity of the locality. Conditions restricting large vehicles and commercial activities are necessary in the interests of local amenity.
48. I have attached a condition requiring the submission of a range of details referred to by both parties, including site layout, landscaping/planting, lighting, ecological mitigation, drainage and boundary treatment. The requirement for a new site layout plan reflects the fact that the plan already submitted shows a utility block which is not part of the development. The condition addresses a range of matters set out in the individual conditions drafted by the Council. Some of the requirements are less prescriptive and detailed than those suggested by the Council but are proportionate to the scale of the development. The condition is necessary in the interests of the appearance of the site, its drainage, the living conditions of neighbouring occupiers and biodiversity.
49. A condition requiring visibility splays to be maintained is necessary in the interests of highway safety.
50. I have not included any requirement relating to a utility building. The only reference to a utility block is in the submitted site plan, but, as explained above, I place no reliance on that plan. A specific condition dealing with tree protection measures is not necessary, given the current condition of the site. I am not persuaded that a condition concerning the surfacing and drainage of the parking area is justified on highway grounds.

Peter Willows

INSPECTOR

CONDITIONS

- 1) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- 2) There shall be no more than 1 pitch on the site and no more than 2 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended), shall be stationed at any time, of which only 1 caravan shall be a static caravan.
- 3) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 4) No commercial activities shall take place on the land, including the storage of materials.
- 5) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought on to the land for the purposes of such use, shall be removed within 3 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for:
 - a. the internal layout of the site, including the siting of caravans and details of the hardstanding, access, parking, amenity areas and bin storage areas;
 - b. external lighting on the site;
 - c. tree, hedge and shrub planting, including details of species, plant sizes and proposed numbers and densities, including details of safeguards and/or protective buffers, and a schedule of maintenance for all new and retained planting for the lifetime of the development;
 - d. ecological mitigation measures;
 - e. foul and surface water drainage;
 - f. fencing, or other boundary treatment;(hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority, and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted 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.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

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

- 6) Any visibility splay shown on the approved layout plan shall be free of any obstruction exceeding 0.6m in height and shall be retained as such thereafter.

End