



Appeal Decision

Hearing held on 19 June 2025

Site visit made on 19 June 2025

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th of July 2025

Appeal Ref: APP/K2230/W/25/3363212

Land south of White Post Lane, Cobham, Gravesend, Kent, DA13 9BS

- 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 M Shilling against the decision of Gravesham Borough Council.
 - The application ref is 20241164.
 - The development proposed is change of use of land to form a gypsy/traveller site comprising the siting of 1 mobile home, 1 touring caravan, and 1 dayroom.
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Decision

1. The appeal is allowed and planning permission is granted for 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 south of White Post Lane, Cobham, Gravesend, Kent DA13 9BS in accordance with the terms of the application, Ref 20241164 and the conditions set out in the schedule below.

Background and Preliminary Matters

2. The appeal site is part of a wider parcel of land which is the subject of an enforcement notice relating to the stationing of mobile homes for residential use and associated touring caravans. This notice was the subject of an appeal which was dismissed on 11 February 2025 and the notice was upheld with variations ('the 2025 appeal decision')¹. An earlier appeal was dismissed on 28 February 2023, relating to land further west, for the change of use of the land to form a Gypsy and Traveller site of two pitches ('the 2023 appeal decision')².
3. There is also an injunction relating to the land dated 2 July 2009. This prohibits the use of the land for the siting of caravans and mobile homes and; the use of the site as a gypsy or traveller site. This injunction does not, however, prevent the consideration of an application for planning permission, or any subsequent appeal.
4. In light of concerns I had during the site visit, I asked the main parties to comment in writing as to whether the red line boundary of the site location plan encompassed the entirety of the land to which the appeal should relate. Both main parties replied that the appeal should progress based on the plans provided. I have therefore determined the appeal on this basis.

¹ APP/K/2230/C/23/3328720

² APP/K2230/W/20/3271514

Main Issues

5. During the hearing the Council agreed that matters relating to biodiversity could be dealt with by condition. It was also discussed that the effect of the proposal on designated habitat sites was no longer in dispute. As such I have dealt with these as other matters, rather than main issues of the appeal.
6. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the landscape character;
 - Whether the site is suitably located to encourage sustainable travel, and;
 - Whether any 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 required to justify the proposal.

Reasons

Whether Inappropriate

7. Policy CS02 of the Gravesham Local Plan Core Strategy 2014 (the CS) states that development in the Green Belt will be supported where it is compatible with national policies for protecting the Green Belt as well as other policies in the plan. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework establishes that development in the Green Belt is inappropriate unless one of the exceptions it lists applies. Both main parties agree that none of the exceptions listed in paragraph 154 of the Framework apply.
8. The appellant has put forward that the development can instead be considered under paragraph 155, which states that the development of homes, among other things, should not be regarded as inappropriate development where all the criteria listed apply. In respect of criteria a) the main parties agreed the site to be 'grey belt' having regard to the definition in the Framework. I am mindful of the earlier Inspector's conclusion regarding grey belt, however, the Planning Practice Guidance (the PPG) has since been updated and, in light of its detailed guidance on how to assess Green Belt purposes, I am satisfied that the site can now be considered as grey belt. Turning to criteria b), it is agreed and apparent from the evidence that there is a demonstrable unmet need for the type of development proposed and having regard to the associated footnote.
9. Criteria c) of paragraph 155 requires the development to be in a sustainable location, having particular reference to paragraph 110 and 115 of the Framework, and also to paragraph 13 of the Planning Policy for Traveller Sites (the PPTS). An assessment and conclusion on this matter is contained below, and I have found that the site is not in a sustainable location for the reasons set out. Accordingly, the proposal would not comply with criteria c). Part d) does not apply here, as established by the PPTS.
10. In conclusion on this main issue, the proposal would not meet all the criteria of paragraph 155 and would be inappropriate development in the Green Belt.

Openness

11. Openness of the Green Belt has a spatial aspect as well as a visual aspect. The site is in a rural location, clearly separated from the nearby settlements and the appeal site would comprise open grassland and paddocks if it were not occupied by the appellant. The openness of the wider area is established by the predominance of open fields, woodlands and the dispersed pattern of development between settlements. In the vicinity of the appeal site there are a number of low level stables and horse shelters as well as boundary treatments which divide the land. If the site were unoccupied, it would contribute towards the appreciation of openness when travelling along White Post Lane.
12. The proposal would cause a reduction in the spatial aspect of the Green Belt's openness through providing built forms and structures on the site where there would otherwise be open grassland. The residential use of the land would also lead to domestic paraphernalia across the site, including parking areas and outdoor seating areas, and an increase in activity. In terms of their visual effects, the proposed structures would be single storey and, once in the location shown on the proposed plans, visibility from public view points would be very limited given their distance from the highway and nearby public footpath. The proposed landscaping would further limit views of the structures and low level paraphernalia from the surrounding area.
13. Overall for the reasons given, I find there would be a limited adverse impact to the openness of the Green Belt, given the scale and location of the development.

Landscape Character

14. The site lies within the Meopham Downs Landscape Character Area as defined by the Gravesham Landscape Character Assessment 2009 (the GLCA). This sets out that the characteristics of the area include its gently undulating topography with a mixture of arable and pasture farmland and distinctive field patterns. The GLCA acknowledges the presence of horse related activity scattered throughout the landscape.
15. The proposal would result in the loss of the former paddock and grassland, which the GLCA recognises as typical of the landscape character. However, the appeal site is set back notably from the road and is enclosed by the railway line and its tree belts to the south. As a result of its position and enclosure the proposal would be reasonably discrete in views from the surrounding area. Even if some visibility of the structures were to occur, this would be limited to glimpses of the tops of the structures and, given the abundance of other low level structures within the immediate area, the proposal would not appear at odds with the established landscape character. The maturity of the proposed landscaping would add further screening and over time the planting would be capable of amounting to an enhancement to the site, appearing as a continuation of the tree belts and hedgerows nearby. A condition could reasonably be used to control external lighting on the site, given it could otherwise draw undue attention to the development and detract from the rural character.
16. The earlier Inspectors found moderate harm from those respective proposals, however, the location of those developments and the extent of built forms were different to this appeal, particularly as they were closer to the road. I also note the comments of interested parties regarding the trees that have been removed

nearby and the works undertaken for example on White Post Lane. While I observed those works have altered the character of part of White Post Lane and the works are of course regrettable, they are nonetheless outside the scope of the appeal before me and matters relating to enforcement would be for the Council.

17. In conclusion on this main issue, the proposal would be acceptable in terms of its effects on the landscape character. It would comply with policies CS12 and CS19 of the CS, which together seek to conserve the landscape character and integrate development into the surrounding area. Neither do I find conflict with Policy CS18 in respect of this main issue.

Sustainability of the Site's Location

18. The appeal site is located between Sole Street and Meopham which each contain some limited services and facilities, as well as public transport links. However, the site is linked to those settlements only by White Post Lane, which is narrow and unlit. I observed it to be a fairly busy route and it lacks any footpaths or significant verges. As such pedestrians would need to walk in the path of traffic and it would not provide a safe or attractive route for occupiers of the site, particularly with children. Cycling could provide an alternative, but is unlikely to be attractive throughout the year. In line with paragraph 13 of the PPTS, I accept that there may be an inherent use of private vehicles associated with the working and travelling patterns of those occupying the site, however, this would not be the case for those individuals who are not travelling for work and it remains the case that they would be heavily reliant on private vehicles for all day to day needs as a result of the site's location. For these reasons the site's location is not one which could be considered sustainable.
19. These findings are consistent with the earlier appeal decisions, particularly the 2025 appeal decision, which similarly considered the matter in light of paragraphs 110 and 115 of the Framework and paragraph 13 the PPTS. While the 2023 appeal was not specifically dismissed for this reason, the Inspector nonetheless found the site's location to conflict with the Framework insofar as it related to promoting sustainable transport. I have considered the other appeal decisions evidenced by the appellant, however the circumstances of those sites and the proposed uses would appear different to that before me. Overall, there is not convincing evidence which would lead me to reach a different view to the earlier Inspectors on this issue.
20. The site is not in a sustainable location and the proposal would conflict with Policy CS19 of the CS which requires new development to encourage sustainable living and choice, being well connected to services, facilities and public transport, and encouraging sustainable travel. In turn this gives rise to conflict with Policy CS02 insofar as it requires development in rural areas to be compatible with policies in the Plan.

Other Considerations

21. The Framework makes clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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. I address these in turn below.

Need for Gypsy and Traveller Sites

22. The Council accept it is unable to demonstrate a five year supply of deliverable sites and it acknowledges that the shortfall in both past delivery and future supply is significant. In establishing the likely level of need, the Council rely on the Supply Statement 2024³ which in turn refers to the GTAA 2022⁴. The GTAA, however, pre-dates the changes to the definition of Gypsies and Travellers within the PPTS in both 2023 and 2024. The Council therefore accept there will be a greater need for pitches than those documents set out and further work is being undertaken. At present there is, therefore, significant uncertainty surrounding the level of need in the Borough.
23. Given the level of uncertainty, it was agreed in the hearing that the appellant's suggestion of using the 'total pitch requirement' set out in the GTAA as a minimum was reasonable. On this basis the need would be 31 pitches for 2022-2017 and 60 pitches for the period 2022- 2040. In addition to the pitches granted at appeal listed in the Officer's Report, the Council reported a further two pitches have received a resolution to grant from the planning committee. Even accounting for those pitches however, the level of unmet need, which could be greater than reported, remains significant.
24. The Council accept that there has been a failure of policy in delivering Gypsy and Traveller pitches. This is consistent with the earlier appeal decisions and this has clearly been the case for many years. The 2025 appeal decision reiterates the comments of an earlier Inspector who noted a 'persistent and grave failure to plan for the needs of Gypsies and Travellers in the Borough'. The unmet need can currently only be met through windfall sites coming forward and the CS does not include a criteria-based policy for assessing those. Looking forward, a Regulation 19 consultation is intended for later in the year. However, there is uncertainty at this time as to how the emerging local plan will address the level of need and it remains some way from examination and adoption. Importantly, the Council accepted that there will likely be a need to utilise Green Belt land in the future in order to meet the need.
25. The need for gypsy and traveller sites together with the persistent failure of policy and the uncertainty of future means to meet the need, carries significant weight in favour of the development.

Available Alternative Accommodation

26. The appellant is not aware of any alternatives to residing on the appeal site, and the Council were not able to present any. A lack of alternatives was similarly established under earlier appeal decisions and there is nothing before me to suggest this has changed. For this reason, and in the absence of evidence to the contrary I agree that there is presently no acceptable alternative accommodation available to the appellant. This carries significant weight.

Personal Circumstances

27. The appeal site would be occupied by a single household, comprising the appellant and his partner, and their five children of which one is of adult age. It was agreed in the hearing that, given the information provided with the appeal, the

³ Gravesham Local Plan- Five- Year Gypsy and Traveller Pitch Supply Statement 2024-2019

⁴ Gravesham Borough Council- Gypsy and Traveller Accommodation Assessment (GTAA) November 2022

appellant and his family met the definition of Gypsies and Travellers set out in the PPTS. From the evidence before me I agree with that finding. Article 8⁵ imposes a positive obligation to facilitate the gypsy way of life and, as a minority group, special consideration should be given to their needs and lifestyle.

28. The family travel together in the summer and the appellant sometimes travels separately for extended periods for work. The family have previously resided with family and in Surrey on various informal pitches, however, this is no longer an option for them and the family do not consider bricks and mortar housing as appropriate to their culture.
29. Three of the children attend a school and nursery in a neighbouring Borough. In addition, one child now attends a specialist school in north Kent, for which they have been on the waiting list for a significant period of time following identification of specific health care needs from a young age. I understand that transport is provided by the school to facilitate attendance and securing this school place has provided much relief to the family in helping to address that child's needs.
30. If the appeal were to be dismissed, the family would continue to live with uncertainty and have to reside elsewhere, perhaps on the roadside in the absence of suitable alternatives as discussed above. As a consequence the children would likely need to leave those schools and their education would be disrupted. While it is not apparent that the appellant needs to reside in this particular location to maintain a place at the specialist school, it is nonetheless apparent that that child in particular, as well as the others attending school in Dartford Borough, would benefit from a settled base and the continuity in education which a settled base would provide. A settled base would also provide access to local healthcare which the evidence suggests is necessary for several members of the family including the children.
31. Accordingly, and aside from the best interests of the children, I attach moderate weight to the other personal circumstances as a factor in favour of the proposal.

Best Interests of the Children

32. 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. In particular, case law identified that, although a primary consideration, the best interests of a child are not a determinative planning issue, but that no consideration must initially be regarded as more important or, in advance of the subsequent assessment of the individual circumstances, be given greater weight.
33. As above, the appeal site would provide a settled base for four children and their best interests therefore need to be carefully considered. Their best interests would be served by a permanent and secure, culturally appropriate home, allowing their education to continue uninterrupted. As above this is even more so for the child with identified special education needs. The merits of the case presented are such that I afford the benefits of the proposal to the best interests of the children significant weight.

Intentional Unauthorised Development

⁵ Article 8 of the European Convention on Human Rights, enshrined into UK law by the Human Rights Act 1998

34. The establishing of a pitch at the appeal site without planning permission amounts to intentional unauthorised development and as such the 2015 Ministerial Statement is relevant⁶. The works have resulted in the clearance of the site, laying of an unmade surface and positioning of a mobile home and touring caravans on the site. No day room has been constructed and some young conifer trees have been planted along the western boundary. Some damage to the verge and trees has occurred around the site access, although I understand that may have occurred in connection with an earlier occupation of the site by other parties. Nonetheless the Council state the appellant was aware of the enforcement notice in early 2024 before moving to the site. Given the scale and nature of the works undertaken, the undertaking of intentional unauthorised development adds moderate weight as a material consideration against the proposal.

Whether Very Special Circumstances Exist

35. The proposal has been found to be inappropriate development in the Green Belt and harmful to openness. The Framework requires that substantial weight is given to any harm to the Green Belt, including harm to its openness. I also give considerable weight to the harm arising from the site's location which does not encourage sustainable means of travel, given there are no alternatives to private vehicle use, and have given moderate weight to the intentional unauthorised development of the site.
36. I have had regard to Article 8 of the European Convention on Human Rights as incorporated into the Human Rights Act 1998. This affords the right to respect for private and family life, including the traditions and culture associated with the gypsy way of life. It is a qualified right, and interference may be justified where that is lawful and in the public interest. Dismissing this appeal would likely interfere with the appellant and his family's rights under Article 8 in that they have no other lawful accommodation available to them. In addition, gypsies share the protected characteristic of race for the purposes of the Public Sector Equality Duty under s149 of the Equality Act 2010, which sets out the requirement to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not.
37. Overall, and in acknowledging the policies of the PPTS and in considering the requirement to advance equality and with the best interests of the children at the forefront of my considerations, I find that other considerations collectively would clearly outweigh the harm to the Green Belt and the other harms resulting from the proposal. Consequently, very special circumstances exist to justify the proposal, in line with the provisions of the Framework.
38. I have considered whether a temporary planning permission for a period of 3 years would be appropriate to reduce the harms identified to that period. However, there is no certainty that the policy position would have changed by the end of that period, or that other alternatives would become available to the appellant. Moreover, a temporary permission would not provide long term stability for the occupants, several of which would remain of school age. In any case, a permanent personal permission would be acceptable based on the planning balance. I have not therefore considered a temporary permission further.

⁶ Green Belt Protection and Intentional Unauthorised Development 2015

Other Matters

Designated Habitat Sites

39. The Thames Estuary and Marshes Ramsar site and Special Protection Area (SPA) are internationally important for nature conservation as the area comprises wetland and supports important numbers of wintering, waterbirds and migrating birds. There has been a decline in the numbers of birds using these sites in recent years and studies show this could be in part due to people using the estuary and marshes for recreation. Without mitigation, increased visitor numbers associated with new residential development would be likely to have harmful effects on the integrity of the SPA as a result of increased disturbance to wildlife. The appeal site is within 6km of the designated site, within the area where residents have been found to visit the sites for recreation. There is therefore a pathway for the development to have effects on the qualifying features of the designated site and a likely significant effect, either alone or in combination, cannot be ruled out.
40. The Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy 2014 (SAMMS) adopts a strategic approach to mitigation. It uses a tariff based approach to secure contributions from development to fund a range of mitigation measures, including wardening, interpretation and signage, posting of rangers and a 'dog project' among others relating to habitat management and access management, to off-set the effects of increased visitors to the sites. Based on the evidence I have no strong reason to doubt that a contribution to those measures would be effective in mitigating the effects of the proposed development.
41. The appellant has made a payment to the Council of £337.49 as part of a SAMMS Contribution Agreement. The agreement sets out the terms of the payment and its purpose and the Council provided assurances in the hearing that the contribution is transferred to Birdwise North Kent for spending for the required purpose. Given these circumstances I am satisfied, as the competent authority for the benefit of the Habitat Regulations, that the mitigation would allow the adverse effects of the development to be reduced to a de minimis level. The proposal would accord with Policy CS12 of the CS which requires protection of sites designated for their biodiversity value.

Effects on Biodiversity

42. CS Policy CS12 requires no net loss of biodiversity, and opportunities to enhance, restore, re-create and maintain habitats will be sought. Once implemented in full, the proposed site layout would allow ample space for the inclusion of biodiversity enhancements including native planting. The Council accept this could be adequately secured by condition and I agree with that view. While I am aware of matters relating to the removal of trees on White Post Lane, those are outside the appeal site and beyond the scope of this appeal.

Presumption in Favour of Sustainable Development

43. The PPTS makes clear, at paragraph 28, that if a local planning authority cannot demonstrate an up to date 5 year supply of deliverable sites, the provisions of paragraph 11d) of the Framework will apply. In the course of this decision it has been established that the policies in the Framework which protect the Green Belt do not provide a strong reason for refusing the development proposed. In turning

to part ii, for the reasons set out in the balancing exercise above and in having regard to the policies in the Framework as a whole and the key policies listed, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. Accordingly the proposal therefore also benefits from the presumption in favour of sustainable development set out in the Framework. This assessment accords with Policy CS01 of the CS which reiterates the provisions of the Framework.

Conditions

44. To provide certainty to the parties, a condition is necessary to list the approved plans. A condition is also necessary to specify the number of pitches and caravans for the same reason.
45. The proposal is acceptable in part due to the personal circumstances of the appellant. However, noting the failure of the Council to provide pitches to meet its needs and the weight which those factors attract, I have not found it necessary to impose a personal condition as the site could, in due course, contribute towards meeting the remaining unmet need in the Borough. With this in mind, it is therefore necessary to impose a condition to restrict occupation to Gypsies and Travellers who meet the definition to ensure it would contribute to that purpose.
46. To ensure suitable living conditions and in the interests of preventing localised flooding, details of foul and surface water drainage for the site are necessary. To meet the policy requirement relating to biodiversity, a scheme of ecological works and enhancements is also necessary. I have, however, adapted the Council's wording to ensure the condition is proportionate to the development before me.
47. For reasons of visual amenity and to preserve the landscape character, details of soft landscaping and its maintenance, as well as details of materials for the dayroom and external lighting, and a restriction on the use of commercial vehicles on the site, are necessary. I have removed the requirement insofar as it relates to hard surfacing since those areas are defined on the approved plans and have little, if any, visibility from the surrounding area.
48. While the site adjoins a railway line to the rear, there is not substantive evidence to suggest a noise impact assessment would meet the test of necessity or reasonableness, given it would relate to insulation to a mobile home. Neither is there evidence to suggest a restriction on generators is necessary, given the distance to nearby properties. I have not conditioned the removal of permitted development rights for boundary treatments as I do not have details of the circumstances to justify such an approach, as set out in the PPG.
49. Given the location of the access and the remit of the appellant's control, I have not conditioned visibility splays and it has not been demonstrated that they would be necessary as a result of the proposal. The site would contain ample space for the parking and turning of vehicles and for storage of refuse and it would not meet the test of necessity to maintain those areas by condition. Given the imposition of a condition restricting occupancy on the site, a condition restricting the use of the dayroom is not considered necessary.
50. I note the appellant's comments at the hearing, that the conditions could be consolidated. However for ease of reference I have kept them separate. Neither

have I included tailpieces to the conditions relating to the consequences of non-compliance, since that would be a matter for the Council.

Conclusion

51. The proposal would conflict with the development plan. However, there are material considerations of sufficient weight which indicate that the decision should be made other than in accordance with it. The appeal is therefore allowed and planning permission granted.

C Shearing

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with drawing nos J005012-DD-01, J005012-DD-02, J005012-DD-03, J005012-DD-04.
- 2) The site shall not be occupied by any persons other than Gypsies and Travellers as defined in Annex 1: Glossary of the Planning Policy for Traveller Sites 2024, or its equivalent replacement in national policy.
- 3) There shall be no more than 1 pitch on the site and the pitch shall contain no more than two caravans each meeting the definition of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, and of which only 1 caravan shall be a static caravan.
- 4) Prior to the installation of the dayroom or its commencement above the damp proof course, details of its external finishes and materials shall be submitted to and approved in writing by the Local Planning Authority. The dayroom shall be constructed only in accordance with the approved details.
- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 6) Within 3 months of the date of this decision, details of a strategy to deal with foul water drainage on the site shall be submitted to the Local Planning Authority for approval in writing. The approved details shall be implemented in full within a period of 2 months following their approval, and the site shall be maintained in accordance with those details thereafter.
- 7) Within 3 months of the date of this decision, details of a strategy for surface water drainage on the site shall be submitted to the Local Planning Authority for approval in writing. The approved details shall be implemented in full within a period of 2 months following their approval, and the site shall be maintained in accordance with those details thereafter.
- 8) Within 3 months of the date of this decision, details of ecological enhancements for the site shall be submitted to the Local Planning Authority for approval in writing. Other than where they fall under the conditions relating to soft landscaping, the approved details shall be implemented in full within a period of 2 months following their approval and shall be so maintained.
- 9) Notwithstanding the approved plans, within 3 months from the date of this decision, details of soft landscaping for the site shall be submitted to the Local Planning Authority. This shall include but not be limited to native planting to the site boundaries. The planting shall be carried out in full no later than 12 months following its approval in writing.
- 10) Any trees or plants forming the approved soft landscaping details, which die, are damaged, removed or become diseased within five years from their planting, shall be replaced with a species of a similar size and species in the next available planting season.
- 11) No external lighting shall be installed to the site unless details have first been submitted to and approved in writing by the Local Planning Authority. Those details shall include levels of illumination, position and hours of use. External

lighting shall be installed and retained only in accordance with the details approved.

End of Schedule

APPEARANCES

FOR THE APPELLANT:

Brian Woods	Agent- WS Planning and Architecture
Michael Shilling	Appellant
Phyllis Smith	Partner of the Appellant

FOR THE COUNCIL:

Mr Shazard Ghani	Service Manager, Planning
Mr Richard Hart	Team Leader, Development Management
Mrs Sikdeep Coyle	Enforcement Team Leader