

Mr Tom Reynolds
Assistant Director (Planning)
Gravesham Borough Council
Civic Centre
Windmill Street
Kent
DA12 1AU

December 2024

Our Ref: J005012

Dear Mr. T. Reynolds,

PLANNING APPLICATION FOR THE CHANGE OF USE OF LAND TO FORM A GYPSY/TRAVELLER SITE COMPRISING THE SITING OF 1 MOBILE HOME, 1 TOURING CARAVAN, AND 1 DAYROOM AT LAND ON THE SOUTH SIDE OF WHITE POST LANE, COBHAM, GRAVESEND, DA13 9BS

I refer to the above. WS Planning & Architecture have been instructed by Mr. M. Shilling to prepare and submit a planning application for the *Change of Use of Land to form a Gypsy/Traveller site comprising the siting of 1 Mobile Home, 1 Touring Caravan, and 1 Dayroom at Land on the south side of White Post Lane, Cobham, Gravesend, DA13 9BS*. In support of the application we attach,

- Completed application forms,
- J005012-DD-01 Site Location Plan
- J005012-DD-02 Ex Site Plan
- J005012-DD-03 PP Site Plan
- J005012-DD-04 PP Dayroom Plans and Elevations

This covering letter should be read in conjunction with the submitted documents.

Preliminary Matters

The proposal seeks to create a total of 1 Pitch for residential occupation by a Gypsy/Traveller family.

Each “Pitch” comprises an area of hardstanding, permeable in nature, enabling the stationing of 1 mobile and 1 touring caravan per pitch. For clarity, any reference to Mobile Home means Static Caravan, and vice versa.

Furthermore, for any Public Representations, this proposal is seeking to provide accommodation for 1 Household only, and each individual caravan would not be occupied as a separate residential unit, only as a part of the residential use of the “Pitch”, which in this instance is defined to mean 1 Mobile Home and 1 Touring Caravan.

WS Planning & Architecture

enquiries@wsa.co.uk | wsa.co.uk

Reg Office: 5 Pool House, Bancroft Road, Reigate Surrey, RH2 7RP
Company No. GB3763487 | WS Planning & Architecture is a trading name of Woods, Sanders & Co Ltd

Managing Director: Mr B Woods BA TP MRTPI

Planning Director: Mr S Copping BA (Hons) DipTP MRTPI

Architectural Director: Mr L Barker BA (Hons) BArch (Hons) RIBA

Surrey Office

5 Pool House
Bancroft Road
Reigate
Surrey RH2 7RP
01737 225 711

London Office

TBXH@ Sunley House
4 Bedford Park
Croydon
CR0 2AP
020 3828 1180

Kent Office

Brouard Architects
1 Bromley Lane
Chislehurst
Kent BR7 6LH
01689 857253

The dayroom proposed is an ancillary structure and is not to be occupied as overnight accommodation. It provides facilities for day-to-day needs, whilst allowing the static caravan to be occupied as sleeping accommodation for members of the travelling community.

Application Site

The application site lies on the southern side of White Post Lane, and to the northern side of the railway track. To the eastern side of the site lies the settlement of Sole Street. The surroundings of the application site feature dense vegetation. An aerial image of the application site is shown below in **Figure 1**.



The site lies within the Green Belt between the defined settlements of Sole Street and Hook Green. Local services are available within the surrounding settlements, including railway stations with connections to London, as well as local schools and shops.

According to the Environment Agency's Flood Maps, the site is located within Flood Zone 1, and at very low risk of surface water flooding. The site is not located within a valued landscape for the purposes of the NPPF, nor are there notable heritage designations nearby.

Relevant Planning History

The application site has been included within the red line of numerous forms of planning history set out below. Although there is no planning history for the specific plot itself.

20190944	Granted
Variation of condition 2 attached to planning permission reference no . 20141082 for the use of the land for the stationing of a caravan for security purposes; to allow the caravan to be located elsewhere on site	
20180939	Refused
Variation of condition 2 and removal of condition 3 attached to planning permission reference no. 20141082 for the use of the land for the stationing of a caravan for security purposes; to allow the caravan to be located elsewhere on site (condition 2) and removal of the restricting use of the caravan for security purposes (condition 3).	
20171000	Appeal dismissed
Erection of a block of 16 stables and a hay and tractor shed; the formation of a car park; the widening of the access drive and formation of an internal hard surfaced circulation area and use of associated grazing land as an equine centre for the rest and recuperation of racehorses.	
20141082	Application granted, Appeal regarding Condition 1 dismissed
Use of the land for the stationing of a caravan for security purposes.	
20150584	Appeal allowed
Retention of a pigeon loft	
20120805	Appeal allowed
Retention of the caravan used for security purposes.	
20070228	Granted
Erection of detached stable block to provide four stables and a tack room.	
20040952	Application refused, Appeal undecided
Continued use of the land as a private gypsy caravan site.	

On the surrounding land there is also relevant planning history, set out below.

20200554	Appeal dismissed
Application for part change of use of land to form a Gypsy and Traveller site comprising of two pitches for static caravans, and two associated pitches for touring caravans, amenity day rooms and hardstanding.	
20171001	Appeal dismissed
Erection of a two storey bedroom dwelling for an equestrian manager in connection with the use of adjoining land as an equestrian business	

Relevant Planning Policy

National Planning Policy Framework (December 2024)

The revised National Planning Policy Framework (NPPF) was published in December 2024 and sets out the Government's most up-to date vision for future growth. The document introduces a presumption in favour of sustainable development.

Paragraph 7 states that

“The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development and supporting infrastructure in a sustainable manner. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs⁴. At a similarly high level, members of the United Nations – including the United Kingdom – have agreed to pursue the 17 Global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being and environmental protection”

Paragraph 8 sets out the three over-arching objectives of sustainable development as economic, social and environmental. The **economic objective** focuses on building a strong economy by ensuring sufficient land is available to support growth. The **social objective** supports strong communities by ensuring a sufficient number and range of homes are provided and by fostering well designed, beautiful and safe built environments, with accessible services and open spaces. Finally, the **environmental objective** aim is to protect and enhance our natural, built and historic environment; including making effective use of land.

Paragraph 10 states **“so that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development”**.

Paragraph 11 sets out the presumption in favour of sustainable development in more detail and identifies the implications for both plan-making and decision-taking. In terms of plan-making this means **“all plans should promote a sustainable pattern of development”** that meets the development needs of the area. In terms of decision-taking this means **“approving development proposals that accord with an up-to-date development plan without delay”** and **“where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date”**, permission should be granted unless the Framework provides a clear reason for refusing the development proposed.

Paragraph 38 highlights that **“local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible”**.

Paragraph 47 states that,

“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.”

Paragraph 78 makes it clear that LPA’s need to identify and update annually a supply of specific sites to provide a minimum of 5 years supply.

Paragraph 89 of the NPPF acknowledges that some residential development (*sites to meet local business and community needs in rural areas*) will be located beyond the settlement boundary and not well served by public transport.

Paragraph 110 states that **“The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, 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.”** This paragraph acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

Chapter 13 of the NPPF refers to the protection of Green Belt land where Paragraph 142 explains **“The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”**

Paragraph 143 sets out the five purposes of the Green Belt,

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 153 states that inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 does go on to say that:

“...local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. ... ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”

Paragraph 154 sets out that Development in the Green Belt is inappropriate unless one of the following exceptions applies;

- “a) buildings for agriculture and forestry;**
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;**
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;**
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;**
- e) limited infilling in villages;**
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and**
- g) limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.**
- h) Other forms of development provided they preserve its openness and do not conflict with the purposes of including land within it.**

These are:

- i. mineral extraction;**
- ii. engineering operations;**
- iii. local transport infrastructure which can demonstrate a requirement for a Green Belt location;**
- iv. the re-use of buildings provided that the buildings are of permanent and substantial construction;**
- v. material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and**
- vi. development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.”**

Paragraph 155 also sets out that:

“The development of homes, commercial and other development in the Green Belt should also 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 (*Including Gypsy/Traveller Needs*);
- c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework (*Including Paragraph 13 of the PPTS*); and
- d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 below.

Planning Policy for Traveller Sites (December 2024)

The NPPF should be read in conjunction with the Planning Policy for Traveller Sites 2024 (PPTS) and forms a material consideration for development of the type proposed.

From the outset it is important to record the definition of Traveller, as set out at annex 1 of that document. That definition is:

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.

Emphasis is added to the expansion of the definition beyond its 2023 revision. The PPTS now applies to **all** Gypsy and Traveller households irrespective of whether or not they do travel, ceased to travel, or simply are ethnically Gypsies and Travellers with a preference for residing within a Caravan.

Paragraph 3 of the PPTS states that **"the Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community."**

Paragraph 4 sets out the Government's aims in respect of Traveller sites in that,

- a) **that local planning authorities should make their own assessment of need for the purposes of planning;**
- b) **to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites;**
- c) **to encourage local planning authorities to plan for sites over a reasonable timescale;**
- d) **that plan-making and decision-taking should protect Green Belt from inappropriate development;**

- e) to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites;
- f) that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective;
- g) for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies;
- h) to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply;
- i) to reduce tensions between settled and traveller communities in plan-making and planning decisions;
- j) to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure; and k) for local planning authorities to have due regard to the protection of local amenity and local environment.

Paragraph 9 states that LPAs should set pitch targets which address the likely permanent and transit site accommodation needs of travellers in their area, working collaboratively with neighbouring local planning authorities.

Paragraph 10 states that LPAs should identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites.

Paragraph 13 of the PPTS states that LPA's should ensure that their policies,

“Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:

- a) promote peaceful and integrated co-existence between the site and the local community;
- b) promote, in collaboration with commissioners of health services, access to appropriate health services;
- c) ensure that children can attend school on a regular basis;
- d) provide a settled base that reduces both the need for long-distance travelling and possible environmental damage caused by unauthorised encampment;
- e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development;
- f) avoid placing undue pressure on local infrastructure and services;
- g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans; and

- h) **reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.”**

Paragraph 14 states that **“When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.”** This section of the document does not rule out the principle of providing Traveller sites in rural or semi-rural locations such as the application site. Furthermore, the use of land within this area for Travellers sites has previously been found acceptable.

Paragraph 16 sets out that **“Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development unless the exceptions set out in Chapter 13 of the National Planning Policy Framework apply.”**

Paragraph 18 sets out that **“The Golden Rules, set out in chapter 13 of the National Planning Policy Framework, do not apply to traveller sites.”**

Paragraph 25 of the PPTS sets out the material considerations that should be taken into account when determining applications for Gypsies and Travellers. These relevant considerations are set out below,

- a) **the existing level of local provision and need for sites**
- b) **the availability (or lack) of alternative accommodation for the applicants**
- c) **other personal circumstances of the applicant**
- d) **that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites**
- e) **that they should determine applications for sites from any travellers and not just those with local connections**

Paragraph 27 sets out that when considering applications, local planning authorities should attach weight to the following matters:

- a) **effective use of previously developed (brownfield), untidy or derelict land**
- b) **sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness**
- c) **promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children**
- d) **not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community**

Paragraph 27 sets out 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.**

This paragraph also states that Local planning authorities should consider how they could overcome planning objections to particular proposals using planning conditions or planning obligations including:

- a) limiting which parts of a site may be used for any business operations, in order to minimise the visual impact and limit the effect of noise;
- b) specifying the number of days the site can be occupied by more than the allowed number of caravans (which permits visitors and allows attendance at family or community events);
- c) limiting the maximum number of days for which caravans might be permitted to stay on a transit site.

Gravesham Local Plan Core Strategy (September 2014)

Policy CS17 of the Gravesham Local Plan Core Strategy refers to the provision of Traveller sites. The Policy outlines that **“The council will seek to meet the housing needs of Travellers in the Borough by:**

- **Safeguarding traveller sites with permanent planning permission for their current use unless it can be demonstrated that they are no longer needed to meet identified need;**
- **Investigating opportunities to extend existing permanent sites within the rural area; and**
- **Supporting new sites within the urban area and rural settlements inset from the Green Belt which accord with policies in this plan, in particular those relating to Development and Design Principles, Climate Change, Green Infrastructure, and Heritage and the Historic Environment”.**

Proposed Policy DM 32 of the Part 2 – Development Management Policies document (2018) assesses the suitability of sites for Gypsies and Travellers. It states **“proposals will only be permitted where:**

- a. **sufficient space is available to satisfactorily accommodate the planned number of caravans, and any associated amenity buildings, amenity space, vehicle space and commercial use within the site;**
- b. **the site is in a location which is accessible to a range of local services, including schools and health facilities;**
- c. **the site is within flood zone 1 or alternatively meets the exception test for flood zone 2;**
- d. **there will be no adverse effects on the local built, natural and historic environment;**
- e. **safe pedestrian and vehicular access to and from the highway network will be provided;**
- f. **there will be a satisfactory living environment for future occupants and the proposal will not adversely affect the amenity of existing occupiers;**
- g. **there is adequate and readily accessible parking on site for all vehicles, not just limited to cars and a secure metered power supply is available for the provision of electric vehicle charging points; and**

- h. if a cesspit/septic tank is used for foul drainage there is easy access and sufficient parking space for the tanker to empty the cesspit/septic tank and there is sufficient space to allow the tanker to enter and leave the site in a safe manner.”**

Application Proposal

The application proposes the *Change of Use of Land to form a Gypsy/Traveller site comprising the siting of 1 Mobile Home, 1 Touring Caravan, and 1 Dayroom* at Land on the south side of White Post Lane, Cobham, Gravesend, DA13 9BS.

The application only seeks consent for the equivalent of 1 dwelling, as the mobile home, touring caravan and utility building are not separate units of accommodation, but part of one residential pitch, which is a non-permanent residential use, i.e. a residential use undertaken continuously for a specific period of the year by persons of a nomadic way of life. The utility room is to be used as an ancillary amenity building to the residential occupation of the mobile home.

Whilst the location of the application site, and the proposed development, are considered to be generally compliant with the relevant local and national policies, if conflict should be identified, this statement sets out the material considerations that if required form Very Special Circumstances as to warrant of the grant of planning permission.

An assessment of the proposal is set out below.

Policy Context

Policy DM 32 of the Development Management Policies sets out relevant criteria against proposals for new Gypsy/Traveller sites, an assessment against these criteria are set out below:

- a. The application site has sufficient space available to accommodate 1 pitch comprising of 1 mobile home, 1 touring caravan, and 1 utility building, along with vehicle space.
- b. The site is located less than a kilometer from the nearest settlement of Sole Street. Sole Street offers a range of local services a train station and a small shop. The settlement of Meopham is also located at an accessible distance from the site (approximately 1km). Meopham offers further local services including two schools and a railway station.
- c. The site is not located within a flood zone.
- d. There will be no adverse effects on the local built, natural and historic environment as no relevant designations of such are nearby.
- e. The site provides an appropriate access on to White Post Lane which is a relatively quiet lane. Multiple lawful accesses exist on this lane and demonstrate the suitability of such.

- f. The pitch will be comprised of 1 mobile home, 1 touring caravan, and 1 utility building which is the equivalent of 1 dwelling. These offer a satisfactory living environment for the family which wish to reside there.
- g. The site will have adequate and readily accessible parking on site for all vehicles, in this instance 2 car spaces and 1 touring caravan space. A secure metered power supply can be conditioned.
- h. The site has an appropriate access and sufficient parking space for a tanker to empty the cesspit proposed on site.

The proposal is deemed to accord with Policy DM32 of the DMP. If the LPA were to deem otherwise, then the policy conflict found (and any other conflict), should be assessed against the material considerations in favour of the proposal set out later in this statement.

Green Belt Assessment

Following the 2024 update to the PPTS, it is the case that Policy E, regarding 'Traveller sites in Green Belt', has been amended to state that the exceptions to inappropriate development within the Green Belt (set out in the NPPF), now apply to Traveller sites, and therefore they are not always automatically "inappropriate development", and that the exceptions set out in Chapter 13 of the NPPF can apply.

Paragraph 154, which lists the exceptions to inappropriate development, now applies to all development (unless specified otherwise), rather than just the construction of new buildings. Despite such, none of the exceptions of Paragraph 154 are deemed to apply to the development at hand.

Notwithstanding, turning to Paragraph 155, a new consideration is afforded for development that can be deemed to be appropriate within the Green Belt, subject to the provision of criteria a to d (set out in full within the NPPF section above), which are assessed below.

Criteria a – Whether the land is 'grey belt' and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the areas of the plan.

Grey Belt land is defined as ,

Land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.

Noting the purposes (a), (b), and (d), the sites contribution to any of these Green Belt purposes is not considered strong. The site lies within a well enclosed, screened surrounding, nearby to a prominent railway line. The site is not of a scale, nor, does it have an effect of extending settlement boundaries as to result in neighbouring towns merging together, as there would remain significant areas of land to the east and west

of the site. And, the site does not contribute to preserving the setting or special character of a historic town. Accordingly, the applicant submits the site does not strongly contribute to the purposes of the Green Belt. The application site neither features areas or assets referred to in footnote 7 of the NPPF. The applicant submits that the site is therefore grey belt land

Criteria b – Whether there is a demonstrable unmet need for the type of development proposed.

It is notable that this criteria refers to footnote 56 being the five year supply of deliverable traveller sites in line with the PPTS.

The latest GTAA for Gravesham Borough Council is the 2018 GTAA, and this is relied upon as a reference. It is the applicants view that following the revised definition, all need identified and classified in the GTAA counts towards the total figure (i.e. non-PPTS + Unknown + PPTS 2015). The document states the following,

	2017-28	2028-37	Total
PPTS 2015	24	7	31
Unknown	0-5	0-5	0-10
Non-PPTS 2015	6	4	10
Total	30-35	11-16	41-51

Reference is also made to the recent appeal decision at Land off Heron hill Lane (**Appendix 1**). The Inspectors considerations on need/supply are set out below:

- “23. It is common ground that the Council cannot demonstrate an up to date 5 year supply of deliverable sites. Evidence has been provided in the form of an updated Five Year Gypsy and Traveller Pitch Supply April 2023-March 2028 which looks at current and future need having regard to the Gravesham Gypsy and Traveller Accommodation Assessment (GTAA) prepared in 2017 and represents the most up to date reference when assessing need.**
- 24. The 2017 GTAA is a somewhat dated source of evidence and therefore the need figures provided must be viewed cautiously, however the Council consider that it indicates a need for between 13.8 and 25.4 pitches between April 2023 and March 2028, with no pitches having been provided since March 2021.**
- 25. The Council anticipates that both a review of the Local Plan Core Strategy and Site Allocation and Development Management Policies Document (SADMP) will be subject to Regulation 19 consultation in 2024, with adoption no sooner than 2025. This document would provide for future needs of Gypsies and Travellers and the emerging plan does contain a criteria based policy, but the parties agree this carries limited weight.”**

It is notable that these conclusions came before the most recent update to the PPTS, which would likely result in an exacerbated need for sites.

In short, it is considered that there is a substantial and demonstrable unmet need for the Travelling community.

Criteria c – Whether the development is in a sustainable location.

It is notable that this criteria refers to footnote 57 of the NPPF, which directs consideration of this matter for Traveller sites, to PPTS paragraph 13.

The site is in a location which is not significantly away “away” from nearby settlements, and it has been set out that reasonable services lie within relatively close proximity. Whilst sustainable transport links directly from the site would be limited and site occupiers are therefore likely to be reliant on the car as the main mode of transport, it must be acknowledged that sites for gypsies and travellers are unlikely to come forward on urban site, and the suitability of the location of the development must be considered in this context and in the recognition that PPTS anticipates the likelihood of rural sites in the Countryside.

As such, whilst occupants are likely to be reliant on private car use, they would not be solely reliant and would have the opportunity to walk into the village to the services therein. Neighbouring, larger settlements, provided a greater level of services, and are also located in good proximity to the site.

Further to this, the site is considered to be sustainable in all other regards.

Criteria d – Whether the development meets the ‘Golden Rules’

This criteria does not apply to Traveller sites, in line with paragraph 18 of the PPTS.

Summary on appropriateness

In line with the above conclusions, the applicant submits that the site complies with criteria a, b, and c of paragraph 155 of the NPPF, and that the proposed development therefore comprises **appropriate development** in the Green Belt.

Green Belt Openness

Green Belt openness ought not to be considered if the development is agreed to be appropriate, in line with *NH R (Lee Valley Regional Park Authority) v Epping Forest DC and Valley Grown Nurseries Ltd [2016] EWCA Civ 404*.

However, if deemed to be inappropriate, then consideration must also be given to the impact of the development on the openness of the Green Belt.

In line with the Court of Appeal and Supreme Court Judgements (*Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466* and *Samuel Smith Old Brewery (Tadcaster) & Oxtan Farm v North Yorkshire CC & Darrington Quarry Ltd [2018] EWCA Civ 489*). It is the case that there is a spatial increase, being the permanent siting of a mobile home and utility building, and provision of spaces that would usually be occupied by a touring caravan and cars. However, whilst considering the visual impacts of such, bearing in mind the single storey nature of the units in combination with the significant

existing screening of the site, as well as the provision of a landscaping scheme that can be secured by way of condition, the level of harm is considered to be relatively low. The duration of development would be subject to the overall assessment below with the level of harm needing to be proportionate to the length of time the permission is granted for, temporary or permanent. It is the applicant's case that a permanent permission would be suitable, in line with the previous appeal decision on the site. The degree of activity on site would be increased. However, in context with the surroundings which feature large business / agricultural uses, the level of activity would not be considered as overwhelming to its surroundings. It is therefore considered that the harm to the openness of the Green Belt would not be significant.

Tilted Balance

The section on decision taking within the PPTS has also been amended, with paragraph 27 and 28 being cojoined and amended to instead make reference to NPPF 11(d), i.e. the provision of the tilted balance, applying in the event that the LPA cannot demonstrate an up-to-date 5 year supply of deliverable sites.

Paragraph 11(d) criteria i has notably been amended to change the criteria's "clear" reason for refusal for areas of assets of particular importance to a "strong" reason for refusal.

If the above conclusion on appropriateness is agreed, it is therefore also submitted that the tilted balance may therefore be engaged, as the development is submitted to be appropriate, and no matters referred to within NPPF footnote 7 provide a strong reason for refusing the development, and the LPA have a demonstrable unmet need for Traveller sites.

Material Considerations of Favourable Weight (or Very Special Circumstances)

In the event that the LPA agree with the submission that the development is appropriate within the Green Belt, but identify conflict with the Local Plan or other areas, then the following matters are submitted as material considerations to clearly outweigh all harm.

In the event that the LPA disagree with the submission that the development is appropriate within the Green Belt, then the material considerations submitted are considered to amount to Very Special Circumstances that clearly outweigh all harm to the Green Belt, and any other harm identified.

- The general suitability of the application site / compliance with Policy,
- The unmet need, and lack of a 5-year supply within the Borough,
- The failure of Policy within the Borough,
- The likely location of alternative sites within the Borough,
- The availability of alternative sites within the Borough,
- The Personal Circumstances of the applicant family (in such circumstances, a personal consent would need to be considered).

General compliance of the development

It is submitted that the proposal would not offend any other policies contained within the Development Plan, potentially barring those pertaining to Green Belt protection. Whilst the absence of harm is not a benefit, it is worth recording that the proposal would likely be wholly supported by the LPA were it not located within the Green Belt. This is an indication that it is well placed for services and facilities, offers adequate living conditions and does not significantly harm the intrinsic character and beauty of the countryside.

Unmet Need, and Five-Year Supply

This matter has been referred to above, under “Criteria b – Whether there is a demonstrable unmet need for the type of development proposed”, and reference has been made to the relevant, recent appeal decision attached at **Appendix 1**.

In short, it is considered that there is a substantial and demonstrable unmet need for the Travelling community within the Borough.

Failure of Policy

Again, reference is made to the Appeal Decision at Heron Hill Lane, and specifically paragraphs 25 and 26 which is considered to be an appropriate conclusion on the matter.

- “25. The Council anticipates that both a review of the Local Plan Core Strategy and Site Allocation and Development Management Policies Document (SADMP) will be subject to Regulation 19 consultation in 2024, with adoption no sooner than 2025. This document would provide for future needs of Gypsies and Travellers and the emerging plan does contain a criteria based policy, but the parties agree this carries limited weight**
- 26. It is clear that there has been a failure of policy with the timescale for the adoption of the SADMP having slipped several times, having been first anticipated in 2020. Furthermore, Inspector Child anticipated it would be adopted in 2022 when considering an earlier appeal and it is now suggested to be on course for adoption in 2025. The CS does not include a criteria-based policy for assessing windfall traveller sites, contrary to paragraph 11 of the PPTS. Policy CS17 of the CS sets out that this would be included within the now overdue SADMP and the evidence before me, from a previous appeal decision, indicates that the Council have not had a criteria based policy since at least 1994.”**

Likely Location of Alternative Sites

When considering the likely location of alternative sites, it is considered inevitable that Gypsy and Traveller developments will be located outside of defined settlements and in the Countryside and, more importantly, in the Green Belt. This is due to land immediately adjacent to and within settlements being primarily reserved for housing for settled population and the extent of the Green Belt.

Around 77% of the District is designated Green Belt, and other land is constrained by other designations and constraints such as flood risk, and habitat or heritage designations. Furthermore, it is my experience that in most cases, when Gypsies or Travellers are seeking to purchase land, they often get to a stage where a price is agreed, but before any formal exchange, the seller will refuse the sale upon finding out the purchaser is a Gypsy or a Traveller. This often restricts the available land to that which is affordable, or already within family ownership.

Considering the above, I consider a preference should be given to sites which are well situated and close to existing settlement boundaries, and otherwise deemed appropriate.

Availability of alternative sites

In *Doncaster MBC v. FSS & Angela Smith [2007]* the Court set out that alternative accommodation has to be **suitable, affordable, available and acceptable** for it to be considered a realistic alternative. *SCDC v. SSCLG and Julie Brown [2008] EWCA Civ 1010* sets out as well that there is no requirement in planning policy, or indeed within any case law, for an applicant to demonstrate that there are no other sites available, or that particular needs could be met from another site. To be available **a pitch must have planning permission, be vacant and be actually available to the proposed occupier.**

Given that there are no available pitches within the District for the applicant to resort to, and that sites are likely to be situated outside the defined settlement boundaries and within the Green Belt it is considered that significant weight should be afforded to the lack of any suitable alternative sites which would meet the needs of the applicant, and indeed the needs of Gypsies and Travellers as a community.

The simple fact is that the proposed occupiers are in need of a site. In the absence of realistic alternative accommodation, the consequences would be for the families to resort to a roadside existence, and the hardships this brings with it to stability, family life, and children's needs. A roadside existence is also accompanied by environmental harm, either through a need for unauthorised encampments or through continuous use of private vehicle to tow a trailer around to legitimate stopping places.

Personal Circumstances & Gypsy/Traveller Status

An applicant, irrespective of their ethnic background, may seek permission for a permanent Traveller pitch (in accordance with the planning definition of a Traveller as set out in PPTS), to be conditioned for this use, and that an applicant can provide information about personal circumstances to add into planning balance, if required. A permission should only be conditioned for personal occupancy if that condition is required to make the proposal suitable in planning terms. If it is considered that the proposal is suitable for a Gypsy/Traveller pitch, regardless of personal circumstances, a personal condition is not required. In this case, the site lies within the Green Belt, and very special circumstances are required to be demonstrated.

Personal circumstances can be set out separately, however, summarising the matters that any personal circumstances will cover, the following matters should be taken into account in the planning balance,

- a) **the personal need for accommodation of the applicant**
- b) **the availability (or lack) of alternative accommodation for the applicant**
- c) **the medical and/or welfare considerations of the applicant**
- d) **the best interests of the child (if relevant)**

Consideration of any personal circumstances will require cooperation from the LPA, and if it is necessary to provide any such additional information, we will endeavour to provide it within a reasonable timeframe to ensure that the application can be determined in good time. Requesting an extension of time would represent a pro-active approach being taken by the LPA, as it is evident that consideration of the Personal Circumstances may indeed overcome any remaining objections to the development.

Planning Balance & Conclusion

In conclusion, I am of the view that the development is not inappropriate development in the Green Belt, as it adheres to Para 155 of the NPPF. Beyond this, I consider there to be no policy conflict or reason to refuse the development when assessed against the Local Development Plan.

However, even were the view to be taken that the proposal is indeed inappropriate, weighing against the development is the harm to the Green Belt, and 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. As stated, I do not consider any other harm exists. Should the proposal be inappropriate development within the Green Belt, then in accordance with the Framework, this matter should be afforded substantial weight.

The PPTS no longer states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. Case law has established that Very Special Circumstances do not need to be "special" in the ordinary sense, and the matters set out are deserving of weight in the overall balance. The judgement to be made is whether individually, or cumulatively, these amount to the very special circumstances necessary to grant planning permission despite the Green Belt harm.

It is considered the site is suitably well located, and generally compliant with the Development Plan to the point that it could be found that there is "no other harm" resulting from the development.

With regard to the material considerations in favour of a grant of planning permission for the proposed development,

- a) The development is acceptable on the appeal site with major areas of policy being complied with,

- b) There is a general need for more pitches for Gypsy/Travellers in the District,
- c) The LPA have a shortfall of pitches, and cannot demonstrate a 5- year supply of deliverable Pitches for Gypsies and Travellers,
- d) There is a historic and ongoing failure of policy by the LPA,
- e) There is an inevitability that new sites will be located outside of the defined settlement boundary, and therefore likely to be located on land designated as Green Belt,
- f) There are no available, suitable, acceptable, and affordable alternative sites,
- g) The site is not in the National Landscape or a valued landscape, and the actual harm of the development would not be long lasting,
- h) The applicant family have a personal need for a site,
- i) The consequence of the application being refused for the families and their resident dependents,

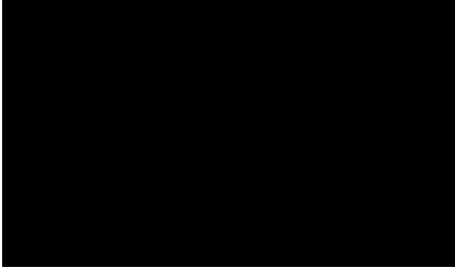
Having regard to the above, it is requested that the appointed planning officer look favourably on the application and recommend an approval of planning permission on a permanent basis with the standard Gypsy/Traveller condition imposed should it be agreed that the development accords with the policies contained within the Local Development Plan.

Should it be found that the development would be in conflict with the Local Development Plan, and that the material considerations set out would not clearly outweigh the conflict, and personal circumstances should be taken into account, then it is requested that a **personal condition** be imposed should an approval of the application be recommended.

In the event that the material considerations put forward within the application as a whole are not considered to outweigh any identified harm or conflict with the Development Plan, then it is requested that a **temporary permission** of at least 5 years be granted, such that the best interests of any Children are taken into account and that the applicant group do not need to remain leading a roadside existence whilst they seek an alternative site that is suitable for their needs and accords with the Local Development Plan. Particular regard should be given to the emerging Development Plan, and as such the length of time should reflect the likely timeframe for an emerging Plan's adoption, particularly when there is a lack of a 5-year supply. In this regard, it is considered a 5-year temporary permission ought to be granted in such an eventuality.

If you would like to make arrangements to visit the site, then please advise us of suitable dates, and we will discuss with the applicant on what assistance can be provided.

Yours sincerely,



Brian Woods
Managing Director
Enc.

APPENDIX 1



Appeal Decision

Hearing held on 11 June 2024

Site visit made on 11 June 2024

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 July 2024

Appeal Ref: APP/ K2230/ W/ 24/ 3336250

Land off Heron Hill Lane, Culverstone, Meopham, DA13 0DT

- 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 Mr R Webb against the decision of Gravesham Borough Council.
 - The application Ref is 20220106.
 - The development proposed is Material change of use of land to Gypsy Traveller site with 3 pitches each with space for stationing of a static caravan, utility block with associated hard standing for parking, with shared septic tank and space for associated storage of touring caravans (part retrospective).
-

Decision

1. The appeal is allowed and planning permission is granted for change of use of land to Gypsy Traveller site with 3 pitches each with space for stationing of a mobile home, utility block with associated hard standing for parking, storage of touring caravans and retention of works of woodland/ scrub clearance and re-profiling and re-contouring on the site and retention of retaining structures at Land off Heron Hill Lane, Culverstone, Meopham, DA13 0DT in accordance with the terms of the application, Ref 20220106, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. There were no substantive changes of relevance to this appeal proposal. A revised version of the Planning Policy for Traveller Sites (PPTS) was also published on 19 December 2023. The main change of relevance to this appeal is the definition of gypsies and travellers in Annex 1 which reinstates those who have ceased to travel permanently.
3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form the description has been changed to the one that the Council used to deal with the proposal. This is more precise and I have therefore used this in my formal decision, however I have removed reference to a septic tank as this is a matter to be dealt with by condition to ensure the most appropriate means of foul water drainage.

4. The appellant submitted revised plans as part of the appeal to reduce the scale of the development from three pitches to one pitch due to some family members no longer requiring a pitch. Annex M of the Procedural Guide Appeals – England advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
5. As I consider that this change would materially alter the nature of the application and would prejudice the interests of interested parties, I have based my decision on the scheme as submitted for three pitches. Furthermore, the appellant could partially implement the scheme by developing the site for a single pitch, leaving the rear of the site undeveloped if they wished and therefore would not be prejudiced by me considering the original development.

Main Issues

6. The parties agree that the appeal scheme would be inappropriate development in the Green Belt. This is because the appeal scheme is not any of the types of development listed as an exception in the Framework as required by Policy CS02 of the Gravesham Local Plan Core Strategy 2014 (CS), which requires development to be supported where it is compatible with national policies for protecting the Green Belt.
7. During the hearing the Council agreed that planning conditions, as suggested by Kent County Council, would be sufficient to overcome their third reason for refusal relating to biodiversity net gain and the effect on the ancient woodland,
8. As a result, the main issues in this appeal are the effect of the proposed development on:
 - the openness and purposes of the Green Belt;
 - the character and appearance of the area; and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Openness and purposes of the Green Belt

9. The appeal site is situated in the Metropolitan Green Belt. Policy CS02 of the Gravesham Local Plan Core Strategy supports development within the Green Belt where its compatible with national policies for protecting the Green Belt.
10. The introduction of three pitches requires substantial regrading of the site and the residential occupation of the site would lead to the introduction of garden furniture and other domestic paraphernalia associated with its use. This would have a visual impact and results in a loss of openness. The scale of the proposal and the fact that it would be viewed against the backdrop of the woodland belt located outside of the appeal site means that the impact is moderate but does not preserve the openness of the Green Belt.

11. The proposal results in urbanisation and encroachment with the introduction of the development, contrary to paragraph 143 of the Framework which identifies the five purposes of the Green Belt, and of which c) is to assist in safeguarding the countryside from encroachment.
12. Paragraph 16 of the PPTS confirms that traveller sites are inappropriate development in the Green Belt. When applying Paragraph 155 of the Framework, it is also apparent the proposed change of use would not preserve the openness of the Green Belt.
13. Accordingly, the proposal is inappropriate development in the Green Belt which paragraph 152 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 of the Framework states that in considering a planning application substantial weight should be given to any harm to the Green Belt.

Character and appearance

14. The site lies in the Harvel Downs Landscape Character Area as defined by the Gravesham Landscape Character Assessment 2009 (LCA) and within Landscape Parcel CG2 - Culverstone Green of the Gravesham Landscape Sensitivity and Capacity Study 2016 (LSCS).
15. The LCA considers that the condition of the Harvel Wooded downs character area is moderate, with the area of plot land known as the Culverstone Valley Area a detracting and dominant feature forming an incoherent landscape. The LSCS explains that Culverstone Valley has a unique character, having been divided into plot lands in the 1930s for holiday chalets. It sets out that whilst some have been redeveloped, a number of wooded and undeveloped plots remain. It describes the area as haphazard, informal with the existing woodland blocks within the valley providing a valuable wooded backdrop and setting in the wider landscape.
16. The appeal site is accessed off a track leading from Heron Hill Lane and lies between two pockets of ancient woodland. The track provides access to a number of leisure plots, a number of which are generally overgrown vegetated plots, but some which contain caravans and outbuildings and a few that have been redeveloped for housing, under a previous local plan policy. The appeal site is located towards the end of the track and is one of the last plots. This part of the track is less open and landscaping is still evident on neighbouring plots which does contribute to the wooded character which is outlined within the LSCS as an important part of the setting to the settlement of Culverstone Green.
17. Along the track there are a number of plots, including the appeal site, where trees have been removed and the sites cleared leaving a stark appearance. The Council has confirmed that the trees were not protected by a tree preservation order and therefore they have no control over this clearance. However, some have also undergone engineering works, which may or may not be authorised, including regrading of the sites which steeply slope up towards the right of way which runs along the rear boundaries of these plots. These works more widely have undoubtedly changed the character of the wider area and the loss of the trees is particularly regrettable.

18. The LCA sets out that there is a high capacity for the landscape to absorb inconsistencies within its woodland, albeit I acknowledge that as trees are being removed within the wider area this capacity has been somewhat reduced.
19. The introduction of 3 pitches onto the site, with the associated engineering works required to create the terracing will undoubtedly change the appearance of the site, however views into the site from the public right of way would be limited due to the existing woodland belt which exists outside of the appeal site. Any glimpsed views would be seen in the context of the existing pitches located at the top of Heron Hill Lane and the roofscape of the dwellings Leafy Lane and Ridge Lane. Therefore, any harm arising would be limited and localised and would be absorbed into the existing patchwork of development that is evident within the locality.
20. Furthermore, some landscaping of the site, along both the frontage and boundaries of the site could be secured which over time would soften the appearance of the site when viewed from both the access track and public right of way.
21. In conclusion, the proposal would due to the existence of other scattered development, including other gypsy and traveller pitches, the screening provided by the ancient woodland, the modest size of the scheme and the scope to undertake planting on the site, would have a neutral impact on the character and appearance of the area.
22. The proposed development would therefore accord with policy CS12 and CS19 of the CS which together seek to conserve the overall landscape character, integrating with the surrounding local area and to ensure that new development includes details of appropriate hard and soft landscaping.

Other Considerations

Need for Gypsy and Traveller Sites

23. It is common ground that the Council cannot demonstrate an up to date 5 year supply of deliverable sites. Evidence has been provided in the form of an updated Five Year Gypsy and Traveller Pitch Supply April 2023-March 2028 which looks at current and future need having regard to the Gravesham Gypsy and Traveller Accommodation Assessment (GTAA) prepared in 2017 and represents the most up to date reference when assessing need.
24. The 2017 GTAA is a somewhat dated source of evidence and therefore the need figures provided must be viewed cautiously, however the Council consider that it indicates a need for between 13.8 and 25.4 pitches between April 2023 and March 2028, with no pitches having been provided since March 2021.
25. The Council anticipates that both a review of the Local Plan Core Strategy and Site Allocation and Development Management Policies Document (SADMP) will be subject to Regulation 19 consultation in 2024, with adoption no sooner than 2025. This document would provide for future needs of Gypsies and Travellers and the emerging plan does contain a criteria based policy, but the parties agree this carries limited weight.

26. It is clear that there has been a failure of policy with the timescale for the adoption of the SADMP having slipped several times, having been first anticipated in 2020. Furthermore, Inspector Child anticipated it would be adopted in 2022 when considering an earlier appeal and it is now suggested to be on course for adoption in 2025. The CS does not include a criteria-based policy for assessing windfall traveller sites, contrary to paragraph 11 of the PPTS. Policy CS17 of the CS sets out that this would be included within the now overdue SADMP and the evidence before me, from a previous appeal decision, indicates that the Council have not had a criteria based policy since at least 1994.
27. This means that unmet need can only be met through windfall sites coming forward with no possibility of securing a supply of plan led sites until at least 2025. The parties agree that 77% of the Borough lies within the Green Belt and therefore the allocation of future sites could be on land that is currently within the Green Belt.
28. Under the Public Sector Equality Duty (PSED) set out in s149 of the Equality Act 2010, I need to consider how the modest increase in the supply of sites arising from the development could positively contribute to the advancement of equality and good relations, with s149 placing an onus on public authorities to avoid discrimination and being proactive in promoting equality. The equality implications arising from the development are, as such, an important factor in favour of the proposal. As such I consider that need for Gypsy and Traveller sites carries considerable weight.
29. In accordance with the PPTS, in these circumstances, lack of supply should be a significant material consideration in relation to a planning decision when considering the grant of a temporary planning permission. However, the PPTS makes it clear that this does not apply to sites within, amongst other things, the Green Belt. It also does not say that the lack of supply is a significant material consideration when considering permanent schemes.

Personal Circumstances

30. The personal circumstances of the appellant has changed since the submission of the planning application and two family members no longer require pitches on this site, and are currently living elsewhere.
31. The appeal site would be occupied by two households:
- The appellant and his adult son.
 - The appellant's daughter, partner and two children.
32. It has been put to me that they could be accommodated on a single pitch, however as the proposal includes the provision of three pitches it would be possible for the households to occupy two pitches in the future if they wished.
33. The two households have a wish to have a settled base together in order that they can provide support to each other, the appellant's daughter provides support in caring for her father who has a number of health conditions.
34. The appellant's daughter and her family are currently housed in bricks and mortar. This is difficult for her partner, and he chooses to live in a caravan on the driveway when he is not travelling for work.

35. The nomadic habit of life of Gypsies and Travellers such as the appellant and his family is linked to their culture. However, without a settled base it is difficult for them to balance their traditional way of life with the practical realities of modern living. As a result, there are equality benefits in delivering accommodation that balances a cultural preference to live in a way that facilitates a traditional nomadic way of life with the practicality of a settled base.
36. Achieving the above balance normally involves the provision of static caravans with space for touring caravans, the latter being used when travelling. Because of this, Gypsies and Travellers often have an aversion to bricks and mortar housing and wish to continue living in a caravan when they stop travelling because this is what they are psychologically accustomed to. Moreover, living in a caravan is also often preferred after ceasing to travel because their cultural identity is reinforced by living in a caravan on a traveller site. As a result, and for planning purposes, caravans are considered culturally appropriate accommodation for Gypsies and Travellers, but bricks and mortar housing is not.
37. Whilst the appellant's daughter and family are currently housed in bricks and mortar housing, given the needs of her children I find that it is likely that any aversion to such housing would have been put to one side had the availability of Council accommodation been the only option available to her from a day to day living point of view and, importantly, the care of her children.
38. If the appeal is dismissed, then the appellant and his son would continue to live with uncertainty and have to continue to reside in temporary locations either with family or on the roadside. The appellant also has a number of health conditions that have required access to hospital at regular intervals to receive treatment and therefore the need for a settled base in order to access these services is important.
39. Article 1 of the First Protocol sets out that a person is entitled to the peaceful enjoyment of his possessions and that no one shall be deprived of his possessions except in the public interest. Article 8 of the Human Rights Act states that everyone has the right to respect for his private and family life and his home. Dismissing the appeal would represent an interference with the home and family life of the proposed occupiers, such that both Articles would be engaged. There is also a positive obligation imposed by Article 8 to facilitate the gypsy way of life.
40. The future occupants of the proposed pitches are an ethnic minority, and thus have the protected characteristic of race under s149(7) of the Equality Act 2010. The proposal would meet the needs of those persons with a relevant protected characteristic, by reason of race, and so, as required by section 149(1) of the Equality Act 2010, the public sector equality duty is applicable.
41. There is therefore a need to have due regard to eliminating discrimination, advancing equality of opportunity and fostering good relations. Aside from the best interests of the children, I attach moderate weight to the other personal circumstances as a factor in favour of the scheme.

Best Interests of the children

42. Where Article 8 rights are those of children, as in this case, they must also be seen in the context of Article 3 of the United Nations Convention on the Rights of the Child. This requires a child's best interests to be a primary consideration. More particularly, case law identifies that, although a primary consideration, the best interests of a child are not a determinative planning issue, but no consideration must initially be regarded as more important or, in advance of the subsequent assessment of the individual circumstances, be given greater weight.
43. The Guidance advises that decision-makers need to consider whether children's best interests are relevant to any planning issue under consideration. In doing so, it similarly advises they will want to ensure the approach is proportionate. Decision-makers need to consider the case before them and need to be mindful that the best interests of a particular child will not always outweigh other considerations including those that impact negatively on the environment or the wider community.
44. The appeal site would provide a settled base for 2 children, and their best interests need to be carefully considered. I accept that the best interests of the children would, in principle, be served by a permanent and secure culturally appropriate home, whilst having regard to the fact that currently the children's educational needs are currently being met by a school outside of the local area. The appellant has set out that there would be limited disruption to the children's education if they were to move now as the youngest child is starting secondary school in September and would be able to move to their new school at the start of the school year. The eldest is at the end of her time at school and may look to attend a college locally.
45. The children are currently housed in terms of a settled base, but this is in housing that is not culturally appropriate and is having a negative impact on the family as a whole. This is a factor which goes to the heart of the best interests of the children and this is a consideration beyond just their educational needs, taking account their families cultural preference to live in a way that facilitates a traditional nomadic way of life with the practicality of a settled base.
46. The merits of the case presented are such that I afford the benefits, of this development to the best interests of the children, significant weight.

Intentional unauthorised development

47. The establishment of three pitches at the appeal site, without planning permission amounts to intentional unauthorised development, as such the 2015 ministerial statement is relevant¹. The works have resulted in the clearance of the site and extensive regrading of the site and the introduction of supporting structures to enable terraces to be created. As such some physical damage to the land has occurred and this may be difficult to remediate in the short term. By way of mitigation, the appellant had limited options in respect of accommodation and has sought to regularise the situation through a planning application.

¹ Green Belt Protection and Intentional Unauthorised Development 2015

48. Nonetheless, the works undertaken have gone beyond that which would have been necessary to establish a temporary home pending the outcome of the application. I note however that the appellant has not attempted to occupy the site and works have ceased. Overall, the undertaking of intentional unauthorised development adds modest additional weight as a material consideration against the proposal.

Green Belt Balance

49. I have identified that the scheme would be inappropriate development in the Green Belt as defined by the Framework and result in harm to the openness of the area. It would, by definition, be harmful to the Green Belt, harm which the Framework indicates should be given substantial weight. Very special circumstances will not exist unless the harm to the Green Belt is clearly outweighed by other considerations.
50. There are several points in favour of the proposal. The Council are unable to meet the accommodation needs of the appellant, who are ethnic Gypsies and Travellers or those who meet the definition within Annex 1 of the PPTS. The appeal scheme would support the traditional way of life of a family that has a protected characteristic.
51. The appeal scheme would facilitate the establishment of a settled base for the appellant and his family whilst they continued to pursue a nomadic lifestyle for economic purposes. This would allow cultural traditions to be balanced with the practicalities of modern living thereby, advancing equality of opportunity. The unmet need for pitches also indicates inequality in housing opportunities and the proposal would help to offset this in a modest way.
52. These are important points in achieving the social sustainability sought by Paragraph 13 of the PPTS. It does not automatically follow that the appeal should be permitted because the PSED is relevant. Nonetheless, the equality implications weigh notably in favour of permitting pitches at the appeal site because dismissing the appeal would perpetuate the disadvantages currently endured.
53. The accommodation needs and personal circumstances of the intended occupiers are together, significant points in favour of the proposals. Furthermore, the best interests of 2 children is a primary consideration. All would benefit considerably from a settled base, which would be culturally appropriate and enable the family as a whole to gain stability and for the children to remain in education. I have attached moderate weight to the accommodation needs and personal circumstances of the appellant, and significant weight to the best interests of the children.
54. Therefore, having taken account all the other considerations outlined above, collectively they outweigh the substantial weight which must be given to Green Belt harm and the modest harm I have attributed to the intentional unauthorised development. Consequently, I consider that there are very special circumstances necessary to justify inappropriate development in the Green Belt and the proposed development is therefore in accordance with policy CS02 of the CS.

55. Furthermore, the proposed development would not be in conflict with policy CS17 of the CS where the supporting text to the policy recognises that in the absence of a SADMP proposals for windfall sites will be considered against the provisions of the NPPF and the PPTS.
56. I have considered whether a temporary planning permission of 3 to 5 years would be appropriate as it would be time limited and lessen the interference with the appellant's human rights while protecting the public interest (in this case relating to the Green Belt). However, there is no certainty regarding the likely adoption of the emerging Local Plan and whether it would make adequate provision to meet local need and the needs of the site's occupants. Moreover, a temporary permission would not provide long term stability for the occupants. In any case, a permanent personal permission would be acceptable based on the planning balance. Thus, I have not considered a temporary permission further.

Conditions

57. As well as the standard implementation condition, which is necessary for the avoidance of doubt as the development that has taken place may not be in accordance with the submitted plans. I have also imposed a condition to ensure that the proposal is carried out in accordance with the approved plans to provide certainty.
58. The proposals are acceptable, partly due to the personal circumstances of the intended occupiers however noting the failure of the Council to provide pitches to meet its need and the ongoing delay with allocating future sites I have not found it necessary to impose a personal condition as the pitches could go towards meeting other unmet need within the district.
59. However, it is necessary to restrict occupation to Gypsies and Travellers, defined so as to not exclude those who have ceased travelling permanently.
60. As three pitches are proposed it is necessary in the interests of certainty to secure this and the total number of caravans permitted on the site. I have also restricted the commercial use of the site and the size of vehicles to be kept at the site.
61. In order to ensure suitable living conditions for the occupiers of the site, details of foul and surface water drainage and the provision of appropriately drained and surfaced parking areas are also required.
62. To limit the visual impact details of soft and hard landscaping, details to ensure that remaining trees on the site are adequately protected and the materials of the proposed utility buildings are also required to be submitted, agreed and implemented.
63. Detailed conditions are also required in order to ensure Biodiversity Net Gain is secured in order to compensate for the loss of priority habitat woodland and that the proposals secure an ancient woodland mitigation plan to avoid increased recreation impacts on the retained woodland areas.
64. Conditions are also imposed to protect biodiversity from external lighting and to ensure that precautionary mitigation measures for breeding birds and reptiles are adhered to.

65. I have not found it necessary to restrict the appellants permitted development rights for the erection of gates, walls and fences, as no exceptional circumstances were advanced by the Council as to the necessity for this condition.

66. The access will not be onto a public highway and therefore I have not found it necessary to impose a condition requiring details of visibility splays to be submitted.

Conclusion

67. The proposal adheres to the development plan and there are no other considerations which outweigh this finding. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

G Pannell

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs A Heine Heine Planning Consultancy
Mr R Webb
Miss T Webb
Mr R Dennard

FOR THE LOCAL PLANNING AUTHORITY:

Mrs A Webster
Mrs S Morley
Mr R Hart

DOCUMENTS/ PLANS/ PHOTOS

1. Letter from Dr Y Bahru (Heine Planning Consultancy)
2. Kent County Council Rights of Way Map (Gravesham Borough Council)
3. Rights of Way Plan produced by Gravesham Borough Council
4. Site photos 6 May 2020 (submitted by Gravesham Borough Council)
5. Site Plan denoting open enforcement cases (Gravesham Borough Council)
6. Updated Five Year Gypsy and Traveller Pitch Supply (Gravesham Borough Council)

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos Plan 1 – Location Plan (scale 1:1250); Plan 2 – Proposed Site Plan (scale 1:500); Plan 3 – Proposed Utility Block (scale 1:100) and Topographical Plan Drawing 16300/22 May 2022.
- 3) 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, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- 4) There shall be no more than 3 pitches on the site and on each of the 3 pitches hereby approved no more than 2 caravan(s) [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.
- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 6) No commercial activities shall take place on the land, including the storage of materials.
- 7) No development of the utility buildings shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details
- 8) The site shall not be occupied until the area shown for the parking of vehicles on drawing no. Plan 2 Proposed Site Layout has been drained and surfaced in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and those areas shall thereafter be kept available at all times for the parking of vehicles.
- 9) No caravans shall be brought onto site until a soft landscaping scheme for the whole site, including a timetable for implementation and completion, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
 - A survey of the position of trees within 10 metres of the site boundary, including their spread and root protection area and details of measures for their protection, including their canopy and root systems, throughout the construction phases of the development.
 - Details of the number, density, species, heights and position of all trees, shrubs and hedges to be planted.

- 10) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 11) All tree work shall be carried out in accordance with British Standard BS 3998: Tree work: Recommendations (or an equivalent British Standard if replaced).
- 12) The details submitted in accordance with condition 9 above shall include:
 - a plan showing the position of every tree on the site and on land adjacent to the site (including street trees) that could influence or be affected by the development, indicating which trees are to be removed;
 - a schedule in relation to every tree identified listing information as specified in paragraph 4.4.2.5 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced); and,
 - any proposed pruning, felling or other work;
 - details of any proposed alterations to existing ground levels, and of the position of any proposed excavation, including those for underground services, that might affect the root protection area; and,
 - all appropriate tree protection measures required before and during the course of development (in accordance with paragraph 5.5 of British Standard BS 5837) (or in an equivalent British Standard if replaced);
 - areas of existing landscaping to be protected from construction operations and the method of protection.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

- 13) No development shall commence until details of hard landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - earthworks showing existing and proposed finished levels or contours;
 - means of enclosure and retaining structures;
 - boundary treatment[s];
 - hard surfacing materials;
 - lighting, floodlighting and CCTV;
 - details of bin storage areas;
 - an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

- 14) No caravan shall be occupied until a means of foul and surface water drainage has been completed in accordance with details, which shall first have been submitted and approved in writing by the local planning authority and thereafter retained.
- 15) No further development shall commence until a Biodiversity Gain Plan and Biodiversity Management and Monitoring Plan have been submitted to the local planning authority for written approval, as evidence that offsite compensation for loss of priority habitat woodland will be achieved as part of the proposals. The Biodiversity Gain Plan will include an updated metric calculation which details the loss of high distinctiveness priority habitat woodland from within the site and an agreement for offsite compensation to achieve 10% net gain relative to the pre-clearance baseline.

The Biodiversity Management and Monitoring Plan shall include 30-year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports demonstrating how habitat management is progressing towards achieving the metric objectives. The Plan will include evidence of remedial arrangements and details of any rectifying measures as required.

The Biodiversity Management and Monitoring Plan shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

- 16) No further development shall commence until an ancient woodland mitigation plan has been submitted to the local planning authority for written approval. The plan will include details of an arboricultural impact assessment undertaken by a suitably qualified person, and will detail measures to protect the Root Protection Area of ancient woodland trees and to avoid increased recreation impacts on the retained woodland areas. The approved Plan will be implemented and retained thereafter.
- 17) Precautionary mitigation measures for breeding birds and reptiles will be implemented throughout construction and landscaping in accordance with Section 4.4 of the Ecological Assessment, KB Ecology, October 2023. The measures will be retained for the duration of works as required.
- 18) No further development shall commence until a Landscaping Plan for Biodiversity has been submitted to the local planning authority for written approval. The Plan will include details of a native species planting scheme including the reinstatement of the woodland bank along the eastern site boundary, planting of a 3m wide strip of chalk scrub along the northern boundary, native tree planting and native hedgerows in accordance with the preliminary ecology report (R. Webb, May 2022) and planning statement (Heine, February 2022). The Plan will include a work schedule detailing management proposals for all areas of landscaping. All measures will be implemented as approved and retained thereafter.
- 19) No further development shall commence until a lighting plan for biodiversity is submitted to, and approved in writing by, the local planning authority. Lighting will be designed in accordance with the Bat Conservation Trust's 'Guidance Note 8: Bats and Artificial Lighting 08/23'.

The Plan will show the type and locations of proposed external lighting, as well as the expected light spill in lux levels on both vertical and horizontal planes, to demonstrate that areas to be lit will not adversely impact biodiversity. This will include details of any measures to reduce impacts from emitted internal lighting, such as cowls, recessed lighting or glazing treatments. All lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter. No additional lighting will be installed without prior written approval from the local planning authority.

END