

Hadlow (Hadlow) **563777 150399** **18 September 2014** **TM/14/02816/FL**
Hadlow And East
Peckham

Proposal: Change of use of land to a private gypsy and traveller caravan site consisting of 2no. pitches
Location: Alans Hectare Cemetery Lane Hadlow Tonbridge Kent TN11 0LT
Applicant: T Coster And O Eastwood

1. Description:

1.1 This application is subject to an appeal to the Planning Inspectorate against non-determination within the target date (November 2014). Accordingly, this report seeks a resolution from Members to determine what the Council's decision would have been if they were still in a position to determine the application. This resolution will be taken forward and used as the basis for the Council's case in connection with the appeal. The nature of the development proposals now subject of the appeal is set out as follows:

1.2 The application sought planning permission for the change of use of land to a private Gypsy and Traveller caravan site consisting of two pitches. The application is now largely retrospective as the site is occupied by two plots, each containing a mobile home and separate day room. Supporting information has been submitted to accompany the planning application, which details the need for Traveller sites within the Borough and wider area and relevant Government guidance and development plan policies, alongside the circumstances of the applicants. To summarise, this supporting information states:

- TMBCS policy is out of date as there is no five year supply of Traveller sites and the Council's sole method of meeting need is via public provision on the extended Coldharbour site;
- A rural location is essential and there is no preclusion of such sites within the countryside;
- It forms no part of national or local planning policy that such sites must be hidden or invisible in order to be acceptable; there is an acceptance through policy that some degree of visual impact is to be expected;
- Planning conditions controlling hard and soft landscaping could be suitably imposed;
- The Planning Policy for Traveller Sites 2012 (PPTS) indicates a Government preference for private site provision meaning that granting planning permission

here would accord with the aims of that policy whilst letting two of those Gypsy families who cannot provide their own sites apply for the Coldharbour pitches;

- Accepts that the development constitutes inappropriate development but in terms of any other harm, there is a highly localised and limited impact on openness and an extremely modest encroachment into the countryside;
- There is no requirement that the applicant – as opposed to the evidence – establish that there are no available alternative sites available;
- Personal circumstances of the applicants and the best needs of the children are capable of being material considerations.
[Although it should be noted that other than providing evidence to support that the applicants are Gypsies in line with the definition contained within the PPTS, no further substantive information has been provided within these regards.]

1.3 The application is also supported by a Landscape Design Statement and proposals for additional landscaping across the site. Some landscaping has already been undertaken across the site.

1.4 This application follows the refusal of planning application TM/12/01760/FL which proposed the change of use of the land to allow for the siting of one mobile home and one touring caravan for occupation by one Gypsy family. This was refused in October 2012 for the following reasons:

- *“The site lies within the Metropolitan Green Belt where there is a strong presumption against permitting inappropriate development, as defined in paragraphs 89-91 of the National Planning Policy Framework 2012 and paragraph 14 of the Planning Policy for Traveller Sites 2012 and Policies CP3 and CP20 of the Tonbridge and Malling Borough Core Strategy 2007. An inadequate case of very special circumstances has been submitted in justification of the harm caused by inappropriateness and the harm to the openness of the Green Belt.”*
- *“The development, by virtue of its nature and scale, detracts from the openness of the Green Belt and the character of the rural locality and is therefore contrary to paragraphs 17 and 79 of the National Planning Policy Framework 2012, paragraph 23 of the Planning Policy for Traveller Sites 2012 and Policies CP14 and CP20 of the Tonbridge and Malling Borough Local Development Framework Core Strategy.”*
- *“The development is contrary to paragraph 22 of the Planning Policy for Traveller Sites 2012 and Policy CP20 of the Tonbridge and Malling Borough Core Strategy 2007 for the reason that the likely need for additional gypsy pitches within the Borough will be met by the proposed expansion of an existing gypsy site in the Borough.”*

1.5 The application was effectively held in abeyance since its submission pending some key decisions from the Court of Appeal and the Planning Inspectorate. Those decisions have now come forward, giving greater direction about the way in which we should be dealing with these cases. The implications for this case are discussed throughout the assessment that follows.

1.6 It was whilst we waited for these important decisions to come forward that the applicant submitted an appeal to the Planning Inspectorate against non-determination of the application within the target date (November 2014), as set out above.

2. Reason for reporting to Committee:

2.1 To seek a resolution from Members to determine what the Council's decision would have been if they were still in a position to determine the application.

3. The Site:

3.1 The site lies within the Metropolitan Green Belt, to the south of Cemetery Lane, near to its junction with Maidstone Road. To the west of the site lies The Harrow, a former Public House, and a general ribbon of residential properties fronting onto Maidstone Road.

3.2 A public footpath runs along the southern boundary of the site at a distance in excess of 70m from the mobile homes themselves.

3.3 To the west of Alan's Hectare is a site known as Springfield Place; this site is an authorised caravan site for an extended Gypsy family. The planning permission in this case allows for a total of three static caravans and a single touring caravan. Currently a fourth static caravan is in situ and is subject to enforcement action. This site, and the family residing there, has no links to the applicants of this current submission, other than forming an immediately adjoining piece of land.

3.4 The application site itself has, in recent months, been subject to a certain amount of unauthorised development including the creation of the access drive and forecourt parking areas shown on the submitted plans. In respect of 'Plot 1' (as identified on the submitted plans), the mobile home is in situ (although handed at 90 degrees from the position shown on those plans). The day room is also in situ as is a touring caravan. At the time of our last inspection, a trampoline also had been located in the garden area serving this unit.

3.5 In respect of 'Plot 2', the day room has been constructed and the base has been laid for the mobile home. A large touring caravan is also in situ and at the time of our last inspection a horsebox was parked to the rear of this plot.

3.6 In terms of landscaping, some hedge planting has already been undertaken and a post and rail fence has been erected, denoting the boundary between the caravan

plots and the remaining pasture land (which lies within the same ownership as the applicants). An existing post and wire type fence within the paddock (shown on the submitted plans to be removed) remains in situ at this time.

3.7 Dog pens/kennels have been placed within the paddock area, although close to the mobile home plots. These do not appear to be fixed into the ground and are more akin to moveable structures.

3.8 There do not appear to be any commercial activities currently taking place from the site.

4. Planning History (relevant):

TM/55/10166/OLD Refuse 25 October 1955

Erection of twenty two houses or bungalows

TM/59/10088/OLD Refuse 22 January 1959

Erection of dwelling

TM/66/10004/OLD Refuse 27 September 1966

Erection of 27 houses

TM/79/11496/OUT Refuse 1 June 1979

O/A for erection of dwelling houses (20-25)

TM/81/10340/FUL Refuse 4 February 1981

Siting of mobile home for temporary 5 year period.

TM/81/11039/OUT Refuse 19 June 1981

Outline application for one agricultural worker's bungalow

TM/88/10463/OUT Refuse 6 June 1988

Outline application for dwelling or smallholding

TM/91/11211/OUT Application Withdrawn 20 June 1991

5.5 Private Reps: 7 + site + press notice/0X/21R/0S. Objections have been raised on the following grounds:

- Inappropriate development in the Green Belt and no very special circumstances exist;
- Harm to local amenity value given proximity to a public footpath, open fields and a local cemetery;
- No changes in circumstance since the previous application was refused;
- Impact on the setting of Hadlow Tower;
- Visible from neighbouring properties;
- Harm to visual amenity;
- Likelihood of localised flooding and problems with surface water run off;
- Allowing this development would set a precedent for other proposals in the locality;
- Site can be viewed from the public road;
- Two pitches will cause additional hazards to traffic at the A26 junction;
- Septic tank drainage will not work;
- Soakaways will not be effective;
- Intensive use of the land for two pitches;
- No need for a Traveller site;
- Use of brownfield land should be prioritised;
- Spoils the rural nature of the surrounding area;
- Impact on the public footpath to the detriment of those who enjoy using it;
- Supporting information is heavily biased towards citing case law where other cases have succeeded at appeal;
- Little precedent to justify this type of development on sensitive green belt land;
- Potential of future expansion into the paddock land in future;
- Coldharbour expansion meets any need;

- Development would cause environmental and economic damage to the immediate area and the historic Hadlow Village as a whole.

6. Determining Issues:

6.1 The main issues in the consideration of this case relate to the principle of the development within the Green Belt, its impact upon openness, its impact upon the rural character of the locality more generally and the issues surrounding the provision and need of Traveller sites across the Borough. These matters form the basis of the assessment that follows.

Planning Policy for Traveller Sites (PPTS):

6.2 This forms part of the NPPF and should be read in conjunction with the guidance contained within it. PPTS makes clear that the implementation policies set out in the NPPF will apply also to decision-taking for Traveller sites. In applying those implementation provisions to Traveller sites, references in those provisions to policies in the NPPF should, where relevant, be read to include policies in the PPTS.

6.3 PPTS states that the government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates their traditional and nomadic way of life while respecting the interests of the settled community, and gives guidance in respect of the use of evidence, plan-making and decision-taking. It sets out that government's aims in respect of Traveller sites are:

- that local planning authorities should make their own assessment of need for the purposes of planning;
- to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites
- to encourage local planning authorities to plan for sites over a reasonable timescale;
- that plan-making and decision-taking should protect Green Belt from inappropriate development;
- to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites;
- that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective;
- for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies;

- to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply;
- to reduce tensions between settled and traveller communities in plan-making and planning decisions;
- to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure;
- for local planning authorities to have due regard to the protection of local amenity and local environment.

6.4 Specific planning policies for Traveller sites, including sites within the Green Belt, are clearly set out within this document. The requirements set out in PPTS are considered in detail throughout this report.

Human Rights and Equalities Considerations

6.5 A key matter in this type of case is the European Convention on Human Rights as applied by the Human Rights Act 1998 along with the Council's requirement to act in accordance with the Equalities Act 2010.

6.6 In terms of Equalities legislation, Gypsies and Travellers have a protected status that must be considered in all decisions made by Public Authorities. The Council needs to coherently apply the PPTS, as described above, which itself has been subject to Equality Impact Assessment (EqIA) by the Government. Specifically, the Council in the exercise of its statutory functions (in this case the determination of planning applications) has a clear duty to have due regard to particular needs and lifestyles when making decisions.

6.7 The Public Sector Equality Duty is set out at Section 149 of the Equalities Act 2010. It imposes a duty of all public authorities that they must, in the exercise of their functions, have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

6.8 This is a duty that applies to Local Planning Authorities, the Planning Inspectorate and the Secretary of State. The key point is that whilst the duty is not a lone

justification to grant planning permission or to stop enforcement action, decision makers must have regard to it when considering Traveller cases.

- 6.9 For example, it is necessary for consideration to be given as to whether refusing planning permission (which could potentially mean that the applicants would have to resort to roadside encampments) would be an action which would “foster good relations” between the settled community and Travellers. This is a matter that the Planning Committee must give due regard in the consideration of this case, and one that the Inspector will have regard to in determining the current appeal.

Impact on the Green Belt and Countryside:

- 6.10 The site lies within the Metropolitan Green Belt where the NPPF affords strict control to development stating that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy CP3 of the TMBCS sets out that national Green Belt policy will apply.
- 6.11 Paragraph 88 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 6.12 Policy E of the PPTS states that Traveller sites (temporary or permanent) in the Green Belt are inappropriate development; such development is harmful to the Green Belt and should not be approved except in very special circumstances. In July 2013, in a Ministerial Statement, the Secretary of State made clear he considered that the single issue of unmet need, whether for Traveller sites or for conventional housing, is unlikely to outweigh harm to the Green Belt, and other harm, such as to constitute the very special circumstances justifying inappropriate development in the Green Belt. A further written Ministerial Statement in January 2014 re-emphasised this point. Policy CP20 of the TMBCS also states that there is a presumption against Traveller sites in the Green Belt unless there are very special circumstances.
- 6.13 The high level of protection afforded to the Green Belt has further been emphasised in a letter from the DCLG dated 31 August 2105 which sets out a planning policy statement explaining changes to national planning policy to make intentional unauthorised development a material consideration, and also to provide stronger protection for the Green Belt. It states:

“The government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place. Such cases can involve local planning authorities having to take expensive and time consuming enforcement action.”

For these reasons, this statement introduces a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. This policy applies to all new planning applications and appeals received from 31 August 2015.

The government is particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt.”

- 6.14 A Written Ministerial Statement is expected to follow this autumn. It is important to recognise that the application to which the current appeal relates was submitted before 31 August 2015 and therefore this Statement does not directly apply. In any case, it is important to recognise that the Act still allows for the consideration of retrospective applications as a legitimate and proper way to deal with development. The purpose therefore for bringing this to Members' attention at this juncture is to highlight the clear position from Government concerning the importance of the Green Belt and the need to afford it continuing and stronger protection.
- 6.15 With the above considerations in mind, it is clear that the development constitutes inappropriate development, which is by definition harmful to the Green Belt thus requiring very special circumstances to exist which outweigh the degree of harm caused to the Green Belt. Having established this, it is also necessary to consider whether the development causes any other harm, which includes any other harm to the Green Belt itself along with any other harm that is relevant for planning purposes.
- 6.16 In addition to the definitional harm identified, the development causes clear material harm to the openness of the Green Belt in terms of its function and character. I appreciate that the site to some extent is seen within the context of the Springfield Place development, and the development beyond which fronts Maidstone Road. However, Alans Hectare is south and east of that established development and (until the unauthorised development commenced on site) was far more intrinsically open in character, being seen more readily within the context of the open countryside beyond as opposed to Springfield Place and the loosely linear form of development which characterises the Maidstone Road. The development therefore, undoubtedly, has eroded the openness of the Green Belt at this point. The mobile homes, day rooms, access road, forecourts, parked vehicles, domestic activity and residential paraphernalia have all contributed to a significant loss in openness. There has been a clear encroachment of development within the Green Belt in direct conflict with one of the purposes for including land within the Green Belt, as set out at paragraph 79 of the NPPF. I accept that a proportion of the land has been retained as a paddock and has retained an open quality but this in my view does not mitigate the harm arising from the development in any way.

Character and appearance of the countryside

- 6.17 A core principle of the Framework is that planning should recognise the intrinsic beauty and character of the countryside. Policy CP20 of the TMBCS requires consideration of the visual effect of the development on the character and appearance of its surroundings and rural amenity. More generally, policies CP1 and CP24 of the TMBCS and policy SQ1 of the MDE DPD require all development to be well designed, of a high quality, appropriately respecting the site and its surroundings.
- 6.18 The area around Cemetery Lane is characterised by agricultural land, interspersed by pockets of residential development. The site is afforded some screening by boundary hedging and the development is recognised as being predominately low level in terms of scale. However, the number of buildings, their accumulation across the site combined with the associated paraphernalia when taken cumulatively gives rise to a development which is not in character with the rural amenities of the locality, and thus causes harm to the character and appearance of the countryside. I recognise that the plans submitted also indicate proposed landscape measures in an attempt to afford additional screening but this is limited and does not mitigate the identified harm to the rural landscape.

Any other harm

- 6.19 Policy CP20 (d) of the TMBCS requires that sites can adequately be accessed by vehicles towing caravans and that there is safe pedestrian and cycle access to the site. More generally, policy SQ8 of the MDE DPD states that development proposals will only be permitted where they would not significantly harm highway safety and where the traffic generated by the development can adequately be served by the highway network. In these respects, it is accepted that Cemetery Lane is a narrow country lane. However, its use for such purposes has already been established through the grant of permission at the adjacent site (Springfield Place) and Kent Highways has raised no objections to this development on the grounds of highway safety. In this respect, regard must also be had to paragraph 32 of the NPPF which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.20 Criterion (e) of policy CP20 requires that the site is reasonably accessible to shops, schools and other community facilities on foot, by cycle or public transport. The site does lie on the outskirts of Hadlow Village and is accessed initially by Cemetery Lane, a narrow country lane as I have outlined above. However, the site is in close proximity to the A26 and the public transport connections afforded by that main highway. Indeed, there is a bus stop on the main road, just by the former Harrow PH, and the village centre is a relatively short walk further. I am therefore satisfied that the site, in locational terms, meets the requirement of this part of the policy.

- 6.21 Reference has been made within the representations received to the fact that the site is publically visible and is also visible from individual properties. The fact that the site is visible from certain vantage points does not in itself render the development automatically harmful. Rather, it is the intrinsic harm to the Green Belt and rural amenities of the countryside identified that must be considered. Equally, rights to a view are not a material planning consideration.
- 6.22 I have noted that reference has been made in the representations received to the impact of the development on the setting of Hadlow Tower (Grade I Listed) and to the historic centre of Hadlow Village more generally, which is designated as a Conservation Area. In this regard, I am mindful that paragraph 131 of the NPPF states that LPAs should take account of the desirability of sustaining and enhancing the significance of heritage assets. Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance of such an asset can be harmed or lost through alteration of the asset or through development within its setting.
- 6.23 I am however wholly satisfied that the substantial separation that exists between the site and these heritage assets combined with the low level nature of the development in question means that there is no impact on the historic setting of the Tower or village arising from this development.
- 6.24 Equally there is a policy requirement to protect residential amenities and again, given the fact that the site is adequately separated from existing properties, I am satisfied that there is no impact on residential amenity. To the best of my knowledge, the applicants are not undertaking any commercial activity from the site and there is nothing contained within the application to suggest that this is the intention.
- 6.25 Reference has also been made to problems with localised flooding and I am aware that such problems do exist within the local area. The planning application (now subject of the appeal) indicates that foul sewage is dealt with by means of a septic tank with surface water dealt with by soakaways. Having regard to the representations made in this respect, and given the existence of previous problems in the area, further investigations are being undertaken in this respect and it is my recommendation to the Planning Committee that this matter be pursued further by Officers through the appeal Hearing process.

Other material considerations

Meeting need

- 6.26 I note that a number of the representations received in connection with this application have referenced the previous reasons for refusal (2012 decision), stating that there have been no material changes in circumstance to warrant a different outcome in this instance. However this is not the case and regard must

now be had to the most recent decision of the Planning Inspectorate in the case of Woodford, Old Lane, Ightham. This is an important material planning consideration and must be given considerable weight in the assessment of this case, particularly as it made a number of key statements concerning the need for Traveller sites within the Borough that require detailed consideration.

6.27 In making her decision in the case of Woodford, the Inspector acknowledged that Policy CP1(5) of the TMBCS states that where practicable, new housing development should include a mix of house types and tenure and must meet identified needs in terms of affordability. For those with a nomadic way of life, such as Gypsies and Travellers, appropriate provision should be made if a need exists. The Inspector also recognised that even though the policy context has changed since 2007 (with the publication of the NPPF in March 2012) the policy requirement reflects a national policy objective to develop fair and effective strategies to meet all types of housing need.

6.28 Members will be aware that the local provision of sites consists of the two public sites (Windmill Lane and Coldharbour) and a number of privately owned sites with varying planning status.

6.29 In terms of need, the Inspector highlighted a number of key issues, which are summarised as follows:

- That the alternative accommodation at Coldharbour Lane was not suitable for the appellants and, related to this, that the Council should have ensured that there was a range of options available (i.e. private sites) rather than relying on one, public (effectively social-rented) alternative to meet identified needs;
- That the Gypsy and Traveller Accommodation Assessment (GTAA) completed by the Council's consultants Salford University in 2013 underestimates local need and that an approach for considering the needs from a wider area than the Borough boundary should have been adopted;
- That because the Borough has unmet need and has not identified a five year supply of sites, its planning policies are out of date;
- The Inspector also noted that in her opinion the 'tolerated' site at Hoath Wood should not be included as part of the supply of existing pitches.

6.30 More specifically, the Inspector stated that "*undue reliance*" on a single public site (Coldharbour) is not consistent with the objective of Policy CP1 (5), which indicates a mix of tenures in supply of accommodation. She went on to mention that a "*restricted application*" of policy CP20 has occurred, which is not consistent with PPTS that promotes fair, equal and effective strategies and more private traveller site provision.

- 6.31 She also went on to recognise that there are likely to be circumstances where the pitches and layout at Coldharbour are not suitable to meet all needs, in particular where applicants have specific space requirements, for example to cater for business operations or the keeping of horses or as a result of personal circumstances such as the fear of violence. Whilst none of these issues have been highlighted on behalf of the applicant in this instance, the criticism of the Inspector concerning “*undue reliance*” on Coldharbour is a key material consideration. The Inspector also referenced previous appeal decisions where an expectation had been expressed that alternative sites would be allocated in a DPD.
- 6.32 The Inspector went on to identify that need outweighed the supply of public pitches within the Borough meaning that Coldharbour is unable to satisfy all the local need for pitches and that the “*undue reliance*” on Coldharbour has resulted in a lack of alternative available options.
- 6.33 The Inspector also identified that small private pitches have an important role to play in meeting need (this is a matter referenced by the applicant’s agent as part of their supporting information).
- 6.34 The Inspector concluded on the matter of need by stating:

“At the present time the Council is unable to demonstrate a supply of deliverable Traveller sites for the next five years. Therefore the strategy for meeting need in Policy CP20 is not considered to be up-to-date. In contrast the 2015 Local Plan Position Statement refers to an existing 5.2 years supply of land for building housing and the delivery of some 600 homes in 2013/14. The Council is preparing a new Local Plan, which provides an opportunity to deliver additional pitches and to assess whether or not need is able to be accommodated within the constraints similar to those posed by the existing criteria based policies. At the hearing the expectation was that the Local Plan would be adopted in 2016. However, the 2015 Position Statement indicates that there has been slippage in that timescale. Public consultation to inform the Local Plan is anticipated to take place later in 2015. The remaining stages would include preparation of a draft plan, submission, examination and receipt of the Inspector’s report and finally adoption, probably late 2017.....”

As to the probability of alternative sites in appropriate locations coming forward in a reasonable timescale, the main mechanism is through the new Local Plan. The plan led system is the means of achieving sustainable development in traveller site provision and PPTS provides a framework for plan-making. At this early stage of the plan making process there is no firm indication of the policy approach, and how and when pitches will be achieved. Past experience indicates meeting need is not readily resolved.”

Personal Circumstances

6.35 Very little information has been provided within the planning application which explains the personal circumstances of the applicants, although I expect more to be forthcoming in the upcoming appeal. From our investigations, I understand that two families are residing on site, each with two children. The occupants of Plot 1 have two children who both attend Laddingford Primary School. The occupants of Plot 2 have one child attending secondary school and another over school age (16 or above). Further information in these respects will be sought through an Equalities Statement to be conducted by Officers and, should any further details be forthcoming, they will be reported as a supplementary matter.

Very special circumstances

6.36 With the identified harm to the Green Belt, it is necessary to establish whether very special circumstances exist which outweigh this degree of harm to an extent to justify the grant of planning permission. The NPPF states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. This requirement sets a very high threshold.

6.37 Policy CP20 of the TMBCS provides a strong direction that the development of a Traveller site within the Green Belt will not be acceptable unless there are very special circumstances. The Government attaches great importance to Green Belts. A stated aim in PPTS is that plan-making and decision-taking should protect Green Belt land from inappropriate development. PPTS confirms a Traveller site is inappropriate development and should not be approved except in very special circumstances. It also states that personal circumstances and unmet need alone are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances and that meeting a specific identified need should be achieved through the plan making process, not in respect to a planning application.

6.38 However, the Inspector in the case of 'Woodford', having had regard to this policy context, has identified that there is an unmet need for Traveller sites within the Borough, despite the extension of the Coldharbour site. There is no doubting that delivery of a number of additional pitches at Coldharbour has made an important contribution to increasing the social provision in the local area. Nevertheless, the Woodford Inspector repeatedly emphasised that PPTS seeks to ensure fair, realistic and inclusive policies for Traveller site provision and a supply of specific deliverable sites to provide a five year supply against locally set targets. Within the national policy context, the Inspector found that the Council's existing local planning policy is not up-to-date. The result, the Inspector concluded, is a constraint on delivering alternative site provision.

6.39 The Inspector however concluded that the "need" considerations fell short of outweighing any permanent harm to the Green Belt and as such very special

circumstances were not found to exist to justify the inappropriate development. In that case, the development of the Traveller site was found to be contrary to Policy CP20 of the TMBCS, NPPF and PPTS. The direction based on Green Belt policy is that permanent planning permission should not be granted for the use of this site as a caravan site. The Inspector considered that to allow the caravan site permanently, without allowing an opportunity for the Council to complete the local plan process within the context of PPTS, would not represent a sustainable form of development.

Temporary planning permission

- 6.40 The key objections to the development are that it lies within the Green Belt and is inappropriate development; it causes material harm to openness and “other” harm to rural amenity more generally. Members will appreciate that much of the Borough is covered by the Green Belt designation and the existing public Gypsy sites stand at full capacity and have a low turnover. To put this in some context, the Coldhabour site has a total of 26 pitches, all of which are currently occupied. The number of people currently waiting for a pitch stands in excess of 100, although it should be recognised that some of these people may have also listed other sites as an option they would consider should they become available first. Whilst the applicant has not submitted any evidence of searching for alternative sites including those outside the Green Belt, it is generally accepted that suitable sites within rural or urban settlements are unlikely to be readily available at this time.
- 6.41 Given the level of harm caused by the development, and when having full regard to the conclusions made by the Inspector determining the Woodford appeal, I do not consider that a permanent planning permission is justifiable in these circumstances.
- 6.42 The outcomes of the Woodford appeal decision provide important relevant context for this case. As I have explained, in that case, the Inspector considered that there was harm to the Green Belt such that permanent planning permission should not be granted but she did grant a temporary planning permission to ensure that the harm to the Green Belt would not be permanent and in the meantime to allow the Borough Council time to progress the Local Plan and make allocations accordingly. In making this judgement, the Inspector made the following distinctions within her assessment:

“The primary source of harm is through the inappropriateness of the change of use of the land. The actual loss of openness and the encroachment increases that harm to a small degree.”

“The appeal site is tucked away off Old Lane, a narrow sunken lane enclosed by hedgerows and earth banks. The layout of the caravan site responds to the physical features of the land. The mobile home and the domestic spaces are on

the lower part of the land and are effectively screened by boundary hedgerows and trees.”

- 6.43 It therefore appears, on the basis of this very recent decision by the Planning Inspectorate, that unless a site suffers from clear and overwhelming site specific problems it is likely that temporary planning permissions will be granted by the Planning Inspectorate even for sites in the Green Belt such as this.
- 6.44 With these factors in mind, and when considering the overarching aims of PPTS, it is necessary to consider whether a temporary planning permission is the most appropriate way forward at this point in time in this particular case, although it is recognised that the application to which the appeal relates does not make reference to this being a fallback the applicants would be willing to accept.
- 6.45 Members will be aware that, generally, guidance states that a temporary planning permission may be appropriate where it is expected that planning circumstances will change in a particular way at the end of the period. More specifically, PPTS emphasises the importance of positive planning to manage development and sets clear objectives to increase the number of authorised Traveller sites in appropriate locations to address under-provision and maintain an appropriate level of supply. It also states that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission, albeit one of the exceptions cited in this regard is for proposals on land designated as Green Belt.
- 6.46 Notwithstanding these considerations, it is necessary to establish whether the level of harm identified in this case is such that it could not be accepted even on a temporary basis and even when having due regard to the issue of identified unmet need.
- 6.47 In this respect, I have undertaken a detailed assessment of the site characteristics particularly when compared to the Woodford site – given that effectively sets a benchmark at which the Planning Inspector concluded that the harm to the Green Belt was limited and thus could be accepted on a temporary basis. The key difference in site characteristics between this site and Woodford is the topography and resultant screening afforded to the sites and I refer back to the Inspectors description of Woodford set out at paragraph 6.43 of this report. In stark contrast, Alans Hectare is characteristically flat and exposed in nature thus causing far more overt harm to the Green Belt and the countryside more generally than identified in the case of Woodford.
- 6.48 It is important to stress in making these comparisons that when assessing Green Belt impact it is not whether or not the development can be *seen* that renders it acceptable or not, nor whether site characteristics and screening afforded to individual developments amount to a case of very special circumstances. Rather it

is the degree of actual harm to the Green Belt and whether or not “on the ground” that degree of harm could be accepted for a limited period.

6.49 This is a matter of careful balance but in these particular circumstances, when having regard to the level of harm identified, I do not believe there is a reasoned justification for the grant of a temporary planning permission for this development pending the progression of the Local Plan. In making this conclusion, I am mindful that there is an identified unmet need to be addressed and I have no doubt that this matter will be raised as a key issue for discussion at the upcoming Hearing. In this regard, it will be necessary for Officers to establish whether any alternative sites might be available to accommodate the occupiers of this site. Clearly, based on the Inspector’s decision in the case of Woodford and evidence of current occupation and waiting list levels, Coldharbour does not represent a feasible alternative at this time and this must be recognised. It is not necessarily for the Planning Committee to suggest alternative sites at this time, rather to have an awareness that in endorsing the recommendation that follows at Section 7 of this report, there will be implications in terms of the needs of the applicants to consider.

6.50 I have also considered whether any planning conditions could reasonably be imposed that would limit the degree of harm arising in order to render the development acceptable in planning terms for a temporary period of time (in accordance with the requirements of the PPTS). Planning conditions covering matters of occupation, use of the land, landscaping, boundary treatments, drainage and so on would all seek to mitigate further harm to the Green Belt, countryside and general amenity but would not ameliorate the harm already identified as arising from the development itself in a way that would render it acceptable to remain on site for a temporary period of time.

6.51 In light of the above considerations, on balance, I recommend as follows:

7. Recommendation:

7.1 The Planning Inspectorate and the applicant be advised that, had the Local Planning Authority been in a position to determine the application, it would have **Refused Planning Permission** for the following reasons:

Reasons:

1 The site lies within the Metropolitan Green Belt where there is a strong presumption against permitting inappropriate development, as defined in paragraphs 89-91 of the National Planning Policy Framework 2012 and paragraph 16 of the Planning Policy for Traveller Sites 2015 and Policies CP3 and CP20 of the Tonbridge and Malling Borough Core Strategy 2007. The development constitutes inappropriate development which is harmful to the Green Belt by definition. Furthermore, the development by virtue of its specific nature, siting and scale causes material harm to the open function and character of the Metropolitan

Green Belt and gives rise to an encroachment of built development into the countryside, contrary to the requirements of paragraph 79 of the National Planning Policy Framework 2012. There are no very special circumstances which outweigh the degree of harm caused to the Green Belt by inappropriateness and harm to openness. The development is therefore contrary to the requirements set out in Section 9 of the National Planning Policy Framework 2012, the Planning Policy for Travellers Sites 2012 and policies CP3 and CP20 of the Tonbridge and Malling Borough Core Strategy 2007.

- 2 The development, by virtue of its nature, siting and scale, detracts from the character of the rural locality and causes harm to the rural amenity of the countryside and is therefore contrary to Policies CP14 and CP20 of the Tonbridge and Malling Borough Core Strategy 2007.

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