



Appeal Decision

Hearing held on 19 May 2026

Site visit made on 19 May 2026

by **T Shields DipURP MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22nd June 2026

Appeal Ref: APP/U2235/C/26/3377362

Land at Lenwood, Polhill Lane, Harrietsham, Maidstone, ME17 1LG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the Act").
 - The appeal is made by Mr Joseph Delaney against an enforcement notice issued by Maidstone Borough Council.
 - The notice was issued on 10 December 2025.
 - The breach of planning control as alleged in the notice is
 - (a) Without planning permission the stationing of 7 additional caravans for residential purposes facilitated by the raising of ground levels, laying of hardstanding and associated paraphernalia including concrete bases and any subterranean features such as oil tanks, sewage treatment tanks and utilities.
 - (b) Without planning permission the erection of two brick pillars and gates above 1m in height adjacent to a highway.
 - The requirements of the notice are:
 - (a) Permanently cease the residential use of the seven additional caravans within the red line of the attached plan.
 - (b) Permanently remove the seven additional caravans from the within the red line of the attached plan.
 - (c) Permanently remove from the land the hardstanding within the red line of the attached plan.
 - (d) Permanently return the land levels to their previous condition within the red line of the attached plan.
 - (e) Permanently remove from the land all associated paraphernalia including concrete bases, hardcore, and any subterranean features such as but not limited to oil tanks, sewage treatment tanks and utilities from the Land as shown within the red outlined plan attached.
 - (f) Permanently lower the brick pillars and gate to 1m in height or permanently remove the brick pillars and gate within the red line of the attached plan.
 - (g) Remove all resultant materials, rubbish, paraphernalia, and debris from complying with steps (a) to (e) above, from the Land
 - The periods for compliance with the requirements is 6 months for (a) to (f), and 7 months for (g)
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Act. 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 corrected by deleting all of Section 3(a) and inserting the following words: *"Without planning permission the material change of use of the land to a residential caravan site resulting from intensification of the existing use through the siting of additional caravans for residential occupation facilitated by the raising of ground levels, laying of hardstanding and concrete bases"*.
2. Subject to the correction 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 Act for the development already carried out, namely; use of the land as a residential caravan site including the raising of ground levels, laying of hardstanding and concrete bases; and the erection of two brick pillars and gates, and subject to the conditions in the attached Schedule.

Preliminary Matters

3. Planning permission for use of the appeal site as a residential caravan site was granted in 1961 with the description of development referring to 2 caravans, however the number of caravans permitted to be on site was not limited by planning conditions.
4. Although it does not explicitly say so the Council's allegation in the notice is one of a material change of use by way of intensification of the existing lawful use permitted under the 1961 permission. The appellant, being aware of the site history, also interpreted the allegation as one of intensification to the current level of use for 9 pitches¹, and no appeal was made on ground (c) that it did not amount to a breach of planning control.
5. Unlike an allegation consisting of a change from a former use to a wholly different new use, an alleged material change of use by intensification of an existing use raises some different considerations, not least for example as to what level of increased use above 2 caravans might still fall within the lawful use² i.e. without resulting in a material change in the character of the use of the land. Such a lawful level of use is a relevant material consideration as a 'baseline position' in ground (a), and also relevant to the notice requirements which cannot take away a level of use that would be lawful.
6. I discussed the implications of these matters with both the main parties at the start of the Hearing. However, both concluded that no injustice would arise to their respective cases if the allegation were corrected to properly reflect the alleged breach of planning control, and I have no reason to consider otherwise. I have therefore corrected the notice allegation using powers available to me under s176(1) of the Act.

Appeal on ground (a)/deemed application for planning permission

7. The appeal on this ground is that planning permission ought to be granted.

Main Issue

8. Other than matters which the parties agreed could be adequately mitigated and/or controlled through planning conditions if permission were to be granted, the main issue remaining in dispute in the appeal is the effect of the residential use of the land on the character and appearance of the area arising from the increase in caravans and related operational development that has been carried out.

Reasons

Policy background

9. Although the lawful use of the site under the 1961 planning permission does not restrict who can occupy the site, the appeal on ground (a) is made on the basis

¹ A pitch comprising 1 static mobile home and 1 touring caravan

² With a right to revert to it under s57(4) of the Act

that it would be for occupation only by Gypsies and Travellers³. As such, the most relevant Development Plan policy for determining the appeal is Policy LPRHOU8 of the Maidstone Local Plan Review (2024) (LPR) which seeks to ensure the provision of Gypsy and Traveller pitches to meet identified local need.

10. I note the Council also refer to other specific LPR policies in respect of ecology, landscape character, and sustainability. However, the aims and objectives of those policies are reflected in, and subject of, assessment against criteria 1a. to 1f. of LPRHOU8.
11. Since the proposed use would be solely for occupation by Gypsies and Travellers national planning policy in the Framework⁴ and PPTS⁵ are relevant material considerations.

Character and appearance

12. The appeal site is within in the Wealden Greensand national landscape character area and, within that, it is located in the Leeds Castle Parklands valley landscape area (49) as defined by the Maidstone Landscape Character Assessment (2013) (MLCA).
13. The MLCA analysis of the local landscape character notes that major infrastructure routes including the M20 have caused a significant degree of fragmentation to the landscape character resulting in an incoherent pattern of elements. In addition, it notes there are many other visual detractors arising from various forms of site developments. The appeal site is one such development being a left over fragment of land resulting from when the M20 was constructed and which it abuts at its northern boundary. Over time it is clear that the site has integrated within its surroundings including by being mostly surrounded by tall mature woodland trees and other vegetation to its boundaries.
14. It is important to note that the existing lawful use of the appeal site as a residential caravan site is the baseline for assessment against any additional effects the proposed development might have on the character and appearance of the landscape and the surrounding area.
15. In this respect the site would remain predominantly surrounded by mature trees along its boundaries where all the caravans would be located. At the Hearing the Council acknowledged there would be no visual harm to the character and appearance of the area arising from the siting of these additional caravans or from the additional hardstanding that has been laid to facilitate their siting. Having regard to my own observations on site and of the surrounding area I agree with that view.
16. With regard to the brick pillars and gates constructed at the end of the driveway I accept they introduce new built development and are visible from some views outside of the site. However, their design and materials used are not inappropriate to this rural location, and although above 1 metre in height they are not of such a scale that they are overly prominent or jarring. Overall, I find they do not result in any significant harm to the character and appearance of the area.

³ Gypsy and Traveller as defined in Annex 1 to Planning Policy for Traveller Sites (2024)

⁴ National Planning Policy Framework (2024)

⁵ Planning Policy for Traveller Sites (2024)

17. To conclude on this main issue, I find there to be no conflict with the criteria requirements of Policy LPRHOU8(1.c) which allows for Gypsy and Traveller sites to be located in the countryside subject to the development not resulting “*in significant harm to the landscape and rural character of the area*” including with particular regard to local landscape character, cumulative effect, and existing landscape features.

Other matters

18. Although the appeal site lies within the impact zone of a SSSI, and within an amber risk zone for Great Crested Newts, the site is already a long-established existing developed site where hardstanding has previously been laid in the past. The Council acknowledged at the Hearing, and as I saw for myself, there are no ponds within the site, nor any likelihood of habitats or foraging areas for newts. As such, having regard to the evidence before me I agree with the Council’s view that the appeal development is unlikely to have any significant effects on species or habitats. Furthermore, any potential for ecological enhancement measures on site can be secured through the imposition of planning condition. As such I conclude there would be no material conflict with the requirements of LPRHOU8(1f).
19. Whether the appeal site is within a reasonable distance of local shopping, health, schools and other services and facilities, is of limited relevance in this case since the location of the site to be used for residential use is already lawfully established. Nonetheless, such services and facilities are a short driving distance away and LPRHOU8(1.b), reflecting the provisions of PPTS, does not require that access to services for Gypsy and Traveller sites must be capable of being reached on foot or by public transport.
20. Other appeal Decisions have been referred to by the parties⁶. However, they relate to different locations and to the creation of entirely new residential caravan sites from what was formerly agricultural land. Those are different circumstances and factors to those before me in this appeal which relates to the intensification of an existing residential caravan site. Additionally, the Council’s shortfall in maintaining an up-to-date 5 year supply of deliverable Gypsy and Traveller pitches is a consideration which needs to be taken into account in the overall balance in each individual case. Accordingly, I attach no weight to the Decisions referred to by the parties, either in support of or against allowing the appeal, which I have considered on its own merits.

Conditions

21. A number of conditions were suggested by the Council in the event of the appeal succeeding which I have considered against the advice in the national Planning Practice Guidance and retained Annex A (model conditions) of former Circular 11/95: Use of Conditions in Planning Permission. Where necessary and in the interests of precision I have amended them to bring them in line with the guidance.
22. Given that the location of the appeal site is justified solely on the basis of meeting Policy LPRHOU8 requirements and the provisions of PPTS, both of which specifically seek to meet the accommodation needs for Gypsies and Travellers, conditions restricting the occupation of the site to such persons, and to specify the maximum number of pitches to be provided is necessary.

⁶ APP/U2235/C/24/3345463 and APP/U2235/C/25/3367781

23. For the sake of clarity and in the interests of maintaining the character and appearance of the area and for providing adequate on-site facilities, a site development scheme is required to be submitted and approved, to include details of the layout of the site, soft and hard landscaping, boundary treatment, external lighting, means of provision of potable water, foul and surface water drainage, and any measures for enhancing ecology.
24. In the interests of maintaining the character and appearance of the area conditions to prohibit commercial activity and the parking of HGVs on the site and to remove permitted development rights for additional structures under the Town and Country Planning (General Permitted Development) (England) Order 2015 are also necessary.

Conclusion

25. The Council cannot demonstrate an up-to-date 5 year supply of deliverable Gypsy and Traveller pitches. As such, in accordance with PPTS paragraph 28 the provisions of paragraph 11(d) of the Framework are engaged.
26. Applying paragraph 11(d) of the Framework I find the proposed development fully accords with the requirements of Policy LPRHOU8, and there are no protected areas or assets of particular importance affected by the development that would provide a strong reason for refusing permission. Furthermore, there are no adverse impacts which would significantly and demonstrably outweigh the benefits of the development when assessed against the policies in the Framework taken as a whole.
27. Since the granting of permission is justified for occupation by any Gypsy or Traveller in accordance with the requirements of LPRHOU8 and the Development Plan as a whole, there is no need for me to additionally take into account the personal circumstances of the appellant and his family.
28. For all these reasons the appeal should be allowed.
29. In these circumstances there is no need to consider the appeal on ground (g).

Thomas Shields

INSPECTOR

Schedule of Conditions

- 1) The site shall not be occupied by persons other than Gypsies and Travellers as defined in Annex 1 of Planning Policy for Traveller Sites (2024), or as may be defined in any subsequent replacement guidance
- 2) There shall be no more than 9 pitches on site. Each pitch shall comprise no more than 2 caravans, of which there shall be no more than one static mobile home type of caravan.
- 3) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto 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 to include the detailed layout of the site, together with details for soft and hard landscaping, boundary treatment, external lighting, means of provision of potable water, foul and surface water drainage, and any measures for enhancing ecology, hereafter referred to as “the Site Development Scheme (SDS)” shall have been submitted to the local planning authority for their written approval. The SDS 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 SDS 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 SDS shall have been approved by the Secretary of State.
 - iv) The approved SDS shall have been carried out and completed in accordance with the approved timetable and retained thereafter as approved.

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.

- 4) The landscaping required by condition 3 shall be designed in accordance with the principles of the Council's landscape character guidance (Maidstone Landscape Character Assessment Supplement 2012) to include: details of all existing trees, hedgerows and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed; the retention and landscape reinforcement of the existing landscape features along the southern and western boundaries with native hedge and tree species; a planting specification, implementation details and a 5 year landscape management plan. (Only non-plastic guards shall be used for the new trees and hedgerows, and no Sycamore trees shall be planted).
- 5) All planting, seeding and turfing specified in the approved landscape details shall be completed by the end of the first planting season (October to February) following its approval. Any seeding or turfing which fails to establish or any

existing or proposed trees or plants which, within 5 years from planting die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.

- 6) No commercial activities shall take place on the land including the storage of materials, and no vehicle over 3.5 tonnes shall be parked or stationed on the site.
- 7) There shall be no external lighting on the site other than as approved by the SDS in condition 3.
- 8) Notwithstanding the provisions of Schedule 2, Part 4, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no other buildings or structures shall be stationed on the land other than those expressly authorised by this permission.

APPEARANCES

FOR THE APPELLANT:

Simon McKay BSc MA MRTPI	Director, SJM Planning Ltd
Joseph Delaney	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Sophie Harding	Planning Enforcement Officer
Peter de Villiers	Senior Planning Enforcement Officer

DOCUMENTS SUBMITTED DURING THE HEARING

- 1 Council's Landscape Character assessment extract for Leeds Castle Parklands
- 2 Copy of Appeal Decision APP/U2235/C/24/3345463