

Leybourne
Birling Leybourne And
Ryarsh

02 APRIL 2025

TM/24/00366/PA

Location: Land Opposite the Paddocks, Birling Road Leybourne West Malling

Proposal: S73 Application for variation of conditions 3 and 4 submitted pursuant to Appeal ref APP/H2265/C/21/3280661 to allow for the siting of an additional 2 static caravans and 2 utility rooms within existing pitches.

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1. Description of Proposal:

- 1.1 Temporary planning permission was granted on appeal (APP/H2265/C/21/3280661) for the material change of use of the land to use for the stationing of caravans for residential purposes and associated development including the stationing of mobile washroom and toilet facilities, construction of a septic tank, construction of hard surfaces, and the erection of fences and gates.
- 1.2 The temporary permission was granted subject to seven conditions. Condition 3, relates to the quantum of development stating “No more than 6 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be a static caravan) shall be stationed on the site at any time.”
- 1.3 Condition 4, related to the submission of a Site Development Scheme, to include details of: proposed and existing external lighting on the boundary of and within the site; the internal layout of the site, including the siting of caravans; areas for vehicular access and turning and manoeuvring; the means of foul water drainage of the site; areas of hardstanding; fencing and other means of enclosure; hard and soft landscaping including details of finished hard surface materials, species, plant sizes and proposed numbers and densities, along with details of soft landscaping maintenance, shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
- 1.4 Details in relation to Condition 4 were submitted under reference 23/00423/RD and approved 07 June 2023.
- 1.5 This Section 73 application seeks to vary Condition 3 and subsequently amend Condition 4 (pursuant to Appeal ref APP/H2265/C/21/3280661) to allow for the siting of an additional 2 static caravans and 2 utility rooms within existing pitches.
- 1.6 The application does not alter the number of pitches per se, which currently comprises 4 pitches nor does the proposal increase the area of the site.

2. Reason for reporting to Committee:

- 2.1 The application is present to committee at the request of Councillor Boxall on the grounds that temporary planning permission has already been awarded by the planning Inspector granting *'No more than 6 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be a static caravan) shall be stationed on the site at any time'*. This alone stood in conflict with the purposes of including the land in the Green Belt. With the further addition of 2 more static caravans increasing the overall to 8 and there are no material factors that would amount to the very special circumstances required to clearly outweigh the harm identified to the openness of the Green Belt. It would fail to comply with the exceptions to inappropriate development in paragraph 154 of the NPPF, and Policy CP3 of the TMBCS which directs proposals should preserve the openness of the Green Belt, without conflicting with the purposes of including the land within the Green Belt

3. The Site:

- 3.1 The application sites comprise of a roughly rectangular shaped plot of land, approximately 60 metres long and 26 metres wide. The site lies on the eastern side of the Birling Road and comprises a temporary gypsy/traveller site. The site is reasonably well screened and is not readily visible within the street scene.
- 3.2 Public Bridleway MR130A runs along the north-eastern site boundary, with the A228 a short distance further to the east of the site. The site lies within the open countryside and is designated as Metropolitan Green Belt.

4. Planning History (most relevant):

23/00423/RD - Approved - 07 June 2023

Details of condition 4 submitted pursuant to allowed appeal ref.

APP/H2265/C/21/3280661 (21/00034/ENFNOT) to enforcement notice Enforcement 21/00225/USEH

21/00225/USEH (EN) / APP/H2265/C/21/3280661 - Appeal Allowed December 2022
Material change of use of the Land to use for the stationing of caravans for residential purposes and associated development including the stationing of mobile washroom and toilet facilities, construction of a septic tank, construction of hard surfaces, and the erection of fences and gates - Granted on a temporary basis for 5 years.

22/00708/FL - Declines To Determine - 13 June 2022

Change of use of land to residential for members of the Gypsy Traveller community. The site to contain two static caravans, five touring caravans, parking, hardstanding, and associated infrastructure. This application is part retrospective.

5. Consultees:

5.1 Whilst some comments have been summarised for the purpose of this report, all statutory and third-party comments have been reviewed in full. Moreover, comments may not have been specifically referred to within the assessment, all comments have been taken into consideration prior to the determination of the application.

5.2 *Leybourne Parish Council: Object for the following reasons:*

- The proposed development violates the conditions set by the appointed Inspector during the previous hearing, and no substantial changes have occurred since that decision.
- At the previous hearing, the Inspector placed a condition on the green belt site, limiting the total number of caravans to six, with a maximum of two being static. This condition was established to regulate the impact of development on the green belt area and ensure compliance with relevant regulations.
- The applicant has indicated that the custom and practice of the traveller community involves initially locating on a site with a touring caravan, followed by the addition of a mobile home and a dayroom/utility room. This arrangement is considered suitable accommodation for a Gypsy/Traveller family and aligns with the basis of a typical pitch. It is important to note that the Inspector would have been aware of this customary practice when making the original determination. Therefore, as nothing substantial has changed since then, the current application should be refused in accordance with the established conditions.
- Allowing the proposed development would set a precedent for disregarding established planning conditions and undermine the integrity of the planning process. It is crucial to uphold the conditions set forth by the Inspector to maintain the integrity of the site and its surroundings.

5.3 *West Malling Parish Council: Object for the following reasons:*

- The Parish Council supports the condition imposed by the Inspector at the appeal hearing to limit the number of caravans on the site which sits within the Green Belt.
- WMPC support Leybourne PC in that this condition will regulate the impact of development on this Green Belt Site and should remain.
- WMPC agrees with Leybourne PC that allowing the proposed development would undermine both the integrity of the planning process and the site.

5.4 Private Reps: A total of 52 representations were received objection to the proposal. Those comments relating to 'planning' matters are summarised as follows:

- Was originally an unauthorised change of use from agricultural land to use as a residential caravan site, in breach of planning control.

- The development is an intrusion onto formally undeveloped open land which conflicts with the purpose of Green Belts.
- Could set a precedent for any owners of local fields and paddock to illegally develop their land.
- No significant changes in circumstances have been presented to warrant variation.
- The site has not been landscaped appropriately and there are ugly areas of hardstanding and metal gates which can be seen from the road.
- There is a great deal of wildlife left in this piece of land that has nowhere else to go.
- This is only supposed to be a temporary settlement to enable the residents to access school. This does not appear to be the long-term plan.
- Surely the fact that the dwellings are static means that the owners cannot rely on traveller rights as they will not be travelling.
- There is only a temporary permit at present so the request for additional 2 caravans and 2 utility blocks is unreasonable.
- The proposed variation to the planning permission would drastically allow the site to become even more dominant.
- West Malling/Leybourne is a rural wooded area loved by walkers and it should not be allowed to lose its character.
- The site has next to no screen buffering.
- The conditions imposed at the Pins hearing where to ensure removal of the caravans and secure the restoration of the site after the 5 year period.
- The site is not previously developed land.
- The caravans maybe single storey but the neighbouring properties are not and the site can be clearly seen from upper floors. The visual and noise pollution would increase.
- All new development should protect conserve and enhance the character and local distinctiveness of the area including the prevailing level of tranquillity.
- The Planning Inspector's decision in December 2022 was predicated on two crucial points: 1) The inadequate provision of Traveller sites by TMBC and 2) The personal circumstances of the appellants, particularly their children, creating the Very Special Circumstances required to overcome harm to Green Belt land.
- Rejecting this application is essential to uphold planning integrity, prevent further encroachment on Green Belt land.

- Any further units permitted within this site would represent over development of what should be a protected green belt site within a natural environment.
- Will create more material harm to the local community, amenity and character of West Malling and the variation to the terms of the temporary planning permission would drastically alter the local landscape allowing the site to become even more dominant.

6. Procedural Matters and material considerations:

- 6.1 Turning first to comments made by the Parish Councils in relation to *“Allowing the proposed development would set a precedent for disregarding established planning conditions and undermine the integrity of the planning process. It is crucial to uphold the conditions set forth by the Inspector to maintain the integrity of the site and its surroundings”*.
- 6.2 It is first important to clarify that the planning process has an established mechanism in place which allows for the ‘Removal or Variation of conditions imposed on a planning application, (which is also referred to as a Section 73 application). An application for the removal or variation of a condition can be used to change or remove conditions which have been previously imposed. Therefore, allowing the proposed development would not set a precedent for disregarding conditions imposed or undermine the integrity of the planning process.
- 6.3 The LPA can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original conditions(s) should continue.
- 6.4 It is also important to note that there has been a fundamental change to National Policy since the granted the appeal decision (as referenced above). The updated NPPF published on 12 December 2024 is a material consideration in the determination of the application.

7. Determining Issues

Policy Guidance

- 7.1 Under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the Local Planning Authority is required to determine planning applications and other similar submissions in accordance with the Development Plan in force unless material considerations indicate otherwise.
- 7.2 The Development Plan currently in force for this area comprises the Tonbridge and Malling Local Development Framework Core Strategy (TMBCS) adopted in September 2007, the saved policies of the Tonbridge and Malling Borough Local Plan 1998 (TMLP), Development Land Allocations DPD (DLA DPD) adopted in April

2008 and the Managing Development and the Environment DPD (MDE DPD) adopted April 2010.

- 7.3 The National Planning Policy Framework (“NPPF 2024”) the associated National Planning Practice Guidance (“NPPG”) and National Design Guide are important material considerations.
- 7.4 In addition, Planning Policy for Traveller Sites (PPTS) (December 2024), TMBC Gypsy and Traveller and Travelling Show-person Accommodation Assessment (July 2022) and TMBC Gypsies, Travellers and Travelling Show-people Position Statement (December 2024) are also material considerations in this case.

Principle of Development

- 7.5 The application relates to an existing gypsy/traveller site. The definition of Gypsies and Travellers is set out in Annexe 1 PPTS (December 2024) as follows:

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling show-people or circus people travelling together as such”.

- 7.6 The application confirms the gypsy status of the applicant and their dependents, and the provision of static units (Caravans) constitute housing development.
- 7.7 As Members are aware, the Council cannot currently demonstrate an up-to-date five-year supply of housing when measured against its objectively assessed need (OAN).
- 7.8 In addition, as set out in TMBC Gypsies, Travellers and Travelling Show-people Position Statement (December 2024) the Council cannot demonstrate a 5 year supply of Gypsy and Traveller sites.
- 7.9 As a consequence, the presumption in favour of sustainable development as set out at paragraph 11 of the NPPF (2024) must be considered. For decision taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.

7.10 In relation to Paragraph 11d (i) Footnote 7 (NPPF) provides a list of those policies that relate to protected areas and assets of particular importance, including land within the Green Belt, in which the application site lies. Therefore, it must first be established whether the policies in this Framework that protect areas or assets of particular importance provide a 'strong' reason for refusing the development.

Green Belt.

7.11 As noted above the site lies within the Metropolitan Green Belt, wherein Policy CP3 of the Core Strategy states that the Council will apply National Green Belt Policy. Paragraphs 153 – 160 of the NPPF relate specifically to the determination of proposals that affect the Green Belt.

7.12 Paragraph 153 of the NPPF requires local planning authorities, when considering applications, to ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. However, Footnote 55 of the NPPF specifically states that the requirement to give any harm to the Green Belt substantial weight does not apply in the case of development on Green Belt land, where it is not inappropriate.

7.13 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 potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

7.14 Paragraph 154 of the NPPF states that development in the Green Belt is inappropriate unless one of the listed exceptions applies. It is noted that criterion g) allows for the partial or complete redevelopment of 'previously developed land' (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.

7.15 The Planning Statement submitted with the application suggest compliance with Paragraph 154 g) (NPPF). However, in order for criterion g) to be considered, it first needs to be established if the site comprises PDL.

7.16 Annex 2 NPPF provides a definition of what constitutes 'previously developed land', it states:

“Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed. Previously developed land excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape”

7.17 The site has been lawfully developed by the grant of permission on appeal in December 2022 which allowed for the material change of use of the land to use for the stationing of caravans for residential purposes and associated development including the stationing of mobile washroom and toilet facilities, construction of a septic tank, construction of hard surfaces, and the erection of fences and gates. However, it is noted that the permission was granted on a ‘temporary basis’ with a condition for the land to be restored to its original condition before the development took place.

7.18 The definition of PDL is clear in that it excludes, *‘land where provision for restoration has been made through development management procedures’*, which in this case would relate to Condition 1 of the appeal decision, this states:

The use hereby permitted shall be for a limited period being the period of 5 years from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought onto, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.

7.19 Therefore, the site would not comprise PDL and as such does not meet any of the exception criteria set out in paragraph 154 criterion a to h (NPPF).

Grey Belt

7.20 Whilst the publication of the new NPPF did not alter the fundamental principles of protecting Green Belt land, in addition to the exceptions of those listed in paragraphs 154 (a) – (h) (NPPF), Paragraph 155 states that the development of homes, (and it has already been established that the proposal would relate to homes) commercial and other development in the Green Belt should also not be regarded as inappropriate where:

- a) The development would utilise ‘grey belt’ land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;

- b) There is a demonstrable unmet need for the type of development proposed;
- c) The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and
- d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 below.

7.21 Turning first to criterion a) the NPPF at Annex 2 provides a definition for Grey Belt: this set out that for the purposes of plan-making and decision-making, 'grey belt' is defined as:

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

7.22 The site is not in a protected area, nor is it an asset of particular importance identified in Footnote 7 of the NPPF. It has already been established that the site does not comprise PDL, therefore it could only be considered 'Grey Belt' if it constitutes 'any other land that does not 'strongly' contribute to the Green Belt purposes (a), (b), or (d) as set out in Paragraph 143. These are:

- a) To check the unrestricted sprawl of large built-up areas.
- b) To prevent neighbouring towns merging into one another
- d) To preserve the setting and special character of historic towns

7.23 Due to the location and size of the site it is not considered that the site would 'strongly' contribute to the 3 purposes as set out above, the proposal would not result in sprawl of a large built up area, result in neighbouring towns merging together or affect the setting or special character of a historic town, as such the site would qualify as 'Grey Belt' land.

7.24 Turning next to Criterion b) – the Council cannot demonstrate a five year supply of deliverable Gypsy and Traveller site as confirmed within TMBC Gypsies, Travellers and Travelling Showpeople Position Statement December 2024. Therefore, there is a demonstrable unmet need for the type of development proposed.

7.25 In regard to c), this requires development to be in a sustainable location. Footnote 57 also notes in the case of development involving the provision of traveller sites, particular reference should be made to Planning Policy for Traveller sites paragraph 13. Paragraph 13 (PPTS) notes:

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

a) promote peaceful and integrated co-existence between the site and the local community;

b) promote, in collaboration with commissioners of health services, access to appropriate health services;

c) ensure that children can attend school on a regular basis;

d) provide a settled base that reduces both the need for long-distance travelling and possible environmental damage caused by unauthorised encampment;

e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development;

f) avoid placing undue pressure on local infrastructure and services;

g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans; and

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

7.26 In this regard it is noted that the Inspector (appeal decision APP/H2265/C/21/3280661) at paragraph 15, considered the location of the site ‘suited to the development’. It was also noted in the same paragraph that amongst other things ‘the site was reasonably accessible to shops, schools and other community facilities’. Therefore, there is no conflict with criterion c).

7.27 Criterion d) is not applicable in this case as the proposal does not comprise major development, therefore the site meets all ‘relevant’ criteria as set out in paragraph 155 (NPPF) and as such would not be regarded as inappropriate development.

7.28 Finally, regarding the previous appeal decision, the inspector concluded that the proposal by reason of it being inappropriate development was harmful to the Green Belt by definition. This definitional harm no longer exists following the revision of the NPPF published in December 2024, which now allows development of homes amongst other things on Grey Belt land.

7.29 The appeal decision also identified further harm through the loss of openness and encroachment on the countryside; both of which afforded substantial weight at the time. Nevertheless, given the site in question is now qualified as Grey Belt defined in Annex 2 of the NPPF, where development is not inappropriate, harm, if any, to Green

Belt and its openness could no longer be afforded substantial weight in the same way as the inspector did, especially in light of Paragraph 153 and Footnote 55.

- 7.30 Furthermore, although safeguarding the countryside from encroachment remains one of the five Green Belt purposes listed in Paragraph 143, it is not a criterion for the purposes of assessing Grey Belt land. In any event, given the scale and nature of development in question, it is not capable of fundamentally undermining the purposes of the remaining Green Belt across the area of the plan including its ability in safeguarding the countryside from encroachment.

Gypsies/Travellers

- 7.31 Although somewhat dated it is still useful to consider the application with regard to Policy CP20 of the TMBCS. This policy relates specifically to Gypsies, Travellers and Travelling Show-people. Part 1 refers to the Gypsy and Traveller Development Plan Document 2008 and the now defunct South East Plan states that first consideration will be given to the limited expansion of one or both of the publicly controlled sites in the Borough.
- 7.32 Part 2 sets out specific criteria against which applications for accommodation for gypsies and travellers are to be assessed this being:
- (a) there is an identified need that cannot reasonably be met on an existing or planned site;
 - (b) residential or rural amenity is not prejudiced as a result of visual intrusion, excessive noise, lighting, traffic generation or activity at unsocial hours;
 - (c) the site respects the scale of, and does not dominate, the nearest settled community;
 - (d) the site can adequately be accessed by vehicles towing caravans and there is safe pedestrian and cycle access to the site; and
 - (e) the site is reasonably accessible to shops, schools and other community facilities on foot, by cycle or public transport;
- 7.33 The policy concludes that there will be a presumption against the development of gypsy and traveller accommodation (including sites for travelling showpeople) in the Green Belt unless there are very special circumstances. This element of the policy no longer accords with the NPPF and Planning Policy for Traveller Sites (PPTS) 2024. Paragraph 219 of the NPPF states that due weight should be given to those pre-NPPF policies, according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. In light of the above, officers do not consider the aforementioned policies to carry any weight in the assessment of this application.

7.34 As already acknowledged TMBC cannot demonstrate a 5 year supply of housing or pitches for gypsies and travellers so there is a clear identified need and thus the proposal meets criterion a) of policy CP20.

7.35 The additional two mobile homes (caravans) are 'static' caravans and therefore will remain on site for the duration of the permission as would the two utility rooms, as such whilst the additional units may result in an increase in vehicle movements, this would not be so severe as to warrant a refusal of planning permission on this basis.

7.36 In addition, it is also considered that the two additional static caravans would not result in any significant increase in usage which would prejudice local residential and/or rural amenity.

7.37 With regard to traffic movement, it is also necessary to consider Policy SQ8 of the MDE DPD which states that development will only be permitted where there will be no significant harm to highway safety. In addition, paragraph 116 (NPPF) continues to state that development should only be refused on transport grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts of the development would be severe. As concluded above, the potential increase in traffic movement would not have a severe impact on highway safety. Consequently, the proposal meets criterion b) of policy CP20, in addition to the other relevant local and national planning policies.

7.38 With regard to criterion c) of policy CP20, the application site whilst only granted a temporary permission for 5 years, is well established, and the supporting evidence put forward at the appeal stage is still a material consideration. The proposal would not increase the number of pitches per se and as such the scale of the proposal remains acceptable and would not dominate the village. The proposal therefore meets criterion c) of policy CP20.

7.39 The site is accessed via an existing access, this Section 73 application does not relate to any touring caravans. It has already been noted that the Inspector considered the site reasonably accessible to shops, schools and other community facilities. It can therefore be concluded that the proposal meets criteria d) and e) of policy CP20.

Other Matters/Planning Balance

7.40 In reaching the conclusion to grant permission the Inspector considered a number of factors, of most relevant were the unmet need in the Borough for Gypsy and Traveller sites; the availability of alternative sites; and the personal circumstance of the applicant. Within the planning balance the Inspector identified harm to the Green Belt by reason of inappropriate development and further harm due to the loss of openness and encroachment on the countryside both of which attracted substantial weight in the planning balance.

- 7.41 However, notwithstanding this harm the Inspector noted (Paragraph 25) for traveller sites, the Council has not seen sufficient sites coming forward through the development plan process to meet its obligations. There is not a 5-year supply of sites, nor is there any alternative site at present, and a strategy for addressing the need has yet to be developed through the local plan preparation process. These matters remain unchanged.
- 7.42 At paragraph 27 the Inspector noted *“In balancing these opposing considerations and their respective weights, the harm to the Green Belt weighs very heavily against the retention of the development on a permanent basis, which would entail a permanent loss of openness and permanent encroachment on the countryside, and I consider that the considerations in favour of the appeal, while very substantial, do not clearly outweigh the totality of the harm. Accordingly, I conclude that very special circumstances to justify this development in the Green Belt on a permanent basis do not exist”*.
- 7.43 The Inspector gave great weight to the harm to openness, and this formed the basis for the imposition of a temporary condition and for a condition restricting occupation of the site to gypsies and travellers.
- 7.44 In addition, the Inspector imposed a condition to limit the number of caravans using the site; preclude commercial activity and the parking of larger commercial vehicles; and remove certain permitted development rights. The rationale for the imposition of this condition was in the interest of the character and appearance of the site (in regard to the Green Belt) and surrounding area, and to safeguard residential and visual amenity. Similar conditions would be imposed to enable the Council to regulate and control any further development in the interests of amenity and privacy given that permission is granted on a temporary basis.
- 7.45 However, it is material to note that due to the changes in national policy the site is now considered Grey Belt and as such the proposal would comply with Paragraph 155 of the NPPF and therefore is appropriate development.
- 7.46 Moreover, it has been demonstrated that the introduction of two static caravans and two utility rooms, would not intensify the use of the site, nor would it increase vehicle movements or prejudice local residential and/or rural amenity.
- 7.47 Return therefore to the presumption in favour of sustainable development as set out at paragraph 11 d of the NPPF. As Grey Belt land there are no policies in the Framework that would provide a ‘strong’ reason for refusing the development proposed, moreover, no adverse impacts of doing so have been identified that would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 7.48 Therefore, the presumption in favour of development must apply in this case and consequently, the application is recommended for approval subject to those relevant conditions imposed on the original application being carried forward.

8. Recommendation:

8.1 APROVE subject to the following:

1. The use hereby permitted shall be for a limited period being the period of 5 years from the date of the appeal decision APP/H2265/C/21/3280661 dated 7th December 2022. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought onto, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990

2. The site shall not be occupied by any persons other than persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

Reason: To ensure the site provides accommodation for those who meet the definition of Gypsies and Travellers.

3. No more than 8 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 4 shall be a static caravan) shall be stationed on the site at any time.

Reason to ensure the development does not harm the character and appearance of the area or visual amenity of the locality.

4. The development shall be carried out in accordance with the approved drawings listed below and shall be retained for the duration of the development.

As proposed site plan – Drawing No. J004813-DD-02

As proposed utility plans – Drawing no. J004813-DD-02

As proposed utility elevations - Drawing no. J004813-DD-03

Drawing nos: SDS-P1-2023 (Site Development Scheme) and SPS-P2-2023 (Site Development Scheme) received on 06/06/2023 show vehicular turning diagrams

Drawing no: SDS-07-2023 (Site Development Scheme) received on 06/06/2023 shows landscaping and lighting details .

Landscaping – Planting and Maintenance Schedule received on 06/06/2023

Technical Specification of the Louvre Outdoor Bollard received on 03/03/2023

Technical Specification of the External/Fence Down Lighters on 03/03/2023

Drawing No: HS-01-2023 received on 03/03/2023 shows the details of tarmac surface

Details of gravelled surface received on 03/03/2023

Drawing no: HWA-01-2023 (Proposed Access) received on 03/03/2023

Drawing no: PRF-01-2023 (Post & Rail Fence) received on 03/03/2023

Drawing no: WPF-02-2023 (Close Board Timber Fencing Details) received on 03/03/2023

Drawing no: EN 8 PE STD Rev. A (Details of septic tank) received on 07/03/2023

Drawing no: ES 8 Rev. A (Details of septic tank) received on 07/03/2023

Marsh Sewage Treatment Septic Tank Installation & Technical Handbook received on 07/03/2023

Marsh Microbe Mini Sewage Treatment Plant Technical Specification received on 07/03/2023

Marsh Package Sewage Treatment Plant Specification received on 07/03/2023

Marsh Package Sewage Treatment Plant Installation and Operation Manual received on 07/03/2023

Marsh Ultra Polylok / Ensign Sewage Treatment Plant Installation and Operation Manual received on 07/03/2023

Reason: For avoidance of doubt and in the interests of proper planning.

5. No commercial activities shall take place on the land, including the storage of materials.

Reason to ensure the development does not harm the character and appearance of the area or visual amenity of the locality

6. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason to ensure the development does not harm the character and appearance of the area or visual amenity of the locality.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds or amenity/utility buildings, or other buildings or structures, walls, fences or other means of enclosure other than those approved under condition 4 above shall be erected on the site unless details of their size, materials and location shall have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of amenity and privacy.

Contact: Susan Field