



Appeal Decisions

Hearing held on 29 July 2026

Site visit made on 29 July 2026

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2026

Appeal A Ref: APP/Q3630/C/26/3378254

Land adjacent to Sunnyside, Stonehill Road, Chertsey, Surrey KT16 0ER

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Wendy Draper Smith against an enforcement notice issued by Runnymede Borough Council.
- The notice was issued on 23 February 2026.
- The breach of planning control as alleged in the notice is without planning permission:
 - 3.1 The material change of use of the Land to a mixed-use comprising the keeping of horses and a residential caravan site, including the siting of mobile homes for residential use, associated vehicles and residential paraphernalia; and
 - 3.2 The installation of effluent tank(s) and floodlights on poles, the erection of sheds and buildings the siting of a shipping container and the deposition of hardcore.
- The requirements of the notice are to:
 - 5.1 Cease the use of the Land as a residential caravan site.
 - 5.2 Remove from the Land all/the mobile homes, and any/all associated vehicles and residential paraphernalia.
 - 5.3 Remove from the Land the shipping container.
 - 5.4 Remove from the Land the effluent tank(s)
 - 5.5 Remove from the Land the floodlights and poles.
 - 5.6 Remove from the Land all sheds and buildings.
 - 5.7 Remove all waste material, including the deposited hardcore, from the Land.
 - 5.8 Return the Land to open grassland available for the keeping of horses.
- The period for compliance with the requirements is: 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(c), (d), (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with a correction and a variation in the terms set out below in the Formal Decision.

Appeal B Ref: APP/Q3630/W/26/3378385

Land adjoining Sunnyside, Stonehill Road, Chertsey KT16 0ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Ms W Smith against the decision of Runnymede Borough Council.
- The application Ref is RU.25/1076.
- The development proposed is change of use of land to a mixed use equestrian and Gypsy/Traveller site comprising 2 pitches with the siting of 1 Mobile Home and 1 Touring Caravan per pitch.

Summary Decision: The appeal is dismissed.

Preliminary Matters

1. Following the hearing an updated National Planning Policy Framework (the Framework) was published that is a material consideration in this appeal. The planning policy for traveller sites has been incorporated within the Framework, such that it no longer represents up-to-date government policy. I allowed the

parties the opportunity to comment on the updated Framework and will take their comments and the updated Framework into account in coming to my decision.

2. The requirements of the notice contain a typographical error with the addition of “/” between “all” and “the” at paragraph 5.2. For clarity, using powers available to me under Section 176(1) of the Act, I will correct the notice to remove that error. This minor correction will not cause injustice to any party.

Appeal A on Ground (c)

3. An appeal on this ground is that “those matters” (the matters stated in the alleged breach of planning control) do not constitute a breach of planning control. The appeal on ground (c) relates solely to the hardcore deposited on the site.
4. There is no dispute that the deposition of hardcore constitutes development within the meaning of Section 55 of the Act for which planning permission is required. However, the appellant suggests that it was granted planning permission by a previous appeal decision, reference APP/Q3630/W/24/3353259 (the previous decision). This was made by Ms Wendy Smith and related to the change of use of the land for the keeping of horses; installation of access road; erection of stables; reinstatement of riding menage and the decision was dated 11 March 2025, subject to conditions. The Council state that the mobile homes were brought onto the site in August 2025.
5. The issue is whether the hardcore was deposited as part of the development subject of the previous decision in relation to the installation of the access road or as part of the development subject of the enforcement notice. It is unclear when the hardcore was deposited on the site. As a result, it is not possible to state whether it was brought to the site as part of either development with any certainty. In this regard, the burden of proof is on the appellant, with the relevant test of the evidence being on the balance of probability.
6. At the hearing there was discussion as to whether the approval subject of the previous decision was implemented. However, whether the permission was implemented may not mean the deposition of hardcore was part of that development rather than the development described in the enforcement notice.
7. The appellant suggested that the reference in the banner heading of the previous decision to “Part retrospective” demonstrated that it had been implemented. However, the description in the banner heading sets out what was applied for and indicates the appellant’s opinion at the time. It is unclear why they had considered it was implemented, although it may be because the use for keeping of horses had commenced rather than in relation to the importation of hardcore or installation of access road.
8. The development approved is set out in paragraph 1 of the previous decision and that does not state whether or not the development was retrospective. Conditions attached to the decision include condition 1 that the development was to be commenced no later than three years from the date of decision, suggesting it had not yet commenced. It seems unlikely that the access road would have been constructed at that point given inclusion of condition 1 as that is likely to have been clear on site.

9. There was some discussion at the hearing as to whether any of the conditions, specifically 8, 9 and 10, were pre-commencement conditions. To be true pre-commencement conditions they would have to comply with the tests set out in *R (oao Hart Aggregates Ltd) v Hartlepool BC* [2005] EWHC 840 (Admin). These are that they must expressly prohibit the commencement of development and go to the heart of the condition.
10. Condition 8 refers to the commencement of works but would not preclude the use, the keeping of horses, commencing. It can't be a condition precedent on that basis. Conditions 9 and 10 refer to the development not be first opened until certain works had been carried out and relate to providing access and parking for the development. They enable works to commence such that they can't be pre-commencement. In any event, the key part of this permission is the use of the site for keeping of horses with the operational development supporting that. In that context, none of the conditions go to the heart of the permission. Consequently, none of the conditions are true conditions precedent.
11. If the planning permission was implemented, this appears to have been by commencing the use for the keeping of horses. It would have then been possible for the installation of the access road to take place. However, limited evidence has been supplied as to whether that took place as part of the implementation of the previous decision.
12. I need to decide whether the deposition of hardcore was part of the installation of the access road on the balance of probability. On that basis, I consider that it was deposited in preparation for the bringing on of the caravans. That would form part of the development described in the enforcement notice rather than as part of the development subject of the previous decision.
13. For these reasons, since no planning permission has been granted for the development described in the enforcement notice, the deposition of hardcore thereby constitutes a breach of planning control.
14. For these reasons, I conclude that the appeal under ground (c) should fail.

Appeal A on Ground (d)

15. An appeal under this ground is that, at the date when the notice was issued, no enforcement action could be taken in respect of the breach of planning control which may be constituted by those matters. The burden of proof for this ground is on the appellant, with the relevant test of the evidence being on the balance of probability. This ground of appeal has been made in relation to the pole barn to the rear of the site shown on the plan attached to the enforcement notice and not any other part of the development described in the enforcement notice.
16. The Council accept that the pole barn was lawful and they did not intend to require its removal. It was agreed at the hearing that the requirements of the notice relate to removal of all buildings on the site and that would include the pole barn. As a result, it was agreed that the enforcement notice plan should be amended to reflect the site as defined in the planning application subject of appeal B with the removal of the access that is not included in the site as defined by the enforcement notice. That would exclude this barn from the area of the notice. The parties agreed a plan following the hearing that I will substitute for the plan attached to the enforcement notice.

17. For these reasons, I conclude that the appeal under ground (d) should succeed to the extent that the area around the pole barn should be excluded from the plan attached to the enforcement notice.

Appeal B

Main Issues

18. The main issues are:

- The effect of the development on the Thames Basin Heaths Special Protection Area (SPA);
- Whether the development comprised intentional unauthorised development;
- Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies. In particular, whether the site falls within the definition of grey belt and the exception to inappropriate development at policy GB7 of the Framework;
- Whether the development would meet the requirements for biodiversity net gain;
- Whether any other considerations, such as the need for Gypsy and Traveller accommodation and the personal circumstances of the appellant, should be taken into account in the final balance.

Reasoning

Thames Basin Heaths Special Protection Area

19. The appeal site is located within 400m of the Chobham Common Site of Special Scientific Interest (SSSI). That is one of a number of component sites within the SPA that forms part of an extensive complex of lowland heathlands. These provide ground cover plants with little tree cover providing habitat for ground nesting birds, including woodlark (*Lullula arborea*), nightjar (*Caprimulgus europaeus*) and Dartford warbler (*Sylvia undata*). These comprise the qualifying features of the SPA, protected in legislation by the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). The conservation objectives are to maintain and restore the integrity of these sites, by maintaining and restoring the extent, distribution, structure and function of the habitats and the population and distribution of the qualifying features.
20. The qualifying features of the SPA are threatened by disturbance as residents in the surrounding area use the SPA for recreation and from the keeping of pets such as cats and dogs. New residential development, including that occupied by Gypsies or Travellers, leads to a likely significant effect, either alone or in combination with other plans or projects, on the SPA.
21. In this case, the appellant suggests that the previous use of the land for the keeping of horses would have led to riding of the horses on the SPA. They suggest that would have contributed to disturbance greater than the use of the land for a mixed use equestrian and Gypsy/Traveller site comprising 2 pitches. However, little quantifiable evidence was provided to demonstrate that. I note that horses generally stick to marked paths, unlike dogs. In addition, any cats kept on the site

may also lead to disturbance of the qualifying features. I accept that the previous use would have contributed to recreational disturbance and that riding of horses may have a greater effect than walking. Nevertheless, on balance I consider that there is a greater effect arising from the current use of the site for the keeping of horses and residentially occupied caravans than the previous approved use. In combination with other development, it results in a likely significant effect on the SPA.

22. I note that policy N6 1.a. of the revised Framework makes clear that proposals affecting a site of international importance should be refused unless i. an appropriate assessment has concluded that the proposal will not adversely affect the integrity of the site; and/or ii. the impact of development on the relevant protected features of the protected site is being addressed through an Environmental Delivery Plan (EDP) which has been made and the developer has committed to paying the nature restoration levy.

Appropriate Assessment

23. In accordance with the Habitats Regulations, as the competent authority it is necessary for me to carry out an appropriate assessment. This needs to consider the effect of the development on the integrity of the SPA and its qualifying features and species that I have set out above, whether they could be avoided or whether mitigation measures could remove or reduce the effects.
24. It has not been suggested how the effect could be avoided. Mitigation of those effects has not been put forward, including to overcome the effects of pets, such as cats and dogs, that may be kept by occupiers of the site. I am not aware of any mitigation schemes that would overcome this effect.
25. Consequently, nothing has been presented that would outweigh the likely significant effects of the development on the SPA. For this reason, the development fails the appropriate assessment.

EDP and nature restoration levy

26. At the hearing, the appellant drew my attention to the Nature Restoration Levy Regulations 2026 and the Environmental Delivery Plans Regulations 2026 that were laid before parliament on 18 June 2026. This has been raised with Natural England, who have confirmed that there is no timescale to prepare an EDP for this SPA. I understand that the purpose of these regulations is to enable development that affects the SPA. It is suggested that this should carry weight to enable the development be approved, perhaps for a temporary period, whilst the levy is set and EDP prepared at which point the development could be required to comply with them.
27. As I have concluded that there are likely significant effects and the development has failed the appropriate assessment, the EDP has not been made and the levy has not been set such that the appellant cannot commit to paying it, policy N6 of the Framework is clear that this development should be refused. In addition, the likely significant effects on the SPA would continue until such time as levy is set and the EDP has been prepared.

Conclusion

28. For these reasons, I conclude that there would be a likely significant effect on the integrity of the Thames Basin Heaths SPA for which no mitigation has been identified. As a result, it conflicts with policy N6 of the Framework, saved Policy NRM6 of the South East Plan, Policy EE10 of the Runnymede 2030 Local Plan (LP) and the Thames Basin Heaths Special Protection Area Supplementary Planning Document (SPD). Policy EE10 of the LP reflects Policy NRM6 of the South East Plan and states that no additional residential development will be permitted within 400m of the boundary of the SPA. The SPD reflects that in providing a presumption against residential development that results in a net increase in residential units in that area.

Intentional unauthorised development

29. Policy DM8 of the Framework states that if the unauthorised development was intentional it should be given substantial weight in considering whether to grant planning permission. The appellant has accepted that the development was intentional and unauthorised. However, it is suggested that this is necessary as there is insufficient provision for them through the planning process. That will be considered with the material considerations that weigh in favour of the development.
30. As the residential caravan site use comprised intentional unauthorised development it is a factor that carries substantial weight in considering whether to grant planning permission in accordance with policy DM8 of the Framework.

Grey Belt

31. Policy GB6 of the Framework sets out that development in the Green Belt is inappropriate unless it falls within one of the categories in policy GB7. Policy GB7g. relates to development that utilises grey belt land and would not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan, there is an evidenced unmet need for the type of development proposed and the development would be in a sustainable location, with particular reference to policies TR3 and HO12 of the Framework. The final criteria relates to major development involving the provision of housing that is not relevant in this instance.
32. Grey belt is previously developed land or any other land in the Green Belt that does not contribute strongly to purposes (a), (b) or (d) in policy GB2. The Council accept that the land does not contribute strongly to those purposes such that it is grey belt and I see no reason to disagree.
33. In terms of the requirements at policy GB7g., this is a modest site, much of which would remain open in relation to the equestrian element of the proposed use, such that the development does not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan. The parties agree that there is a clear evidenced unmet need for the Gypsy and Traveller accommodation proposed.
34. Policy HO12 makes clear that locations not well-related to existing settlements may be appropriate in the case of traveller sites. The site is located away from settlements and public transport such that access to the site would be primarily by

private car that is discouraged by policy TR3. Nevertheless, it is in reasonable proximity to settlements, such as Ottershaw, Chertsey and Woking, such that it would enable access to frequently used services in accordance with policy HO12. Policy GB7 is clear that, rather than relying on policy TR3, I should instead refer to policy HO12. Taking account of the form of development, the location is sustainable in terms of the requirements of policy GB7(1)g.

35. For these reasons, I conclude that the development would fall within the exception to inappropriate development in the Green Belt as set out at policy GB7 of the Framework.
36. My attention has been drawn to Policies EE18 and EE19 of LP that refer to other exceptions to inappropriate development relating to engineering operations and change of use of land. These require consideration as to the effect of development on openness. Background to the policies is clear that control over development within the Green Belt should be in accordance with national guidance. As I have concluded that the development would fall within another exception to inappropriate development, I do not consider the development would conflict with Policies EE18 or EE19 of the LP.

Biodiversity net gain

37. Policy EE9 of LP seeks net gains in biodiversity through development proposals. I note that this is a policy requirement and the statutory scheme does not apply in this case. As a result, the gain does not need to be 10%.
38. No biodiversity metric has been supplied in relation to this scheme to establish a biodiversity baseline. I understand that would be necessary in order to calculate any gain. Taking account that the scheme has already commenced, any calculation whether prepared prior to or following the grant of planning permission would need to make the same assumptions as to the biodiversity value of the site prior to the development commencing. As a result, it would be possible to require this be provided by condition along with details of what works would take place to ensure a biodiversity net gain from the scheme.
39. For these reasons, I conclude that, subject to an appropriate condition, the development would result in biodiversity net gain. As such, it would not conflict with Policy EE9 of the LP.

Other considerations

40. Policy SL22 of the LP seeks to meet the needs of Gypsies and Travellers. I note that the definition of Gypsies and Travellers has changed since the policy was adopted, such that it is out of date. It states that planning permission for accommodation will be granted that meets a number of criteria. It has not been suggested that the development would conflict with those criteria. As a result, the development would not conflict with that policy.
41. I note that the Council have a Gypsy and Traveller Accommodation Assessment (GTAA) dated January 2018 that is being updated. That also dealt with the previous definition of Gypsies and Travellers. Consequently, it is not up to date in terms of identifying the needs for accommodation for Gypsies and Travellers.
42. The Council acknowledge that they are unable to demonstrate a 5 year supply of pitches for Gypsy and Traveller accommodation as required by policy HO3 of the

Framework. At the hearing it was suggested that the Council could demonstrate a 2.17 year supply, although the appellant suggests that the lack of field work since the definition of Gypsies and Travellers was changed means it is likely to be lower. Although the Council have granted consent for other sites, the supply does not meet the requirements of the Framework.

43. The failure to provide Gypsy and Traveller accommodation through the planning process must be taken into account in favour of this development. Policy HO7 of the Framework is clear that substantial weight should be given to the benefits of providing homes to contribute toward meeting the evidenced accommodation needs of the community. Policy HO12 of the Framework requires that account should be taken of the existing level of local provision of traveller sites and need for additional sites and other personal circumstances.
44. The appeal site is occupied by two families, including a young child. The best interests of the child are a primary consideration in determining this appeal and no other consideration is inherently more important. A settled base for the family with the child is important in order to provide access to education when they are old enough. One of the adults cares for their mother who lives locally. As a result, they need accommodation within this area. Their personal circumstances carry significant weight in support of this development.
45. I understand that the appellant owns a site at Greenacres Farm, however that is occupied such that it is not available for the occupants of the land adjacent to Sunnyside. In addition, I understand it is unauthorised. Other sites have been drawn to my attention, but none appeared to have capacity for the occupants of this site.
46. Under ground (c) on appeal A, I have identified that a previous decision granted permission for the change of use of the land for the keeping of horses; installation of access road; erection of stables; reinstatement of riding menage. On the balance of probability, I consider that had commenced by the use of land for the keeping of horses. I have concluded, however, that the importation of hardcore was in relation to the present use. I have taken this development into account insofar as I am able as an alternative to the development that has taken place. Given that it would not affect the integrity of the SPA and that it was not intentional unauthorised development, it carries limited weight in this regard.
47. I note that conditions could be used to limit occupancy to the families occupying the caravans or for a temporary period. A period of 3 years was suggested at the hearing to allow the Council to produce an updated Local Plan and consider a planning application. Such a Local Plan would need to provide policies that supply specific deliverable traveller sites for five years from the intended date of adoption of the plan in accordance with policy HO3 of the Framework. A personal condition would allow the occupants of the site to continue living in their homes to take account of their personal circumstances.
48. Taking the above into account, the development contributes homes that contribute toward meeting the accommodation needs of Gypsies and Travellers in accordance with policy HO7 of the Framework, which attracts substantial weight. In addition, the site provides a settled base that enables access to services supporting the occupants of the site, in accordance with policy HO12 of the Framework.

Planning balance and conclusion

49. I have found that the appeal site is grey belt such that the development is not inappropriate development within the Green Belt in accordance with policy GB7 of the Framework. A condition could be used to ensure biodiversity net gain on accordance with Policy EE9 of the LP.
50. I note that the Council are unable to demonstrate a supply of Gypsy and Traveller sites to meet the needs of this community. The personal circumstances of the occupiers of the site, including the best interests of the child that is a primary consideration in determining this appeal with no other consideration being inherently more important, carry great weight in support of this development. The provision of homes to contribute toward meeting the evidenced accommodation needs of the community carries substantial weight in accordance with policy HO7 as well as the development complying with policy HO12 of the Framework.
51. Policy S3 of the Framework provides a presumption in favour of sustainable development that requires proposals outside settlements, such as this, to comply with policy S5. However, policy S5 does not apply to development proposals in the Green Belt where they should be determined in accordance with policies GB6 and GB7. In accordance with policy GB7, I have found the development is not inappropriate in the Green Belt. As a result, policy S5 of the Framework states that proposals should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in this Framework, in accordance with paragraph 2 of policy S5. That states that the benefits of approving development proposals are likely to be substantially outweighed by adverse effects where the development proposal would fail to comply with one of the national decision-making policies which state that development proposals should be refused in specific circumstances. This includes policy N6 of the Framework.
52. I have concluded that the proposal would conflict with policy N6 of the Framework given the likely significant effect on the integrity of the Thames Basin Heaths SPA. For this reason, it would also conflict with saved Policy NRM6 of the South East Plan, Policy EE10 of the LP, the SPD and the Habitats Regulations. In addition, being intentional unauthorised development carries substantial weight in considering whether to grant planning permission. The adverse effects arising from these factors would substantially outweigh the benefits of approving the development. As a result, it would also conflict with policies S3 and S5 of the Framework.
53. I have referred to the potential for conditions to limit occupancy of the caravans to specific people or for a limited period. However, the effects on the integrity of the SPA would continue for that period. As set out above, policy N6 of the Framework sets out that proposals affecting an SPA should be refused. I consider that these conditions would not outweigh the harm identified.
54. As a result, I conclude that, on balance, the development does not accord with the development plan and there are no material considerations to outweigh that conflict. Therefore, the appeal should be dismissed.

Appeal A on Ground (f)

55. An appeal on this ground is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. In this case, the requirements seek to cease the residential caravan site use and remove associated buildings and other paraphernalia, in order to restore the land to its condition before the breach took place. Clearly, therefore, the purpose of the notice requirements is to remedy the breach of planning control.
56. Under the ground (d) appeal I have accepted that the pole barn is lawful and should be excluded from the area identified on the plan attached to the enforcement notice. On that basis, I do not need to amend the notice further in relation to this building.
57. I note that the hardcore referred to in the requirements is not identified on the enforcement notice plan. However, it will be clear to the appellant what hardcore was brought onto the site in relation to the development. As a result, I do not need to amend the requirements in this regard.
58. I have concluded that the deposition of hardcore was not part of the development subject of the previous decision but was brought onto the site to facilitate the stationing of caravans. The removal of that hardcore would be part of the works required to remedy the breach of planning control. As a result, the requirements of the notice do not exceed what is necessary to remedy the breach of planning control.
59. For these reasons, I conclude that the appeal under ground (f) should fail.

Appeal A on Ground (g)

60. An appeal on this ground is that the period specified in the notice for compliance falls short of what should reasonably be allowed. The appellant indicates the period for compliance should be increased to 18 months.
61. The site is occupied by two families. I have set out, in appeal B above, their circumstances and the availability of alternative accommodation. They indicate that they are not aware of alternative accommodation and would be forced to live on the roadside or double up on other pitches if they had to leave this site. Based on the evidence at the hearing, I accept that alternative accommodation is not available at present. However, a period of 12 months as set out in the notice is a substantial period to find alternative accommodation. I consider that it is a reasonable period to find that alternative accommodation.
62. For these reasons, I conclude that the appeal under ground (g) should fail.

Formal Decisions

Appeal A

63. It is directed that the enforcement notice is corrected and varied by:
- the deletion of the words "Remove from the Land all/the mobile homes, and any/all associated vehicles and residential paraphernalia." and their substitution with the words "Remove from the Land all the mobile homes, and any/all associated

vehicles and residential paraphernalia." in paragraph 5.2 of section 5. what you are required to do; and

the substitution of the plan annexed to this decision for the plan attached to the enforcement notice.

64. Subject to the correction and variation, the appeal is dismissed and the enforcement notice is upheld.

Appeal B

65. The appeal is dismissed.

AJ Steen

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Michael Rudd, Counsel appointed by WS Planning & Architecture

Brian Woods WS Planning & Architecture

Ms W Smith Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Louise Waters MRTPI Principal Planning Officer, Runnymede Borough Council

Paul Nunn MRTPI Senior Planning Officer, Runnymede Borough Council

INTERESTED PARTIES:

Aldrin Fernandez Local resident

Vanessa Dyer



Plan

This is the plan referred to in the decision dated: **29 October 2026**

by **AJ Steen**

Land adjacent to Sunnyside, Stonehill Road, Ottershaw, Chertsey KT16 0ER

Reference: APP/Q3630/C/26/3378254

Scale: Not to Scale

