



Appeal Decision

Hearing held on 5 July 2022

Site visit made on 5 July 2022

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2022

Appeal Ref: APP/Z5630/W/20/3245773

Rushett Stables, Leatherhead Road, Chessington KT9 2NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Laura Williams against the decision of the Royal Borough of Kingston upon Thames.
 - The application Ref 19/01451/FUL, dated 20 May 2019, was refused by notice dated 31 July 2019.
 - The development proposed is the change of use of land to a private Gypsy and Traveller caravan site consisting of one mobile home and associated development, demolition of stable building.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to a private Gypsy and Traveller caravan site consisting of one mobile home and associated development, demolition of stable building at Rushett Stables, Leatherhead Road, Chessington KT9 2NG in accordance with the terms of the application, Ref 19/01451/FUL, dated 20 May 2019, and subject to the conditions in the attached schedule.

Preliminary Matters

2. The appellant is an ethnic Romany Gypsy. At the hearing the appellant explained how she had supported and undertaken work with and for her family when they travelled in association with roofing work and at horse fairs. While this was for a relatively short period I am satisfied that this was a nomadic habit of life for an economic purpose. The appellant has ceased to travel while her children grow up and the evidence I heard was that the appellant intends to resume travelling to support her son's roofing business in due course. I am satisfied that the circumstances of the appellant meet with the definition of a Gypsy and Traveller as set out in Annex 1 of the Planning Policy for Traveller Sites (August 2015) (the PPTS).
3. **It was clarified at the hearing that the proposal includes the demolition of the separate tack room as well as the stables building. I will consider the proposal on that basis.**

Main Issues

4. The main issues are:

- whether or not the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, including the effect of the proposal on the openness of the Green Belt,
- the effect of the proposal on the character and appearance of the area, and
- when examining the overall planning balance, whether or not the proposal would accord with the development plan when considered as a whole and, if so, whether or not material considerations indicate a decision should be made otherwise.

Reasons

Whether or not inappropriate development in the Green Belt

5. The site is located within the Green Belt. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. Policies CS3 and DM5 of the Royal Borough of Kingston upon Thames Core Strategy (adopted April 2012) (the Core Strategy) sets out the Council's approach to development in the Green Belt and is very broadly consistent with national advice in this respect.
7. The appeal site consists of a rectangular section of land running parallel with the Leatherhead Road. This forms part of the wider area that was approved in 2015 as part of a planning permission¹ for the erection of stables, tack room, entrance gates, retention of the permeable hardstanding and the use of the site for the keeping of horses. The plan that supported that application shows the location and elevations of the stable building and the separate tack room. The area of the hardstanding corresponds with the area of the present appeal site. Within this hardstanding area, the plans in 2015 also show the positioning of a caravan, which it is understood had been a longstanding feature of the site and used for shelter and refreshment by those attending the site when looking after the horses.
8. **The Framework explains in paragraphs 149 and 150 the exceptions when development in the Green Belt may be considered to be not inappropriate.** Paragraph 149 concerns the construction of new buildings and the exceptions are not applicable in this case as the proposal is not for a building but is for the change of use of land for a caravan site. Paragraph 150 lists other forms of development which may be considered not inappropriate. This includes material changes in the use of land under paragraph 150(e). This criterion includes, within the accompanying brackets, examples of the type of use which may be applicable. However, this is not a closed list and the wording says "such as" and therefore highlights examples. **I have not been presented with persuasive or clear evidence that demonstrates that the criterion would exclude the change of use of land for a caravan site from consideration under paragraph 150(e).**

¹ Application 15/10076/FUL

9. Indeed, my conclusion is that the proposal can be considered under paragraph 150(e) of the Framework. Additionally, all the listed forms of development in paragraph 150 are subject to the requirements that they preserve openness and do not conflict with the purposes of including land within the Green Belt.
10. It is therefore necessary to look at the impact of the proposal on both openness and the purposes of including land within a Green Belt. Examining openness first, openness is capable of having both spatial and visual aspects, in other words, the visual impact of the proposal may be relevant, as could its volume.
11. In this case, the site already contains an authorised stable building and a separate tack room. These buildings are positioned along the boundary with the road. These permanent and substantially constructed buildings affect the openness of the site in both a spatial and visual form. The approved plans for the equestrian development also identified the stationing of a caravan – albeit not for residential purposes. When on site this caravan would also have a spatial and visual impact. The site presently has an unauthorised mobile home which should be discounted from the analysis of the present effect on the openness of the area.
12. The scheme would involve the demolition of the stables and tack room buildings. These have a combined floorspace of about 82m² and a volume of about 267m³. The appellant indicates that they would wish to station a twin unit mobile home (36ft by 20ft) (11m by 6.1m), replacing the present single unit. This proposed size of mobile home could be restricted by a planning condition in any approval to limit the effect on openness. This mobile home would have a floorspace of about 67m² and a volume of about 177m³. Consequently, in spatial terms the removal of the two existing and lawful buildings on the site and the replacement with a twin unit mobile home would result in an overall reduction in floorspace and volume of development on the site. The Council accepted at the hearing that this aspect of the proposal would result in an increase in the openness of the site and I agree.
13. There would be, in all likelihood, some external presence from the activities associated with the lawful equestrian use within the hardstanding area such as a horse box and vehicles when the site was visited. I consider, however, there is likely to be more external presence in association with the residential use from the proposed mobile home than with the lawful equestrian use of the site. At my visit I was able to see the domestic paraphernalia associated with the occupation of the present mobile home and this included children's play equipment, patio furniture and the barbeque shelter. However, this was still fairly limited in extent and its spread across the site. There would also be parking associated with the residential use. The touring caravan that is occupied by the appellant's son was not present at the time of my visit because he was away working. When on site, in general, the presence of this touring caravan would, it seems to me, be broadly equivalent to the presence of the caravan shown on the plans as part of the 2015 approval and therefore neutral in terms of the effect on Green Belt openness.
14. The parking and external paraphernalia associated with the residential use affects openness although the paraphernalia has a fairly limited spread across the site, is not particularly bulky and is mobile, and therefore gives a reasonably transitory appearance. This adverse effect on openness, together

with the effect on openness of the proposed mobile home, would still be more than compensated by the reduction in the floorspace and volume resulting from the removal of the buildings. Taking all the effects together, **I consider that the net effect of the proposal, in spatial terms, would be to lead to an increase in openness on the site.**

15. In terms of the visual aspects of openness, both the buildings to be removed and the proposed mobile home are all within the authorised hardstanding area and fairly close together. This hardstanding area is contained by post and rail fences on the field sides and this would limit the spread of residential activity, as it does at the present time. My judgement, having visited the site and seen the existing situation, is that visually the removal of the stables and tack room, which extend along a reasonable extent of the road side boundary, would make a material improvement to the visual openness of the site, both when viewed within the site and from the road where elements of the stable building, in particular, are visible. The proposed twin unit mobile home would be a single, more contained volume and would spread less across the site than the existing stable and tack room. Even taking into account the paraphernalia and vehicles that would be associated with the residential use of the site as a single pitch, visually the openness of the Green Belt in this location would not be worsened compared to the lawful use of the site and would, in all likelihood, be increased by the proposal.

16. I therefore conclude that the proposal would preserve the openness of this part of the Green Belt in both spatial and visual terms. This requirement of paragraph 150 of the Framework would be met by the scheme.

17. There is also the requirement that to be not inappropriate development the proposal should not conflict with the purposes of including land within the Green Belt. The purposes are set out in paragraph 138 of the Framework and the reason for refusal identified conflict with the purpose to check the unrestricted sprawl of large built up areas.

18. On the western side of the road, there is the fairly large garden centre, with its buildings and car parks, and further up the road is the substantial site of Chessington World of Adventures. However, the appeal site lies on the other side of the road, behind a well vegetated verge and is more associated with the wider fields and woodland in this area. This area is vulnerable to the encroachment of development which could extend structures into open and green areas. I was conscious of this when I viewed the site and also that this has been raised in many of the representations.

19. However, the Council has already permitted the hardstanding area with the stables and tack room. This has encroached into this part of the countryside and the Statement of Common Ground confirms that the land falls within the definition of Previously Developed Land (PDL). In this sense, the appeal site is not open and undeveloped countryside. The proposed mobile home and the associated residential use would not encroach further into the undeveloped countryside than the existing and lawful hardstanding area with its equestrian use. As I have explained, the floorspace and volume of the mobile home would be less than the buildings on site at present. While the mobile home would be likely positioned, as is the present unauthorised one, towards the northern end of the site, this presence would be more than mitigated by the removal of the buildings positioned along the boundary with the road. There would still be a

clear dividing line between the open undeveloped adjoining fields and the PDL of the appeal site.

20. My analysis of the plans and from visiting the site is that the proposal, in principle and in practice, with the removal of the two buildings and containment of the residential use within the hardstanding area, would not lead to an increase in physical presence of development on the site, or beyond it. As a result, there would not be an encroachment or sprawl of the built-up area into the countryside in comparison to the lawful use and buildings on the land. Consequently, I am satisfied that the scheme would not conflict with any of the Green Belt purposes in paragraph 138 of the Framework and, in particular, with those purposes to check the unrestricted sprawl of large built-up areas and to assist with safeguarding the countryside from encroachment.
21. Following from the above analysis, the scheme would involve the material change in the use of land where it would preserve openness and not conflict with the purposes of including land within the Green Belt. Consequently, the requirements of paragraph 150 of the Framework would be met and the scheme would not be inappropriate development. Consequently, there would not be the need to demonstrate very special circumstances to justify the development.
22. I am aware that the previous Inspector, when he determined a proposal for the land in 2017², found that the stationing of the mobile home on the site would be inappropriate development in the Green Belt. The PPTS (August 2015) was extant then, as it is now, and paragraph 16 states that traveller sites (temporary or permanent) in the Green Belt are inappropriate development.
23. At the time of the publication of the PPTS, the Framework was in its original published form (March 2012) and this was also the version before the Inspector when he determined the appeal in May 2017. Importantly at that time, paragraph 90 of the 2012 Framework did not include the exception regarding material changes in the use of land in the Green Belt. As a consequence, because this exception was not available to be considered, and on the basis of the then consistency of the Framework policy approach and the PPTS, it was not disputed at that appeal that the proposed part change of use of the site to a traveller pitch would be inappropriate development.
24. The exception regarding the material change of use of land within the Green Belt was subsequently added to the Framework. It was first added to the version of the Framework in July 2018, retained in the February 2019 version and now appears within paragraph 150 of the present July 2021 version of the Framework. It is this exception that the appellant seeks to rely upon in this appeal.
25. The present Framework post dates the PPTS and, notwithstanding the statement in the PPTS regarding traveller sites and the Green Belt, I consider that there is no detailed reason why the scheme cannot fall to be considered under paragraph 150(e) of the Framework and this is the approach that I have taken above.
26. The scheme is also materially different from the proposal before the previous Inspector because the stables and tack room are now proposed to be removed

² Appeal reference APP/Z5630/W/16/3156799 – dated 19 May 2017

and therefore the analysis on the effects on openness and the purposes is different. While I have carefully considered the previous Inspector's commentary and conclusions, for the reasons explained above, I judge that the scheme would not be inappropriate development in the Green Belt. Accordingly, I conclude that the scheme would not conflict with Policies CS3 and DM5 of the Core Strategy in as far as they seek to protect the Green Belt.

Character and appearance

27. The site is quite well screened from Leatherhead Road. Along this frontage there is a fairly wide verge which consists of lower bushes and shrubs, and some taller, mature trees. There is a close boarded fence behind the planting and solid gates to the vehicular access. This all assists with reducing views into the site. The road is busy and there is development on the other side of the road. Nevertheless, because of the vegetation that stretches along this side of Leatherhead Road there is a reasonably rural character. The upper section of the existing, unauthorised mobile home is partially visible from the road and there are also some limited and longer distance views of parts of the mobile home from Rushett Lane to the south through the boundary vegetation, although at the time of my visit a stack of hay bales was positioned in the corner of the adjoining field which restricted views.
28. The removal of the stables, which are partly visible above the fence and through a gap in the vegetative screen from Leatherhead Road, would provide a small visual enhancement to the site. The proposed larger mobile home than is presently on site would potentially be more apparent simply because of its size, but it is not a requirement of the PPTS that Gypsy and Traveller sites should be completely screened in the countryside. Furthermore, a planting scheme, including along part of the southern boundary of the blue lined area, as part of any approval, could assist with the softening of the longer distance views from Rushett Lane.
29. However, notwithstanding the limited visibility and the ability to provide further mitigation, the site has a rural setting and generally has most affinity and association with the adjoining fields and the wider woodland beyond. The authorised use of the site is for equestrian activities and this is the type of use, with its resulting visual appearance, that is generally compatible with the rural setting and character of this area.
30. The proposed residential use would not affect openness or cause an encroachment into the countryside, and Gypsy and Traveller sites are often seen in the countryside. However, in terms of the character of this site there is now the domestic appearance of a mobile home, including the associated activity, external lighting and the related paraphernalia. This has diminished the rural appearance and character of this particular site in its countryside setting compared with the lawful equestrian use. While this harm may be localised and with limited public effects, this particular location is vulnerable to its rural appearance being eroded.
31. Accordingly, I conclude that there would be some localised and limited harm to the character and appearance of the area in this vulnerable location. In this respect there would be conflict with the intentions of Policies CS3 and DM5 of the Core Strategy, although the criteria related to character and appearance (as opposed to Green Belt) is written in quite broad terms. Additionally, because of this harm that I have identified, the scheme would not meet with

the Framework policy requirement that development should be sympathetic to local character.

Development plan and other considerations

32. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise³.
33. Policy DM16 of the Core Strategy sets the policy approach to the provision of new Gypsy and Traveller sites within the plan area. The site is located in open countryside but is not particularly away from settlements which have a wide range of services and facilities. There appears to be fairly convenient access to local schools and a GP surgery. The petrol filling station to the south is within walking distance and has an associated shop which sells some convenience goods. Furthermore, there are bus stops on either side of the road close to the site and the Leatherhead Road is a main road between adjoining settlements. Taken together, there is fairly good and convenient access to local services and facilities and it is possible to access them by means other than the private vehicle. The site is not located in an area of high flood risk and there is no case made that there is contaminated land. In these circumstances, the provision of a Gypsy and Traveller pitch on this site would meet with the requirements of Policy DM16 of the Core Strategy. This accords with the findings of the previous Inspector and compliance with Policy DM16 was accepted by the Council at the hearing.
34. In terms of my other findings in relation to the Core Strategy, I am satisfied that there would be no Green Belt harm and the proposal would accord with Policies CS3 and DM5 of the Core Strategy in relation to the Green Belt aspects of these policies. There would be some limited harm to the character and appearance of the area and this harm would not accord with the broad intentions of these same policies in this particular respect.
35. When considering the development plan as a whole, the compliance with Policy DM16 is significant, as is the accordance with the Green Belt policy aspects of the Core Strategy. The harm resulting from the effect on the character and appearance of the area is localised and limited and this conflict with the related Core Strategy policies should be assessed in this context. Taken in the round, I conclude that the scheme would comply with the development plan when considered as a whole. It is therefore necessary to consider whether material considerations indicate that a decision should be made otherwise than in accordance with the development plan.
36. There are a wide range of other considerations which have been raised in this appeal and I will consider the substantive ones below.
37. *Intentional unauthorised development.* In August 2015, the Department for Communities and Local Government issued a planning policy statement on Green Belt protection and intentional unauthorised development. This made intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals.

³ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

38. The circumstances that led to the mobile home being brought onto the site in February 2016 are documented in the previous appeal decision and on that basis the Inspector concluded that intentional unauthorised development had occurred and that this harm should be afforded significant weight.
39. I appreciate that the previous appellant is different from the present one and I heard the background circumstances at the hearing. Nevertheless, **the existing mobile home is on the site as a result of intentional unauthorised development and the present appellant has occupied the mobile home since it was first brought onto the land. The mobile home is still unauthorised and I consider that the intentional unauthorised development should still merit significant weight against the scheme.**
40. *The level of unmet need for Gypsy pitches in the Borough.* At the previous appeal the evidence from the 2008 London Gypsy and Traveller Accommodation Needs Assessment identified a need for 11 additional pitches in the Borough. The latest needs assessment, the Royal Borough of Kingston upon Thames Gypsy and Traveller Accommodation Needs Assessment (September 2018) identified a need for 44 additional pitches in the period up to 2041 for households that meet the PPTS definition. This latest Assessment identifies that 30 of those pitches are required in the period 2018-2023. This is a fairly substantial increase in identified need.
41. The information before me is that the only Council site in the Borough, at Swallow Park, is overcrowded and the Council was unable to provide me with any clear and documented information on the pitches that had been granted planning permission since the last appeal⁴. In any case, the information that is available shows a significant shortfall between the number of pitches that are needed and those, or any, which have been permitted. **The existing inadequate level of local provision and the need for a fairly substantial number of additional pitches in the Borough is a matter to which I attribute substantial weight in support of this scheme to accommodate the housing requirements of a local Gypsy family.**
42. *Whether the Council will be able to meet the need for gypsy pitches in the Borough.* The Council is unable to demonstrate a five year supply of deliverable sites. Furthermore, the Council was unable to provide convincing evidence that there are sites in the pipeline which would help address the need for pitches in the Borough. I am conscious of the advice in paragraph 27 of the PPTS concerning the weight to be attached when a local planning authority is unable to demonstrate an up-to-date 5 year supply of deliverable sites in the Green Belt. Nevertheless, the lack of clear evidence of the likelihood of the Council making any significant progress by granting planning permissions for pitches in the near future is a matter that reinforces the concerns regarding the present under supply of pitches and the lack of past provision. The site would make a small but worthwhile contribution towards meeting the outstanding need.
43. *Policy progress and timetable and any failure of policy.* The previous Inspector detailed the Council's anticipated timetable for Gypsy and Traveller policy and the identification of sites. The evidence before that Inspector was that the

⁴ In answer to my question on the number of pitches which had been permitted since 2017, the Council's representative indicated maybe 1 or 2, a local resident indicated that a personal planning permission had been granted for a Traveller site at Green Lane and Dr Murdoch stated (in reference to published data) that none had been granted since the appeal in 2017.

policy adoption was not anticipated until 2019. Since that appeal I believe that there has been a call for sites to help identify land to meet the need and that a consultation draft of the Local Plan is anticipated to be published in the Autumn of 2022. However, this appears to be delayed progress compared with what was envisaged and the policy situation is still at an emerging stage, with limited evidence before me that the necessary sites will be able to be identified.

44. It may be, with the publication of the draft Local Plan, that progress will start to be made with identifying and then permitting pitches to meet the identified need. However, at the present time **there appears to have been very limited policy progress over past years to assist with delivering pitches to facilitate the gypsy way of life in accordance with the PPTS. This should be considered a failure of policy and should be attributed substantial weight in support of the appeal proposal.**
45. It was explained at the hearing that the local area has recently been designated to enable progress with the production of a neighbourhood plan. Completion of the neighbourhood plan is likely to take some time and, at present, the designation of the area does not assist with the considerations in this appeal.
46. *Available, suitable, acceptable and affordable alternative sites.* It is common ground between the Council and the appellant that there are no suitable alternative pitches available that the appellant could access to meet their accommodation needs. This would be the same for other gypsy families within the Borough, and in many parts of the country, and therefore I attribute this matter moderate weight.
47. *Previously developed land (PDL).* The appeal site, consisting of the area of the hardstanding with the existing buildings, is agreed by the Council and appellant to be PDL. Paragraph 26 of the PPTS says that when considering applications weight should be attached to the effective use of PDL. In this case, the site is Green Belt and countryside outside any settlement. However, it is not undeveloped in the sense that it is grazing land or woodland. Subject to other policy considerations and impacts, the use of PDL and the redevelopment of the site with the removal of the existing buildings is to be encouraged rather than developing a green field site. In the circumstances of the Borough and its constraints, I attribute the re-use of PDL for the development, with the removal of the existing buildings, as meriting substantial weight in favour of the proposal.
48. *The best interests of the children.* The appellant has three children under the age of 18 (and an older son). The youngest two children are well established at their respective schools and the eldest child is about to go onto a local college. It seems that this settled base has been an important factor in facilitating regular attendance and attainment at their schools. I appreciate that the appellant gave up a rented house in 2016 to move onto the site and that children often change schools successfully when families move properties. However, in this case there appears to be no culturally appropriate housing available locally and a road side existence has been indicated as likely were the appellant and family to be required to leave the site. The appellant had previously lived in bricks and mortar housing for about two years, although I heard that this was not without some cultural aversion, but had always lived in a caravan at the other times of her life.

49. In considering these matters I am conscious that the best interests of the child⁵ shall be a primary consideration in all actions by public authorities concerning children. No other consideration can be inherently more important than the best interests of the child, that is, the need to safeguard and promote their welfare. However, in general terms, the importance or weight given to the best interests of the child and any other considerations will always depend on the circumstances and that their interests can be outweighed by other factors when considered in context.
50. Bearing this in mind and drawing these matters together, the children have benefited from a settled base on this unauthorised site. With the potential consequences if permission was to be refused, including a possible road side existence leading to the likely adverse impacts on schooling and general wellbeing, **I attribute substantial weight to the best interests of the children. I consider that the children's circumstances have changed since the earlier appeal decision in this respect and this has led to the increased weight that I have attached to this matter.**
51. *The previous appeal decision.* **The findings of the previous Inspector are very relevant to the considerations before me and that Inspector dismissed that appeal.** Consistency in decision making is important. However, the scheme is different to that which was before the previous Inspector. This proposal includes the removal of the two buildings and this results in a different analysis on the effects on openness and in relation to the purposes of the Green Belt. Also the Framework has changed and this policy document includes a criterion that allows the consideration of material changes of use within the Green Belt such that this has allowed me to conclude that the scheme would not be inappropriate development. It does not appear that the previous Inspector took material account that the site was PDL, which is a factor that aids the case for the development.
52. Furthermore, I do not know what the situation was on the ground in 2017 when the Inspector considered the effect of the proposal on the character and appearance of the area. My findings, based on all the submissions and my site visit, is that there would be some harm in this respect but that the harm would be limited and localised.
- 53. I place great weight on the previous appeal decision but for the reasons explained there are material differences with the considerations that are before me and which have led me to my findings and overall conclusion.**

Other Matters

54. There are a range of representations both at the application and appeal stage and these include submissions from local residents, local Councillors and the Malden Rushett Residents Association. These representations mainly object to the proposal but there are some in support.
55. I understand the concerns raised that the site is on Green Belt land and in the countryside and I have analysed these matters above. The planning history of the site and the previous assurances that a caravan would not be brought on to the site are understood. I also understand that the previous appellant gave a legal undertaking to the Council that, were the previous appeal to be

⁵ Article 3(1) of the United Nations Convention on the Rights of the Child.

dismissed, the residential use would cease. It appears that the Council has not been able to enforce this agreement to date and that planning enforcement matters have been protracted. These are all concerns which have been articulated in many of the representations before me and I can appreciate the frustration which has been set out. I attribute substantial weight to the intentional unauthorised development aspects of the case, however, this background needs to be considered in the balance with the other planning issues.

56. Some of the representations raise other concerns including with the impact on highway safety. The road is busy, however, there are adequate sight lines from the access and the gates are set back so that vehicles can safely pull off the road. The proposal was not refused by the Council because of its highway aspects and I have found no reason to disagree.

Planning Balance

57. I have concluded that the proposal would not be inappropriate development in the Green Belt and would comply with the development plan when considered as a whole.
58. In terms of the other considerations, in respect of the matters that weigh against the proposal, I have found some localised and limited harm to the character and appearance of the area and that **intentional unauthorised development has taken place, to which I attribute substantial weight.**
59. On the other hand, **there has been a sustained and significant level of unmet need in the Borough,** policy failure to provide for the Gypsy and Traveller way of life and limited evidence of likely substantial progress to meet that need going forward. The scheme would make a small but worthwhile contribution to help address the outstanding need for pitches and meet the housing needs of this appellant and family. There are no suitable, culturally appropriate alternative sites were the appellant and her family be required to leave the site. The best interests of the children weigh in favour of the proposal. **The proposal would reuse PDL which is highlighted as a matter in the PPTS to which weight should be attributed.** In terms of all these considerations, while not underestimating the identified harm, **those matters that weigh in favour of the development are significant and collectively would clearly and substantially outweigh the harm that I have identified.**
60. Consequently, the balance of the other planning considerations also support the case for approval. I therefore conclude that the proposal would comply with the development plan and material considerations do not indicate a decision should be made otherwise. On this basis, the appeal should succeed.
61. In the light of my conclusion I have not needed to consider in more detail the personal circumstances of the appellant, human rights or the Public Sector Equality Duty as contained in section 149 of the Equality Act 2010. Approval of the scheme would protect the rights of the occupiers of the site and there would be no interference with the protected characteristics of the appellant as an ethnic Romany Gypsy. **A permanent permission is warranted and, consequently, I have not examined the merits of a personal or temporary permission.**

Conditions

62. I have had regard to the conditions suggested by the Council and the advice in the Planning Practice Guidance. I have amended the wording where necessary in the interests of clarity or to meet the tests in the Guidance. A condition specifying the statutory time limit is not required nor a condition identifying the single plan as the residential occupation of the site has already commenced.
63. Conditions are required to limit the number of caravans, with only one static caravan, and for that static caravan to be limited in size, in the interests of protecting the openness of the Green Belt. Conditions are required to prevent commercial activities and limit the size of any vehicle on the site to accord with the terms of the proposal, in the interests of the visual amenities of the area and the protection of the Green Belt.
64. A condition is necessary for any external lighting to be agreed and only for the approved lighting to be implemented in the interests of the character and appearance of the area. A condition is necessary to require the removal of the stables and tack room in the interests of the openness of the Green Belt and the character and appearance of the area. A six month period for the removal of these buildings is reasonable so that the demolition can be planned and take place within this period even if there was to be a period of poor weather.
65. A condition is necessary to ensure that occupiers of the site are Gypsies and Travellers in accordance with the PPTS definition as this is the justification for the residential accommodation in this countryside area. A condition is required for the submission, agreement and then implementation of a landscaping scheme. The wording is specified so that if the details are not submitted and approved in a timely fashion, the residential use of the site would cease until such time as approval had been given.
66. The Council also suggested other conditions. However, there is no need for a condition that would prevent the construction of further buildings or the stationing of additional caravans as planning permission would be required for both, with the number of caravans restricted by condition 1. It would also not be reasonable or necessary for a condition to remove permitted development rights for fences, gates or walls as these are largely in place already and it is not clear what harm, if any, would result were such structures to be built within the appeal site. Finally a condition is not reasonable or necessary to retain the porous surface of the appeal site. It is already in place, appears to function effectively and the site is not located within an area that is subject to flood issues.

Conclusion

67. For the above reasons, and subject to the specified conditions, I conclude that the appeal should be allowed.

David Wyborn

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Dr Angus Murdoch	Director of Murdoch Planning Limited
Mrs Laura Williams	Appellant

FOR THE LOCAL PLANNING AUTHORITY

Mr Toby Feltham	Royal Borough of Kingston upon Thames
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INTERESTED PARTIES

Mr Rob Robb	Local Resident
Mr Andrew Watson	Local Resident
Mrs Sue Towner	Local Resident
Mrs Ruth MacKinlay	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Three letters submitted by Dr Murdoch

Schedule of Conditions

- 1) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended), of which no more than one caravan shall be a static caravan, shall be stationed on the site at any one time.
- 2) The static caravan hereby permitted shall be no larger in area than 11m by 6.1m (36ft by 20ft).
- 3) No commercial activities shall take place on the land, including the storage of materials.
- 4) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 5) Prior to the erection of any external lighting, details shall be submitted to and be approved in writing by the Local Planning Authority and any external lighting shall be erected in accordance with the approved details and thereafter be so retained.
- 6) The stables and tack room shall be removed in their entirety from the site within 6 months of the date of this decision.
- 7) 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 (August 2015).
- 8) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 3 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for landscaping shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.
 - v) Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.