

The Planning Inspectorate

ENFORCEMENT NOTICE APPEAL FORM (Online Version)

WARNING: The appeal **must** be received by the Inspectorate **before** the effective date of the local planning authority's enforcement notice.

Appeal Reference: APP/X0360/C/25/3370255

A. APPELLANT DETAILS

Name

Address

Preferred contact method

Email ☒ Post ☐

A(i). ADDITIONAL APPELLANTS

Do you want to use this form to submit appeals by more than one person (e.g. Mr and Mrs Smith), with the same address, against the same Enforcement notice?

Yes ☐ No ☒

B. AGENT DETAILS

Do you have an Agent acting on your behalf?

Yes ☒ No ☐

Name

Company/Group Name

Address

Phone number

Fax number

Email

Your reference

Preferred contact method

Email ☒ Post ☐

C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority

Wokingham Borough Council

Date of issue of enforcement notice

02/07/2025

Effective date of enforcement notice

01/08/2025

D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address?

Yes

☒ No

☐

Address

Donnas Paddock, Land opposite 136 - 144
Wargrave Road
Twyford
RG10 9PN

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site?

Yes

☐ No

☒

What is your/the appellant's interest in the land/building?

Owner

☐

Tenant

☐

Mortgagee

☐

None of the above

☒

Did you/the appellant occupy the land/building under a written or oral licence

BOTH on the date the enforcement notice was issued AND on the date of making this appeal?

Yes

☒ No

☐

What is your/the appellant's involvement with the land/building?

Occupier

E. GROUNDS AND FACTS

Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal?

Yes

☐ No

☒

(a) That planning permission should be granted for what is alleged in the notice.

☒

The facts are set out in

☒ the box below

Preliminary issues

These grounds relate to an appeal against an Enforcement Notice ("the EN") issued on 2nd July 2025 by Wokingham Borough Council ("the Council"), which alleges a breach of conditions 1, 3, 4, 6, 7, 8, 9, 10, 11, 12 and 13 of planning permission 202499 allowed on appeal (reference APP/X0360/W/21/3288874).

An appeal of the Council's refusal of an application, reference 250058 seeking to vary conditions 1 and 4 of planning permission 202499 allowed on appeal (reference APP/X0360/W/21/3288874) ("the 2022 Permission"), will also be made and a request is made that the appeals be linked relating to the same

site.

Ground (a)

The Enforcement Notice issued on 2nd July 2025 alleges a breach of conditions 1, 3, 4, 6, 7, 8, 9, 10, 11, 12 and 13 of planning permission 202499 allowed on appeal (reference APP/X0360/W/21/3288874).

The ground (a) appeal is made without prejudice to the ground (b) appeal.

The ground (a) appeal is distinct from the appeal of application, reference 250058 ("the Section 73 application"). The Section 73 application sought to vary just conditions 1 and 4 of the 2022 Permission. Further, the EN appeal seeks permission for development on the ground at the time of the issue of the EN, which differs to that for which permission was sought pursuant to the Section 73 application.

The provisions of s.174(2A) will not therefore be applicable and the appeal is not ground (a) barred.

Pursuant to the ground (a) appeal permission will be sought to:

- Remove condition 3. It will be shown that the condition is neither reasonable nor necessary due to the material considerations applicable to the development.
- Remove condition 6 – a revised landscaping scheme will be proposed reflecting the current layout of the site, with additional proposed landscaping.
- Remove condition 7 – An updated arboricultural report will be provided to demonstrate that there is no negative impact on trees as a result of the amended site layout.
- Remove condition 8 – Expert evidence will be submitted to demonstrate that sufficient drainage arrangements can be incorporated into the site.
- Remove condition 9 – Expert evidence will be submitted to demonstrate that biodiversity net gain can be achieved at the site.
- Remove condition 10 – Details of appropriate acoustic fencing will be submitted such that condition 10 can be removed, such no longer being reasonable or necessary.
- Vary condition 11 – A revised parking layout will be proposed reflecting the current layout of the site.
- Vary condition 12 – Permission will be sought to vary the details of the surface material to reflect those on site.

In seeking to amend /vary the conditions as above it will be shown that the conditions as drafted are no longer reasonable nor necessary.

The Council have issued the Notice for the following reasons:

- The development constitutes inappropriate development in the Green Belt (conditions 1 and 3). Breaches of condition 4, 6, and 10 result in exacerbated harm to the openness of the Green Belt.

It will be demonstrated that that the Site comprises Grey Belt. A detailed assessment will be provided concluding that the Site, "does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143" and therefore in line with the above, the Site comprises Grey Belt.

In accordance with NPPF paragraph 155 (a), it will be shown that the development at the Site would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the plan area.

In accordance with NPPF paragraph 155 (b), it will be shown that there is a demonstrable need for the development. In this context reference will be made to the demonstrable unmet need for gypsy and traveller sites in the District.. Paragraph 155(b) NPPF will therefore be satisfied.

In accordance with NPPF paragraph 155 (c), the development would also need to be in a sustainable location. Footnote 57 makes specific reference to the provisions of the PPTS in making this determination. The Appellant will demonstrate with reference to paragraph 13 PPTS, relevant case law

and appeal decisions, including the 2022 appeal decision for the site where the Council conceded that the site has reasonable access to a range of local facilities, that the Site is sustainably located and thus that paragraph 155 (c) of the NPPF is satisfied.

As a result of the above, the Appellant's evidence will show that the development is appropriate development in the Green Belt and national policy is supportive of a grant of a grant of permission at this Site.

- The development is outside of settlement limits in the designated countryside, contrary to the development plan.

It will be shown that the site's location within the countryside is acceptable in principle. The Inspector's conclusions within the 2022 Appeal Decision will be referred to.

- The development poses significant adverse harm to the character and appearance of the area.

A landscaping scheme will be submitted to demonstrate that any impact on character and appearance can be appropriately mitigated.

- The development is located within the root protection areas of native trees and has resulted in a loss of landscaping features of amenity value.

An arboricultural report is being prepared which will evidence that there is no negative impact on trees or the root protection areas.

- It has not been demonstrated that the development has not increased surface water flood risk.

Expert evidence will be submitted to demonstrate that sufficient drainage arrangements can be incorporated into the site.

- It has not been demonstrated that the loss of habitats have been effectively mitigated or compensated for.

Expert evidence will be submitted to demonstrate that biodiversity net gain can be achieved with the development.

- In the absence of acoustic mitigation, it has not been demonstrated that there is a high standard of amenity for occupiers.

Details of appropriate acoustic fencing will be submitted such that condition 10 can be removed, such no longer being reasonable or necessary.

- The access and parking are inconsistent with the approved plans decreasing sustainability.

A revised parking layout will be proposed reflecting the current layout of the site.

- The development contains commercial paraphernalia, building materials and scrap waste and mixed use is not appropriate at this location.

No change is proposed to condition 13.

Material considerations in favor of the development

There are a number of material considerations in this case which in combination are sufficient to clearly outweigh any harm to the Green Belt (should it be considered inappropriate development in the Green Belt) and any other harm, and therefore, establish that very special circumstances exist.

Those material considerations will include:

1. Need (national, regional and local);
2. Lack of available, suitable, acceptable, affordable alternative sites;
3. Lack of a five-year land supply of gypsy and traveller pitches;
4. Failure of policy; and
5. Likely location of gypsy and traveller sites in the Green Belt.

30. If necessary, personal circumstances of the site occupants (personal need, health and education) and the best interests of the child can be added to the balance.

Need

Taking into consideration the latest available estimations of need for gypsy and traveller sites in the District, GPS Ltd are of the view that the relevant GTAA underestimates the level of need in the district. This is a material consideration of significant weight.

Lack of suitable, acceptable, affordable sites

Alternative sites must be available, acceptable and affordable (*Angela Smith v Doncaster MBC*). It appears from all of the available information that there are no alternative available sites for the site occupants to move to and there seems little likelihood that there will be in the foreseeable future.

The lack of alternative sites is a material consideration of significant weight in favour of the appeal.

Five-year land supply

The LPA are unable to demonstrate a five-year land supply of deliverable land for gypsy and traveller sites. A lack of a five-year land supply is a matter that should attract considerable weight in favour of a grant of planning permission. The lack of a five-year land supply is a material consideration of significant weight in favour of the appeal.

Failure of policy

The LPA do not currently have a policy capable of delivering the required amount of pitches. The LPA are working towards too low a figure and will inevitably fail to meet the actual level of need in the District. Failure of policy is a material consideration of significant weight in favour of the appeal.

Personal circumstances

Personal circumstances only need to be considered if the Inspector finds a departure from policy and/or other harm and then finds that the other material considerations are insufficient to outweigh the identified harm. If necessary personal circumstances can be added into the pot to outweigh any harm. These will be set down and appropriate weight indicated.

The appellant's second position therefore is that the general material considerations and personal circumstances outweigh the harm so that a permanent consent can be granted subject to a personal condition.

Gypsy Status

Gypsy status of the occupiers is only relevant if it becomes necessary to take into account personal circumstances.

Evidence will be submitted through witness evidence to confirm the site residents meet the definition of Gypsies and Travellers that is appropriate for use at the time of the appeal hearing.

Permanent or temporary consent

If the Inspector concludes that the material considerations do not outweigh any identified harm

sufficient to justify a permanent consent, then clearly a consent with a condition limiting the use to a temporary period, falls to be considered consistent with paragraph 12 of the NPPG. It is common sense as well as case law Court of Appeal judgment *Moore v SSCLG and London Borough of Bromley* [2013] EWCA Civ 1194 that a temporary consent means the harm is reduced. The appropriate time frame for a temporary consent will be considered.

Human Rights Article 8 considerations

This is a clear obligation upon the Inspector to ensure that any decision made by a state body accord with the obligations under Article 8 ECHR. Incorporated into that obligation are the obligations set out under the United Nations Convention of the Rights of the Child, and in this case specifically Article 3. This obligation was no crystallised upon in the publication of *AZ v SSCLG and South Gloucestershire District Council* [2012] EWHC 3660 (Admin), but has existed for a number of years.

Best Interests of the Child

The best interests of the children are to enable them a safe environment where they have access to education and healthcare. Where the best interests of the child clearly favour a certain course, in this case a grant of planning permission, that course should be followed unless countervailing reasons of considerable force displace those interests.

There are no countervailing reasons of considerable force that have been relied upon to outweigh the need for the children to have a settled permanent base, which will enable amongst other things, access to education and to healthcare when needed.

The welfare and wellbeing of the children can only be safeguarded by the grant of a permanent planning permission, or in the alternative a temporary permission for a period that should give certainty of alternative suitable and lawful accommodation being secured by the LPA through the plan process.

(b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.



The facts are set out in

the box below

It will be shown that the breach of planning control as alleged has not occurred as a matter of fact.

It will be shown that the 2022 Permission was not validly commenced and as such there can be no breach of condition as is alleged by the EN. Case law relating to conditions precedent will be referred to. It will be shown that the correct breach of planning control is a material change of use.

The Council were seemingly of the same opinion at the point they issued a Planning Contravention Notice on 5th December 2024, alleging:

'Without planning permission, the change of use of land for the stationing of a mobile home for residential purposes'.

The EN, whilst alleging a breach of condition, is labelled 'BREACH OF CONDITIONS ENFORCEMENT NOTICE' but directly underneath, also states 'Material Change of Use and Operational Development'.

The expediency report for the EN considers the alleged breach of planning control at Section 3. The report refers to s.55 TCPA 1990, and subsequently goes on to state that the breaches of planning control consist of 'Use of land for the stationing of a mobile home for residential purposes (one Gypsy and Traveller Pitch) without compliance with conditions 1, 3, 4, 6, 7, 8, 9, 10, 11, 12 and 13 of planning permission 202499 allowed on appeal (reference APP/X0360/W/21/3288874) dated 17 October 2022'.

A breach of condition can be breach of planning control, it is not development, which the Council appear to fail to understand.

The expediency report under the section considering the planning unit, also states:

"The red line outlining the planning unit below is informed by the area in which the material change of use and associated operational development has been carried out."

This statement is clearly in direct contradiction with the alleged breach of planning control in the EN.

The expediency report fails to consider the conditions tests, which would have been appropriate when considering the expediency to issue a notice alleging such a breach.

The EN requirements also indicate that the Council have incorrectly defined the breach. The requirements are excessive for the alleged breach of conditions (addressed in detail in ground (f)) and would correspond more appropriately with a material change of use.

The Council are invited to withdraw this EN as a matter of urgency before the appellant incurs further wasted costs.

The Inspector will be requested to quash the EN on that basis. To amend the EN under the provisions of s.176 TCPA 1990, would introduce an entirely new breach and cause injustice to the Appellant.

For the above reasons it will be submitted that the ground (b) appeal should succeed.

(c) That there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development"). ☐

(d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice. ☐

(e) The notice was not properly served on everyone with an interest in the land. ☐

(f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections. ☒

The facts are set out in

☒ the box below

The requirements of the EN reflect a material change of use as opposed to the breaches of condition as alleged. This is supportive of the Appellant's ground (b) appeal.

The Council's errors in this regard will necessitate significant and substantial amendments to the notice including as follows:

- Requirement i) requires the cessation of the use of the land for the siting of caravans for human habitation. If what has occurred is a breach of condition as alleged, the requirement should be amended to require the cessation of the use of the land by anyone other than those named in Condition 1 of planning permission 202499.
- Requirement (ii) – The removal of all caravans from the land would not bring the development in line with any of the allegedly breached conditions. This requirement should be deleted.
- Requirement (iv) – The requirement to excavate the hard-surfacing and sub-base beneath the caravan(s) is excessive. This should be amended to require that the hardsurfacing on the site is laid in accordance with the plans specified in Condition 4. This requirement is also duplicated with Requirement (ix), only one of which should remain.
- Requirement (v) – The requirement to disconnect all utilities associated with the unauthorised use is excessive to remedy the breach alleged. This requirement should be deleted.
- Requirement (vi) – This requirement should be amended to require the septic tank, water tanks and associated pipework, to be laid in accordance with the plans.
- Requirement (vii) – The requirement to remove all boundary treatments is excessive and should be amended to require the boundary treatments be brought in line with the approved plans/schemes.

- Requirement (ix) - The requirement to excavate all hard-surfacing and remove it from the land is excessive. This should be amended to require that the hardsurfacing on the site is laid in accordance with the plans specified in Condition 4.
- Requirement (x) - This should be amended to relate only to the removal of residential paraphernalia in connection with the use of the land by anyone other than those named in Condition 1. The EN does not allege a mixed use including commercial use, as such the reference to 'commercial paraphernalia' should be deleted.
- Requirement (xii) - The requirement to restore the land to its former condition prior to the breach of planning control taking place is excessive. The Council have not alleged a material change of use, as such this requirement clearly goes beyond what can be considered necessary to remedy the breach.

(g) The time given to comply with the notice is too short. Please state what you consider to be a reasonable compliance period, and why. ☒

The facts are set out in

☒ the box below

The time for compliance with the EN is 9 months.

A compliance period of at least 2 years is required for all requirements of the notice, to enable the occupiers living on the site to find alternative accommodation.

This will be demonstrated with reference to the scale of need for additional pitches in the district, the lack of a five-year supply of gypsy and traveller pitches, the lack of suitable, affordable, available and acceptable alternative sites and the LPA's ongoing failure of policy.

F. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations ☐

2. Hearing ☒

You must give detailed reasons below or in a separate document why you think a hearing is necessary. The reasons are set out in

☒ the box below

An Enforcement Notice Appeal and Planning Application Appeal are both being submitted regarding the proposed site. The Appellant will be requesting that the two appeals be linked and heard together.

There is a central dispute between the parties as to whether there has been a material change of use or breach of condition. The Council's EN will necessitate evidence on ecology, drainage, need and other aspects on which the Inspector may wish to ask questions. The issues are sufficiently complex to warrant a hearing and oral discussion, but not so complex as to necessitate an inquiry.

Is there any further information relevant to the hearing which you need to tell us about?

Yes

☐ No

☒

3. Inquiry ☐

G. FEE FOR THE DEEMED PLANNING APPLICATION

1. Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice?

Yes

☐ No

☒

2. Are there any planning reasons why a fee should not be paid for this appeal?

Yes

☐ No

☒

If no, and you have pleaded ground (a) to have the deemed planning application considered as part of your appeal, you must pay the fee shown in the explanatory note accompanying your Enforcement Notice.

H. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided? Yes ☒ No ☐

Please give details, including our reference number(s), if known.

An appeal of the Council's refusal of an application, reference 250058 seeking to vary conditions 1 and 4 of planning permission 202499 is submitted and it is requested that the appeals are linked.

I. SUPPORTING DOCUMENTS

01. Enforcement Notice:

☒ see 'Appeal Documents' section

02. Plan (if applicable and not already attached)

☒ see 'Appeal Documents' section

J. CHECK SIGN AND DATE

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full grounds of appeal) to the LPA today.

Signature

Mr. Matthew Green

Date

31/07/2025 15:12:00

Name

Mr. Matthew Green

On behalf of

Mr Joseph Sheridan

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018.

The Planning Inspectorate takes its data protection responsibilities for the information you provide us with very seriously. To find out more about how we use and manage your personal data, please go to our [privacy notice](#).

K. NOW SEND

Send a copy to the LPA

Send a copy of the completed appeal form and any supporting documents (including the full grounds of the appeal) to the LPA.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:

<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>

- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the enforcement notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

You may wish to keep a copy of the completed form for your records.

L. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. If forwarding the documents by email, please send to **appeals@planninginspectorate.gov.uk**. If posting, please enclose the section of the form that lists the supporting documents and send it to Initial Appeals, Temple Quay House, 2 The Square, Temple Quay, BRISTOL, BS1 6PN.

You will not be sent any further reminders.

Please ensure that anything you do send by post or email is clearly marked with the reference number.

The documents listed below were uploaded with this form:

Relates to Section: SUPPORTING DOCUMENTS
Document Description: 01. The Enforcement Notice.
File name: BOCEN Enforcement Notice - Wargrave Road.pdf

Relates to Section: SUPPORTING DOCUMENTS
Document Description: 02. The Plan.
File name: BOCEN Enforcement Notice - Wargrave Road.pdf

Completed by MR. MATTHEW GREEN

Date 31/07/2025 15:12:00