

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY JOSEPH SHERIDAN AGAINST THE REFUSAL BY WOKINGHAM BOROUGH COUNCIL OF A PLANNING APPLICATION TO VARY CONDITIONS 1 AND 4 OF PLANNING CONSENT 202499 GRANTED UNDER APPEAL REFERENCE APP/X0360/W/21/3288874 DATED 17/10/2022 FOR THE PROPOSED DEMOLITION OF EXISTING BUILDING AND CHANGE OF USE OF LAND FOR THE STATIONING OF A MOBILE HOME FOR RESIDENTIAL PURPOSES (ONE GYPSY AND TRAVELLER PITCH) AND THE ERECTION OF A SINGLE STOREY UTILITIES BUILDING. CONDITION 1 RELATES TO OCCUPATION BY NAMED PERSONS FOR A TEMPORARY PERIOD AND CONDITION 4 TO THE APPROVED PLANS, AND THE VARIATION IS TO REMOVE OR AMEND THE PERSONAL PERMISSION AND REMOVE THE TEMPORARY TIME PERIOD, AND FOR CHANGES TO THE SITE LAYOUT AND LANDSCAPING.

LAND OPPOSITE 136-144 WARGRAVE ROAD, TWYFORD, RG10 9PN.

LPA REF: 250058

GPS REF: 25_1369

**INITIAL GROUNDS OF APPEAL
BY GREEN PLANNING STUDIO LIMITED
ON BEHALF OF THE APPELLANT**

The Appeal and Preliminary issues

1. This appeal is made against 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").
2. It is requested that this appeal be linked to the s174 appeal that has been submitted on 31st July 2025 in relation to the same site, 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).
3. On this basis, only grounds of appeal have been submitted to support this appeal submission, as should they be linked, the Hearing Statement will contain the Appellant's full case.
4. GPS had been instructed and were preparing for the submission of a full planning application for the stationing of caravans for residential purposes at the site. Unfortunately, as a result of the issue of the EN alleging a breach of condition as opposed to a material change of use, and the provisions contained within s.174(2A) TCPA 1990, the Appellant has had no option but to appeal against the refusal of planning application 250058 to ensure that the planning merits of the case can be considered at appeal. This planning appeal is therefore made without prejudice to the Appellant's case under ground (b) of the s.174 appeal.

The reasons for refusal

5. The Council have refused the application for the following reasons:
 - The development constitutes inappropriate development in the Green Belt.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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 permission at this Site.

11. On this basis, Condition 1 is no longer necessary or reasonable and should be deleted.

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

12. 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.

13. The site's location outside of a settlement boundary was not a reason for imposing any of the conditions on the 2022 Permission.

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

14. 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.

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

16. On this basis, Condition 4 should be varied.

17. The provisions of s73 would also allow the Inspector to vary or remove any of the existing conditions on the 2022 Permission, or impose any other conditions considered necessary.

Material considerations in favor of the development

18. 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.

19. 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.

20. 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

21. 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

22. 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.

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

Five-year land supply

24. 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

25. 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

26. 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.
27. 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

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

29. 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

30. 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

31. 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

32. 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.

33. 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.
34. 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.

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