

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	251150
Site Address:	Land Opposite 130-144 Wargrave Road, Twyford, RG10 9PN
Expiry Date:	9 July 2025
Site Visit Date:	See – PA: 230310
Proposal: Application to vary condition 1 & 2 of Appeal Decision APP/X0360/W/23/3320780 for Application 230310. Full application for the proposed change of use of land to a single Gypsy and Traveller pitch with the siting of 1 no. mobile home and conversion of the existing stables to a day room, plus associated parking, landscaping and gate. Condition 1 and 2 refers to the use permitted, and the variation is changes to the permitted use.	

PLANNING POLICY	
National Policy	National Planning Policy Framework (NPPF) National Planning Policy Guidance (NPPG)
Core Strategy (CS)	CP1 – Sustainable Development CP2 – Inclusive Communities CP3 – General Principles for Development CP4 – Infrastructure Requirements CP5 – Housing Mix, Density and Affordability CP6 – Managing Travel Demand CP7 – Biodiversity CP9 – Scale and Location of Development Proposals CP11 – Proposals Outside Development Limits CP12 – Green Belt CP17 – Housing Delivery
MDD Local Plan (MDD)	CC01 – Presumption in Favour of Sustainable Development CC02 – Development Limits CC03 – Green Infrastructure, Trees and Landscaping CC04 – Sustainable Design and Construction CC06 – Noise CC07 – Parking CC09 – Development and Flood Risk CC10 – Sustainable Drainage TB01 – Development within the Green Belt TB02 – Development adjoining the Green Belt TB09 – Residential Accommodation for Vulnerable Groups TB10 – Traveller Sites TB21 – Landscape Character TB22 – Sites of Urban Landscape Value TB23 – Biodiversity and Development TB25 – Archaeology

Joint Minerals and Waste Plan (JMWP)	DM1 - Sustainable Development DM2 - Climate Change – Mitigation and Adaptation DM3 - Protection of Habitats and Species DM4 - Protection of Designated Landscape DM5 - Protection of the Countryside DM6 - Green Belt DM7 - Conserving the Historic Environment DM8 - Restoration of Minerals and Waste Developments DM9 - Protecting Health, Safety and Amenity DM10 - Flood Risk
Other	Borough Design Guide Supplementary Planning Document CIL Guidance + 123 List Affordable Housing Supplementary Planning Document Sustainable Design and Construction Supplementary Planning Document Twyford Neighbourhood Plan National Planning Practice Guidance

PLANNING HISTORY		
Application No.	Description	Decision & Date
F/2005/6357	Proposed widening of entrance to nursery with dropped kerb	Approved 24 January 2006
170278	CoU of land to a residential Gypsy site for one pitch, including static caravan, parking, hardstanding, fencing, gates and cesspit. (retrospective)	Refused 24 March 2017
W/17/3174161	Appeal against refusal of 170278 (linked with APP/X0360/C/17/3174822)	Dismissed 12 December 2017
211880	CoU of land from agricultural to equestrian with erection of stable	Approved 16 August 2021
213519	Application for submission of details to comply with the following condition of planning consent 211880 dated 16.08.2021. Condition 5. Landscape details.	Approved, 25/11/2021
230310	Full application for the proposed change of use of land to a single Gypsy and Traveller pitch with the siting of 1 no. mobile home and conversion of the existing stables to a day room, plus associated parking, landscaping and gate.	Refused, 06/04/2023 Allowed at appeal on 24/11/2023
232959	Application for submission of details to comply with the following condition of planning consent 230310 (appeal reference APP/X0360/W/23/3320780) dated 24/11/2023. Condition 4. Protection of Trees. 5. Drainage System. 9. Soft and Hard Landscaping. 11. External Lighting.	Approved, 30/01/2024

CONSULTATION RESPONSES

Internal

WBC Drainage – No objections.
WBC Highways – No objections.
WBC Landscape and Trees – No objections, subject to a condition.
WBC Ecology – No comments received.

External

WBC Policy and Plans – No objections.

REPRESENTATIONS

Parish/Town Council	Twyford Parish Council - Strongly object to the variation of conditions and believe that the Planning Inspectors decision is still relevant and valid.
Ward Member(s)	No comments received
Neighbours	No comments received

APPRAISAL

Site Description:

The site is relatively level and extends to approximately 0.3 hectares. It is within designated Green Belt though with the boundaries to Wargrave Road to the west and the A4/Bath Road to the south, with these roads meeting at a roundabout to the south west of the site. The settlement limits of Twyford, which include residential development and a petrol station are located to the southern site of the A4. A row of eight detached dwellings on large plots with the Green Belt adjoins to the east and a mobile home, with permission (currently unimplemented) for use as a gypsy and traveller pitch, is located on the land to the north.

The application site contains a static mobile home, a day room building (formerly a converted stable), as well as associated parking, landscaping, and an entrance gate as allowed at appeal in November 2024 under APP/X0360/W/23/3320780.

Site History and Proposal Description:

A change of use to a residential Gypsy site for one pitch which was refused and dismissed at appeal in 2017.

The site originally contained a stables building on its eastern side. A change of use to equestrian land was later approved on 16 August 2021 under application reference 211880. A subsequent full planning application (ref. 230310) was submitted for the change of use of the land to a single Gypsy and Traveller pitch, including the siting of one mobile home, conversion of the existing stables into a day room, and associated works such as parking, landscaping, and installation of a gate. This application was initially refused on April 2023 but was later allowed on appeal in November 2024 (ref. APP/X0360/W/23/3320780) for a temporary period of five years.

At the time of writing, more than three years and four months remain of the permitted period. While the Inspector acknowledged the development would cause some material harm, the decision to grant temporary permission was based on the applicant's personal circumstances.

This application seeks to vary Conditions 1 and 2 of Appeal Decision APP/X0360/W/23/3320780 by removing the 5-year time limit specified in Condition 1, while retaining the occupancy restriction to Mr. and Mrs. Smith and their dependants, and amending Condition 2 to require restoration of the site only once the family has vacated the land, thereby removing the reference to the 5-year period.

Principle of Development:

Section 70(2) TCPA 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) sets out that applications must be determined in accordance with the development plan, unless material considerations indicate otherwise.

The National Planning Policy Framework has an underlying presumption in favour of sustainable development which is carried through to the local Development Plan. The Managing Development Delivery Local Plan Policy CC01 states that planning applications that accord with the policies in the Development Plan for Wokingham Borough will be approved without delay, unless material considerations indicate otherwise.

The appeal decision (APP/X0360/W/23/3320780) granted temporary planning permission primarily due to the personal circumstances of the specific occupier and the best interests of their children. The Inspector placed significant weight on these very special circumstances, which justified a form of development that would otherwise conflict with the development plan and national policy. Although the development was deemed unacceptable in principle, the temporary consent was considered appropriate as it would not result in permanent harm to the Green Belt, the character of the area, or the wider countryside. The decision aligns with Planning Practice Guidance (paragraph 15), which acknowledges that *“there may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission.”* (para 15).

Accordingly, the principle of development must be re-assessed in line with the circumstances put forward by the applicant and the proposed new occupiers and the requested permanent permission.

Whilst the Development Plan, supplementary planning guidance and the borough's Gypsy Traveller Accommodation Assessment (GTAA) remains the same, the National Planning Policy Framework (NPPF) has been revised since December 2024 and included within it, are new exceptions to inappropriate development within Green Belt.

National policy:

Paragraph 143 of the NPPF (2024) lists five fundamental purposes of the Green Belt. These purposes are as follows:

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

Paragraph 153 of the NPPF (2024) reaffirms that: *“The government attaches great importance to Green Belts. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”* It further states that: *“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.”*

However, the December 2024 revision to the NPPF introduced new flexibility within Green Belt policy, including recognition of the so-called ‘Grey Belt’—a planning term referring to previously developed or degraded land within the Green Belt that may offer potential for sensitive development.

The NPPF (2024) now explicitly acknowledges this category of land in Paragraph 155, which states:

- 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 proposed⁵⁶;
- c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework⁵⁷; and
- d. Where applicable the development proposed meets the ‘Golden Rules’ requirements set out in paragraphs 156-157.

The agent’s planning statement acknowledges that the original temporary planning permission was granted solely due to the applicants’ personal circumstances and the development’s classification as inappropriate within the Green Belt, however, now contends that it be varied to allow permanent consent in light of changes to national policy. The statement argues that the proposal meets the exception criteria under Paragraph 155 of the revised National Planning Policy Framework (NPPF, December 2024) and should therefore no longer be considered inappropriate development.

Paragraph 155 (a) NPPF 2024

The agent asserts that the entire appeal site qualifies as Previously Developed Land (PDL) under Paragraph 155 (a) of the revised National Planning Policy Framework on the basis of the 2021 planning permission (ref: 211880), which approved the erection

of a stable building and change of use of the land to equestrian use. Paragraph 9 of the inspector's decision (APP/X0360/W/23/3320780) accepts that the land has been lawfully developed and is in equestrian use.

However, the definition of PDL in Annex 2 of the NPPF 2024 states:

“Previously developed land: 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).”

In this case, the only element of development approved and implemented was a single 6.5m x 4m stable building located on the eastern part of the site. No other permanent structures or fixed surface infrastructure, such as hardstanding, formal access roads, parking areas, or service installations was approved under the 2021 permission.

As such, while the stable itself constitutes a permanent structure, the absence of additional built infrastructure significantly limits the extent of land that can be regarded as previously developed. Moreover, the definition of PDL in Annex 2 makes it clear that “it should not be assumed that the whole of the curtilage should be developed”, reinforcing the principle that PDL does not automatically extend to the full landholding.

Accordingly, the Council's assessment is that while part of the site—specifically the footprint of the stable and any immediate curtilage physically and functionally linked to it—may reasonably be considered PDL, the remainder of the wider site cannot. As such, the proposal does not comply with Paragraph 155(a) and cannot be considered appropriate development within the Green Belt on this basis.

Gypsy, Roma and Traveller (GRT) need and supply:

Paragraph 155 (b) NPPF 2024

Regarding Paragraph 155 (b) of the NPPF, the agent relies on the Inspector's findings at paragraphs 26-29 of the appeal decision (APP/X0360/W/23/3320780), where the unmet need for Gypsy and Traveller pitches was explicitly acknowledged. The Council accepted that it could not demonstrate a five-year supply of deliverable pitches, a shortfall also reaffirmed in a subsequent appeal decision in January 2025 (APP/X0360/C/22/3311592), which the agent submits as further evidence that the need remains demonstrable and unmet.

Policy Context:

The national planning policy document 'Planning Policy for Traveller Sites' (PPTS) was updated in December 2024 in line with the NPPF (2024).

Policy H of the PPTS is titled 'Determining planning applications for traveller sites'. Paragraph 25 states that local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for

traveller sites:

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

At present, the Council are unable to demonstrate a five-year deliverable supply of permanent GRT pitches, this shortfall is not acute as demonstrated by the Gypsy and Traveller accommodation topic paper September 2024 (GTATP)

In accordance with national policy and guidance, sites with planning permission are deliverable. Accordingly, those sites with planning permission (and any subsequent completions) at the base date of the Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2023 (GTAA) 2023 were factored into the needs modelling. The GTAA outlines a total cultural need of 35 pitches between 2023-2027, which is modest in the context of the borough's history of proactive completion and the granting of planning permissions.

The National Government's planning policy for traveller sites (PPTS) currently requires local planning authorities to ensure they have a supply of specific deliverable sites sufficient to provide 5 years' worth of pitches/plots against a locally set requirement (paragraph 10). The adopted development plan does not include a locally set requirement. The Council therefore considers the sufficiency of supply against the GTAA 2023.

Policy H9 of the Local Plan Update (LPU) outlines that notwithstanding the limited five-year need, the Council has sought to plan to meet the overarching aim of 86 pitches up to 2040, showing a proactive approach on delivering appropriate, well planned and high-quality GRT pitches within the borough over a sustainable period. This process included the allocation of 43 pitches, which when combined with GRT provision within strategic sites total an anticipated delivery of 81 pitches, leaving a targeted five-pitch need between present day and 2040.

This baseline position means that the council is currently unable to demonstrate a five year supply of pitches, in part due to the timing of the GTAA 2023 being finalised. PPTS paragraph 28 states:

"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"

Since the GTAA 2023 the council has granted planning permission for five additional pitches at Dun Elms, Nelsons Lane, Hurst (application reference 243193 granted in

April 2025). These pitches represent deliverable supply capable of contributing towards identified needs. It is of note that the LPA are working proactively with applicants on numerous additional sites put forward for development and this number is expected to increase in the near future.

Notwithstanding the five-year land supply position for GRT pitches, as per paragraph 23 of the PTTS, planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. This is in accordance with S38(6) of the Compulsory Purchase Order 2004 (as amended), however, the tilted balance is engaged to some degree given the Council's supply position.

The agent contends that the appellants continue to rely on their personal circumstances to support a case for very special circumstances. As set out in the Inspector's previous decision, those circumstances included the appellants' status as Gypsies and Travellers, their need for a settled base, and access to healthcare and education for family members, including children. These were accepted as compelling factors justifying a temporary personal permission at the time of the appeal. The agent maintains that these personal needs have not changed and remain relevant.

However, while the appellants' personal circumstances were acknowledged and accepted by the Inspector as constituting very special circumstances at the time of the original appeal (ref: APP/X0360/W/23/3320780) it is important to note that the decision to grant a five-year temporary and personal permission was not without reasoned justification. The limited duration was deliberately imposed to allow the appellants a period of stability while providing the opportunity for alternative, more suitable sites to come forward—either through the Local Plan process or windfall applications. This point was acknowledged by the Inspector who stated: *'This balance changes significantly however, when considering a temporary planning permission. This would not involve permanent harm to the Green Belt or to the character and appearance of the area and would allow the family to have a more settled base from which the children could continue their education. It would also allow for alternative sites to come forward through the ELP process.'* (Para 42).

This approach aligns with national policy guidance (including previous versions of Planning Policy for Traveller Sites) which advises that temporary permissions may be appropriate where there is unmet need, but where the harm to the Green Belt would not be justified on a permanent basis. Given this context, the continuation of a personal condition without any time limit arguably undermines the Inspector's original balancing exercise and the temporary nature of the planning harm that was reluctantly accepted. In effect, granting a permission now—solely on the basis of the same personal circumstances—would represent a significant departure from the measured and time-limited relief that was previously deemed acceptable.

Whilst approval of this variation could result in a net increase of one GRT pitch on a permanent basis contributing towards the council's supply, the principle of an additional pitch cannot be afforded any greater weight when undertaking the overall planning balance than it was at appeal (which was not considered to trump the significant harm to the Green Belt, landscape and countryside).

Paragraph 155 (c) NPPF 2024

For Paragraph 155 (c), the agent draws on the Inspector's observations (ref: APP/X0360/W/23/3320780) at paragraph 52 of the decision, where the site's sustainable location was confirmed due to its proximity to Twyford and accessibility to local services such as schools, shops, and public transport. This is not contested by the Council and supports the proposal's compliance with sustainability criteria.

Paragraph 155 (d) NPPF 2024

As the proposal does not constitute major development as defined in paragraph 156, the requirements set out in paragraph 155(d) (relating to the 'Golden Rules') are not applicable in this case.

Summary

Overall, the proposal fails to meet all four criteria set out within paragraphs 155(a) to (d) of the NPPF (December 2024) and therefore stands contrary to the Framework's Green Belt policy. As such, the development constitutes inappropriate development within the Green Belt. Paragraph 153 of the NPPF clearly states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Furthermore, substantial weight must be given to any harm to the Green Belt, including harm to its openness and permanence. Given that the proposal does not satisfy the exception criteria under paragraph 155 and would result in harm to the openness and purposes of the Green Belt, very special circumstances have not been demonstrated to outweigh this harm. Accordingly, the development should be refused planning permission in accordance with national policy.

Character of the Area:

Policy CP1 of the Core Strategy states that planning permission will be granted for development proposals that maintain or enhance the high quality of the environment.

Policy CP3 of the Core Strategy states that development must be appropriate in terms of its scale, mass, layout, built form, height and character of the area and must be of high quality design.

Policy CP11 of the Core Strategy does not permit development outside of development limits except if in the case of residential development, it involves extensions to existing dwellings or replacement dwellings, does not lead to excessive expansion away from the original building, does not result in inappropriate increases in scale, form or footprint and would bring about environmental improvement.

Policy CP12 of the Core Strategy and Policy TB01 of the MDD Local Plan state that development must maintain the openness of and not conflict with or harm the purposes of the Green Belt

R1 and RD1 of the Borough Design Guide SPD requires that development contribute positively towards and be compatible with the historic or underlying character and quality of the local area and R11 requires a coherent street character, including in terms of scale, rhythm, proportion and height.

Policy TB10 of the Managing Development Delivery Local Plan states that the layout and design of Gypsy sites should provide a safe living environment that meets the needs of residents, while respecting the character of the local area.

Paragraph 139 of the NPPF states *“Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.”*

Paragraph 153 of the NPPF states *“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness.”*

Paragraph 187 of the NPPF states: *“Planning policies and decisions should contribute to and enhance the natural and local environment by: (b) recognising the intrinsic character and beauty of the countryside.”*

R24 of the Wokingham Borough Design Guide states *“The layout and design of gypsy sites should provide a safe living environment that meets the needs of residents, while respecting the character of the local area.”* Its supporting text states *“Key considerations for site layout include: a clear demarcation of boundaries that is sympathetic to the character of the surrounding area”*

The assessment of the overarching impacts to the character of the area resulting from the siting of a mobile home on equestrian land to provide residential accommodation for a Romany Gypsy/Traveller family and conversion of a stables to provide a day room remains consistent with the findings set out in appeal APP/X0360/W/23/3320780, in that these developments are inherently harmful to the openness of the Green Belt, the character of the area, and the site's landscape character. The Inspector in this appeal clearly acknowledged that the proposal “would result in increased development on and a consequent urbanisation of the site” which “would result in moderate harm to the character and appearance of the area” (paragraph 23). The urbanising effect of the development would undermine the “quality of the environment” and contribute to a “moderate loss of openness,” conflicting with the fundamental purposes of the Green Belt as set out in relevant planning policies (paragraphs 25 and 39).

While these harms are established, they would be exacerbated by the permanent siting of the mobile home and related structures. The Inspector highlighted that “the proposal is inappropriate development in the Green Belt” and that it “would lead to a moderate loss of openness and would conflict with one of the Green Belt purposes” (paragraph 39). A permanent permission would lock in this harm indefinitely, resulting in irreversible change to the site's landscape and Green Belt openness, which conflicts with policies CP1, CP2, CP11 of the Core Strategy, and TB10 and TB21 of the MDD Plan, as well as section 15 of the National Planning Policy Framework.

In contrast, the Inspector found that granting a temporary planning permission for five years would avoid “permanent harm to the Green Belt or to the character and appearance of the area” (paragraph 42). This temporary approach was deemed “a proportionate response” balancing the identified harm against the appellant’s human rights, the Public Sector Equality Duty, and the best interests of the children involved (paragraph 42). The temporary permission acknowledges the existing harm but limits its duration, allowing time for alternative sites to come forward through the emerging Local Plan process and for the family’s immediate needs to be met without causing long-term damage.

Moreover, the Inspector specifically states that “a temporary permission would still result in harm to the openness of the Green Belt and to the character and appearance of the area for a limited period. However, in this case, I consider that this is clearly outweighed by other considerations” (paragraph 43). This clearly demonstrates that the harm, while real, is significantly less harmful when confined to a temporary period rather than permanent, long-lasting development.

While a soft landscaping scheme has been submitted with this application, it closely mirrors that approved under planning ref: 250058, with only minor alterations to planting layout. The Inspector’s comments therefore remain relevant: the proposed landscaping “would not fully overcome the harm resulting from the proposal” (para. 24). Despite existing and additional planting, the development would still result in an “urbanising effect” and “moderate harm to the character and appearance of the area” (para. 23), particularly given the site’s position within a sensitive landscape gap. Landscaping alone cannot mitigate the erosion of openness or the loss of rural character.

The fundamental difference lies in the permanence of the harm caused. The permanent siting of the mobile home would mean “inappropriate development” with “substantial weight” given to the harm to the Green Belt, which “very special circumstances” must clearly outweigh (paragraphs 38-39). In this appeal, the Inspector concluded that these very special circumstances “do not exist” to justify permanent permission (paragraph 41). The temporary permission, however, is justified precisely because it limits harm in both scale and duration.

To conclude, the permanent siting of the proposed development would fail to maintain or enhance the appearance of the area or the intrinsic character and beauty of the countryside. It would result in the permanent and lasting urbanisation of the site that would moderate loss of openness of the Green Belt, would result in encroachment into the countryside and would result in moderate harm to the character and appearance of the area. This would be contrary to policies CP1, CP3, CP11, and CP12 of the Core Strategy, policy TB10 of the MDD Local Plan, the BDG, and the NPPF (2024), and would reinforce the concerns identified by the Inspector, who found that the harm to the character and appearance of the area could not be fully mitigated.

Neighbouring Amenity:

The proposed development would remain suitably located at a sufficient distance

from neighbouring properties, and as such, is not expected to result in any issues of overlooking, overbearing, or loss of light.

Highway Access and Parking Provision:

The Council's Highways Officer has reviewed the application and considers that the proposed variation would not adversely impact the existing parking provision or the public highway.

Flooding and Drainage:

In accordance with Policy CC09 of the MDD Local Plan, consideration has been given to flood risk, including any record of historic flooding. The application site, including its means of access, is located within Flood Zone 1, where there is a low probability of flooding.

The Council's Drainage Officer has reviewed the proposal and is satisfied that the variation would not result in any increased flood risk or vulnerability. As such, no objections have been raised in relation to drainage matters.

The site's drainage strategy, secured under Condition 5 of appeal decision APP/X0360/W/23/3320780 and formally discharged under planning reference 232959, remains valid and continues to apply to the development.

Landscape and Trees:

There are no protected trees on the application site and no trees are proposed for removal. The Trees and Landscape Officer has reviewed this application and considers that the submitted Landscape Strategy Plan (Drawing Reference 950-LA-P-01, dated January 2023) was previously discharged under 232959 however, it is understood that the approved scheme has not been implemented as required.

While the Landscape Strategy is considered acceptable in principle, the Trees and Landscape Officer would require a more detailed plan showing both hard and soft landscape design elements. This should include a Plant Schedule specifying the species of native trees and hedges, their sizes, and quantities.

Furthermore, the approved landscape strategy must be implemented on site. For example, the existing close board fencing that has been erected should be replaced with post and rail fencing, reusing the existing fence posts to avoid further excavation within the Root Protection Area (RPA). The existing native hedge should also be enhanced with additional native hedge planting. It is proposed to replace the Laurel hedging with a new mixed native hedgerow, and to install a new 5-bar timber field gate at the existing entrance.

Ecology:

Policy CP7 of the Core Strategy states that sites designated as of importance for nature conservation are to be conserved and enhanced and inappropriate development will be resisted. Policy TB23 of the MDD Local Plan requires the

incorporation of new biodiversity features, buffers between habitats and species of importance and integration with the wider green infrastructure network.

The assessment of the impacts to ecology and biodiversity resulting from the development remains the same as set out in application APP/X0360/W/23/3320780 whereby no objections were raised.

The site is not identified as an area of known bat activity, and survey results indicate a negligible impact on protected species. As such, no ecological concerns are raised.

Human Rights

The Human Rights Act 1998 came into force on 2 October 2000. Article 8 relates to respect for private and family life. Article 1 of Protocol 1 relates to peaceful enjoyment of property.

When a planning decision is made there is further provision that the Authority must take into account the public interest. In the vast majority of cases existing planning law has for many years demanded a balancing exercise between private rights and public interest and therefore the Local Planning Authority's decision making will continue to take into account this balance.

The applicant has stated that personal circumstances continue to justify very special circumstances and that this is why the appeal condition restricting occupation to the appellant's family has not been proposed for removal. The Inspector in the earlier appeal (APP/X0360/W/23/3320780) gave significant weight to the family's circumstances, including the education of the children and the need for a settled base. However, the Inspector concluded that these factors did not justify a permanent planning permission, stating:

"These other considerations, including the extent of interference with the appellant's rights under Article 8... do not clearly outweigh the harm to the Green Belt and the other harm in this case" (para. 41).

A temporary permission was considered a proportionate response at the time, particularly in light of the best interests of the children, in accordance with Article 3 of the United Nations Convention on the Rights of the Child. The Inspector determined that a five-year temporary consent appropriately balanced the family's rights with the significant harm identified to the Green Belt and landscape (para. 42–44).

No new evidence has been presented in this application to demonstrate a material change in the family's circumstances or their accommodation options. While the lack of alternative sites was considered a relevant factor in the appeal, it was addressed in the context of a temporary permission, not a permanent one. The Inspector gave weight to this situation but did not consider it sufficient to override the enduring and long-term harm of a permanent development in this location.

Therefore, it is considered that the applicant's rights under Article 8 and Article 1 of Protocol 1, as incorporated by the Human Rights Act 1998, are not infringed by the refusal of permanent planning permission. A balanced assessment has been

undertaken in accordance with domestic planning law and human rights legislation, and the public interest in protecting the Green Belt and landscape character continues to outweigh the personal considerations advanced.

The Public Sector Equality Duty (Equality Act 2010):

In making its decision the Council must also have regard to its public sector equality duty (PSED) under s.149 of the Equalities Act 2010. The duty is to have due regard to the need (in discharging its functions) to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
- Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor when considering its decision but does not impose a duty to achieve the outcomes in s.149. The level of consideration required (i.e. due regard) will vary with the decision including such factors as:

- The importance of the decision and the severity of the impact on the Council's ability to meet its PSED.
- The likelihood of discriminatory effect or that it could eliminate existing discrimination.

The Council should give greater consideration to decisions that have a disproportionately adverse impact on a protected characteristic and this impact may be unintentional. In appropriate cases, this may involve an understanding of the practical impact on individuals so affected by the decision. Regard should be had to the effect of mitigation taken to reduce any adverse impact.

Further, the PSED is only one factor that needs to be considered when making a decision and may be balanced against other relevant factors. The Council is also entitled to take into account other relevant factors in respect of the decision, including financial resources and policy considerations. In appropriate cases, such countervailing factors may justify decisions which have an adverse impact on protected groups.

The appeal decision (APP/X0360/W/23/3320780) acknowledges the personal circumstances of the appellant's family as part of the balancing exercise, particularly highlighting the educational needs of the children residing on the site (see paragraphs 30–33). However, the Inspector found that these factors do not outweigh the identified harm to the Green Belt, landscape character, and openness of the area (paras. 39–41).

The temporary permission granted for five years was considered a proportionate approach, allowing the family a settled base while not causing permanent harm to the protected characteristics of the area (para. 42). This decision reflects the Council's duty to advance equality of opportunity by accommodating the family's needs, while balancing it against the public interest in preserving the Green Belt and landscape.

No evidence has been presented with this application suggest that refusal of permanent permission would result in unlawful discrimination or disproportionately disadvantage the appellant's family. The decision thus aligns with the PSED requirements by considering the practical impact on the family, applying mitigation via temporary consent, and balancing this against other planning considerations.

Whilst it is not considered that either families protected characteristics are interfered with, any interference with PSED must be balanced against the wider public interest and the harm to the Green Belt, landscape and character and appearance of the Countryside cannot be outweighed by harm to the personal desires of the occupiers. Accordingly, regardless of the background of the landowners, significant harm arises from the proposed development and the ethnicity of the landowners does not outweigh this.

Accordingly, the Council's refusal of permanent permission does not conflict with the Public Sector Equality Duty as it reasonably balances the family's needs with wider environmental and planning policy concerns.

Planning Balance/ Conclusion:

Overall, the proposed variations, namely, to vary Conditions 1 and 2 of Appeal Decision APP/X0360/W/23/3320780 by removing the 5-year time limit. are unacceptable and contrary to both local and national policy as a whole. Limited up to date personal circumstances have been put forward in support of the application, no very special circumstances exist that outweigh the harms associated with Inappropriate development within the Green Belt and moderate harm to its openness. These harms have significant weight attached.

The proposed development stands contrary to the Council's spatial strategy and remains to be harmful to its surroundings resulting in a moderate loss of openness to the Green Belt and moderate harm to the character and appearance of the area through the urbanisation of the site. The proposal to create an unrestricted, permanent permission exacerbate this harm. It is noted that the variation could add to the borough's supply of GRT pitches, however, one singular pitch is a minimal contribution and the LPA's shortfall is not acute.

This conclusion is consistent with the previous appeal decision and without the very special circumstances of the previous applicant, there is no good reason to permit development contrary to the development plan and NPPF.

For the reasons listed above, a permanent and unrestricted permission comprising inappropriate development that is contrary to the development plan and the framework as a whole, is not outweighed by a modest increase of supply and limited personal circumstances. As such, material considerations have not dictated that an alternative approach should be taken and thus, the application is recommended for refusal.

Community Infrastructure Levy (CIL):

When planning permission is granted for a development that is CIL liable, the Council will issue a liability notice as soon as practicable after the day on which the planning permission first permits development. Completing the assumption of liability notice is a statutory requirement to be completed for all CIL liable applications.

RECOMMENDATION

Conditions agreed:	Not required
Recommendation:	Refusal
Date:	30 June 2025
Earliest date for decision:	7 June 2025

Recommendation agreed by: (Authorised Officer)	<i>MC</i>
Date:	09.07.2025

PLANNING CONSTRAINTS/STATUS

- Contaminated Land Consultation Zone
- Green Routes and Riverside Paths
- Heathrow Aerodrome Consultation Zone
- Scale and Location of Development Proposals
- Great Crested Newt Consultation Zone
- Green Belt
- Ground Water Zones
- Nuclear Consultation Zone
- Radon Affected Area
- Landscape Character Assessment Area
- Land Terrier
- SSSI Impact Risk Zones
- Green Routes and Riverside Paths Consultation Zone
- Ordinary Watercourses Consultation Zone
- JCEB Areas of Search for Sand and Gravel
- JCEB Mineral Safeguarding Areas