

2.7 REFERENCE NO - 15/502237/FULL			
APPLICATION PROPOSAL Removal of condition 7 of planning permission SW/11/1414 (Change of use of land to use as residential caravan site for one gypsy family with two caravans, including no more than one static mobile home, erection of utility room and laying of hardstanding).			
ADDRESS The Peartree Greyhound Road Minster-on-sea Kent ME12 3SP			
RECOMMENDATION Grant further temporary permission for an additional year to enable the applicant to find alternative accommodation.			
SUMMARY OF REASONS FOR RECOMMENDATION The site is not suitable for permanent residential use, but the Council is not yet able to direct the applicant to available alternative sites.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection.			
WARD Sheppey Central	PARISH/TOWN Minster On Sea	COUNCIL	APPLICANT Mr David Kerbey AGENT Mr Philip Brown
DECISION DUE DATE 08/05/15	PUBLICITY EXPIRY DATE 08/05/15	OFFICER SITE VISIT DATE	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/11/1414	Temporary planning permission for use as a residential caravan site.	Approved	June 2012
Temporary permission was granted in recognition of the fact that the Council could not demonstrate a five-year supply of sites, or direct the applicant to any available alternative sites that would be granted permission in preference to the application site.			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The Peartree is an existing gypsy / traveller site situated on Greyhound Road, Minster. It sits on the western side towards the bottom end of the road and comprises an area of hard standing, two mobile homes, and a utility building.
- 1.02 The site comprises one of a number of gypsy / traveller sites on Greyhound Road, the majority of which benefit from temporary planning permission.

2.0 PROPOSAL

- 2.01 The application seeks permission for removal of condition (7) of SW/11/1414 – which granted temporary consent for a period of 4 years – to allow permanent residential use of the site by gypsies or travellers.

3.0 SUMMARY INFORMATION

	Existing
Site Area	0.1ha (0.2 acres)
No. of pitches	1
No. of caravans	2 (1 static + 1 tourer)

4.0 PLANNING CONSTRAINTS

- 4.01 Environment Agency Flood Zone 3.

5.0 POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) (Re-issued)

- 5.01 The national policy position comprises the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). Both documents were released in 2012 but the PPTS was re-issued in August 2015 with amendments. Together they provide national guidance for Local Planning Authorities on plan making and determining planning applications for Gypsy and Traveller sites. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition there is a requirement in both documents that makes clear that Councils should set pitch targets which address the likely need for pitches over the plan period and maintain a rolling five year supply of sites which are in suitable locations and available immediately.
- 5.02 Whilst regard has been paid to all of the guidance as set out within the NPPF, consider that the following extracts from paragraph 7 are particularly pertinent:

“There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- *an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*

- *a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and*
- *an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.”*

5.03 In relation to rural housing the NPPF (at paragraph 55) states;

- *“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:*
 - *the essential need for a rural worker to live permanently at or near their place of work in the countryside; or*
 - *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
 - *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or*
 - *the exceptional quality or innovative nature of the design of the dwelling. Such a design should:*
 - *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;*
 - *reflect the highest standards in architecture;*
 - *significantly enhance its immediate setting; and*
 - *be sensitive to the defining characteristics of the local area.”*

5.04 In relation to conserving and enhancing the natural environment the NPPF, at paragraph 109, states;

“The planning system should contribute to and enhance the natural and local environment by:

- *protecting and enhancing valued landscapes, geological conservation interests and soils;*
- *recognising the wider benefits of ecosystem services;*
- *minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- *preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by*

- unacceptable levels of soil, air, water or noise pollution or land instability; and*
- *remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.”*

Planning Policy for Traveller Sites (PPTS)

5.05 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Whilst regard has been paid to all of the guidance as set out within the PPTS, its main aims now are:

“The Government’s overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.” (para 3 PPTS)

5.06 *To help achieve this, Government’s aims in respect of traveller sites are:*

- a. *that local planning authorities should make their own assessment of need for the purposes of planning*
- b. *to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites*
- c. *to encourage local planning authorities to plan for sites over a reasonable timescale*
- d. *that plan-making and decision-taking should protect Green Belt from inappropriate development*
- e. *to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites*
- f. *that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective*
- g. *for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies*
- h. *to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply*
- i. *to reduce tensions between settled and traveller communities in plan-making and planning decisions*
- j. *to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure*
- k. *for local planning authorities to have due regard to the protection of local amenity and local environment.” (para 4 PPTS)*

5.07 In terms of plan making the PPTS advice is that;

“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 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*
- 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.” (para 13 PPTS)*

5.08 For sites in rural areas and the countryside the PPTS advice is that;

“When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.” (para 14 PPTS)

5.09 In relation to the determination of planning applications the PPTS says that;

“Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.” (para 23 PPTS)

“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”*

“However, as paragraph 16 [relating to Green Belts] makes clear, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.” (para 24 PPTS). (This mini paragraph was added in the 2015 re-issue of PPTS.)

“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.” (para 25 PPTS). (The word “very” was added to this paragraph in the 2015 re-issue of PPTS.)

“If a local planning authority cannot demonstrate an up-to-date 5year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary permission. The exception to this is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).” (para 27 PPTS). Members might like to note that the last sentence above was added to this paragraph in the 2015 re-issue of PPTS.

- 5.10 Finally, the definition of gypsies and travellers has been amended in the re-issued PPTS to remove the words “or permanently” from after the word “temporarily” in the following definition;

“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, but excluding members of an organised group of travelling showpeople or circus people travelling together as as such.”

Saved Policies of Swale Borough Local Plan 2008

- 5.11 Policy E1 (General Development Control Criteria) sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.
- 5.12 This site lies in an isolated position within the countryside where policy E6 (The Countryside) seeks to protect the quality, character and amenity of the countryside, and states that development will not be permitted outside rural settlements in the interests of countryside conservation, unless related to an exceptional need for a rural location.
- 5.13 Within the countryside, and outside of designated landscape areas such as AONBs, policy E9 (Protecting the Quality and Character of the Borough’s Landscape) expects development to be informed by local landscape character and quality, consider guidelines in the Council’s landscape character and assessment, safeguard distinctive landscape elements, remove detracting features and minimise adverse impacts on landscape character.

- 5.14 Policy E19 (Achieving High Quality Design and Distinctiveness) requires development proposals to be well designed.
- 5.15 Policy H4 explains the Borough Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly demonstrate that they are gypsies or travelling showpersons with a genuine connection with the locality of the proposed site, in accordance with 1 and 2 below.
1. For proposals involving the establishment of public or privately owned residential gypsy or travelling showpersons sites:
 - a) there will be a proven need in the Borough for the site and for the size proposed;
 - b) the site will be located close to local services and facilities;
 - c) there will be no more than four caravans;
 - d) the site will be located close to the primary or secondary road networks
 - e) in the case of a greenfield site there is no suitable site available on previously developed land in the locality;
 - f) the site is not designated for its wildlife, historic or landscape importance;
 - g) the site should be served, or capable of being served, by mains water supply and a satisfactory means of sewage disposal and refuse collection;
 - h) there is no conflict with pedestrian or highway safety;
 - i) screening and landscaping will be provided to minimise adverse impacts;
 - j) no industrial, retail, commercial, or storage activities will take place on the site.
 - k) use of the site will not give rise to significant adverse impacts upon residential amenity, or agricultural or commercial use, of surrounding areas; and
 - l) the land will not be in a designated flood risk area.
 2. Additionally to 1, for proposals for short term stopping places:
 - m) there will be a planning condition to ensure that the length of stay for each caravan will be no longer than 28 days with no return to the site within 3 months."
- 5.16 This policy was criticised by the Local Plan Inspector who saw it, as a criteria based rather than site allocations policy, as inconsistent with the then Circular 01/2006 - which itself has since been superseded by PPTS and its emphasis of a five year supply of sites - and the policy can only be of limited significance to this application.

Bearing Fruits 2031: 2014 Publication version of the Swale Borough Local Plan: Part 1

- 5.17 The Council's Publication version of the draft Local Plan, entitled *Bearing Fruits 2031*, was published in December 2014 and is currently being examined.
- 5.18 Policy CP 3 of the draft Local Plan aims to provide pitches for gypsies and travellers as part of new residential developments. Policy DM10 sets out criteria for assessing windfall gypsy site applications

Site Assessment

- 5.19 The Council's February 2014 Gypsy and Traveller Site Allocations: Issues and Options consultations document recommends a new methodology for how to assess site suitability for determining whether or not to allocate a site. Although this was primarily intended to rank potential site allocations, it was agreed by Members of the LDF Panel in June 2014 to be used as a material consideration in planning applications. Even though this is normally done in relation to the potential suitability of a fresh site, given that its publication post-dates the previous grant of temporary permission on this site I have considered it in formulating this recommendation to be sure that the recommendation is up-to-date. This assessment is a Red/Amber/Green staged approach to site suitability, with any site scoring Red in any stage not being progressed to the next stage.
- 5.20 The red scores mean that the site should not proceed to Stage 3 and will not be a candidate site for a future allocations policy. The Peartree (and, indeed, many of the other sites along Greyhound Road) scores red in a number of categories, including domination of nearest settled community; site access; and access to facilities. It is therefore not considered suitable as a permanent site – this has been the Council's stance in regards to all gypsy and traveller applications along Greyhound Road for a number of years.

Five year supply position

- 5.21 The PPTS has since 2012 introduced a need for Council's to maintain a rolling five year supply of sites which are in suitable locations and available immediately. This is a relatively new requirement for Council's and the Council could only start attempting to meet this requirement following the commissioning and publication of the GTAA which provided the need figure and a base date. As such, the Council put measures into place to deal with the PPTS requirements very quickly, but have only recently started down the route of trying to maintain a rolling five year supply.
- 5.22 The GTAA sets out a target of 85 pitches to be provided by the year 2031, with a suggested provision of 35 pitches in the first five years (to 2018). Three pitches were approved during the course of the GTAA's production so the final target was in fact 82 pitches. Since the publication of the GTAA and up to the end of March 2015 a total of 47 permanent pitches have been approved in Swale almost exclusively without an appeal, of which 33 pitches had been implemented. Evidence to be presented to the Local Plan examination later this year shows that at the end of March 2015 the need for pitches identified

from the GTAA thus stood at 82 pitches minus the 33 permanent pitches approved and implemented, including the personal permissions granted in the interim. This reduced the need to 49 pitches which, at an annualised rate of 4.6 pitches per year (23 pitches over five years) indicated that the Council has already provided a surplus of supply of 0.8 pitches over the full five year requirement. This is calculated by taking the two year annualised requirement of 9.2 pitches from the completions so far to show a current surplus of 23.8 implemented pitches over the two year requirement and already a surplus of 0.8 approved permanent pitches over the five year need after just two years. In addition to this there are a further 13 approved but unimplemented permanent pitches as at the end of March 2015, an overall surplus of 14 pitches. These mostly comprise extensions to, or more intensive use of, existing sites and are awaiting occupation. Since then two more wholly new permanent sites have been approved at Eastchurch and Newington. Planning permission for a further two fresh pitches is awaiting only the completion of a Section 106 Agreement on a large mixed use development site at Faversham. This is a very considerable achievement and indicates the Council's positive attitude to such development in the right location. Furthermore, the likelihood of significant pitch provision as part of major new mixed use developments is a key feature of the emerging Local Plan and we will shortly see if that policy forms part of the final Plan.

The latest position of site provision

- 5.23 Evidence to the current Local Plan examination is that the Council has re-interrogated the GTAA to determine the appropriate level of pitch provision based on the new 2015 PPTS revised definition of gypsies and travellers. The data reveals that for all but unauthorised sites some two-thirds of households surveyed for the GTAA either never travel or travel not more than once a year. Overall, only 31% of respondents travel a few times a year, and 55% never travel, meaning that in Swale the gypsy and traveller population is quite settled, slightly more so than elsewhere in the country. Many current site occupants no longer meet the new PPTS definition of having a nomadic habit of life
- 5.24 Accordingly, the need for pitches in Swale has been re-evaluated, resulting in a reduced estimate of pitch need of 61 pitches over the Plan period to 2031. Of these 51 have already been granted permanent planning permission meaning that the outstanding need is just 10 pitches to 2031. The Council considers that on the basis of past trends this need could easily be met from windfall proposals.
- 5.25 As a result of this analysis, the Council is suggesting through main modifications to its draft Local Plan that the future need be based on a figure of 61 pitches, leaving a need per year of 0.7 pitches and, that no formal pitch allocations will be needed. Policy DM10 would be revised to deal with these windfall applications and policy CP3 would be removed from the Plan. Accordingly, a Part 2 Local Plan would not be required. The Local Plan Inspector endorsed this approach at the Inquiry sitting in November this year. Full, formal, acceptance of this stance relies upon a further round of public

consultation, but based on the representations received up to this point it is not envisaged that there will be a significant deviation.

- 5.26 However, irrespective of the question of the five year supply, the question of whether any approved and unoccupied sites are available to individual appellants is also normally taken in to account by Inspectors. Here, the evidence suggest that they may consider that sites approved as expansions of existing site are not readily available to appellants facing loss of their existing temporary site. This appears to confirm their decisions where the question of availability of alternative sites is crucial to their decision.
- 5.27 To conclude on this subject, it seems that there is no reason to see approved but unimplemented pitches as other than as part of a five year supply. Nor should potential ethnic grouping issues rule them out of consideration where this applies. However, there appears to be a question in Inspector's minds regarding whether such sites should be afforded full weight in relation to the prospects of them being suitable for a particular appellant, and whether they will wish to, or be able to, occupy such a site for reasons of ethnicity, or availability for other than families of the current site owners. In this case the site owners/applicant are not gypsies so this consideration does not need to be undertaken.
- 5.28 The revised PPTS (2015) has resulted in considerable uncertainty as it changes the planning definition of a traveller and gypsy, and therefore what number of required pitches need to be identified. The Council has addressed this by re-interrogating the GTAA data and presenting a number of options for the way forward to the Inspector at the current Bearing Fruits Local Plan Examination. At the time of writing the Inspector has yet to consider or decide which option is appropriate and in the mean time it is considered appropriate to continue to consider applications in the context of the GTAA as originally drafted.

6.0 LOCAL REPRESENTATIONS

- 6.01 Minster Parish Council has submitted a lengthy objection to the proposal, referring to the previous Inspector's decision (discussed below) and commenting:

“Although the appeal was allowed and the enforcement notice quashed the Inspector made some very clear deliberations which looked at:

- i. whether or not the development of the site is sustainable, having regard to accessibility to local services.*
- ii. the effect of the development on the character and appearance of the surrounding area.*
- iii. whether or not the development of the site is sustainable and encourages social inclusion*
- iv. the need for and provision of sites for gypsies and travellers in the area and the availability of alternative sites*
- v. the appellant's need for a settled site and personal circumstances.”*

- 6.02 They continue on to state that (in summary) the site is in an unsustainable location; the development is harmful to the character and amenity of the countryside; the development does not encourage social inclusion and dominates the local settled community; that the Brotherhood Wood site could accommodate additional pitches to satisfy local need; and that the remote location does not contribute positively to the applicant's healthcare requirements.
- 6.03 1 letter of general comments received, noting that the woodland previously covering the site has been cleared and not replaced with new planting.
- 6.04 1 letter of objection has been received, raising the following summarised concerns:
- Impact on character and appearance of the countryside;
 - More people are living, and more caravans have been stationed, on the site than was previously approved;
 - Loss of the previous woodland;
 - Noise and disturbance; and
 - Police are often called to the road.
- 6.05 The Brambledown Residents Association objects to the application, commenting that (in summary):
- The scale of sites on Greyhound Road is now such that it appears as a single large site;
 - The scale and manner of development is harmful to the character and amenity of the countryside; and
 - Greyhound Road has been deemed unsuitable for permanent permissions by both the Council and the previous appeal Inspector.

7.0 CONSULTATIONS

- 7.01 Natural England has no comments.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Of particular relevance is the appeal for Woodlands Lodge, another gypsy / traveller site also on Greyhound Road, under ENF/13/0036 and APP/V2255/C/13/2208507. (Decision attached as appendix.)
- 8.02 An enforcement notice was served on 14 October 2013 in respect of the applicant having moved on to the site unlawfully. The breach alleged within the notice was "*without planning permission, the material change of use of the land to land used as a caravan site for the stationing of caravans/ mobile homes used residentially, including the erection of a utility building(s) and the laying of hard-surfacing*" at land now known as Woodland Lodge, Brambledown, Greyhound Road, Minster.

- 8.03 The appeal was allowed – largely on the personal circumstances of the applicant, but also as the Council could not identify other sites to which the applicant could relocate – and with the Inspector commenting (at paras. 41 and 43 of the decision):

“In terms of the site’s location, it is remote and lacks access to local facilities. It is unsuitable and unsustainable for a caravan site. Added to that is the harm caused by the development to the character and appearance of the surrounding area. That harm cannot be overcome by landscape planting. Accordingly, the development conflicts with LP Policies E1 and E6, and advice contained in paragraphs 11 and 23 of the PPTS, because of the harmful environmental impact. I attach substantial weight to these findings.

On balance, however, taking all of these considerations into account, I conclude that the identified harm that arises from the development outweighs my findings on the positive aspects of the development. On this basis, a permanent permission should not be granted at this time.”

9.0 APPRAISAL

- 9.01 There have been a number of applications for gypsy / traveller plots at Greyhound Road dating back to around 2008. When considering each of these the Council has consistently maintained the position that the location is unsuitable for permanent gypsy / traveller accommodation.
- 9.02 Greyhound Road is somewhat remote from shops and services. Pedestrian access is via Lower Road, which is a main Road with a 60mph limit, and has no street lighting and no footway. Although there are more remote sites within the Borough this location is far from ideal and does not, in my view, represent a sustainable or sensible location. Furthermore when one considers the proliferation of gypsy / traveller sites on Greyhound Road and their distance from the settled community it seems to me that this site would not achieve the aims of the PPTS in terms of promoting integrated co-existence between the site and the local community.
- 9.03 The PPTS suggests that local planning authorities should have due regard to the protection of local amenity and local environment and ensure that traveller sites are sustainable economically, socially and environmentally. The PPTS makes it clear that *“Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.”* PPTS goes on to say that *“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.”* It is worth noting that the word “very” was added to this paragraph in the 2015 re-issue of PPTS which implies to me that whilst there is still no outright ban on approving sites in open countryside, there is a need

to give greater weight to the harm that sites such as this one can do to the character of open countryside.

- 9.04 The proliferation of sites on Greyhound Road has caused some harm to the character and appearance of the street scene and the wider countryside. An area of woodland has been removed to make room for the various plots and, as a result, a number of the sites – including The Peartree due to its position on the western side of the road – are prominent in views from the Lower Road and give rise to a harsh urbanised appearance that is contrary to the rural character of the area. I am not convinced that landscaping entirely mitigates this harm.
- 9.05 The number of sites on Greyhound Road has also reached a point at which they dominate the local settled community at Brambledown and the small unmade local roads nearby.
- 9.06 The unsuitability of the location along with the harm caused, as set out above, is a clear indication that permanent planning permission should not be granted. The Inspector's decision on the Woodlands Lodge appeal (as above) supports this assertion, and provides a clear steer for the Council.
- 9.07 However - I consider that there has been a significant change in relevant considerations since the original grant of temporary permission for this site in 2011, with a very strong growth in the number of permanent permitted pitches within the Borough, and the evolution of the Council's policy approach to gypsy and traveller sites.
- 9.08 I understand that at the end of the 2014/2015 annual monitoring year 47 permanent gypsy and traveller sites had been permitted. According to the strictest supply calculation, that represents a more than five year supply of sites in just two years, with approval of more windfall sites likely. As such, I see no overriding need for sites that suggests that a site with such clear environmental and sustainability objections should be approved on a permanent basis. Any re-calculation of need following the re-issue of PPTS can only reduce the need figure, but that is an argument that I do not feel needs to be given weight here.
- 9.09 This situation may improve still further with new sites coming forward on new major development sites or through windfall applications. However, there is not yet a set of currently genuinely available sites for this applicant to relocate to, and it is unlikely that there will be in the immediate future. This suggests that more time than initially thought is required to see the future of the applicant resolved and further clarification on gypsy and traveller policy would be established through further National Planning Policy Guidance and the adoption of the Local Plan.
- 9.10 This suggests that there is a need to grant further temporary permissions for the existing sites along Greyhound Road, including the current application site, to enable the applicants to find alternative accommodation.

- 9.11 I therefore recommend that condition 7 be varied to grant the applicants temporary permission for a further year, which will give time for them to investigate alternative accommodation and for the Council to continue to review its position in regards to the supply of sites.
- 9.12 I note local objections in regards to the continued use of the site but consider that the Council's position is not strong enough in terms of being able to direct the applicant to alternative sites to justify an outright refusal of permission at an appeal. In this regard I would revisit the previous Inspector's decision, as above, in which the Inspector comments "*I find that in the immediate future, the prospects of finding an affordable, acceptable and suitable alternative site with planning permission in the Borough appear limited.*"

10.0 CONCLUSION

- 10.01 The application seeks to remove condition (7) of planning permission SW/11/1414 to allow permanent residential use of the site by a gypsy family. The Council has long held the view, which has been supported at appeal that the site is not suitable for permanent accommodation, but at this stage we are unable to direct the applicant to available alternative pitches.
- 10.02 Taking the above into account I recommend that a further temporary permission be granted for a period of 1 year to allow time for the applicant to find suitable alternative site and for the Council to review its position in regards to pitch provision.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

- (1) The use hereby permitted shall be for a limited period being the period of one year 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 on to, 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.

Reasons: As permission has only been granted in recognition of the particular circumstances of the case, having regard to the lack of alternative, available sites elsewhere within the Borough, in accordance with DCLG Planning Policy for Traveller Sites.

- (2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites.

Reasons: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (3) No more than one static caravan and one touring caravan shall be stationed on the site at any one time.

Reasons: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (4) The site shall only be used for residential purposes and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land, no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

Reasons: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (5) No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.

Reasons: In the interests of preventing light pollution.

- (6) The access details shown on the approved plans shall be maintained in accordance with these details.

Reasons: In the interests of highway safety and convenience.

- (7) No building or structure shall be erected or stationed within 8 meters of the adopted drainage ditch.

Reasons: To ensure the use does not give rise to concerns over localised flooding.

- (8) The area shown on the submitted layout as vehicle parking or turning space shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reasons: To ensure the use does not prejudice conditions of highway safety.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.
As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

APPENDIX 1



Appeal Decision

Hearing and site visit held on 24 June 2014

by **A U Ghafoor BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 October 2014

Appeal Ref: APP/V2255/C/13/2208507

Land at Woodlands Lodge, Greyhound Road, Brambledown, Kent ME12 3SP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Thomas Price against an enforcement notice issued by Swale Borough Council.
- The Council's reference is ENF/GEN.
- The notice was issued on 14 October 2013.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land to land used as a caravan site for the stationing of caravans/mobile homes used residentially, including the erection of a utility building(s) and the laying of hard-surfacing.
- The requirements of the notice are to: (i) Cease the use of any part of the land as a caravan site for the stationing of any mobile homes or caravans (ii) Remove any caravans/mobile homes from the land, including any works undertaken in connection with the use of the site for the stationing of mobile homes or caravans (iii) Remove any other buildings or structures from the land (iv) Remove the hard-surfacing from the land and restore the land to its previous condition.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Ground (a) and the deemed planning application

1. The appellant's case is put forward on the basis that he and his family are Romany Gypsies and that the site is suitable for a gypsy and traveller caravan site. There is agreement between the appeal parties that the appellant, and his family, meet the gypsy and traveller definition set out in Annex 1 of the *Planning Policy for Traveller Sites* ('the PPTS'). Given the evidence about his travels in connection with landscaping and building maintenance work, I have no reason to reach a different conclusion.
2. The **main issues** are the following:
 - (i) Whether or not the development of this site is sustainable, having particular regard to accessibility to local services,
 - (ii) The effect of the development upon the character and appearance of the surrounding area,

APPENDIX 1

Appeal Decision APP/V2255/C/13/2208507

- (iii) Whether or not the development of this site is sustainable and encourages social inclusion,
 - (iv) The need for and provision of sites for gypsies and travellers in the area and the availability of alternative sites and,
 - (v) The appellant's need for a settled site and personal circumstances.
3. For background information, the appellant commenced using the site as a caravan site in early 2013. At the time, retrospective planning applications were submitted and these were refused by the Council. The appellant lives on the site with his wife and children.
 4. Saved Policy E1 of the Swale Borough Local Plan 2008 (LP) relates to all development proposals. Among other matters, it requires developments to respond positively by reflecting the positive characteristics and features of the site and locality, protect and enhance the natural environment, and meet the highest standards of accessibility and inclusion so that all potential users can use them safely and easily. Policy E6 is a general countryside protection Policy. Broadly speaking, the aims and objectives of these LP Policies are consistent with advice found in paragraphs 7, 9, 14, 17, 55 and 56 of the National Planning Policy Framework.
 5. LP Policy H4 states that the Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly demonstrate that they are gypsies and travelling show persons with a genuine connection with the locality of the proposed site. It then sets out general criteria for such proposals to comply with. I find this specific Policy to conflict with advice contained in paragraph 22 (e) of the PPTS, which states that Councils should determine applications for sites from any travellers and not just those with local connections. Given the significant degree of conflict with the PPTS, the Council acknowledged that limited weight can be given to this particular LP Policy.
 6. The draft Swale Borough Local Plan, *Bearing Fruits 2031*, was published for public consultation in August 2013 and comprises two parts. Part 1 has been subject to public consultation. Part 2 is likely to allocate sites for gypsy and travellers. The gypsy and traveller site allocations have been the subject of public consultation and the feedback has been considered by the Council. Over the summer, the Council is likely to review the sites submitted and identify additional sites.
 7. Policy DM9 of Part 1 relates to gypsy and traveller sites in rural areas and Policy ST3 sets out the settlement hierarchy. Policy DM10 of Part 2 aims to provide pitches for travellers as part of new residential developments. For example, for housing proposals between 50 and 149 dwellings, one pitch shall be provided for gypsy and travellers.
 8. The anticipation is that Part 1 would be submitted to the Secretary of State for examination in late autumn/winter 2014. However, I attach limited weight to this draft Local Plan. This is because it is yet to be scrutinised by independent examination and found 'sound'. It may change in the future.
 9. In July 2009, a document titled: '*Gypsy and Traveller Corporate Policy*' was published by the Council as an interim policy. The policy involves a criteria-

APPENDIX 1

Appeal Decision APP/V2255/C/13/2208507

based scoring system for sites. However, given its non-statutory status, it carries little weight in the context of this appeal.

Accessibility to local services

10. The PPTS advises, in paragraph 23, that local planning authorities should strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan. Paragraph 11, Policy B, gives guidance on the allocation of sites for travellers. It requires traveller sites to be sustainable economically, socially and environmentally, and sets out a number of requirements that local planning policy should meet. Although this Policy strictly applies to the allocation of traveller sites in local plans, the tests set out in paragraph 11 are equally relevant in assessing whether proposed sites satisfy the requirement that they should be sustainable.
11. Policy C of the PPTS requires local planning authorities, when assessing the suitability of sites in rural or semi-rural settings, to ensure that the scale of such sites does not dominate the nearest settled community.
12. The site is situated within a predominantly rural area. It lies within the hamlet of Brambledown which is sparsely populated. The immediate locality is characterised by a scattering of dwellings mainly fronting the main route through the area and Elmley Road. The site is accessed via Greyhound Road, which is a narrow track and roughly terminates at right angles to the site. There is one residential property and there are six other gypsy and traveller sites along Greyhound Road.
13. The site is located some distance from the nearest towns of Minister on Sea (about 2.6 km) and Eastchurch (4 km). These contain facilities such as schools, shops and health centres. To access these amenities on foot, the route is via a mainly rural unlit footpath, which is incomplete in places and is located along the busy A2500 Lower Road; making it unattractive to walk from the site to access amenities in Minister or Eastchurch. There is a farm shop on the Lower Road which is within walking distance of the site, but the appellant confirmed that a weekly shop involves a drive to the larger towns.
14. A settled base gives the appellant and his family an opportunity to access health and education facilities and avoids unauthorised roadside encampments. The appellant acknowledges that he meets his day-to-day needs and travels to work by means of his own motor car. He considers that is not unusual in this type of rural area. However, the site is located some distance from amenities and that is why the appellant is so heavily reliant upon the private motor car. In this location, there is a lack of public transport given the remoteness of this part of Brambledown.
15. Turning to the location of the existing gypsy and traveller sites in Brambledown, there is one permanent site known as The Farmyard on Elmley Road; it is in proximity of existing dwellings and is not as isolated as the appeal site. The six other sites along Greyhound Road are tolerated on the basis that there is a need for traveller sites, and that the Council could not find alternative provision. Five have temporary planning permission until June 2016, but the one at Rambling Rose expired in April 2011. The grant of temporary planning permission is in recognition of the isolated location of these other sites given their distance from local amenities.

APPENDIX 1

Appeal Decision APP/V2255/C/13/2208507

16. For all of the above reasons, I find that the site is unsuitable and unsustainable for a residential use. This is because it is remote and located away from a settlement with adequate and sufficient amenities.

Character and appearance

17. The site is occupied by a static mobile home and a timber utility building. The site was characterised as woodland in a mainly rural area. The surrounding area is rural in character. In this particular location, the presence of a static caravan on the site, detached utility building and the appellant's commercial truck are seen as incongruous and out of place features in the landscape.
18. Although views are limited in extent to the immediate locality given the presence of trees around the edge of the site, the mobile home is positioned towards the north of the site and it is visible from Greyhound Road given the wide access. The utility building is a large timber structure, and it is set away from the mobile home. The utility building's bulk and mass has a detrimental impact upon the visual appearance of the site. In addition to that, the hardstandings occupy an extensive area. I consider that the positioning and location of the mobile home combined with the scale of the utility building and the extent of the hard-surfacing have a considerable urbanising effect upon the countryside. The use of landscaping could soften the appearance of the site and over time mitigate, to an extent, the visual harm, but it would not remove it entirely.
19. The aerial imagery of the area shows a gradual change over time in the appearance of the site. The unchallenged information shows the complete removal of trees and vegetation especially around the centre and entrance of the site. The trees have been replaced by a vast amount of hard-surfacing. The appellant submits that the trees were affected by an outbreak of the Dutch elm disease. But it is unclear as to whether or not the vast majority of the trees required felling, because no expert evidence has been submitted to show the nature or scale of the problem.
20. As a result of the trees' removal, the area has been paved over thereby affecting the site's wooded qualities and its environs. The site now has a more built-up appearance.
21. For all of the above reasons, I find that the development materially harms the wooded appearance of the site and thus results in environmental damage.

Social inclusion

22. The Framework encourages strong, vibrant and healthy communities and supports social wellbeing. Paragraph 69 states that the planning system can play an important role in facilitating social interaction and creating healthy and inclusive communities. The PPTS echoes that general guidance. It promotes peaceful and integrated co-existence between the traveller and settled communities. When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.
23. The Parish Council and Brambledown Residents' Association ('the BRA') are concerned about the isolated location of the site and consider that there is little opportunity for social interaction between the site's occupiers and local community. However, there is no evidence that there has not been peaceful

APPENDIX 1

Appeal Decision APP/V2255/C/13/2208507

coexistence between the site and the local community, and indeed the appellant has submitted evidence to indicate the contrary. Nonetheless, given the site's isolated and remote location, the presented evidence shows that contact with the settled community is likely to occur while accessing facilities in Minster or Eastchurch even if this is infrequent.

24. The PPTS suggests that local planning authorities should strictly limit traveller site development in the open countryside that is away from existing settlements. However, it does recognise that these sites could be allowed in rural or semi-rural locations that respect the scale of and do not dominate the nearest settled community. The development of this particular site is of a scale which results in the creation of one pitch and is unlikely to dominate the settled community in isolation. However, the Council, supported by the Parish Council and BRA, are concerned about the potential cumulative effect. The argument is that the development results in an imbalance and that a 'tipping-point' has been reached, because of the number of traveller sites along Greyhound Road.
25. There are 31 dwellings in Brambledown but there is only one conventional house on the eastern side of Greyhound Road. There is a family occupying a permanent pitch at The Farmyard, Elmley Road, but there are six temporary sites on Greyhound Road. These are identified as The Hawthorns, Ivy Gate, Three Palms, The Pear Tree and Blackthorn Lodge. All of these have one pitch. The site known as Rambling Rose has two mobile homes. Each of these sites includes a utility block and some have a touring caravan. Although there is a concentration of caravan sites along Greyhound Road, there are only eight gypsy and traveller sites in Brambledown.
26. Given the limited number of pitches and families, I find that the number and scale of gypsy and traveller sites do not dominate the sparsely populated settlement of Brambledown to such an unacceptable degree. Policy C of the PPTS is therefore satisfied.

The need for and provision of sites for gypsies and travellers in the area and the availability of alternative sites

27. Paragraph 9 of the PPTS states that local planning authorities should, in producing their Local Plan identify and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets. The footnote to sub-paragraph (a) defines the word 'deliverable'. To be considered *deliverable*, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that development will be delivered on the site within 5 years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within 5 years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.
28. Traditionally, the Borough has one of the largest gypsy and traveller populations within the County of Kent and the South East region. Public sites have high occupancy levels, low turnover and long waiting lists.
29. The most up-to-date assessment of need is the gypsy and traveller accommodation report ('the GTAA'), dated June 2013. This indicates that between 2013 and 2031 there is a need for 85 pitches of which 24 are required

APPENDIX 1

Appeal Decision APP/V2255/C/13/2208507

during the five year period up to 2019. In February 2014, the GTAA figure reduced to 81 pitches as planning permission had been granted for four more pitches on various sites. By the time of the Hearing, planning permission had been granted for a total of 31 pitches.

30. Out of the 31 pitches recently granted planning permission, 19 are on a site known as Brotherhood Wood, Gate Hill, Dunkirk, Faversham (for consistency I will refer to it as *'the Dunkirk site'*). The planning agent questioned whether or not this site should be included in the 5-year calculations on two principal grounds. First, the contention is that there are ethnic differences between Irish and English travellers who would feel unsafe on the Dunkirk site. However, the agent conceded that there is nothing in the LP, the PPTS or the Framework to support the exclusion of the Dunkirk site from the 5-year supply calculations on that basis alone.
31. Second, the Dunkirk site's remote location. However, planning permission for the 19 pitches can be considered *deliverable* until permission expires unless there is clear evidence that this scheme will not be implemented within five years. There is no clear evidence to suggest that the permission will not be implemented within the next five years because of viability¹. For these reasons, the Dunkirk site can be taken into account.
32. In the context of this particular appeal, I find that the Council can show that it has 6.5 years supply of gypsy and traveller sites thus meeting advice contained in paragraph 9 of the PPTS.

The appellant's need for a settled site and personal circumstances

33. The site is occupied by Mr and Mrs Price and their two children; Tommy Price (2) and Charlie-James (4). There is broad agreement that the family moved from a small site occupied by the appellant's father-in-law and his wife in Stockbury. This is because that site was too unsuitable for the whole family to co-exist; the appellant told me that he and his wife and children cannot return to Stockbury because of its inadequate size. The Council did not challenge these assertions.
34. The appeal site was chosen because it is close to other members of the appellant's extended family. There is some force behind the assertion that the appellant needs to live close to his extended family so that they can function as a group and care for each other.
35. The appellant did not approach the Council for an alternative site, but there is no available space on any public sites to which the family can be relocated. The Council consider that the Dunkirk site is a reasonable alternative but even they accepted that it is not available right now because it is not yet developed. The appellant told me that, even if there are vacancies at the Dunkirk site, it is not in practice suitable because of ethnic differences. There is a genuine fear of violence or intimidation or a falling out with the operators, but other legislative provisions are designed to control violence and anti-social behaviour.
36. Additionally, the appellant told me that he has used up most of his financial resources in acquiring and developing the site. He cannot afford an alternative site.

¹ The planning permission ref: SW/13/0137, handed in at the Hearing, includes a condition limiting occupation of the site to gypsies and travellers only.

APPENDIX 1

Appeal Decision APP/V2255/C/13/2208507

37. Taking all of the above points together, I find that in the immediate future, the prospects of finding an affordable, acceptable and suitable alternative site with planning permission in the Borough appear limited.
38. The PPTS acknowledges that settled accommodation can provide benefits in terms of access to health and education. In broad terms, access to continuous healthcare for the site occupants is a benefit and a settled base has given the family an opportunity to register with a medical practice in Minster.
39. A settled base has also given the appellant an opportunity to register his children at Eastchurch Church of England Primary School. Charlie-James has been regularly attending nursery since 10 January 2013. I heard first hand evidence from his mother about how well Charlie-James is performing and the excellent learning support available at the school for disadvantaged gypsy and traveller children. She found it very difficult to get a place at the school because it is oversubscribed. A letter from the school, dated 5 November 2013, confirms how well Charlie-James has settled down, integrated with other children from the settled community and benefits from educational and welfare support.
40. I recognise that it is not necessary for these particular needs to be met from this particular site and, given its isolated location, access to these facilities involves significant travel distances along a mainly rural road network. Nonetheless, there is no suggestion that there are alternative sites closer to Eastchurch School or other local centres to meet the educational needs of the children.

The overall balance and conclusion on ground (a)

41. In terms of the site's location, it is remote and lacks access to local facilities. It is unsuitable and unsustainable for a caravan site. Added to that is the harm caused by the development to the character and appearance of the surrounding area. That harm cannot be overcome by landscape planting. Accordingly, the development conflicts with LP Policies E1 and E6, and advice contained in paragraphs 11 and 23 of the PPTS, because of the harmful environmental impact. I attach substantial weight to these findings.
42. The appellant has purchased the site and uses it as a base to find work in the surrounding areas. The site can reasonably integrate with the settled community given the amount and number of gypsy and traveller sites in Brambledown. Also, the Council can show a 5 year supply of deliverable gypsy and traveller sites, but they accepted that, given the circumstances, an alternative site is not available at the present time. These considerations weigh in favour of granting permission, as do the personal circumstances of the appellant and his immediate family, and in particular the need for a settled base to allow Mr and Mrs Price's children to go to Eastchurch School.
43. On balance, however, taking all of these considerations into account, I conclude that the identified harm that arises from the development outweighs my findings on the positive aspects of the development. On this basis, a permanent permission should not be granted at this time.
44. It is, however, also necessary to consider whether the grant of a temporary permission would be justified in this case.

APPENDIX 1

Appeal Decision APP/V2255/C/13/2208507

45. There is an identified 5-year supply of land for traveller sites in the area. The Council is taking a pro-active approach in addressing the need to provide sites for gypsies and travellers. That is why they have recently granted planning permission for permanent pitches on private sites, but to meet future needs for the traveller community, there is some work to do on allocating sites through the local planning process in a coordinated manner.
46. At the Hearing, the Council acknowledged that there are no available sites at the current time and the local plan process would take some time to allocate sites. They acknowledged time is needed for the local plan process to take its course and the adoption of Part 2 of the Local Plan would provide more certainty as to the availability of suitable and sustainable sites which might come forward and be realised. It is anticipated that Part 2 of the Local Plan would be adopted in early 2015. However, that seems a little bit optimistic because the Council needs to review the sites as a result of feedback from the public consultation exercise. I am told that additional sites would be explored and these would be assessed by using a new methodology for site selection.
47. Thus, there is a local planning vacuum as no mechanism is in place to meet the immediate needs of the appellant and his family through the planned provision of traveller sites. Moreover, once Part 2 of the Local Plan is adopted, the planning circumstances might change. Given these uncertainties, I consider that a grant of temporary planning permission is likely to assist the appellant in finding a suitable alternative site through the local planning process rather than on an ad hoc, unplanned and uncoordinated manner.
48. The Council recognised that there is no alternative site with the benefit of planning permission available now for the appellant and his family to go to. The appellant told me he has spent his financial resources in the purchase of this particular site and has no more means to acquire another site with the benefit of planning permission. Although it is possible for him to sell this site and raise some finance, that is also likely to take considerable length of time. A grant of temporary planning permission will give the appellant a settled base and an opportunity to investigate and consider options to build up his resources for an alternative site.
49. The Dunkirk site is not ready right now and so he can't go there. He cannot go back to his father-in-law's site as that is full and too small for all of the family. The other nearby sites occupied by other family members have the benefit of temporary planning permission and is mainly occupied by a single family. Moving onto these temporary sites is unlikely to be practical or feasible as they are not suitable in terms of their size. If temporary planning permission is not forthcoming, almost certainly, I was told, the appellant would have no choice except unauthorised or roadside encampments; in my view that is not in the best interests of the settled community nor the wider environment.
50. In addition to that, displacing the appellant right now without an available and suitable alternative site is likely to harm the best interests of Mr and Mrs Price's children. The Council consider that many children successfully move school when their parents relocate from one house to another and I acknowledge the children are young. However, Eastchurch School has expressed concern about the potential impact upon Charlie-James if he was moved out of the school at this time, because of the strong relationships which he has formed and the additional available support. The school is oversubscribed and so there is a

APPENDIX 1

Appeal Decision APP/V2255/C/13/2208507

real possibility that Charlie-James might lose his place. I consider that the disruption to the daily routine and education of Charlie-James should be minimised. Accessing education from no fixed abode, or from a series of temporary or unauthorised sites, can be problematic. It is in the interests of the children to remain on this particular site for a temporary period so that a suitable alternative can be identified.

51. If planning permission were to be refused, the outcome would be that the appellant and his family would lose their home. This would represent a serious interference with the family's right to respect for private and family life and the home (Article 8 of the Human Rights Act 1998). On the other hand, if a planning permission for a temporary period were to be granted it would avoid the appellant and his family becoming homeless and give them an opportunity to pursue a site through the local planning process. This would be a fair approach to the legitimate aim of protecting the environment, and granting a permission for a limited period would have no greater impact on the appellant and his family than would be necessary to address the wider public interest. I have had regard to the public sector equality duty, and a grant of temporary planning permission is, in my view, proportionate in this particular case.
52. To all of these findings I attach significant weight. For all of the above reasons, and having regard to all other matters, on balance, I conclude that the appeal should be allowed and planning permission should be granted for a temporary period subject to appropriate conditions, which I turn to next.

Conditions²

53. A condition limiting occupation to the appellant is necessary because it is his personal circumstances which have significantly weighed in favour of the grant of the temporary permission.
54. The Council suggested that a temporary planning permission should expire on 25 June 2016 because of the other impermanent sites on Greyhound Road which expire on this date. However, bearing in mind the need to allow sufficient time for the appellant to find an alternative site with planning permission, and the local planning process to take its course and the need to minimise disruption to the education of his children, I consider three years from the date of my decision is more justified and reasonable.
55. To limit the harm to the character and appearance of the countryside, a condition controlling the use of the pitch by one static and touring caravan is necessary. In addition, the appellant has one commercial truck for work purposes which is 10 tonne. A limitation restricting commercial use of the site is reasonable.
56. The development has already been carried out and a retrospective condition is required to ensure that a site layout plan is submitted to the Council for its approval within certain timescales. The details shall include: the siting of the caravans, the location of the hardstandings and utility building including its internal layout, any external lighting, and details of landscaping showing existing trees, shrubs and hedgerows to be retained. The stipulation shall include a requirement to submit a timetable for the implementation of the approved details and a mechanism for an appeal against non-determination.

² Circular 11/95 'The Use of Conditions in Planning Permissions' has been replaced by recent guidance found in the national Planning Practice Guidance apart from the model conditions.

APPENDIX 1

Appeal Decision APP/V2255/C/13/2208507

57. There is no evidence of flooding on this site and to require a surface water drainage strategy would be too onerous given the temporary nature of the development. The internal drainage board require a condition restricting a building or structure within 8m of an adopted ditch. There is no evidence of any adopted ditches on this particular site; such a condition is therefore superfluous.
58. The local highway authority does not object to the use of Greyhound Road to access the appeal site. I observed that the access is wide and there is enough turning space to permit vehicles to enter and exit the site in forward gear.

Conclusion

59. For all of the reasons given above and having considered all other matters, I conclude that the appeal should succeed on ground (a), the enforcement notice will be quashed and temporary planning permission granted for three years from the date of this decision.

Formal Decision

60. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the use as a caravan site for the stationing of caravans/mobile homes used residentially including the erection of a utility building and the laying of hard-surfacing on land at Land at Woodlands Lodge, Greyhound Road, Brambledown, Kent, ME12 3SP referred to in the notice, subject to the following conditions:
- 1) The use hereby permitted shall be carried on only by Mr Thomas Price and his resident dependants, and shall be for a limited period being the period of 3 years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.
 - 2) When the premises cease to be occupied by Mr Thomas Price and his resident dependants, or at the end of 3 years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to 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.
 - 3) There shall be no more than 1 pitch on the site and on the pitch hereby approved no more than 2 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended) shall be stationed at any time, of which only 1 caravan shall be a static caravan.
 - 4) No commercial activities shall take place on the land, including the storage of materials.
 - 5) There shall only be one 10 tonne heavy goods vehicle stationed, parked or stored on the site at any time whatsoever.
 - 6) The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-

APPENDIX 1

Appeal Decision APP/V2255/C/13/2208507

- i) within 3 months of the date of this decision a scheme for the layout of the site including:
 - (a) the siting of the caravans
 - (b) the location of the hardstandings
 - (c) the utility building including its internal layout
 - (d) the location of any external lighting
 - (e) the details of landscaping showing existing trees, shrubs and hedgerows to be retainedshall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) within 11 months of the date of this decision, if the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 7) Subsequent to the implementation of the details required by condition 6, there shall be no change to those details.

A V Ghafoor

Inspector

APPENDIX 1

Appeal Decision APP/V2255/C/13/2208507

APPEARANCES

FOR THE APPELLANT:

Joe Jones	Local gypsy and traveller representative
Mr and Mrs Price	Appellant and his wife
Linda Baker	}
Sarah Monaghan	} on behalf of the appellant

FOR SWALE BOROUGH COUNCIL:

Claire Dethier	Planning Officer
Libby Mccutcheon	Planning Lawyer
Andy Booth	Local Councillor

INTERESTED PERSONS:

John Stanford	Vice Chairperson, Minster on Sea Parish Council
Trish Codrington	Minster on Sea Parish Council representative
Linda Lillo	Chair, Brambledown Residents' Association

DOCUMENTS

1. Letters of support handed in by the appellant including letter from Eastchurch School
2. Extract copies of Swale Borough Council LP 2008
3. LP Policy update handed in by the Council
4. Gypsy and Traveller Site Allocations Assessment Methodology
5. Copy of planning permission ref: SW/13/0137
6. Gypsy and Traveller Corporate Policy July 2009
7. Copies of The Planning Inspectorate's decisions references APP/V2255/C/11/2167577 and APP/V2255/A/12/2169572
8. List of suggested conditions.

APPENDIX 2