



Appeal Decision

Hearing held on 16 June 2026

Site visit made on 16 June 2026

by T C King BA(Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 September 2026

Appeal Ref: APP/G2245/C/26/3377906

**Land South East of Oaklands, St Clere Hill Road, West Kingsdown,
Kent, TN15 6AH**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Michael Ward against an enforcement notice issued by Sevenoaks District Council.
 - The notice was issued on 23 January 2026.
 - The breach of planning control as alleged in the notice is Without planning permission the material change of use of the land from agricultural to residential use including the siting of one mobile home and one touring caravan ("the Material Change of Use") and associated operation development in the form of the laying of hardstanding consisting of shingles with a plastic sheet underlay, the erection of fencing, a gate and a pole to accommodate CCTV and the installation of a cesspit ("the Operational Development" along with engineering operations and the creation of a bund.
 - The requirements of the notice are:
 1. Cease the residential use of the land.
 2. Remove all mobile homes, and caravans placed on the land, from the land.
 3. Remove all paraphernalia associated with the residential use including, but not limited to, vehicles and trailers.
 4. Remove the hardstanding consisting of a plastic sheet and shingles.
 5. Remove the cesspit.
 6. Remove the bund.
 7. Return the land to its condition prior to the breach taking place by re-seeding with a wild meadow grass mix.
 8. Remove from the land all building materials and rubble arising from compliance with the above requirements.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.]
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Decision

1. 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 permission the material change of use of the land from agricultural to residential use including the siting of one mobile home and one touring caravan and associated operation development in the form of the laying of hardstanding consisting of shingle with a plastic sheet underlay, the erection of fencing, a gate and a pole to accommodate CCTV and the installation of a cesspit, subject to the conditions set out in the attached Schedule.

The appeal on ground (a) – the deemed planning application (DPA)

2. The appeal seeks planning permission for the matters and breach of planning control, the subject of the enforcement notice.

Preliminary Matters

3. I have removed reference to the bund in the planning permission granted as, although it was mentioned in the enforcement notice, it was subsequently removed.
4. The latest National Planning Policy Framework (the Framework), published in August 2026, effectively incorporates the advice from the government's Planning policy for traveller sites (PPTS). The Framework's policy HO12 is now the central national decision making policy for such sites.
5. The Framework says that only certain forms of development should be approved outside settlements and this includes development which would address an evidenced unmet need for gypsy and traveller purposes and would satisfy the requirements of policy HO12 thereto.
6. The new Framework also provides updated advice on proposals within Green Belt locations; this being a case in point. When determining proposals for gypsy and traveller related developments within the Green Belt, policy GB7 says that the existing level of provision, the need for additional sites and relevant personal circumstances should be taken into account.
7. Given that the new Framework was published subsequent to the Hearing the two main parties were given the opportunity to comment on how its changes affected their respective cases. In reaching my decision I have taken into account the comments received.
8. In the circumstances I shall firstly discuss the concept of grey belt and its associated criteria before discussing the other main issues, borne out of the stated reasons for issuing the enforcement notice.

Grey Belt

9. Footnote 7, concerning the matter of 'grey belt', found in the 2024 iteration of the Framework, indicated that land was excluded from being designated as grey belt if policies relating to specific assets provided a strong reason to refuse or restrict development. Such assets included National Landscapes and also Ancient Woodland, which are both directly relevant here. This footnote has, however, been removed from the latest version.
10. This does not, of course, mean that residential development – including also land used for gypsy and traveller purposes – within grey belt locations that have additional such designations would be acceptable in planning terms. Indeed, the likely rationale behind removing footnote 7 was to simplify how Councils identify grey belt land during plan making. The removal means that land is classified purely on its Green Belt contribution, while individual constraints are still fully protected by standard national policies.
11. Policy GB7(1)(g) of the Framework lists the policy requirements, all of which need to be satisfied of development is to be treated as *not inappropriate* within the designated Green Belt. First, the proposal must utilise grey-belt land and not

fundamentally undermine the purposes, taken together, of the remaining Green Belt across the area of the plan, which it does not. The development should also meet an evidenced unmet need, and the site should be in a sustainable location.

12. The grey belt concept means that the development does not need to prove it will not affect the openness of the Green Belt for the land to be categorised or developed as grey belt. Instead, the assessment shifts focus to whether the land strongly serves specific Green Belt purposes and whether the development itself meets broader sustainability and community criteria.
13. In its representations the Council says that with the revised glossary definition it considers the site to meet the definition of grey belt. On the evidence I agree with the Council that this is the case.

The local need for pitches

14. The Council's most recent Gypsy and Traveller Accommodation Assessment (GTAA) was undertaken in 2025, which takes into account the definition of gypsies and travellers, as set down in the Planning Policy for Traveller Sites (PPTS), updated in 2024. The GTAA identified a need for 192 additional pitches up to 2042. From this, 115 pitches are needed in the first five years and 77 over the longer term period 2030 to 2042.
15. At the Hearing the Council witness said that this need has been marginally reduced but the figures clearly indicate that the Council cannot demonstrate a 5 year supply of specific deliverable sites for gypsy and traveller purposes. As things stand there appears to be a substantial level of unmet need, and I give this significant weight.

Sustainability of location

16. From travelling to the site by car, along country lanes, some particularly narrow, I observed that its location is somewhat remote. West Kingsdown, situated alongside the A20 road, is not too far away by car, but even this is only termed a 'service village' – denoting only a limited range of basic services available - for the purposes of the Council's spatial policy. The nearest train station is over 3 miles away.
17. The Framework says that only certain forms of development should be approved outside settlements and this includes development which would address an evidenced unmet need for gypsy and traveller purposes and would satisfy policy HO12 thereto. This policy advises that such sites should be located so that they provide a settled base, but should enable access to frequently used services, such as education, health services and schools. This represents the main elements of sustainable location for new housing development but, for traveller accommodation, the advice indicates that some flexibility might be applied.
18. This reflects the heavy reliance on the private motor vehicle which is often a typical consequence of traveller sites located within the countryside. Accordingly, whilst the site cannot be considered as sustainable in terms of public transport provision, I must take into account the very high degree of Green Belt designation throughout the District and balance this with the pressing need for land to be available for gypsy and traveller purposes.
19. Were this proposal for general residential development then it would not satisfy the Framework's requirements under Policy GB7(1)(g). However, in view of the particular need I have applied some flexibility here with reference to policy HO12.

Even if I were to consider the development should be assessed under normal Green Belt criteria the particular need for such would rate highly in the planning balance.

Main Issues

20. Given that I have concluded that the land can be considered as grey belt the main issues in this appeal are:
- 1) the effect of the development on the character and appearance of the surrounding area, with particular regard to the appeal site's location within the Kent Downs National Landscape; and also due to its proximity to Ancient Woodland; and
 - 2) the occupier's personal circumstances along with other relevant considerations.

Reasons

Kent Downs National Landscape (KDNL)

21. The Framework says that development proposals within 'Protected Landscapes' – which includes the designated National Landscapes – should be limited in scale and extent and sensitively located. By way of the Levelling Up and Regeneration Act, 2023 local planning authorities have a statutory duty to seek to further the purpose of conserving and enhancing the natural beauty of these areas.
22. In addition to its inclusion within the KDNL it also lies within East Hill Wooded Downs of the Sevenoaks Landscape Character Area Assessment 2017. The Council says that the development fails to follow the locational policies of its Core Strategy by introducing residential development to the local area. There are, though, several dwellings sporadically scattered around the locality. That said, the hardstanding laid is unsightly and could be considered deleterious to its immediate setting.
23. Further, when considering the relative tranquility of the environment and the importance of conserving the intrinsic quality of dark night skies, unmitigated light pollution, which goes hand in hand with residential development would need to be controlled. Accordingly, there is clear conflict here with the aims and requirements of policy LO8 of the Sevenoaks Core Strategy and EN5 of the Sevenoaks Allocations and Development Management Plan.
24. Although I acknowledge that the use of the land, in this instance, is reasonably low key, I am mindful that permitting the change of use of the land to a caravan site – which is the essence of the proposal - albeit that the caravans would be conditionally limited in number – would go against the general aims and objectives of protecting the natural character of the KDNL.

Ancient Woodland

25. As area of Ancient Woodland lies outside the site on the opposite side of St Clere Hill Road, a country lane. Ancient Woodland is essentially an irreplaceable habitat because it takes hundreds of years to form and cannot be recreated. Policy N6 of the Framework says that development proposals which would entail the loss or deterioration of irreplaceable habitats should be refused, unless there are wholly

exceptional reasons, such as where the public benefit would clearly outweigh the resultant harm.

26. The joint Natural England and Forestry Commission Standing Advice is a material consideration in the determination of applications for development where, amongst things, ancient woodland is affected. In a nutshell, developments must first avoid impacts, then reduce or mitigate impacts.
27. Development proposals affecting ancient woodlands should have a buffer zone of at least 15 metres from the boundary of the woodland to avoid root damage. Here, the road falls within the 15 metre buffer zone, as does the front section of the appeal site itself.
28. No arboricultural or ecological assessment was undertaken prior to the works taking place but, at the appeal stage, the appellant commissioned the services of a specialist consultant to assess the impact of those works undertaken, on what was formerly pasture land, with the clearance of vegetation and the laying of hardstanding - some of which is in the buffer zone - and its effect on the Ancient Woodland.
29. The consultant reports that, although the development does encroach into the 15 metres minimum buffer, the fact that the site is separated from the woodland by the road and its structural make-up means that this will have largely prevented tree roots from gaining access into the land, the subject of the appeal. The consultant also says that, as no significant excavation has occurred, it is highly unlikely that important roots of the nearest trees will have been harmed.
30. In turn, the Council's arboricultural officer indicates that in the absence of any supporting baseline data or pre-commencement assessment, it can only be concluded that the works undertaken within the buffer zone have resulted in loss or deterioration of its protective function, and the existence of the intervening highway does not negate this conclusion.
31. That said, the recommendation for a buffer zone is not planning policy nor a statutory requirement but rather guidance. Also, development within a buffer zone does not automatically equate to harm. Instead, it is a matter of best judgement depending on the particular circumstances and merits of the case.
32. Nonetheless, In instances such as this, where works have been undertaken within the recognised buffer zone, it is usual that a purposeful damage investigation exercise is carried out to ascertain the extent of any impact, with a remediation scheme drawn up in response to any damage or deterioration identified.
33. The presence of an existing adopted road does not prevent or preclude damage investigation works from being carried out, nor does it block a remediation strategy from being formulated. However, in this instance, it appears that the consultant has only carried out a basic assessment and with only limited recommendations. In the absence of any baseline assessment I would question the value of such.
34. The appellant's agent has suggested that the consultant's recommendations can be the subject of a planning condition. Instead, I am of the view that the condition should require for the affected land to be properly surveyed and the findings can then inform any justified recommendations, should they be needed.

Other Considerations

Personal circumstances

35. The site is occupied by Michael Ward his partner, Jessie Holley, and their two small children. The eldest goes to a local primary school in West Kingsdown and the youngest attends nursery school. Evidence has been produced to this end in the form of letters from the respective schools.

Public Sector Equality Duty (PSED), Human Rights and the Best Interests of the Child

36. In instances where gypsy and traveller accommodation is at issue, and targeted by planning enforcement action, I am required to have regard to persons with protected characteristics when applying the duties under s49 of the Equality Act 2010. There is also a positive duty by virtue of Article 8 of the Human Rights Act to facilitate the traditional and nomadic way of life of travellers. However, in considering the proportionality of a requirement to leave one's home it is relevant whether or not the home was established unlawfully.
37. Article 8 of the European Convention on Human Rights provides that there should be respect for private and family life, home and correspondence. In this regard there should be no interference by a public authority with the exercise of this right except such as is in accordance with the law and necessary, amongst other things, for the protection of the rights and freedoms of others.
38. Accordingly, if Article 8 is engaged, then interference with those rights can be justified by the Council if it is for a legitimate aim and considered necessary in the public interest. In this particular instance I consider that the Council's remedial actions served a clear and justifiable planning purpose.
39. Article 3(1) of the United Nations Conventions on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children. Obviously, a roadside existence is less than ideal and should be averted or, in cases such as this, delayed where possible.
40. In 2013, in the High Court judgement of *Stevens v SSCLG* [2013] EWHC 792 (Admin) it was held that where the Article 8 rights are those of children, their best interests are a primary consideration. Once identified, although a primary consideration, the best interests of the children were not determinative of the planning issue, but no other consideration was more important or to be given greater weight, and those best interests had to be kept at the forefront of the decision maker's mind.
41. Importantly, though, it was held that the best interests of the children were not only not determinative, neither were they paramount, with the judge noting that Article 3 says "*a primary consideration*" rather than "*the primary consideration*". Nor should they be considered temporally or logically first.
42. In the case the planning appeal Inspector, in her assessment, had referred to the children's benefit as carrying moderate weight. However, the court decided that, after examining all the material considerations, she was not giving the children's best interests inherently less weight than the visual harm to which the development had given rise. She was, therefore, fully entitled, after that analysis, to conclude

that the dismissal of the appeal against the refusal of planning permission would not have a disproportionate impact on the family..

The Council's emerging local plan

43. In July 2026, subsequent to the Hearing, the Council published its Regulation 19 version of the emerging replacement development plan. Subsequent to a short period of further consultation the draft Sevenoaks Local Plan document will be submitted to PINS for its examination in public, expected in 2027.
44. For gypsy and traveller purposes the Council's approach is to increase provision for such with a strategy having been developed to identify locations for additional permanent pitches, subject to site sustainability and suitability. Priority will be given to sites close to the District's higher tier settlements (as defined by the Council's Settlement Hierarchy) which have greater access to existing services and facilities.
45. Not all gypsy and traveller pitches will be delivered through Local Plan site allocations, and the Council is looking to regularise and intensify accommodation on existing sites.
46. Draft policy GT1 sets out a potential 38 pitches through proposed site allocations and a further 24 pitches on strategic sites, and it is indicated that provision will be made for the full identified need of 192 pitches, as highlighted by the 2025 GTAA..

Intentional unauthorised development

47. As a result of a previous Written Ministerial Statement it has been indicated that intentional unauthorised development (IUD) is a material consideration that should be weighed in the determination of planning applications and appeals. Indeed, the new Framework reinforces this and indicates that in cases of applications or appeals for retrospective development IUD should be assessed and given substantial weight in considering whether to grant planning permission.
48. When questioned at the Hearing the appellant did not properly explain why no planning application was submitted before occupation or prior to the Council taking formal enforcement action. I would have expected that the appellant would have been aware that the use required the benefit of planning permission, yet occupation took place regardless which itself has given rise to problems, particularly in respect of the Ancient Woodland issue.
49. I am mindful, though, that this is a low key use, involving only one mobile home and one tourer for a single family. Even so conditions should be imposed as would have been applied if this were a proposal for development rather than in the form of a retrospective application.

Potential restrictions on any planning permission granted

50. National planning guidance and case law dictate that a planning permission runs with the land, rather than the person, unless specific circumstances apply. A personal condition restricting occupation to the occupier and immediate dependents is justified when circumstances are unique to the family such as local educational needs for children, and in the face of an immediate lack of alternative accommodation, as is the case here. Without a personal condition, if the family were to move away any new occupants could move onto the site continuing the

harm to the National Landscape without having the same overriding personal justification.

51. Imposing both a personal condition and a temporary condition is a common approach used where a new Local Plan is emerging. This should balance what could potentially be substantial harm to the protected landscape.

Planning Balance

52. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The recognised unmet need at the current time is a concern but the environmental policies relating to the Kent Downs National Landscape, the Metropolitan Green Belt – along with the Framework's Grey Belt criteria, and the general character and appearance considerations suggest that the deemed planning application should be refused.
53. However, I must also balance this with the family's personal circumstances. As mentioned the needs and interests of the children are a primary consideration, both in terms of education and health care. This cannot be satisfied with a roadside existence, and a settled base, at least in the short term, is obviously important to their well-being.
54. Alongside this, the Council's approach, by way of emerging policy is an indication that the authority is attempting to meet its statutory requirements by way of allocations to help meet the actual degree of unmet need. Given this gypsy strategy and the local development scheme's timetable I am satisfied that a temporary and personal permission should be granted with conditions imposed to remedy or mitigate any damage done to the land and the intrusion into the woodland's buffer.
55. If the restorative conditions are discharged and complied with then, before the end of the temporary period, the occupier would not be precluded from perhaps reapplying to extend the period of occupation, but that must remain a matter between the occupier and the Council. Besides, alternative, better located sites might hopefully be available then for occupation.
56. I have had regard to the various representations made by local interested parties, and I have borne in mind the oral evidence given by persons at the Hearing. However, given that I have reached a decision to grant planning permission balanced with particular restrictions and restorative measures, as might be found necessary, the representations have not affected my conclusions.

Conditions

57. I have considered the imposition of conditions in the context of the Framework and the planning practice guidance. Since the conclusions of this decision is that only a temporary, personal permission is justified a condition restricting the occupation of the site to the appellant and his family is necessary.
58. In order to protect the character and appearance of the locality it is necessary to restrict the number of caravans at the site. Similarly, I have imposed a condition restricting the size of vehicles and preventing commercial activities at the site. These conditions are standard in such permissions

59. A condition relating to foul drainage is imposed, as is one relating to the entrance gates for highway safety reasons. A condition is also imposed relating to external lighting.
60. The residential use of land, including that occupied by gypsies and travellers is classified as a highly sensitive end-use. When hardstanding is laid down as a base for living on – particularly if it is unverified hardcore/fill material - contamination tests should be carried out before any retrospective planning permission can be granted. I have received no details of the origin of the material imported onto the site and, as agreed between the parties, a condition here is both necessary and reasonable for the use to continue.
61. Similarly, I have included a condition to investigate and, if necessary, remedy any damage to the Ancient Woodland. This is also connected with the intended closure of one of the site's access points.

Conclusion

62. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. Accordingly, the appeal lodged on ground (g) does not need to be considered.

TC King

INSPECTOR

Schedule of conditions

- 1) The use hereby permitted, and the accommodation provided, shall be occupied only by Michael Ward, his wife/partner and their resident dependents, and shall be for a limited period of 3 years, commencing on the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.
- 2) When the premises cease to be occupied by those named in condition 1 above, or at the end of 3 years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use, shall be removed and the land restored to its condition before the development took place.
- 3) No more than one mobile home and one touring caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, and which shall occupy no more than one single pitch, shall be stationed or stored on the land at any one time. No other caravans shall be stationed or stored on the land at any time.
- 4) No external lighting is to be installed other than in accordance with a scheme which has first been submitted and approved in writing by the local planning authority.
- 5) Within 3 months of the date of this permission details of foul drainage shall be submitted to and approved in writing by the local planning authority.
- 6) Within three months of the date of the permission hereby approved a contaminated land and risk assessment will have been carried out on site and submitted to and approved by the local planning authority. The investigations and risk assessment shall be undertaken by suitably qualified and accredited persons. The investigations and risk assessment shall comprise of a phase 1 desktop contamination study with a risk assessment and conceptual site model, and if so identified as being required:
 - a) A phase 2 (intrusive) contaminated investigation, and of necessary
 - b) A remediation strategy.

On completion of all remediation a validation report shall be submitted to and approved in writing demonstrating that all remediation works have been completed to the satisfaction of the local planning authority.

- 7) Within three months of the date of the permission hereby approved an Ancient Woodland Impact Assessment and Remediation Scheme will have been carried out on site and shall be submitted to and approved by the local planning authority. The submitted scheme shall be prepared by a qualified ecologist and must include a comprehensive retrospective ecological audit to investigate, identify and quantify any direct or indirect damage caused to the ancient woodland, its soils and root protection areas as a result of the development

works, and if so identified a detailed remediation strategy and timetable to rectify any identified damage.

- 8) Within 3 months of the date of this permission, details of native species of soft landscaping shall be submitted to and approved in writing by the local planning authority. The approved landscaping scheme shall be implemented in the first planting season following approval of the details and thereafter retained.
- 9) No commercial activities shall take place on the land, including the storage or burning of materials, other than the parking of commercial vehicles for use by the occupiers.
- 10) No vehicles over 3.5 tonnes shall be stationed, parked or stored on the land.
- 11) The entrance gates to the site shall open away from the highway and shall be set back a minimum of 6 metres from the edge of the carriageway.

APPEARANCES

FOR THE APPELLANT:

Simon McKay – Appellant's Agent
Michael Ward - Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Stephanie Payne (Senior planning officer)
Emma Coffin (Principal planning officer)
Daniel Joyce (Senior Arboricultural officer)
Katie Miller (National Landscape Unit)

INTERESTED PARTIES:

Judith Yarnold
Clive Yarnold
Jeff Penzer
Councillor Sean Malone