

**PROOF OF EVIDENCE OF THE COUNCIL OF THE BOROUGH OF
BROXBOURNE**

(THE LOCAL PLANNING AUTHORITY)

Appeals by Mr Billy Joe Saunders

Against the refusal to grant planning permission (application reference 07/23/0119/F) for a retrospective change of use of land to residential, for members of the gypsy traveller community for 7no. static caravans, 6no. touring caravans, parking for 12 cars, hardstanding and associated development (Appeal B)

And Enforcement Notice ENF/23/0033 issued by the LPA on 5th July 2023 in relation to the following alleged breach of planning control: Without planning permission, the change of use of the land to residential by stationing caravans and mobile homes along with associated operational development (Appeal A)

Relating to Land at Woodland Stables, Cock Lane, Hoddesdon, Hertfordshire, EN11 8LS

PLANNING INSPECTORATE REFERENCES:

APP/W1905/W/23/3327012

APP/W1905/C/23/3334117

LOCAL PLANNING AUTHORITY REFERENCES:

07/23/0119/F

ENF/23/0033

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1. INTRODUCTION

- 1.1 This is a linked Appeal considering an enforcement notice appeal (lead case) and planning appeal. Appeal A ref: APP/W1905/C/23/3334117 is an enforcement notice appeal ENF/23/0033 issued by Broxbourne Borough Council on 5th July 2023 in relation to the following alleged breach of planning control: *Without planning permission, the change of use of the land to residential by stationing caravans and mobile homes along with associated operational development.*
- 1.2 Appeal B ref: APP/W/23/3327012 is a planning appeal relating to the refusal to grant planning permission (Council reference 07/23/0119/F) for a retrospective change of use of land to residential, for members of the gypsy traveller community for 7no. static caravans, 6no. touring caravans, parking for 12 cars, hardstanding and associated development.
- 1.3 The application giving rise to the s78 appeal was received with sufficient particulars on 22nd March 2023 and was subsequently refused on 25th May 2023 for the following reasons (see appendix 1):
1. *The development does not safeguard the Green Belt countryside from encroachment. The very special circumstances do not outweigh the harm to the Green Belt in this case. Therefore, the development is contrary to Policy GB1 of the Broxbourne Local Plan (2018 - 2033), Policy E (paragraph 16) of Planning Policy for Traveller Sites (August 2015) and the aims and objectives of the National Planning Policy Framework (July 2021).*
 2. *There are no footways leading to the site, and the highway is subject to 60mph restricted speed limit with no street lighting and limited grass verge to walk on. Therefore, pedestrians would have to route on the carriageway, which represents a highway safety concern. The development fails to ensure that the safety of all movement corridor users is not compromised, therefore is contrary to Policy TM2 of the Broxbourne Local Plan (2018 - 2033) and the aims and objectives of the National Planning Policy Framework (July 2021).*
- 1.4 The Council do not consider that planning conditions could overcome the objections to the development.
- 1.5 The application sought full planning permission for - *Retrospective planning permission for change of use of land to residential, for members of the Gypsy Traveller community for 7no. static caravans 6no. touring caravans, parking for 12 cars, hardstanding, and associated development.*

1.6 The Enforcement Notice giving rise to this appeal was issued by Broxbourne Borough Council on 31st October 2023.

1.7 The reasons for issuing the Notice are as follows:

It appears to the Council that the development took place within the last 4 years.

Woodland Stables is located to the south of Cock Lane, located to the west of Broxbourne. The site is accessed via a single lane track, which is gated at its point of connection with Cock Lane. The site is within the Green Belt and in close proximity to Chestnut Grove Local Wildlife Site (72/034) to north and east.

The site falls within 250 metre buffer around disused landfill site. The property also falls within a 100m buffer around a power line. The site is located within Flood Zone 1, which has a low probability of flooding.

An application for planning permission was submitted in March 2023 to change the use of the land to “residential, for members of the Gypsy Traveller community for 7no. static caravans 6no., touring caravans, parking for 12 cars, hardstanding, and associated development. This application (reference 07/23/0119/F) was refused on 25 May 2023 for the following reasons:

1 The development does not safeguard the Green Belt countryside from encroachment. The very special circumstances do not outweigh the harm to the Green Belt in this case. Therefore, the development is contrary to Policy GB1 of the Broxbourne Local Plan (2018 - 2033), Policy E (paragraph 16) of Planning Policy for Traveller Sites (August 2015) and the aims and objectives of the National Planning Policy Framework (July 2021).

2 There are no footways leading to the site, and the highway is subject to 60mph restricted speed limit with no street lighting and limited grass verge to walk on. Therefore, pedestrians would have to route on the carriageway, which represents a highway safety concern. The development fails to ensure that the safety of all movement corridor users is not compromised, therefore is contrary to Policy TM2 of the Broxbourne Local Plan (2018 - 2033) and the aims and objectives of the National Planning Policy Framework (July 2021).

It has also been identified that the site has been extended to another parcel of land on Cock Lane, within the same ownership, and is linked to this existing site by a hard surfaced road. It also benefits from an access via Cock Lane. Planning permission has not been sought for this additional area and there is no reason any such application would receive a different outcome to application 07/23/0119/F.

The Council do not consider that planning conditions could overcome the objections to the development.

1.8 The appeal grounds are:

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged
- (b) that those matters have not occurred
- (c) that those matters (if they occurred) do not constitute a breach of planning control
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters
- (e) that copies of the enforcement notice were not served as required by section 172
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters, or as the case may be, to remedy any injury to amenity which has been caused by any such breach
- (g) that any period specified in the notice in accordance with section 173(g) falls short of what should reasonably be allowed

- 1.9 The Council accepts that the Enforcement Notice incorrectly references 4 years as the appropriate time for consideration with regards to immunity and accepts that 10 years is the correct period of time.
- 1.10 The Council is not raising the issues of power lines, land contamination or flooding within its arguments. These matters are included as a statement of fact when describing the site.
- 1.11 The appeals have been conjoined and are being dealt with by way of public inquiry.

2. WITNESS DETAIL

- 2.1 My name is Louise Hart, and I am a Principal Planning Officer within the Planning Development Management Service at Broxbourne Borough Council. I have 6 years' experience of working in the Local Planning Authority sector at District level. I have been permanently employed by Broxbourne Borough Council since 2018, firstly as a Planning Assistant and then promoted to Planning Officer in 2021, Senior Planning Officer in 2022 and Principal Planning Officer in December 2023.
- 2.2 I have a BA (Hons) in Design from Middlesex University (1999) and RTPI accredited MSc (Distinction) in Town Planning from Anglia Ruskin University in Chelmsford (2020). I have been a licentiate member of the Royal Town Planning Institute since 2021.
- 2.3 The evidence which I have prepared and provide for this appeal (in this Proof of Evidence) is true. I confirm that the opinions expressed are my true and professional opinions.

3. SCOPE OF EVIDENCE

- 3.1 My evidence concerns Ground (a) of Appeal A and whether or not planning permission ought to be granted in respect of any breach of planning control which may be constituted by the matters stated in the Enforcement Notice ENF/23/0033, as well as Appeal B and whether or not planning permission should be granted in respect of the description of development sought in planning application 07/23/0119/F. In doing so, I address in particular the following issues:
- i) The development does not safeguard the Green Belt countryside from encroachment. The very special circumstances do not outweigh the harm to the Green Belt (reason for refusal 1).
 - ii) Safety of pedestrians accessing the site (reason for refusal 2).
 - iii) Overall planning balance.
- 3.2 My evidence does not extend to the considerations relating to grounds (b) to (g) of the enforcement appeal (Appeal A) relating to this public inquiry. This aspect is addressed by Laura White, the Council's Consultant Senior Planning Enforcement Officer.
- 3.3 The focus of my review and basis of evidence is the material provided as part of application ref: 07/23/0119/F and the details provided with the appellant's appeal documentation.

4. BACKGROUND

4.1 Appeal B relates to Broxbourne Borough Council's refusal of planning application reference 07/23/0119/F. The application site is at Woodland Stables, Mobile Home Cock Lane, Hoddesdon, Hertfordshire, EN11 8LS. The planning application was received with sufficient particulars on 22nd March 2023. The Decision Notice giving rise to this appeal was issued by Broxbourne Borough Council on 25th May 2023.

4.2 The planning application was submitted to change the use of the land to - residential, for members of the Gypsy Traveller community for 7no. static caravans 6no. touring caravans, parking for 12 cars, hardstanding, and associated development. This application (reference 07/23/0119/F) was refused on 25th May 2023 for the following reasons:

1. The development does not safeguard the Green Belt countryside from encroachment. The very special circumstances do not outweigh the harm to the Green Belt in this case. Therefore, the development is contrary to Policy GB1 of the Broxbourne Local Plan (2018 - 2033), Policy E (paragraph 16) of Planning Policy for Traveller Sites (August 2015) and the aims and objectives of the National Planning Policy Framework (July 2021).

2. There are no footways leading to the site, and the highway is subject to 60mph restricted speed limit with no street lighting and limited grass verge to walk on. Therefore, pedestrians would have to route on the carriageway, which represents a highway safety concern. The development fails to ensure that the safety of all movement corridor users is not compromised, therefore is contrary to Policy TM2 of the Broxbourne Local Plan (2018 - 2033) and the aims and objectives of the National Planning Policy Framework (July 2021).

4.3 The Council do not consider that planning conditions could overcome the objections to the development.

4.4 Appeal A relates to an Enforcement Notice issued by Broxbourne Borough Council on 5th July 2023 in respect to the alleged breach of planning control “*without planning permission, the change of use of the land to residential by stationing caravans and mobile homes along with associated operational development*”. The reasons for issuing the notice are set out at 1.7 above and reiterate the two reasons for refusing planning application ref: 07/23/0119/F as well as the wider site on which development has taken place, within the same ownership, for which planning permission had not been sought but in respect of which there was considered to be no reason why a different outcome to application 07/23/0119/F would result.

5. SITE DESCRIPTION

- 5.1 Woodland Stables is located to the south of Cock Lane, a rural lane located to the west of Broxbourne. The site is accessed via a single tarmacked lane, which is gated at its point of connection with Cock Lane. The site is within the Green Belt and in close proximity to Chestnut Grove Local Wildlife Site (72/034) to north and east.
- 5.2 The site contains seven static caravans and associated hardstanding accessed via the tarmacked lane to the south of Cock Lane. To the north (immediately adjacent) of the site location plan red line boundary, associated with the site though not subject of this application, are livery stables, granted permission for a change of use from stables to livery yard in 2008 (reference 7/0596/08/F/HOD). There were ten stables with adjoining paddocks (refer to 5.5).
- 5.3 Hoddesdon Town centre lies approximately 2.3km to the northeast of the application site reached via Cock Lane. Broxbourne local centre lies approximately 1.6km to the southeast also reached via Cock Lane. The nearest primary/nursery school is Sheredes at approximately 1.3km to the east.
- 5.4 The application site falls within 250 metre buffer around disused landfill site. The site also falls within a 100m buffer around a power line; however, the development is of low overall height level and there are no concerns raised. The site falls entirely within Flood Zone 1, which has a low probability of flooding.
- 5.5 In terms of location, it is noted there is a difference between the red line boundary plan for Appeal B, and red line boundary plan for the enforcement Appeal A (see appendix 7 and 8 respectively). They do overlap in terms of the location, however the Appeal A redline plan captures further land to the west. The Appeal B red line captures the access road from Cock Lane but does not capture the stable structures noted in 5.2. Regarding planning judgement, for the purposes of this appeal and for the avoidance of doubt both red line plans were considered when assessing whether or not planning permission should be granted.

6. PLANNING HISTORY

- 6.1 Conversion of existing barn to residential (one bedroom) dwelling and extension of barn to form a cattery (planning ref: 07/17/0350/F). Approved 20 April 2018.
- 6.2 Replace existing residential mobile home with a single storey log cabin on existing footprint (planning ref: 07/16/1034/F). Refused 10 November 2016.
- 6.3 Continuation of temporary planning permission for existing use of mobile home as a residential dwelling in conjunction with horse livery and cattery/rescue centre for a period of 3 years (planning ref: 07/14/0674/F). Approved 12 September 2014.
- 6.4 Temporary planning permission for existing use of mobile home as a residential dwelling in conjunction with horse livery and cattery/rescue centre (planning ref: 07/13/0465/F). Approved 29 July 2013.
- 6.5 Certificate of lawfulness for an existing use of mobile home as a residential dwelling (ref: 07/11/0981/LDC). Refused 10 February 2012), appeal dismissed 13 May 2013.
- 6.6 Change of use of stables to livery yard (ref: 7/0596/08/F/HOD). Approved 6 October 2008.
- 6.7 Agricultural workers dwelling (ref: 7/645/1983). Refused 1993.

7. POLICY CONTEXT

Broxbourne Local Plan

- 7.1 The Development Plan in the context of this appeal comprises the Broxbourne Local Plan 2018-2033 which was adopted in 2020.
- 7.2 Policy GB1: Green Belt states that “*Within the Green Belt, as defined on the Policies Map planning applications will be considered in line with the provisions of the National Planning Policy Framework*”.
- 7.3 Part 3 of the Local Plan deals with Places and at Chapter 16 sets out how need is to be addressed in respect of Gypsies, Travellers, and Travelling Showpeople.
- 7.4 The plan was informed and supported by the Borough of Broxbourne Gypsy and Traveller Accommodation Assessment (April 2017) which provided a robust assessment of current and future need for Gypsy, Traveller and Showpeople accommodation in the Borough of Broxbourne. The report states that there is a need for 22 additional pitches for households that meet the planning definition (see appendix 5 paragraph 1.14).
- 7.5 Policy GT1: Gypsy and Traveller Sites sets out how the Council will work with the travelling communities to allocate sites. It states that “The Council will work with the travelling communities to allocate sites as follows as shown on the Policies Map:
- i) Expansion of Hertford Road where additional appropriate needs cannot be accommodated within the existing site boundaries;
 - ii) Accommodation of new pitches within the existing St James' Road site;
 - iii) Authorised site at Wharf Road to accommodate the appropriate needs of the Wharf Road Community”.
- 7.6 Gypsy and Traveller sites at Hertford Road, St James' Road and Wharf Road have all been removed from the Green Belt in order to enable the effective implementation of Policy GT1. These sites are allocated for the specific needs of the resident travelling communities to which they relate and the future expansion of those communities through new household formation within those communities.
- 7.7 It is acknowledged that the Local Plan does not provide expressly for Gypsy and Traveller needs arising from outside the Borough.

- 7.8 The Local Plan and Policy GT1 are up to date (it is less than 5 years since adoption in June 2020). The Council has, and are, meeting needs through Local Plan Policy GT1 (see appendix 3 paragraph 270, page 57). The Inspector's report states: *I have already found that there may be additional needs for traveller accommodation that have not been specifically identified. In so far as any such needs would arise from the existing communities, policy GT1 (as modified) is sufficiently flexible to deliver additional provision. In terms of other needs that may arise, policy H3 states that the Council will seek a mix of housing on development sites that provide for a mix of occupiers. This could be used to deliver additional accommodation for travellers if clear evidence of additional needs emerged. Furthermore, my recommended modification to the reasoned justification for policy GB2 would ensure that disused glasshouse sites in the Green Belt could be redeveloped with self-build accommodation for gypsies and travellers. Overall, therefore, the Plan should be effective in ensuring that needs can be met.*
- 7.9 Local Plan Policy TM2 requires development proposals must ensure that the safety of all movement corridor users is not compromised. Hertfordshire County Council as Highway Authority were consulted and raised an objection due to a number of concerns regarding the sustainability of the site in transport terms. One of the concerns raised within the analysis was highway safety (see appendix 2).

National Planning Policy Framework (NPPF)

- 7.10 The application was received on 22nd March 2023. During the timeframe of its determination the NPPF (dated July 2021) was relevant. That version of the NPPF has now been overtaken by the updated December 2023 version, therefore all paragraphs referenced in this proof align to the NPPF December 2023.
- 7.11 Chapter 13 of the NPPF deals with protecting Green Belt land. Paragraph 142 emphasises the 'great importance' which the Government attaches to Green Belts. The fundamental aim of Green Belt policy is *"to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence"*.
- 7.12 The five purposes the Green Belt serves are set out at paragraph 143 and assist as to what it is that is of particular importance:
- a) to check the unrestricted sprawl of large built-up areas;*
 - b) to prevent neighbouring towns merging into one another;*
 - c) to assist in safeguarding the countryside from encroachment;*
 - d) to preserve the setting and special character of historic towns; and*

e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

7.13 Paragraphs 152 to 156 are relevant to 'Proposals affecting the Green Belt'.

7.14 Paragraph 152 of the NPPF states inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

7.15 Paragraph 153 is clear in that *When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.*

7.16 Paragraph 154 states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions include:

a) buildings for agriculture and forestry;

b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;

c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;

d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

e) limited infilling in villages;

f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

– not have a greater impact on the openness of the Green Belt than the existing development; or

– not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

7.17 Paragraph 155 lists other forms of development as not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- a) *mineral extraction;*
- b) *engineering operations;*
- c) *local transport infrastructure which can demonstrate a requirement for a Green Belt location;*
- d) *the re-use of buildings provided that the buildings are of permanent and substantial construction;*
- e) *material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and*
- f) *development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.*

7.18 Paragraph 156 states - *When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.*

7.19 The Planning Practice Guidance sets out the factors which can be taken into account when considering the potential impact of development on the openness of the Green Belt. In particular:

Assessing the impact of a proposal on the [openness of the Green Belt](#), where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- *openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;*
- *the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and*
- *the degree of activity likely to be generated, such as traffic generation.*

Paragraph: 001 Reference ID: 64-001-20190722

7.20 Paragraph 115 (111, July 2021) of the NPPF states development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual impacts on the road network would be severe.

7.21 With regard to Chapter 9 of the NPPF paragraph 116 a and b (112 a and b, July 2021) of the NPPF states applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport.

Wharf Road SPD

- 7.22 During the process of this Appeal by Public Inquiry a further document - the Wharf Road Supplementary Planning Document (November 2023) - including a masterplan has been adopted by the Council as supplementary to the Local Plan. This provides evidence that the Council is working positively to plan for the needs of the Gypsy and Traveller community in the area.

Planning Policy for Traveller Sites (PPTS)

- 7.23 In terms of principle of development paragraph 22 of the Planning Policy for Traveller Sites (PPTS) states that when determining planning applications for Traveller sites, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Furthermore, paragraph 23 states 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 (NPPF) in conjunction with the PPTS. The Local Plan states planning applications for new pitches will be considered on their merits.
- 7.24 The application site lies wholly within the Green Belt. Paragraph 16 (Policy E) of the PPTS states – *Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. 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.*

Hertfordshire's Local Transport Plan 2018-2031 (May 2018)

- 7.25 Policy 1: Transport User Hierarchy states - To support the creation of built environments that encourage greater and safer use of sustainable transport

modes, the county council will in the design of any scheme and development of any transport strategy consider in the following order:

- Opportunities to reduce travel demand and the need to travel
- Vulnerable road user needs (such as pedestrians and cyclists)

- 7.26 Policy 2: Influencing Land Use Planning states - The county council will encourage the location of new development in areas served by, or with the potential to be served by, high quality passenger transport facilities so they can form a real alternative to the car, and where key services can be accessed by walking and cycling.
- 7.27 Policy 5: Development Management states - The county council will to work with development promoters and the district and borough councils to: a) Ensure the location and design of proposals reflect the LTP Transport User Hierarchy and encourage movement by sustainable transport modes and reduced travel demand. b) Ensure access arrangements are safe, suitable for all people, built to an adequate standard and adhere to the county council's Highway Design Standards.
- 7.28 Hertfordshire County Council as Highway Authority recommended permission be refused on grounds of transport sustainability for reasons set out below (see appendix 2). The Highway Authority states: *The Highway Authority are concerned the proposals offer no sustainable travel opportunities, contrary to the NPPF 112 a, b and HCC Local Transport Plan Policies 1, 2, 5. The closest bus stop and local amenities & facilities are on the A1170 in Broxbourne which is a distance of approx. 2.2km. This distance exceeds the Chartered Institute Highways Transportation (CIHT) 'Planning for Walking' which states that 'Walkable Neighbourhoods' must be considered when land use planning for pedestrians, whereby a typical catchment area will be 800m.*

There are no footways leading to the site, and the highway is subject to 60mph restricted speed limit with no street lighting and limited grass verge to walk on. Therefore pedestrians would have to route on the carriageway for the full length which represents a highway safety concern.

As the site location is only safely accessible by car, this is contrary to the HCC declared Climate Emergency and the DfT's Decarbonisation Plans.

The HCC Corporate Plan includes the key principles of 'A cleaner and greener environment' and 'Sustainable and responsible growth'. Based on the current application details, the site does not fulfil these requirements.

Conclusion

The Highway Authority wishes to raise an objection due to the above concerns regarding the sustainability of the site in transport terms.

- 7.29 As Hertfordshire County Council's objection to the development as Highway Authority relates to sustainability of the site in transport terms rather than highway safety, and their objection is there to be read, they are not a witness to support the Council. However, the objection raised by the Highway Authority, together with the Council's own concerns, informed the Council's reason for refusal.

8. REASON FOR REFUSAL 2 – Safety of pedestrians accessing the site

8.1 I turn first to consider reason for refusal 2, mindful that any resultant harm will be relevant when considering very special circumstances after dealing with the first part to reason for refusal 1 below.

8.2 The reason for refusal (also referenced as a reason in the Enforcement Notice) states:

There are no footways leading to the site, and the highway is subject to 60mph restricted speed limit with no street lighting and limited grass verge to walk on. Therefore, pedestrians would have to route on the carriageway, which represents a highway safety concern. The development fails to ensure that the safety of all movement corridor users is not compromised, therefore is contrary to Policy TM2 of the Broxbourne Local Plan (2018 - 2033) and the aims and objectives of the National Planning Policy Framework (July 2021).

8.3 The reason for refusal cites there are no footways leading to the site, therefore unsuitable pedestrian routes to and from the site. The Highway Authority recommended permission be refused on grounds of transport sustainability. Though their conclusion does not raise highway safety concerns, and it is understood that they do not object on that basis, the text preceding it does. It is relevant here to draw on the policies associated with this reason for refusal that concern the principle of development in terms of:

- i) Safety of pedestrians accessing the site.

Concerns over safety of pedestrians accessing the site

8.4 The preceding evidence confirms the development represents an unacceptable arrangement in terms of highway safety for pedestrians accessing the site.

8.5 In terms of highway safety for pedestrians relating to site location, there are no footways leading to the site along the highway, which is subject to 60mph restricted speed limit. There is no street lighting and limited grass verge to walk on. Therefore, pedestrians would have to walk on the carriageway of Cock Lane from/to the junction with Harmonds Wood Close footway >500m to the east, which represents a highway safety concern. Please refer to appendix 9 which illustrates lack of footways, the speed limit and the route pedestrians would have to take to reach closest footway connection (at Harmonds Wood Close) to Hoddesdon and Broxbourne.

8.6 The Highway Authority raised an objection (see appendix 2 statutory response from the Highway Authority) due to concerns regarding the sustainability of the

site in transport terms. Notwithstanding the conclusion referring to sustainability of the site in transport terms, within the comments and analysis under the sub heading sustainability, the response makes clear a highway safety concern is represented by the lack of any footways leading to the site, and that the highway is subject to 60mph restricted speed limit with no street lighting and limited grass verge to walk on. Therefore, pedestrians would have to route on the carriageway.

- 8.7 In my opinion this results in harm which carries significant weight.

Summary of Council's Issues relating to Reason for Refusal 2

- 8.8 Though the Highway Authority has not recommended refusal on highway safety, I stand by the Council's reason for refusal having assessed not only their comments but also considered myself the safety concerns for pedestrians. By reason of location, where no there are no footways leading to the site to access services and amenities, the development fails to ensure that the safety of all movement corridor users is not compromised, therefore is contrary to Policy TM2 of the Broxbourne Local Plan 2018 – 2033 (June 2020) and the aims and objectives of the National Planning Policy Framework (July 2021). In my opinion this results in harm which carries significant weight.

9. REASON FOR REFUSAL 1 – The development does not safeguard the Green Belt countryside from encroachment. The very special circumstances do not outweigh the harm to the Green Belt.

9.1 The reason for refusal (also referenced as a reason in the Enforcement Notice) states:

The development does not safeguard the Green Belt countryside from encroachment. The very special circumstances do not outweigh the harm to the Green Belt in this case. Therefore, the development is contrary to Policy GB1 of the Broxbourne Local Plan (2018 - 2033), Policy E (paragraph 16) of Planning Policy for Traveller Sites (August 2015) and the aims and objectives of the National Planning Policy Framework (July 2021).

9.2 It is relevant here to draw on the policies associated with this reason for refusal that concern the principle of development in terms of:

- i) Encroachment in the Green Belt; and
- ii) Whether or not very special circumstances outweigh harm to Green Belt

Encroachment in the Green Belt

9.3 I turn first to consider the alleged harm to the Green Belt.

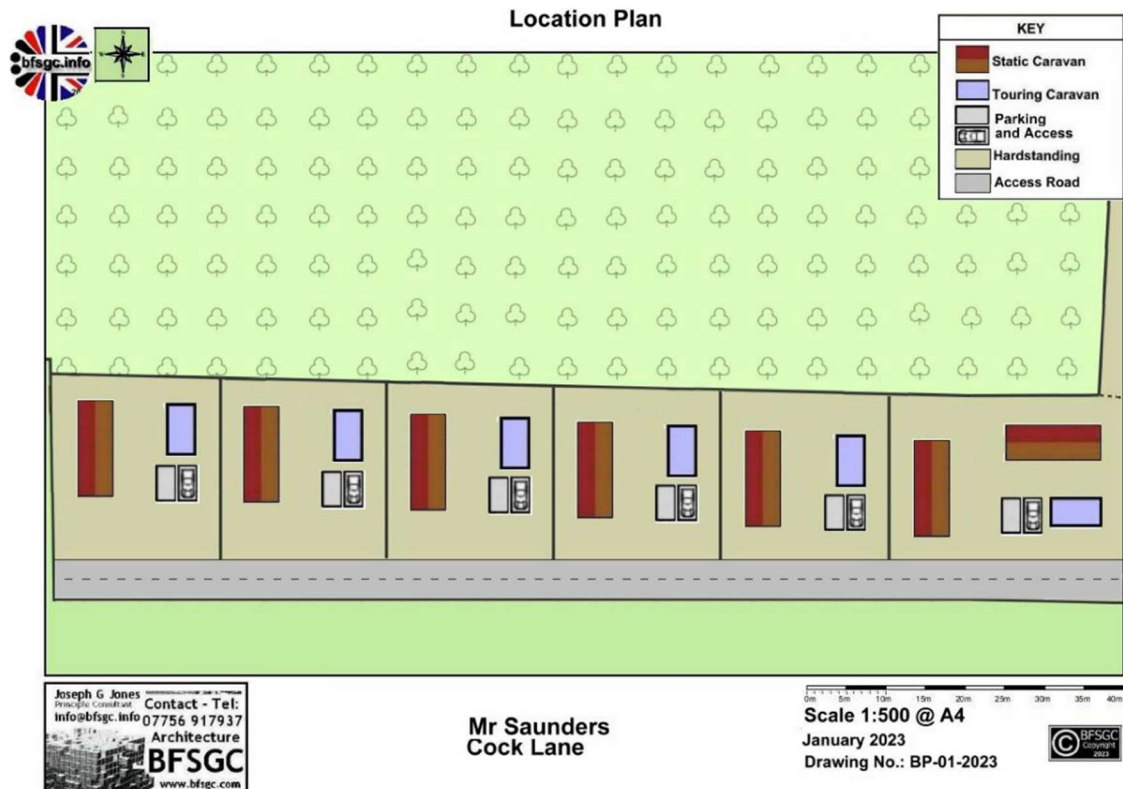
9.4 The application sought full planning permission for: retrospective planning permission for change of use of land to residential, for members of the Gypsy Traveller community for 7no. static caravans 6no. touring caravans, parking for 12 cars, hardstanding, and associated development. The Enforcement Notice relates to, without planning permission, the change of use of the land to residential by stationing caravans and mobile homes along with associated operational development.

9.5 The site falls wholly within the Green Belt relating to Local Plan Policy GB1. Located to the south of Cock Lane and to the west of Broxbourne the site is accessed via a single tarmacked lane, which is gated at its point of connection with Cock Lane. The site is within the Green Belt and in close proximity to Chestnut Grove Local Wildlife Site (72/034) to north and east.

9.6 The site contains seven static caravans and associated hardstanding accessed via the tarmacked lane to the south of Cock Lane. To the west of the site location plan red line boundary, associated with the site though not subject of this application are livery stables, granted permission for a change of use from

stables to livery yard in 2008 (reference 7/0596/08/F/HOD). There were ten stables with adjoining paddocks.

- 9.7 The following plan was submitted with the planning application, see appendix 4 a and b aerial photos of development site.



- 9.8 Policy GB1 states that planning applications will be considered in line with the provisions of the NPPF, which I have set out above.

- 9.9 Paragraph 152 of the National Planning Policy Framework states inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 16 (Policy E) of the PPTS states - *Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. 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.*

- 9.10 The proposed development is therefore inappropriate development, none of the exceptions set out in the NPPF applying, and there is definitional harm.

- 9.11 As to other harm, I remind myself that the fundamental aim of Green Belt policy is *“to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”* (paragraph 142 of the NPPF) and that there is no definition of openness in the NPPF. It is not limited to a volumetric approach and is open-textured: *John Turner v Secretary of State for Communities and Local Government and East DC* [2016] EWCA Civ 466; *Samuel Smith Old Brewery (Tadcaster) and ors v North Yorkshire County Council* [2020] UKSC 3; Paragraph 001 Reference ID 64-001-20190722 of the PPG.
- 9.12 As to spatial impact, the fundamental aim of the Green Belt is meant to protect what is left of the countryside from being developed so that clusters of development do not merge or continuously erode the openness and character of the Green Belt. The physical presence of this development has an impact on the Green Belt. By adding such a large area of tarmac and static homes with parking and space for touring caravans into this landscape one of the principal purposes of the Green Belt, to prevent encroachment into the countryside, is contravened and openness is significantly harmed (see appendix 4 a and b).
- 9.13 As to visual impact, change of use of this land to residential, for members of the Gypsy Traveller community for 7no. static caravans 6no. touring caravans, parking for 12 cars, hardstanding, and associated development would not be visible from Cock Lane and would be screened by the surrounding trees/hedges. The visual impact on the Green Belt is limited by being quite local to the site. That said once the site is accessed the large-scale entrance gates with stonework pillars / wall, 1.8m fence panels and expanse of hardstanding is incongruous with the otherwise open Green Belt landscape and should be restricted by condition from expansion to comply with paragraph 26 of the PPTS should it be minded to allow this Appeal. This would ensure the rural character of the locality is maintained.
- 9.14 Overall, I apply limited harm to the Green Belt in visual terms, due to the site being screened by the surrounding trees/hedges. However, in the spatial sense I apply significant harm to the Green Belt as covered in paragraph 9.12 to which substantial weight should be applied.

10. BENEFITS ARISING FROM THE PROPOSED DEVELOPMENT AND VERY SPECIAL CIRCUMSTANCES

- 10.1 The proposed development could result in benefits as put forward by the Appellant in their statement of case. These are acknowledged as follows:
- i) Providing traveller pitches.
 - ii) The need of the families to have a place to live, so they can access regular, consistent health care and to give support to each other from a culturally appropriate setting.
 - iii) The need of the families to have a place to live, so they can access adequate education services.
- 10.2 That the development would provide traveller pitches is appreciated, however the site location being wholly within the Green Belt and safety concerns arising from access to the site for pedestrians, conflicts with adopted Local Plan policies and national policies set out within this evidence and moderate weight is applied to this benefit.
- 10.3 The Appellant has proposed a number of factors which they say amount to very special circumstances which were considered during the process of determination, and which relate to the above-mentioned benefits. The Application's claim for very special circumstances (VSC) included:
- i) The Appellant believes the Gypsy and Traveller Accommodation Assessment (GTAA) is out of date.
 - ii) There is a lack of available sites in the district, county, this part of the country and the UK, and that undersupply of sites in the area carries significant weight.
 - iii) The lack of a five- year supply of land for Gypsy sites which adds significant weight to a planning application.
 - iv) The need of the families to have a place to live, so they can access regular, consistent health care and to give support to each other from a culturally appropriate setting.
 - v) The need of the families to have a place to live, so they can access adequate education services.
 - vi) The primacy of the child, must be a paramount consideration when making any decision that will have an impact on the lives of children.
 - vii) The family qualify for Gypsy status.
- 10.4 A response to each of these are listed below (the Appellant' grounds of appeal are shown in **bold**):
- 10.5 **Gypsy and Traveller Accommodation Assessment (GTAA) is out of date.** The Local Plan was adopted in June 2020 and is therefore up to date. Provision to meet the needs set out in the 2017 Gypsy and Traveller Needs Assessment

was made at the four locations identified in Local Plan Policy GT1: Gypsy and Traveller Sites. These sites were removed from Green Belt through the Local Plan for the purposes set out in the policy. The needs of the existing travelling communities are met through Local Plan Policy GT1. The appeal proposal falls outside the scope of Policy GT1 and is contrary to the up-to-date Local Plan. As stated by the Local Plan Inspector any additional needs arising can be met through Policy H3: Housing Mix and/or policy GB2. Paragraph 270 of the Local Plan Inspector's report (appendix 3) points to other provisions within the Local Plan, including policy H3 regarding a mix of uses at development sites and GB2, regarding derelict glass house sites, where additional pitches could be provided if additional need were to arise.

- 10.6 **Lack of available, suitable, acceptable affordable sites.** The Council agrees that there are currently no sites suitable for Gypsies and Travellers aside from those identified in the Local Plan which have been specifically removed from the Green Belt for that purpose. Any additional needs arising can be met through Policy H3: Housing Mix and/or Policy GB2.
- 10.7 **Lack of five-year supply of gypsy and traveller pitches.** Local Plan policy GT1 states that *“These sites are allocated for the specific needs of the resident travelling communities to which they relate and the future expansion of those communities through new household formation within those communities. They are not to meet the needs of extended family members not currently resident within the Borough of Broxbourne.”* Therefore, the Council is not planning for any supply of additional pitches to meet needs other than those arising from new household formation at the existing communities.
- 10.8 **Need of the families to have a place to live, so they can access regular, consistent health care and to give support to each other from a culturally appropriate setting.** The development site is located approximately 1.3km from the nearest primary school, the nearest health care providers and amenities are located further away in Broxbourne Local Centre or Hoddesdon Town (see appendix 10). Realistically considering children and other vulnerable people accessed safely by car only, therefore the site is not considered conveniently close to healthcare, schools and amenities without the use of a car. As such, moderate weight could be attributed this benefit put forward by the Appellant by reason of the development's unsustainable location.
- 10.9 **Need of the families to have a place to live, so they can access adequate education services.** The preceding evidence identifies in transport terms the traveller pitches are located in an unsustainable location as the site is only safely accessible by car. Pedestrians accessing the site would have to walk in the road subject to 60mph as there are no footways and limited grass verge.

The site does not provide a sustainable place for families to live as the benefit from accessing health care, schools and amenities could only be carried out safely by car. The weight attributed to the benefits listed in 10.1 is moderate given the unacceptable arrangements relating to accessing the site for pedestrians.

The primacy of the child. In terms of children on site, the submitted documents stated three children live on site. A letter of support mentioned one child on site. The site visit carried out by Council officers on 23 February 2023 there were children and one infant on site. Whilst children were on site, it was not clear if they permanently reside on the site. In any event, no particular needs or circumstances were made known to officers during the site visit. In considering the needs of the children, the site is located approximately 1.3km from the nearest primary school, the nearest health care providers and amenities are located in Broxbourne or Hoddesdon Town therefore realistically accessed safely by car only, therefore the site is not considered conveniently close to healthcare, schools and amenities without the use of a car. Their access to education and healthcare is not prohibited by their relocation to an alternative site. The Moderate weight is given to these issues.

10.10 The family qualify for Gypsy status. A site visit was carried out by three council officers on 23 February 2023. At that time those present on site included alleged brother who lives there and an unidentified woman within one mobile home. The Appellant's static caravan was occupied with family members. From the site visit it appeared that three of the seven static homes were occupied. Whilst there is no dispute the Appellant does have Gypsy status; insufficient evidence was submitted by the Appellant at application stage to confirm all other families or children on site occupying the plots qualify for Gypsy status. Limited weight is given to this issue as Paragraph 16 (Policy E) of the PPTS states - *Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. 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.*

10.11 Personal circumstances are unlikely to outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. I have considered that supporting letters were supplied by the Appellant regarding a vulnerable family member. In relation to personal circumstance, two supporting letters were submitted regarding one site occupier, identified as the Appellant's father, as being vulnerable due to mental health needs. The two letters are provided at appendix 11 and 12. These explain that the Appellant's father is under the care of an NHS facility in Ware, which is approximately 5 miles from the appeal site resulting in a 15-minute car journey. Whilst proximity to the site

in Ware is relevant, it does not change the weight given to the Council's assessment because access to healthcare is not prohibited by relocation to an alternative site. I give limited weight to this issue.

- 10.12 **Need (national, regional, local).** The Council's Gypsy and Traveller Accommodation Needs Assessment was undertaken in 2017 and it is not proposed to update it. It is quite likely that the needs position has changed since 2017. However, the Local Plan is up to date and its position is clear. The Council will review any evidence of need submitted by the Appellant but are not proposing to submit its own updated assessment of need.
- 10.13 **Failure of policy. The LPA do not currently have a policy capable of delivering the required amount of pitches.** Paragraph 270 of the Local Plan Inspector's report (appendix 3) points to other provisions within the Local Plan, including policy H3 regarding a mix of uses at development sites and GB2, regarding derelict glass house sites, where additional pitches could be provided if additional need were to arise. The application site does not fall within either Policy H3 nor GB2 and it is not confirmed additional need is required.
- 10.14 **The likely location of additional Gypsy pitches in the district.** The Appellant has not expanded on this sentence in their grounds of appeal, but this appears to be related to ground 2. As previously stated, the Council agrees that there are currently no sites suitable for Gypsies and Travellers aside from those identified in the Local Plan and previously removed from the Green Belt for the purpose of meeting the needs of extended family members only.
- 10.15 The Local Plan 2018-2033 was adopted in June 2020 and is current. The local Plan Policy GT1: Gypsy and Traveller Sites was found to be sound by the Inspector. When considering meeting other needs that may arise, paragraph 270 of the (Examination of the Broxbourne Local Plan: Inspectors Report (PINS/W1905/429/5), 14th April 2020 (page 57)) states:

I have already found that there may be additional needs for traveller accommodation that have not been specifically identified. In so far as any such needs would arise from the existing communities, policy GT1 (as modified) is sufficiently flexible to deliver additional provision. In terms of other needs that may arise, policy H3 states that the Council will seek a mix of housing on development sites that provide for a mix of occupiers. This could be used to deliver additional accommodation for travellers if clear evidence of additional needs emerged. Furthermore, my recommended modification to the reasoned justification for policy GB2 would ensure that disused glasshouse sites in the Green Belt could be redeveloped with self-build accommodation for gypsies and travellers. Overall, therefore, the Plan should be effective in ensuring that needs can be met.

10.16 The evidence above in 10.15 identifies that considering meeting need, the Local Plan and Policy GT1 is up to date and robust as covered within the Inspector's findings. Policy GT1 is described as positively prepared, justified, consistent with national policy, and effective in ensuring that identified needs are met at all times during the plan period.

Assessment of very special circumstances

10.17 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Policy E of the PPTS also details that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh the harm to the green belt and any other harm so as to establish very special circumstances.

10.18 The harms I have identified above are:

- i) The effect of the development on the openness and purposes of the Green Belt; and
- ii) The safety of pedestrians accessing the site

10.19 I have found the development amounts to inappropriate development in the Green Belt to which substantial weight should be given.

10.20 Set against this harm, I have considered the benefits set out above and factors upon which the Appellant relies in suggesting that there are very special circumstances which justify the development proposed.

10.21 The above benefits can be summarised as collectively providing moderate weight in the overall assessment, however, are not individually enough to amount to very special circumstances. As such, they do not outweigh the harm that would result from a development that does not safeguard the Green Belt countryside from encroachment and fails to ensure the safety of pedestrians accessing the site.

10.22 On balance, the site amounts to inappropriate development in the Green Belt to which substantial weight should be given. The development fails to ensure that the safety of all movement corridor users is not compromised as highway safety concerns exist for pedestrians accessing the site. Notwithstanding the highway safety concerns for pedestrians accessing the site my view on inappropriate development within the Green Belt would remain the same irrespective of the highway safety concerns for pedestrians accessing the site

as covered above. No very special circumstances are proven to outweigh the harm to the Green Belt in this case, as required by Policy GB1 of The Local Plan, Policy E: Traveller sites in Green Belt (PPTS) and paragraph 147 of the NPPF.

Summary of Council's Issues relating to Reason for Refusal 1

- 10.23 The application was refused as the development does not assist in safeguarding the countryside from encroachment. The very special circumstances do not outweigh the harm to the Green Belt in this case.
- 10.24 Therefore, it was considered the development in the Green Belt location is contrary to Policy GB1, of the Broxbourne Local Plan 2018 – 2033 (June 2020), Policy E (paragraph 16) of Planning Policy for Traveller Sites (August 2015) and the aims and objectives of the National Planning Policy Framework (July 2021).

11. PLANNING BALANCE

- 11.1 The proposal is not in accordance with the Development Plan being the adopted Broxbourne Local Plan 2018-2033 (June 2020). As a result, the proposal should be refused unless material considerations indicate otherwise. The material considerations include the application of the presumption in para. 11 of the NPPF, this means for decision-taking in 11 (c) *approving development proposals that accord with an up-to-date development plan without delay*.
- 11.2 The Council has relied upon policies GB1 and TM2 in determining this application.
- 11.3 The fundamental aim of Green Belt policy GB1 is to prevent urban sprawl by keeping land permanently open. The permanence of Green Belts is fundamental to its effectiveness. Within the Green Belt, as defined on the Policies Map planning applications will be considered in line with the provisions of the National Planning Policy Framework.
- 11.4 Local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. To be acceptable any development within the Green Belt needs to preserve the openness of the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

- 11.5 I have found that the development amounts to inappropriate development in the Green Belt to which substantial weight should be given. Notwithstanding the visual impact on the Green Belt is limited to be quite local to the site, the encroachment into the Green Belt is considered to significantly harm the Green Belt in terms of use and physical space (see appendix 4 (a and b)).
- 11.6 A recent appeal decision from neighbouring county Essex Ref: APP/H1515/W/20/3248930 states *“the site amounts to inappropriate development in the green belt to which substantial weight should be given. I have found this is a particularly sensitive green belt location and there is also further harm to openness, to which I attach substantial weight.”* Parallels were drawn from this Appeal Decision as also a Green Belt location, that development proposed is change of use of land to use as a residential caravan site for 7 gypsy/traveller families, each with two caravans, including no more than one static caravan/mobile home, laying of hardstanding and erection of 7 No. utility buildings (see appendix 6).
- 11.7 Evidence confirms the development is in a location remote from amenities and services. There are no safe footways to the site, as the highway is subject to 60mph restricted speed limit with no street lighting and limited grass verge to walk on. Therefore, pedestrians would have to route on the carriageway, which represents a significant concern over safety of pedestrians accessing the site. Council Policy TM2 identifies development proposals must ensure that the safety of all movement corridor users is not compromised, however the development fails to ensure this, therefore is contrary to Policy TM2. This conflict with policy TM2 comprises significant harm and to which I attach substantial weight.
- 11.8 Considering weight individually attributed to each reason for refusal, I am of the view that substantial weight is afforded to harm to Green Belt as a result of this development as set out above. I also believe substantial weight is attributed to the safety of pedestrians accessing the site.
- 11.9 Policy E: Traveller sites in Green Belt (PPTS) identifies traveller sites (temporary or permanent) in the Green Belt are inappropriate development. 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.
- 11.10 In light of the significant harm the development presents to safety of pedestrians accessing the site, I have found that the benefits set out above, including the best interests of the children, need and the personal circumstances of the Appellant, attract moderate weight.

11.11 Taking into account the cumulative harm arising from the proposed development in term of encroachment into the countryside and concerns over safety for pedestrians accessing the development it is concluded that the benefits are not a compelling reason to outweigh the harmful impacts arising from the development when assessed against the policies of the Development Plan, and do not amount to very special circumstances. To be clear it is my view that the harm to Green Belt if considered exclusively is significant and outweighs the moderate benefits suggested by the Appellant.

12. SUMMARY AND CONCLUSION

12.1 The Borough of Broxbourne Local Plan and Policy GT1: Gypsies and Traveller Sites are up to date (it is less than 5 years since adoption in June 2020). The needs of the existing travelling communities are met through Local Plan Policy GT1 and as stated by the Local Plan Inspector any additional needs arising can be met through Policy H3: Housing Mix and/or policy GB2.

12.2 The Council considers the development conflicts with Policies GB1 and TM2 of The Broxbourne Local Plan 2018-2033, adopted June 2020, Policy E (paragraph 16) of Planning Policy for Traveller Sites (August 2015) and the aims and objectives of the National Planning Policy Framework. In light of the above evidence, the Council maintains that the reasons for the refusal are sound planning grounds, as supported within this statement.

As per Section 38 (6) of the Planning and Compulsory Purchase Act 2004 the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. In this instance, the material considerations have been balanced and in my opinion are not sufficient to justify a departure of the Development Plan, such that both Appeal A ground (a) and Appeal B should fail.

Louise Hart (Miss)

Principal Planning Officer

Broxbourne Borough Council