

Traveller Sites Document – Additional Pitches Consultation

We would like to know your views on additional sites that are being considered for residential Travellers as part of the Travellers’ Sites Development Plan Document.

An initial desk top assessment of the sites has taken place, and they are deemed to have potential, subject to consultation and further technical assessment. Please refer to the maps in the additional sites consultation document for the location and proposed number of pitches.

This questionnaire is also available to complete online at the following web address: [www.herefordshire.gov.uk/traveller-sites-consultation](http://www.herefordshire.gov.uk/traveller-sites-consultation)

**1. Land at Oakfield, Nash End Lane, Bosbury**

**Do you agree that this could be a suitable site for up to 4 additional residential traveller pitches?**

Yes  X  
No  -

If no, please explain.....  
.....

**Do you have any further comments on this site?**

Yes  X

Please explain.....In our view proposals to develop ‘Land at Oakfield Nash End Lane’ as a Gypsy/Traveller site are consistent with the development plan. Please see the attached documents in support

.....

**2. Land at Stoney Street, Madley**

**Do you agree that this could be a suitable site for up to 10 residential traveller pitches?**

Yes  X  
No  -

If no, please explain.....  
.....

**Q2 continued...**

**Do you have any further comments on this site?**

Yes -

Please explain.....  
.....

**3. Do you have any suggestions of alternative or additional sites to help meet the need for pitches and plots in Herefordshire?**

Yes: -

(If you have more detail, please complete the site submission form at [www.herefordshire.gov.uk/traveller-sites-consultation](http://www.herefordshire.gov.uk/traveller-sites-consultation))

No X

**4. Do you have any other comments on the consultation that are not covered by these questions?**

No X

(Please use additional section at the back of the questionnaire if you need extra space for comment on any of the questions.)

**Please complete your contact details.**

Name: ...Dr Simon Ruston MRTPI .....

Address: ...Ruston Planning Ltd., 10-12 Picton Street, Bristol .....

.....

.....Postcode.....BS5 6QA.....

Tel No: ..... 01173250350 .....

Email: .....admin@rustonplanning.co.uk.....

**Do you wish to be kept informed of future planning policy consultations?**

**Yes** X

**No** -

(You have the right to withdraw your consent at any time by notifying us.)

**Access to Information**

All personal data will be treated in line with our obligations under the Data Protection Act 2018, which includes the provisions of GDPR. This means your personal data will not be shared. The data collected will not be used for any other purpose. We do publish representations but email addresses, telephone numbers and signatures will be removed beforehand.

Herefordshire Council is subject to the Freedom of Information Act, 2000, (FoI) and Environmental Information Regulations (EIRs) which means that questionnaires may be released in response to a request for information but private information would be redacted.

Details of our privacy notice can be found at [www.herefordshire.gov.uk/privacynotices](http://www.herefordshire.gov.uk/privacynotices)

If you would like any further assistance, please contact us in one of the following ways:  
Email: [ldf@herefordshire.gov.uk](mailto:ldf@herefordshire.gov.uk) or telephone 01432 383357

Questionnaires can be returned by post to:  
Forward Planning, Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE

Or by email to [ldf@herefordshire.gov.uk](mailto:ldf@herefordshire.gov.uk)

**The closing date for this survey is midnight on 5 December 2018**

**Thank you for taking time to share your views with us.**

Tuesday, 2 October 2018

Our Ref: TSmith18

Herefordshire Council  
Planning Services  
PO Box 230  
Blueschool House  
Blueschool Street  
HR1 2ZB

**Re: Application for extension to existing Gypsy/Traveller site comprising 1 no. residential pitch, 1 no. extended dayroom, 5 no. transit pitches including 1 no. utility block, 1 no. access, hardstanding, and associated works at Oak Field, Nashend Lane, Ledbury, X: 370857 Y: 245001**

## **Introduction**

1. Please find enclosed an application on behalf of Mr T Smith, the landowner. The purpose of this planning statement is to provide a description and justification for this application. The fee, calculated on the Planning Portal at £462, will be sent separately.
2. This application comprises:
  - PA01: Application Form and ownership certificates
  - PA02: Planning Statement (this document)
  - PA03: Site Location Plan (1:1250 @ A3, drawing no. TDA.2406.01)
  - PA04: Existing Site Layout (1:250 @ A1, drawing no. TDA.2406.02)
  - PA05: Existing Dayroom (1:100 @ A1, drawing no. TDA.2406.04)
  - PA06: Proposed Site Layout & Detailed Landscaping Scheme (1:250 @ A1, drawing no. TDA.2406.03)
  - PA07: Proposed Extended Day Room (1:100 @ A1, drawing no. TDA.2406.05)
  - PA08: Proposed Utility Block (1:100 @ A1, drawing no. TDA.2406.06)
  - PA09: Landscape design statement

- PA09: Recovered appeal *Bromley* (ref: APP/G5180/A/11/2154680/NWF)
- PA11: Progress report by the ministerial working group on tackling inequalities experienced by Gypsies and Travellers' (DCLG 2012)

### **Site Description**

3. The application site extends circa 0.55 hectares and has planning permission for 2 no. Gypsy/Traveller pitches including 2 no. mobile homes, 2 no. touring caravans, 2 no. utility blocks, and associated works.
4. The site is in Flood Zone 1.

### **Planning History**

5. The relevant planning history is set out below:
  - **N122734/F** Application for 'Use of land for the stationing of caravans for residential purposes for 2 no. gypsy pitches together with the formation of additional hard standing and utility/dayrooms ancillary to that use', granted 23/11/12
  - **Appeal** to vary conditions allowed 10/09/02
  - **NE2001/2481/F** Approved with conditions 16/01/02

### **The application proposal**

#### ***Gypsy/Traveller pitches***

6. The proposal is for additional pitches, as detailed below, to be occupied by Gypsies/Travellers who fulfil the definition of Gypsies and Travellers in *Annex one of Planning Policy for Traveller Sites* (PPTS 2015):
  - 1 additional residential pitch including 1 no. mobile home, 1 no. touring caravan, and 1 no. parking space
  - Extension of existing dayroom (in effect moving previously approved dayroom to abut constructed dayroom) in order to have a facility big enough to accommodate the applicant's adult family
  - 5 additional transit pitches including 5 no. touring caravans, 1 no. utility block, and 5 no. parking spaces (note that these are set out as 1 no. single and 2 no. double (family) transit pitches)

7. Elevations and Floorplans for the mobile homes have not been included as part of the application. The standard condition is that the proposed mobile home must meet the legal definition as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968. Given that mobile homes are by their nature interchangeable structures, it is inappropriate to condition details of size or appearance in a more restrictive manner, except in exceptional circumstances such as significant flood risk. The site is in flood zone 1 and there are no other exceptional circumstances, therefore such a requirement is not justified in this instance.
8. Foul water will be managed by way of connection to the existing foul water management system. Connection to the mains foul water is not feasible due to the site's rural location.

### ***Access***

9. There is presently an existing access to the site, and this will be retained. An additional access is proposed for use by the transit pitches.

### ***Landscaping***

10. The site is well screened by the existing mature hedgerows along Nashend Lane (adjacent the western boundary of the site) and the unnamed road (south-east of the site).
11. The proposals have been carefully developed to ensure that the proposed extension has minimal landscape character and visual amenity impacts upon its surroundings including:
  - The sensitive incorporation of proposed residential/transit Gypsy & Traveller pitches to ensure the protection of all peripheral trees and hedgerows and enable sufficient room for the implementation of new landscape proposals for landscape structure/screening.
  - The sensitive incorporation of a proposed play area to ensure adequate amenity space for any children resident on and visiting the site.
12. The landscape proposals include planting new trees, understory planting, new native hedgerows, and grassland management. Further details are set out in the landscape design statement.
13. Planting will be undertaken in the winter and protected with tree guards attached to stakes for the first 2-4 years; to be replaced where necessary. Any

grass immediately around the plantings will be cut back twice a year, if needed, to help the planting establish. Any specimens that have died will be replaced in the next appropriate planting season.

#### **Relevant development plan policy & other material considerations**

14. The starting point for the consideration of this application is section 70(2) of the Town and Country Planning Act 1990 which states:

*In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.*

15. Furthermore, section 38(6) of the Planning and Compulsory Purchase Act 2004 states:

*If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.*

16. These propositions of law are reiterated by both the National Planning Policy Framework (NPPF 2018) at para 2, and Planning Policy for Traveller Sites (PPTS) at para 22.

#### ***The adopted plan***

17. The Herefordshire Local Plan Core Strategy 2011-2031 was adopted in October 2015. Relevant policies include:

- LD1 – Landscape and townscape
- LD2 – Biodiversity and geodiversity
- RA3 – Herefordshire’s countryside
- H4 – Traveller sites

#### ***Emerging policy***

18. The Travellers’ Sites Development Plan Document (DPD), which forms part of the LPA’s Local Plan, was submitted for examination in February 2018, and is presently still subject to examination.

## ***Gypsy and Traveller Accommodation Assessment***

19. The most recent assessment of need in Herefordshire is set out in a revision published July 2018 in response to the Inspector's request regarding the examination of the Travellers' Sites DPD. This is discussed below.

### ***NPPF (2018)***

20. Paragraph 11 of the NPPF (2018) applies equally to the provision of Gypsy and Traveller sites as it does to other forms of development. The relevant parts of paragraph 11 are as follows:

*11. Plans and decisions should apply a presumption in favour of sustainable development.*

*For decision-taking this means:*

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>7</sup>, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>6</sup>; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

21. It is also important to note paragraph 4 of the NPPF which states:

*4. The Framework should be read in conjunction with the Government's planning policy for traveller sites, and its planning policy for waste. When preparing plans or making decisions on applications for these types of development, regard should also be had to the policies in this Framework, where relevant.*

### **Planning Policy for Traveller Sites (PPTS 2015)**

22. PPTS states that its overarching aim is to: *“ensure the 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”*. In order to do this PPTS sets out a number of aims including:

- *to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites*
- *to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply*
- *to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure*

23. In our view, the following policies are also of relevance:

- Policy B: Planning for Traveller sites
- Policy C: Sites in rural areas and the countryside
- Policy H: Determining planning applications for Traveller sites

### **Gypsy/Traveller status**

24. The additional pitches will be used by those who satisfy the definition of Gypsies and Travellers as set out in Annex 1 of PPTS 2015. Further evidence can be supplied on request.

## THE MAIN ISSUES

### Introduction

25. Our first position is that the proposal is consistent with the development plan and, as such, in our view should be granted consent accordingly. Should the LPA be in disagreement with us, the unmet need for Traveller sites in the Herefordshire area is capable of tipping the balance in favour of the application proposals.

### Consistency with the Development Plan.

#### *Principle of Traveller Sites in the open countryside*

26. Core Strategy Policy RA3 *Herefordshire's countryside* is clear that proposals for Traveller sites are acceptable in principle in rural locations outside of settlements.

#### *Traveller-specific policy*

27. Core Strategy Policy H4 *Traveller Sites* sets out criteria against which proposals for new Gypsy / Traveller pitches should be assessed. The criteria are reproduced below (in italics), and annotated with comments in relation to the application site:

*In the absence of an adopted DPD, or where proposals for sites are brought forward on non-allocated land, proposals will be supported where:*

- 1) sites afford reasonable access to services and facilities, including health and schools*

Distances to services and facilities are set out below:

Service/Facility	Distance (miles)	Minutes (drive)
Bosbury Primary School	1.5	4
John Masefield Secondary School	6.2	16
Cradley Surgery (GP)	2.3	5
Richmond Dental Practice	7.2	17
Malvern Community Hospital	7.1	16
County Hospital	15.4	32

The Butchery & General Store	2.2	5
Colwall Post Office	4.9	12

The Core Strategy does not appear to define ‘reasonable access’. In our view the site allows the residents practicable access to shops, schools, and health services. It is helpful to note that residents of the existing pitches have found access to services and facilities suitable.

- 2) appropriate screening and landscaping is included within the proposal to protect local amenity and the environment*

As set out above the proposals have been carefully designed to minimise landscape impacts whilst meeting the needs of future residents. More details are set out in the Landscape Design Statement.

- 3) they promote peaceful and integrated co-existence between the site and the local community*

The occupiers of the site already enjoy peaceful integrated co-existence with the local settled community.

- 4) they enable mixed business and residential accommodation (providing for the live-work lifestyle of travellers)*

n/a – there is no proposed business use of the site

- 5) they avoid undue pressure on local infrastructure and services*

Given the relatively small scale of the increase of the site it is not anticipated that development would put undue pressure on local infrastructure and services

- 6) in rural areas, the size of the site does not dominate nearby settled communities and*

Given the relatively small scale of the increase of the site it is not anticipated that it would dominate nearby settled communities

- 7) they are capable of accommodating on-site facilities that meet best practice for modern traveller site requirements, including play areas, storage, provision for recycling and waste management.*

The proposals have been designed to meet best practice for modern traveller sites including play areas and storage. Recycling and waste will be managed by the site residents.

28. In summary, in our view the proposals meet all of the criteria set out in Policy H4 of the Local Plan.

### ***Landscape and biodiversity***

29. The relevant paragraphs of Core Strategy Policy *LD1 Landscape and townscape* are set out below:

- *incorporate new landscape schemes and their management to ensure development integrates appropriately into its surroundings;*
- *maintain and extend tree cover where important to amenity, through the retention of important trees, appropriate replacement of trees lost through development and new planting to support green infrastructure.*

30. As set out above the proposals were designed to minimise visual impact through sensitive design. Further details are set out in the Landscape Design Statement (attachment PA09).

31. The relevant paragraphs of Core Strategy Policy *LD2 Biodiversity and geodiversity* are set out below:

2. *restoration and enhancement of existing biodiversity and geodiversity features on site and connectivity to wider ecological networks; and*
3. *creation of new biodiversity features and wildlife habitats.*

32. The proposals include additional planting including native trees, understory planting, additional native hedgerow, and grazing management that will improve the biodiversity value of the site. Further details are set out in the Landscape Design Statement (attachment PA09).

## Other material considerations

### ***Need for Gypsy and Traveller sites in Herefordshire***

33. The most recent assessment of need in Herefordshire is the *Herefordshire Gypsy and Traveller and Travelling Showperson Accommodation Assessment (Table 5.1 Needs Modeling revision)* published in July 2018 by Arc4.
34. The assessment identifies an unmet need of 52 pitches between 2018/19 – 2022/23, and a further 31 pitches between 2023/24 – 2030/31. Combined this is a need for 83 pitches ('cultural need') over the plan period. The assessment suggests that households that meet the PPTS 2015 definition may be 19 (2018-19 - 2022/23) and 11 (2023/24 – 2030/31). Combined this is a need for 30 pitches ('PPTS need') over the plan period. It should be noted that the 'PPTS need' definition, introduced in the 2015 revision of PPTS, is currently subject to legal challenge.
35. The key point is that there is presently an identified unmet need for Gypsy / Traveller pitches in Herefordshire. This should be given significant weight in the consideration of a permanent permission.

### ***Lack of a 5-year supply of sites***

36. PPTS (2015) requires that local authorities "*identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of sites against their locally set targets*" (para. 10.a). Footnote 4 of PPTS defines 'deliverable' for the purposes of para. 25:

*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 five years and in particular that development of the site is viable.*

37. Herefordshire Local Authority has to date failed to comply with the requirement in PPTS that it can demonstrate an up-to-date 5 year supply of deliverable sites to meet the accommodation needs of Gypsies and Travellers and Travelling Showpeople.
38. In order to address this the LPA is currently producing a *Travellers' Sites Development Plan Document (DPD)* that seeks to allocate sites in order to meet this unmet need. This document is currently subject to a formal examination process. The examination Inspector has asked the LPA to make amendments to

the Travellers' Sites DPD and it is subject to further consultation before it can be re-examined by the Inspector.

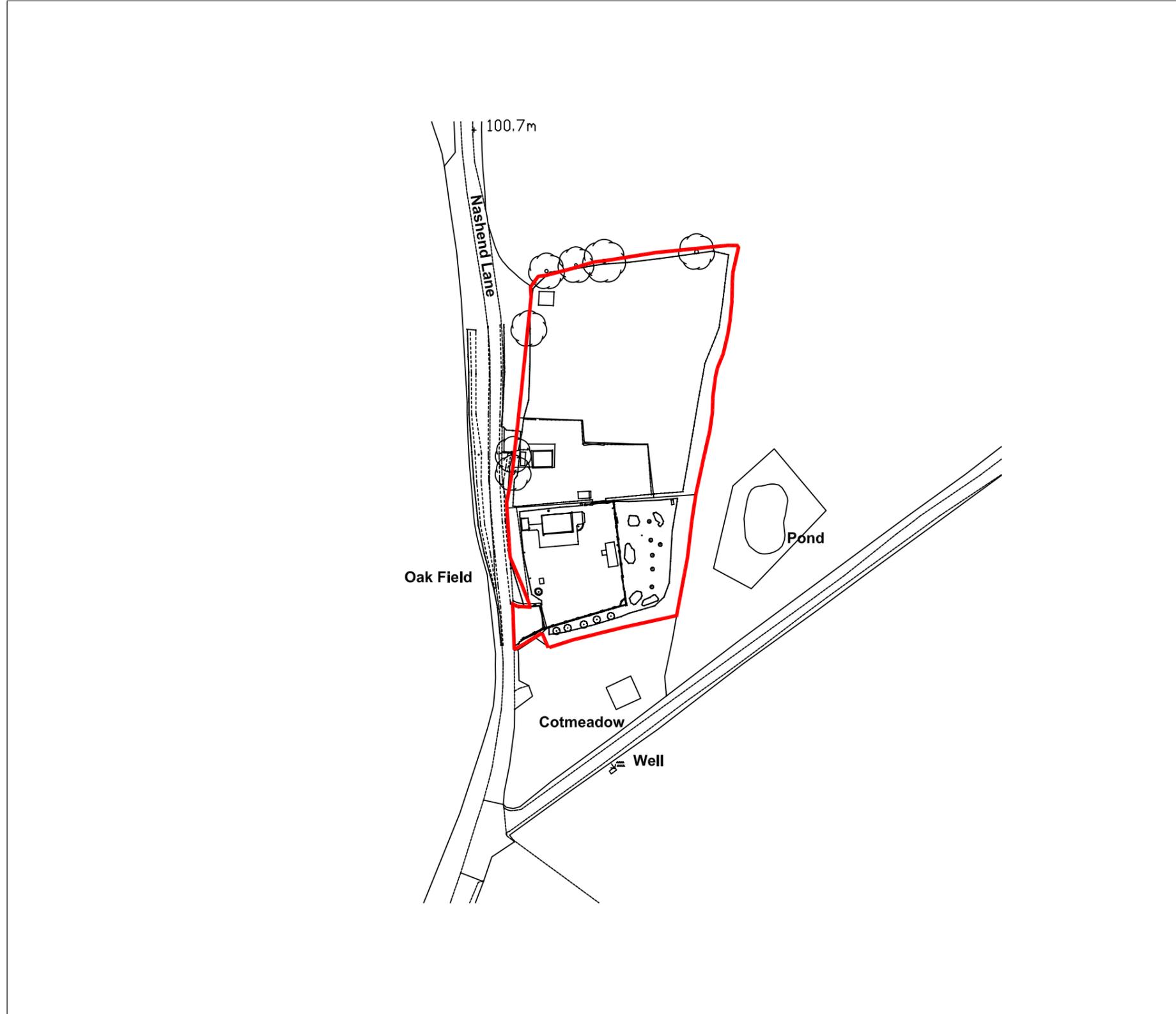
39. At present the LPA cannot presently demonstrate a 5-year supply of deliverable sites to meet the accommodation needs of Gypsies / Travellers as required by PPTS 2015 (para. 10(a)). This should be given significant weight in the consideration of a permanent permission.

### **Conclusions**

40. In our view the application fulfils the requirements of the development plan and national policy and as such should represent sustainable development that should be granted planning permission without delay (NPPF 2018 para. 11(c)).
41. Given the need for Gypsy and Traveller sites in Herefordshire, this application represents an opportunity for the LPA to help meet this pressing need without expense to anyone other than the applicant.

Yours faithfully,

Simon Ruston



**KEY:**

 APPLICATION BOUNDARY

REV	NOTES	BY	DATE
TDA THE GRANARY NEWLAND FAWR FARM LLANGAN CF35 5DN TEL: 01446 789367		 Environment • Landscape • Design	
CLIENT <b>MR. TERRY SMITH</b>			
DRAWING NUMBER <b>TDA.2406.01</b>	SCALE <b>1:1250 @ A3</b>		
DRAWN <b>RhC</b>	DATE <b>SEPTEMBER 2018</b>		
PROJECT <b>PROPOSED EXTENSION TO EXISTING GYPSY &amp; TRAVELLER SITE AT OAK FIELD, NASHEND LANE</b>			
DRAWING TITLE <b>SITE LOCATION PLAN</b>			



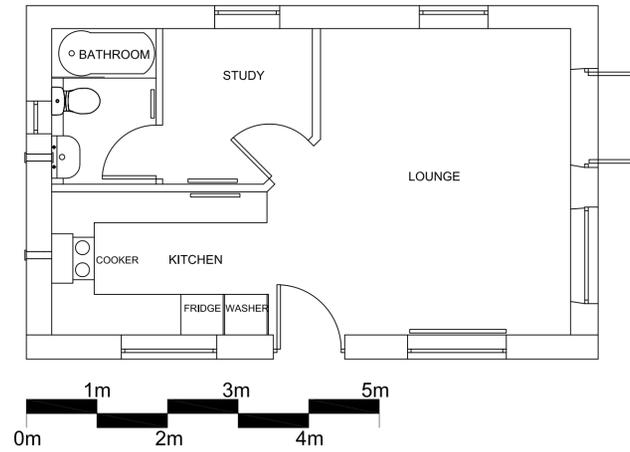
**KEY:**

- TSB TRAFFIC SIGNAL BOX
- PHB PHONE BOX
- PB POST BOX SQUARE
- PB POST BOX ROUND
- GRILL GRILL SQUARE
- GRILL GRILL ROUND
- BL BOLLARD
- BIN BIN SQUARE
- BIN BIN ROUND
- 38.32 SPOT LEVEL
- TAR TARMAC
- GR GRASS
- H/S HARDSTANDING
- BL BOLLARD
- BB BELISHA BEACON
- RS ROAD SIGN
- SIGN SIGN
- NP STREET NAMEPLATE
- TS TRAFFIC SIGNAL
- TSC TRAFFIC SIGNAL CONTROLLER
- IC INSPECTION COVER
- MH MANHOLE
- MH MANHOLE
- MP MARKER POST
- TP TELEGRAPH POLE
- LC LIGHTING COLUMN
- G GULLY
- WM WATER METER
- SV SLUICE VALVE
- ST STOP TAP
- FH FIRE HYDRANT
- BT BRITISH TELECOM
- CATV CABLE TV
- △ TV CABLE TV
- GV GAS VALVE
- 1.0BR BRICK WALL
- 1.0BL BLOCK WALL
- 1.0ST STONE WALL
- HEDGEROW/TREE CANOPY
- 2.0 P+W FENCE
- DK DROPPED KERB

Oak Field  
(Travellers Site)

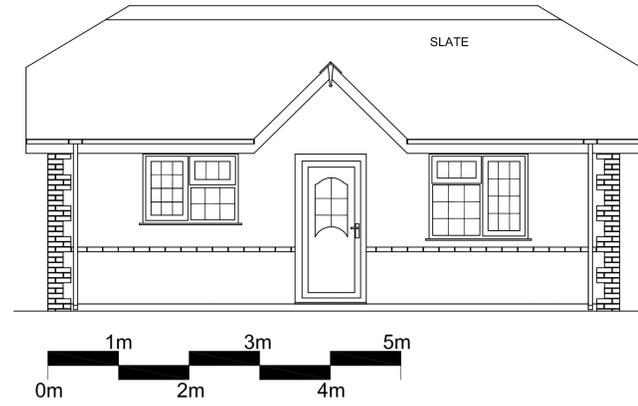
REV	NOTES	BY	DATE
TDA THE GRANARY NEWLAND FAWR FARM LLANGAN CF35 5DN TEL: 01446 789367			
			
CLIENT <b>MR. TERRY SMITH</b>			
DRAWING NUMBER TDA.2406.02	SCALE 1:250@ A1		
DRAWN RhC	DATE SEPTEMBER 2018		
PROJECT <b>PROPOSED EXTENSION TO EXISTING GYPSY &amp; TRAVELLER SITE AT OAK FIELD, NASHEND LANE</b>			
DRAWING TITLE <b>EXISTING SITE LAYOUT</b>			

FLOOR PLAN

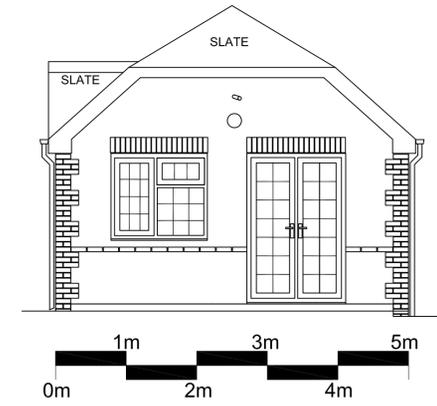


Internal Floor Area - 31.85 sq/m

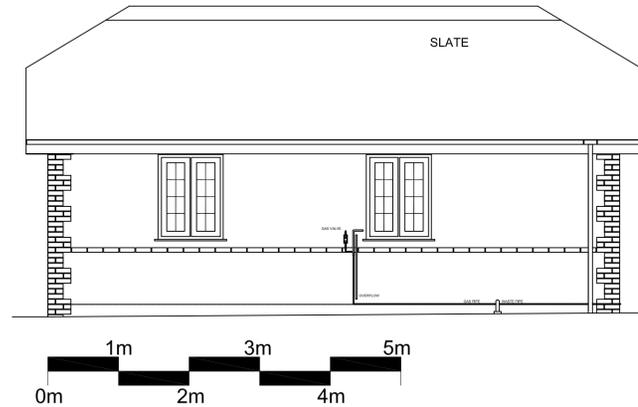
SOUTH ELEVATION



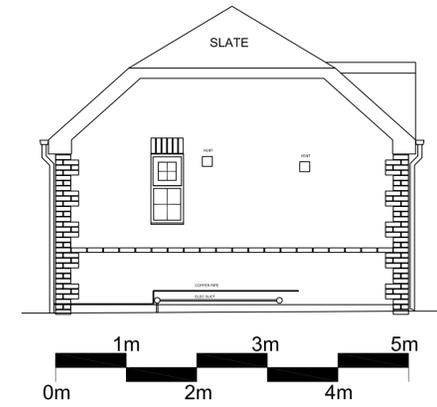
EAST ELEVATION



NORTH ELEVATION



WEST ELEVATION



**Note:**  
For location of existing Day Room refer to Tirlun Design Associates Ltd drawing no. TDA.2406.02

REV	NOTES	BY	DATE
<p>TDA THE GRANARY NEWLAND FAWR FARM LLANGAN CF35 5DN TEL: 01446 771250</p>			
<p>CLIENT <b>MR. TERRY SMITH</b></p>			
DRAWING NUMBER TDA.2406.04	SCALE 1:100 @ A1		
DRAWN RHC	DATE SEPTEMBER 2018		
<p>PROJECT <b>PROPOSED EXTENSION TO EXISTING GYPSY &amp; TRAVELLER SITE AT OAK FIELD, NASHEND LANE</b></p>			
<p>DRAWING TITLE <b>PROPOSED EXTENSION TO EXISTING DAY ROOM (PLANS &amp; ELEVATIONS)</b></p>			



**PLANT SCHEDULE**

**TREE PLANTING**

ABBRV	SPECIES	DENSITY	HEIGHT/GIRTH (cm)	ROOT COND.	POT SIZE	TOTAL
Ac	Acer campestre (Std)	As Plan	12-14 (g)	ROOTBALLED	--	--
Ag	Alnus glutinosa (Fthd)	As Plan	200-250 (h)	ROOTBALLED	--	--
Bp	Betula Pendula (Fthd)	As Plan	200-250 (h)	ROOTBALLED	--	--
Qr	Quercus robur (Std)	As Plan	12-14 (g)	ROOTBALLED	--	--

**NATIVE UNDERSTOREY PLANTING**

ABBRV	SPECIES	DENSITY	HEIGHT (cm)	ROOT COND.	POT SIZE	TOTAL
As Key	Acer campestre (30%)	1 sq/m	60-80 (h)	BARE ROOT	--	--
	Cornus sanguinea (20%)		60-80 (h)	BARE ROOT	--	--
	Ilex aquifolium (20%)		60-80 (h)	BARE ROOT	--	--
	Sambucus nigra (20%)		--	--	CON-P9	--
	Viburnum opulus (10%)		60-80 (h)	BARE ROOT	--	--

**NATIVE HEDGEROWS**

ABBRV	SPECIES	DENSITY	HEIGHT (cm)	ROOT COND.	POT SIZE	TOTAL
As Key	Acer campestre (30%)	5 lin/m	60-80 (h)	BARE ROOT	--	--
	Corylus avellana (30%)		60-80 (h)	BARE ROOT	--	--
	Cornus sanguinea (20%)		60-80 (h)	BARE ROOT	--	--
	Ilex aquifolium (15%)		--	--	CON-P9	--
	Rosa canina (5%)		60-80 (h)	BARE ROOT	--	--

**KEY:**

**HARD LANDSCAPE KEY:**

- EXISTING/PROPOSED DRIVEWAY, PARKING & COURTYARD AREAS**  
(Existing gravel areas retained. Proposed gravel areas to match existing and to be laid on a weed suppressing membrane over a compacted sub grade. Surface water to percolate through gravel and/or drain into adjacent grass/shrub areas.)
- PROPOSED PATIO AREAS**  
(Areas to be paved with 450x450mm PCC slabs. Type and colour to be agreed with client.)
- EXISTING/PROPOSED ENTRANCE THRESHOLDS**  
(Existing block paviour threshold retained. Block paviours of proposed threshold to match existing and to be laid using a 'no-dig' construction method to protect roots of adjacent trees.)
- EXISTING FENCING/GATES & SURFACING/STRUCTURES TO BE REMOVED**
- EXISTING FENCING/GATES TO BE RETAINED**

**SOFT LANDSCAPE KEY:**

- EXISTING INDIVIDUAL TREES TO BE RETAINED**
- EXISTING ORNAMENTAL SHRUB PLANTING TO BE RETAINED**
- EXISTING NATIVE HEDGEROWS TO BE RETAINED**
- EXISTING CONIFEROUS HEDGEROWS TO BE RETAINED**
- PROPOSED NATIVE TREE PLANTING**  
(Refer to plant schedule for species/densities)
- PROPOSED NATIVE UNDERSTOREY PLANTING**  
(Refer to plant schedule for species/densities)
- PROPOSED NATIVE HEDGEROWS**  
(Refer to plant schedule for species/densities)
- PROPOSED LAWN AREAS**  
(Existing grass areas to be kept short by regular mowing)
- ORCHARD & PADDOCK AREAS**  
(Existing grass areas to be managed either through careful grazing or other methods to encourage species rich grassland areas.)

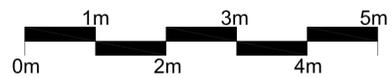
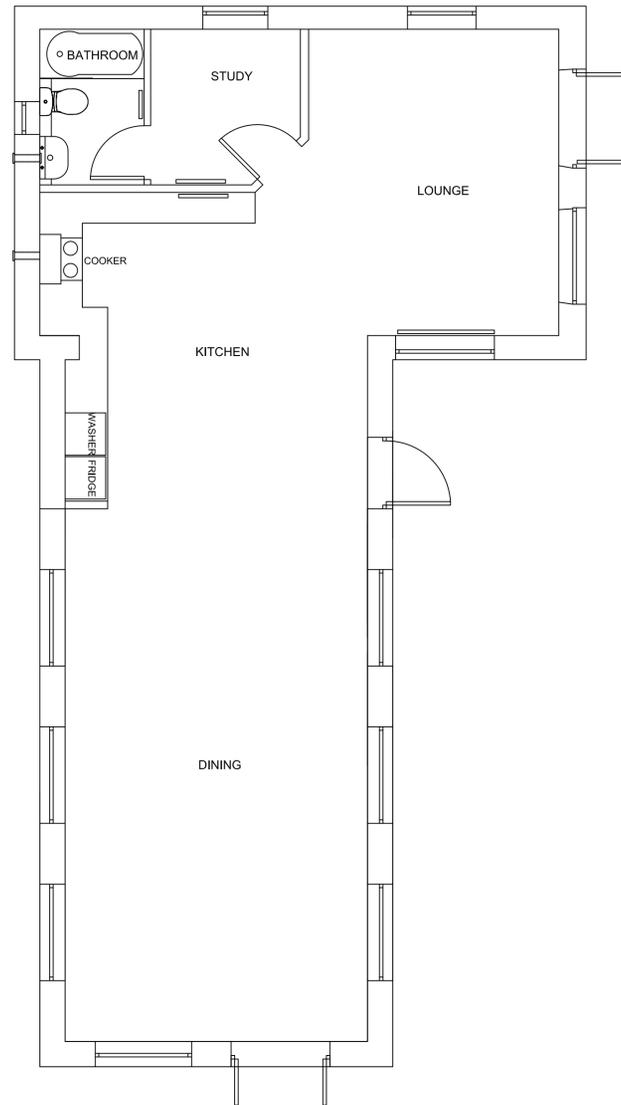
**NOTE:**

For details of proposed extended Day Room refer to Tirlun Design associates Ltd drawing no. TDA.2406.05

For details of proposed Utility Block refer to Tirlun Design Associates Ltd drawing no. TDA.2406.06

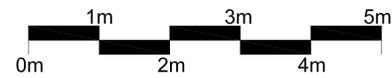
REV	NOTES	BY	DATE
<p>TDA THE GRANARY NEWLAND FAWR FARM LLANGAN CF35 5DN TEL: 01446 789367</p>			
<p>CLIENT <b>MR. TERRY SMITH</b></p>			
DRAWING NUMBER TDA.2406.03	SCALE 1:250@ A1		
DRAWN RhC	DATE SEPTEMBER 2018		
<p>PROJECT <b>PROPOSED EXTENSION TO EXISTING GYPSY &amp; TRAVELLER SITE AT OAK FIELD, NASHEND LANE</b></p> <p>DRAWING TITLE <b>PROPOSED SITE LAYOUT &amp; DETAILED LANDSCAPE SCHEME</b></p>			

FLOOR PLAN

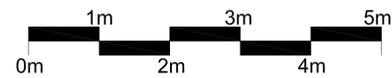
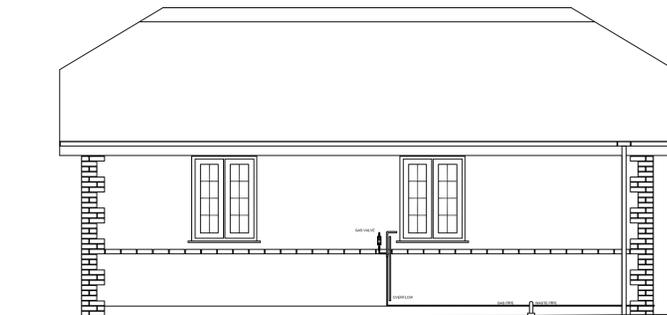


Internal Floor Area - 74.55 sq/m

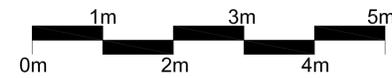
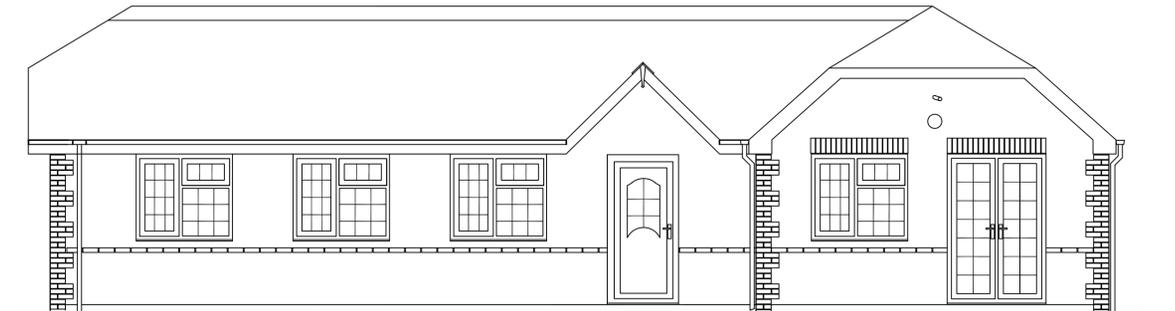
SOUTH ELEVATION



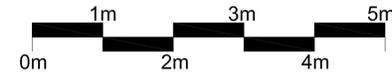
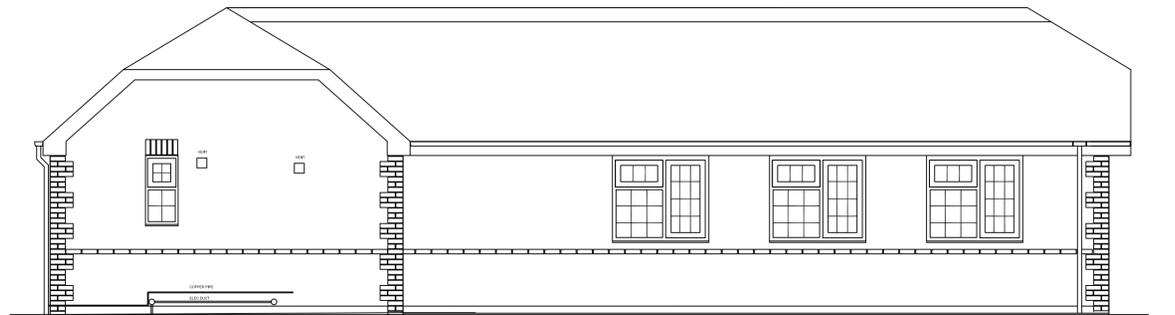
NORTH ELEVATION



EAST ELEVATION



WEST ELEVATION



**Proposed Material Details**

**EXTERNAL WALLS**

To match existing.

**ROOF:**

To match existing.

**WINDOWS & DOORS:**

To match existing.

**SOFFITS & FACIAS**

To match existing

**RAINWATER GOODS**

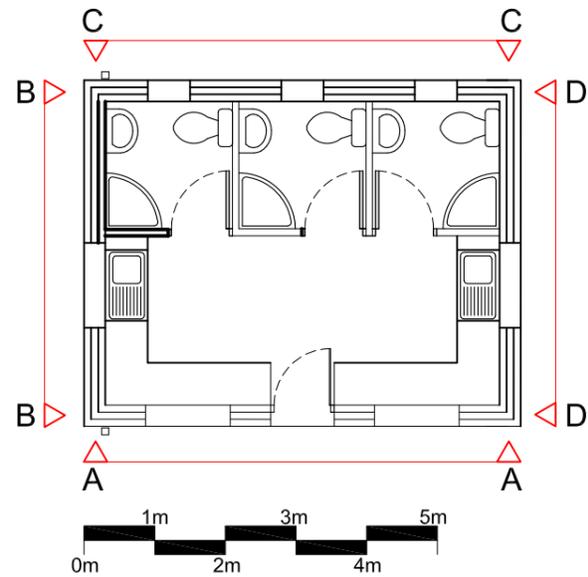
To match existing

**Note:**

For location of extended Day Room refer to Tirlun Design Associates Ltd drawing no. TDA.2406.03

REV	NOTES	BY	DATE
<p>TDA THE GRANARY NEWLAND FAWR FARM LLANGAN CF35 5DN TEL: 01446 771250</p> 			
<p>CLIENT <b>MR. TERRY SMITH</b></p>			
<p>DRAWING NUMBER TDA.2406.05</p>		<p>SCALE 1:100 @ A1</p>	
<p>DRAWN RHC</p>		<p>DATE SEPTEMBER 2018</p>	
<p>PROJECT <b>PROPOSED EXTENSION TO EXISTING GYPSY &amp; TRAVELLER SITE AT OAK FIELD, NASHEND LANE</b></p>			
<p>DRAWING TITLE <b>PROPOSED EXTENDED DAY ROOM (PLANS &amp; ELEVATIONS)</b></p>			

### Proposed Floor Plan



Internal Floor Area - 23.96 sq/m

1:100 @ A3

### Material Details

#### WALLS:

Cavity walls consisting of fair faced blocks internally and timber cladding externally. Cladding to be painted dark brown

#### ROOF:

Cement fibre slates

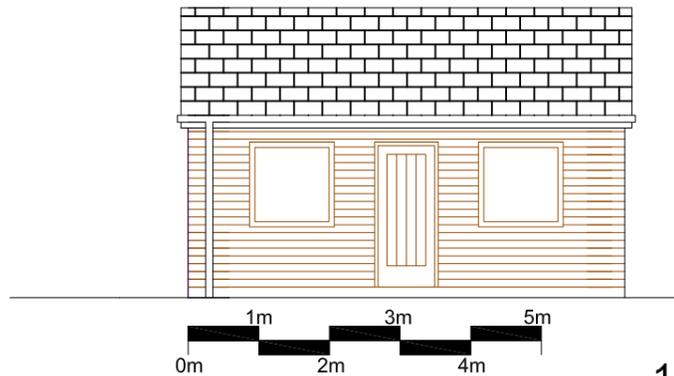
#### WINDOWS & DOORS:

Dark brown UPVC double glazed windows  
Dark brown solid timber doors

### Note:

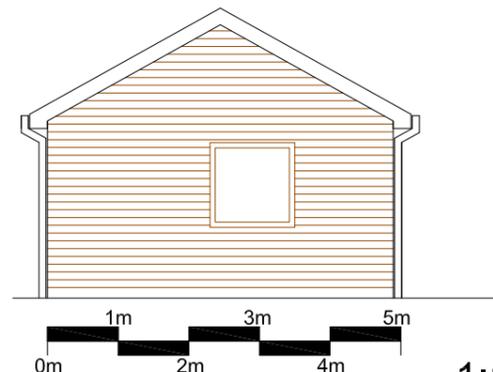
For location of proposed Utility Block refer to Tirlun Design Associates drawing no. TDA.2406.03

### Elevation A-A



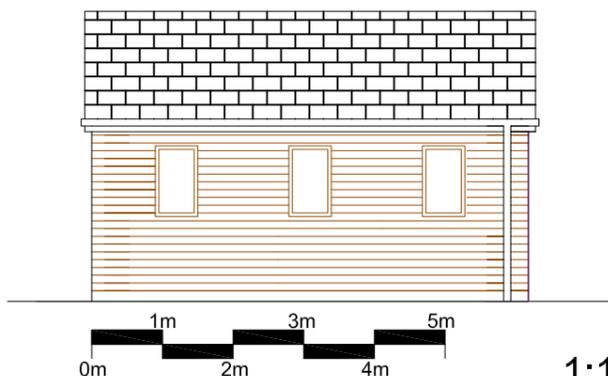
1:100 @ A3

### Elevation B-B



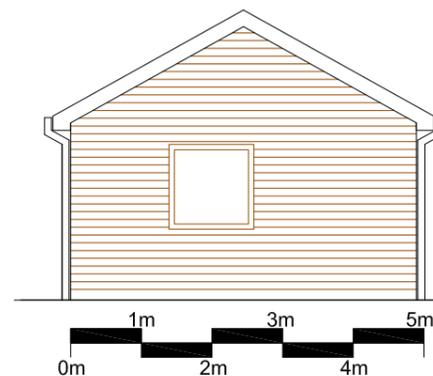
1:100 @ A3

### Elevation C-C



1:100 @ A3

### Elevation D-D



1:100 @ A3

REV	NOTES	BY	DATE
TDA THE GRANARY NEWLAND FAWR FARM LLANGAN CF35 5DN TEL: 01446 789367			
CLIENT		MR. TERRY SMITH	
DRAWING NUMBER		SCALE	
TDA.2406.06		1:100 @ A3	
DRAWN		DATE	
RhC		SEPTEMBER 2018	
PROJECT			
PROPOSED EXTENSION TO EXISTING GYPSY & TRAVELLER SITE AT OAK FIELD, NASHEND LANE			
DRAWING TITLE			
PROPOSED UTILITY BLOCK (PLAN & ELEVATIONS)			

# Landscape Design Statement

For

## Proposed extension to existing Gypsy & Travellers site at Oak Field, Nashend Lane

Prepared By



TDA Ref: TDA/2406/RhC/09.18

September 2018

## CONTENTS:

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Introduction	2
Design Objectives & Landscape Concept	3-4
Landscape Conditions	5

## **INTRODUCTION:**

The following document is to be read in conjunction with Tirlun Design Associates drawing no's:

TDA.2406.02 titled 'Existing Site Layout'.

TDA.2406.03 titled 'Proposed Site Layout and Detailed Landscape Scheme'.

TDA.2406.04 titled 'Existing Day Room (Plan & Elevations)'.

TDA.2406.05 titled 'Proposed Extended Day Room (Plan & Elevations)'.

TDA.2411.06 titled 'Proposed Utility Block (Plan & Elevations)'.

All drawings are included in Appendix 1 of this document.

Any discrepancies found between the drawings and this document should be notified to the landscape architect or his representative for clarification.

## **DESIGN OBJECTIVES & LANDSCAPE CONCEPT:**

TDA have been instructed by Mr. Terry Smith to produce a site layout and associated landscape scheme for a proposed extension to an existing Gypsy & Travellers site at Oak Field, Nashend Lane.

The scheme, which incorporates an extended day room, one additional residential Gypsy and Traveller pitch (containing a mobile home, parking for one car/touring caravan), and a five pitch Gypsy & Traveller transit site (incorporating two twin family pitches and one single pitch) including a utility block, has been carefully developed to ensure that the proposed extension has minimal landscape character and visual amenity impacts upon its surroundings.

The proposals have been developed following a briefing meeting with the client and a subsequent site survey and assessment (undertaken to ascertain the position, visibility and landscape context of the site) and are intended to form part of a new planning application.

### **Site Layout.**

The site layout has been carefully designed to minimise the landscape impacts of the proposed development whilst meeting the needs of future residents. Proposals include:

- The sensitive incorporation of proposed residential/transit Gypsy & Traveller pitches to ensure the protection of all peripheral trees and hedgerows and enable sufficient room for the implementation of new landscape proposals for landscape structure/screening.
- The sensitive incorporation of a proposed play area to ensure adequate amenity space for any children resident on and visiting the site.

## Landscape Proposals

Landscape proposals for the new scheme have been carefully considered to minimise the proposed developments visual and landscape character impacts whilst respecting the sites relationship with its immediate setting and improving its bio-diversity value.

Landscape proposals include:

- The introduction of 19 no. new native trees to provide landscape structure/screening and improve the sites arboricultural and bio-diversity value.
- The introduction of 260 square metres of native understorey planting to screen short range views of the transit site through the proposed new access from Nashend Lane and improve the sites bio-diversity.
- The introduction of 148 linear metres of native hedgerows to provide landscape structure/screening and improve the sites bio-diversity.
- The utilisation of post and rail fences and gates, sensitive to the setting of the site and in-keeping in character with those already present in the locality, to help define different land uses on site.
- The sensitive management of the retained paddock area, either through careful grazing or other methods, to encourage a species rich grassland area.

## LANDSCAPE CONDITIONS

Should the council be minded to approve the proposed development and are satisfied with the landscape scheme, the permission could incorporate stringent conditions to ensure the sensitive development of the site. Examples of such conditions have been included in the Schedule of Proposed Conditions included in Appendix 2.

## Appendix 1



- KEY:**
- TSB TRAFFIC SIGNAL BOX
  - PHB PHONE BOX
  - PB POST BOX SQUARE
  - PB POST BOX ROUND
  - GRILL GRILL SQUARE
  - GRILL GRILL ROUND
  - BL BOLLARD
  - BIN BIN SQUARE
  - BIN BIN ROUND
  - 38.32 SPOT LEVEL
  - TAR TARMAC
  - GR GRASS
  - H/S HARDSTANDING
  - BL BOLLARD
  - BB BELISHA BEACON
  - RS ROAD SIGN
  - SIGN SIGN
  - NP STREET NAMEPLATE
  - TS TRAFFIC SIGNAL
  - TSC TRAFFIC SIGNAL CONTROLLER
  - IC INSPECTION COVER
  - MH MANHOLE
  - MH MANHOLE
  - MP MARKER POST
  - TP TELEGRAPH POLE
  - LC LIGHTING COLUMN
  - G GULLY
  - WM WATER METER
  - SV SLUICE VALVE
  - ST STOP TAP
  - FH FIRE HYDRANT
  - BT BRITISH TELECOM
  - CATV CABLE TV
  - △ TV CABLE TV
  - GV GAS VALVE
  - 1.0BR BRICK WALL
  - 1.0BL BLOCK WALL
  - 1.0ST STONE WALL
  - HEDGEROW/TREE CANOPY
  - 2.0 P+W FENCE
  - DK DROPPED KERB

Oak Field  
(Travellers Site)

REV	NOTES	BY	DATE
TDA THE GRANARY NEWLAND FAWR FARM LLANGAN CF35 5DN TEL: 01446 789367			
 Environment • Landscape • Design			
<b>CLIENT</b> MR. TERRY SMITH			
<b>DRAWING NUMBER</b> TDA.2406.02		<b>SCALE</b> 1:250@ A1	
<b>DRAWN</b> RhC		<b>DATE</b> SEPTEMBER 2018	
<b>PROJECT</b> PROPOSED EXTENSION TO EXISTING GYPSY & TRAVELLER SITE AT OAK FIELD, NASHEND LANE			
<b>DRAWING TITLE</b> EXISTING SITE LAYOUT			



**PLANT SCHEDULE**

**TREE PLANTING**

ABBRV	SPECIES	DENSITY	HEIGHT/GIRTH (cm)	ROOT COND.	POT SIZE	TOTAL
Ac	Acer campestre (Std)	As Plan	12-14 (g)	ROOTBALLED	--	--
Ag	Alnus glutinosa (Fild)	As Plan	200-250 (h)	ROOTBALLED	--	--
Bp	Betula Pendula (Fild)	As Plan	200-250 (h)	ROOTBALLED	--	--
Qr	Quercus robur (Std)	As Plan	12-14 (g)	ROOTBALLED	--	--

**NATIVE UNDERSTOREY PLANTING**

ABBRV	SPECIES	DENSITY	HEIGHT (cm)	ROOT COND.	POT SIZE	TOTAL
As Key	Acer campestre (30%)	1 sq/m	60-80 (h)	BARE ROOT	--	--
	Cornus sanguinea (20%)		60-80 (h)	BARE ROOT	--	--
	Ilex aquifolium (20%)		60-80 (h)	BARE ROOT	--	--
	Sambucus nigra (20%)		--	--	CON-P9	--
	Viburnum opulus (10%)		60-80 (h)	BARE ROOT	--	--

**NATIVE HEDGEROWS**

ABBRV	SPECIES	DENSITY	HEIGHT (cm)	ROOT COND.	POT SIZE	TOTAL
As Key	Acer campestre (30%)	5 lin/m	60-80 (h)	BARE ROOT	--	--
	Corylus avellana (30%)		60-80 (h)	BARE ROOT	--	--
	Cornus sanguinea (20%)		60-80 (h)	BARE ROOT	--	--
	Ilex aquifolium (15%)		--	--	CON-P9	--
	Rosa canina (5%)		60-80 (h)	BARE ROOT	--	--

**KEY:**

**HARD LANDSCAPE KEY:**

- EXISTING/PROPOSED DRIVEWAY, PARKING & COURTYARD AREAS**  
(Existing gravel areas retained. Proposed gravel areas to match existing and to be laid on a weed suppressing membrane over a compacted sub grade. Surface water to percolate through gravel and/or drain into adjacent grass/shrub areas.)
- PROPOSED PATIO AREAS**  
(Areas to be paved with 450x450mm PCC slabs. Type and colour to be agreed with client.)
- EXISTING/PROPOSED ENTRANCE THRESHOLDS**  
(Existing block paviour threshold retained. Block paviours of proposed threshold to match existing and to be laid using a 'no-dig' construction method to protect roots of adjacent trees.)
- EXISTING FENCING/GATES & SURFACING/STRUCTURES TO BE REMOVED**
- EXISTING FENCING/GATES TO BE RETAINED**

**SOFT LANDSCAPE KEY:**

- EXISTING INDIVIDUAL TREES TO BE RETAINED**
- EXISTING ORNAMENTAL SHRUB PLANTING TO BE RETAINED**
- EXISTING NATIVE HEDGEROWS TO BE RETAINED**
- EXISTING CONIFEROUS HEDGEROWS TO BE RETAINED**
- PROPOSED NATIVE TREE PLANTING**  
(Refer to plant schedule for species/densities)
- PROPOSED NATIVE UNDERSTOREY PLANTING**  
(Refer to plant schedule for species/densities)
- PROPOSED NATIVE HEDGEROWS**  
(Refer to plant schedule for species/densities)
- PROPOSED LAWN AREAS**  
(Existing grass areas to be kept short by regular mowing)
- ORCHARD & PADDOCK AREAS**  
(Existing grass areas to be managed either through careful grazing or other methods to encourage species rich grassland areas.)

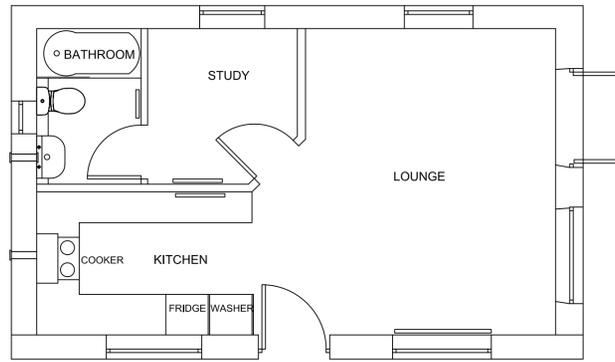
**NOTE:**

For details of proposed extended Day Room refer to Tirlun Design associates Ltd drawing no. TDA.2406.05

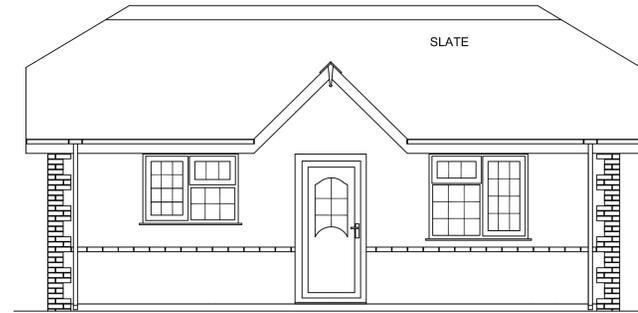
For details of proposed Utility Block refer to Tirlun Design Associates Ltd drawing no. TDA.2406.06

REV	NOTES	BY	DATE
<p>TDA THE GRANARY NEWLAND FAWR FARM LLANGAN CF35 5DN TEL: 01446 789367</p>			
<p>CLIENT <b>MR. TERRY SMITH</b></p>			
DRAWING NUMBER TDA.2406.03	SCALE 1:250@ A1		
DRAWN RhC	DATE SEPTEMBER 2018		
<p>PROJECT <b>PROPOSED EXTENSION TO EXISTING GYPSY &amp; TRAVELLER SITE AT OAK FIELD, NASHEND LANE</b></p>			
<p>DRAWING TITLE <b>PROPOSED SITE LAYOUT &amp; DETAILED LANDSCAPE SCHEME</b></p>			

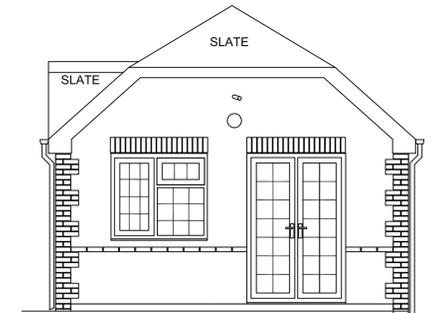
FLOOR PLAN



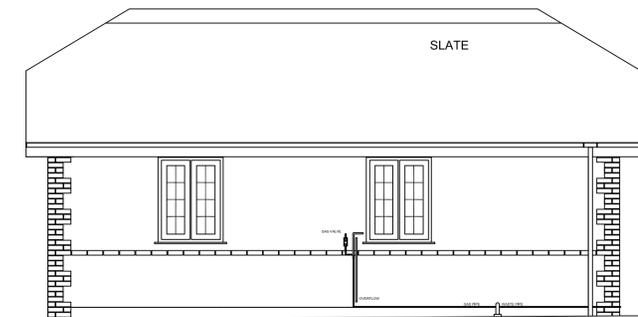
SOUTH ELEVATION



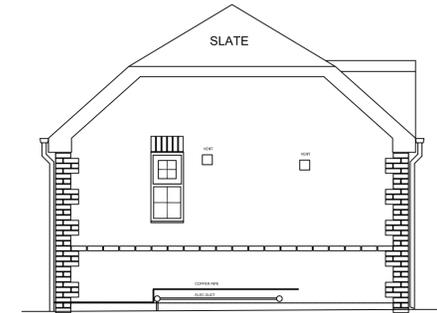
EAST ELEVATION



NORTH ELEVATION



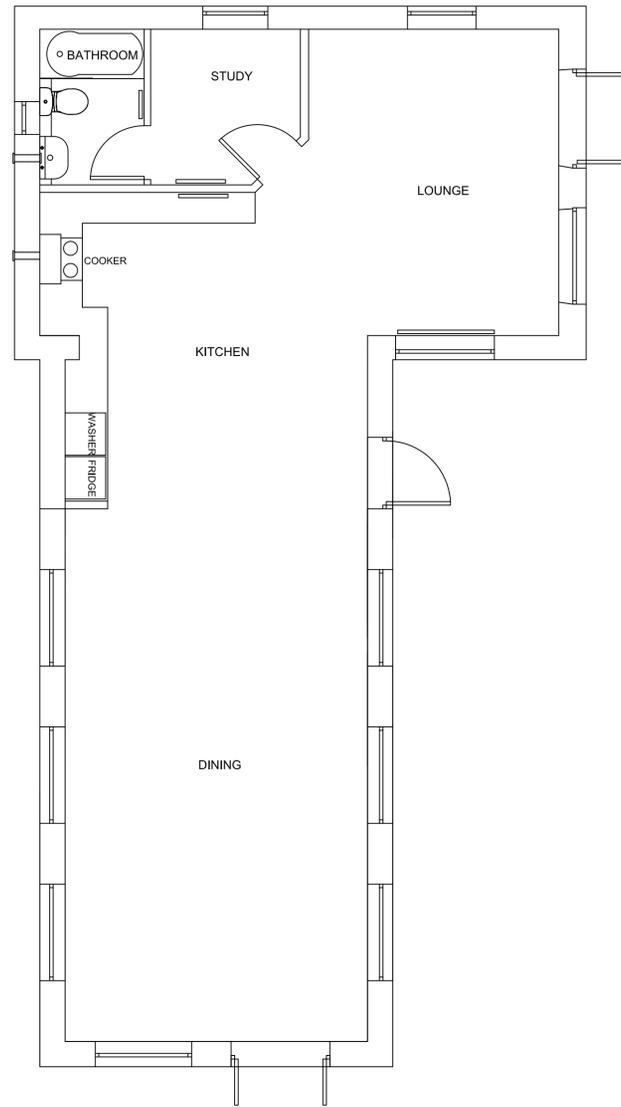
WEST ELEVATION



**Note:**  
For location of existing Day Room refer to Tirlun Design Associates Ltd drawing no. TDA.2406.02

REV	NOTES	BY	DATE
<p>TDA THE GRANARY NEWLAND FAWR FARM LLANGAN CF35 5DN TEL: 01446 771250</p> 			
<p>CLIENT <b>MR. TERRY SMITH</b></p>			
<p>DRAWING NUMBER TDA.2406.04</p>		<p>SCALE 1:100 @ A1</p>	
<p>DRAWN RHC</p>		<p>DATE SEPTEMBER 2018</p>	
<p>PROJECT <b>PROPOSED EXTENSION TO EXISTING GYPSY &amp; TRAVELLER SITE AT OAK FIELD, NASHEND LANE</b></p>			
<p>DRAWING TITLE <b>PROPOSED EXTENSION TO EXISTING DAY ROOM (PLANS &amp; ELEVATIONS)</b></p>			

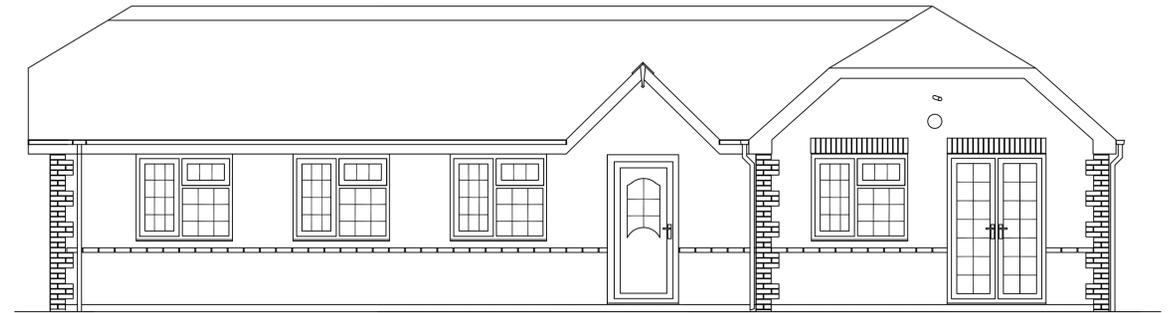
FLOOR PLAN



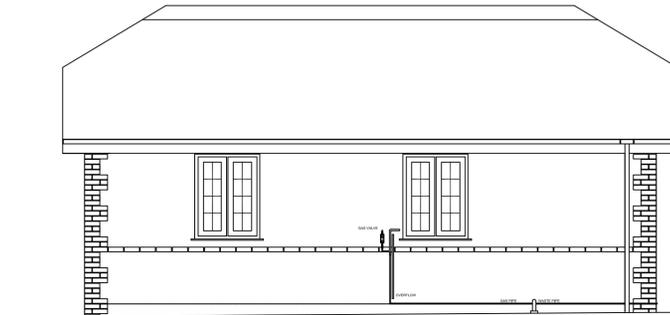
SOUTH ELEVATION



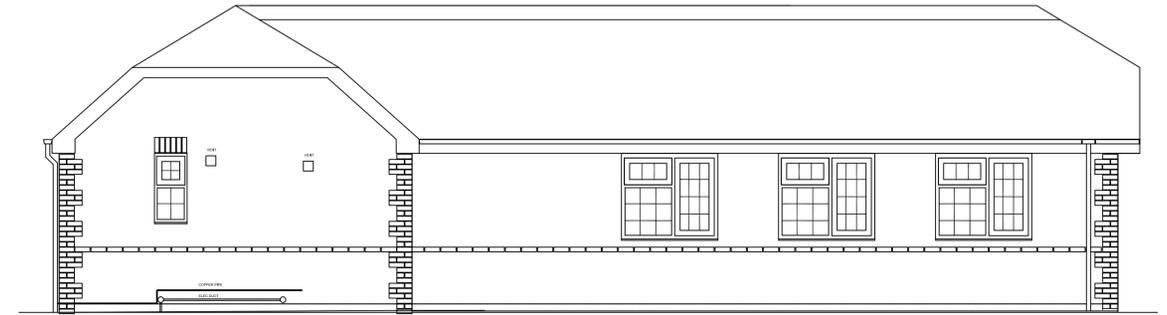
EAST ELEVATION



NORTH ELEVATION



WEST ELEVATION



**Proposed Material Details**

**EXTERNAL WALLS**

To match existing.

**ROOF:**

To match existing.

**WINDOWS & DOORS:**

To match existing.

**SOFFITS & FACIAS**

To match existing

**RAINWATER GOODS**

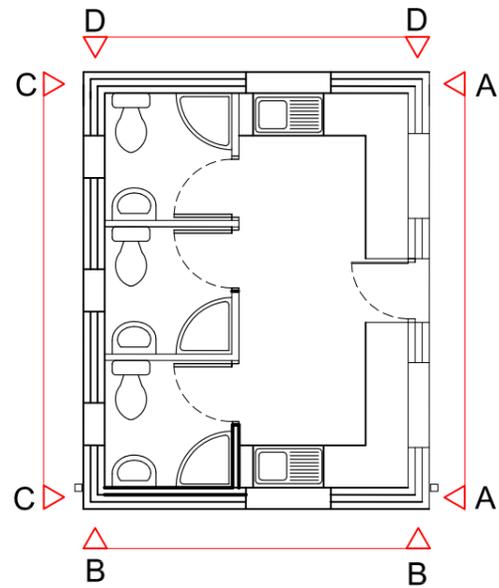
To match existing

**Note:**

For location of extended Day Room refer to Tirlun Design Associates Ltd drawing no. TDA.2406.03

REV	NOTES	BY	DATE
<p>TDA THE GRANARY NEWLAND FAWR FARM LLANGAN CF35 5DN TEL: 01446 771250</p> 			
CLIENT		MR. TERRY SMITH	
DRAWING NUMBER	SCALE		
TDA.2406.05	1:100 @ A1		
DRAWN	DATE	PROJECT PROPOSED EXTENSION TO EXISTING GYPSY & TRAVELLER SITE AT OAK FIELD, NASHEND LANE DRAWING TITLE PROPOSED EXTENDED DAY ROOM (PLANS & ELEVATIONS)	
RHC	SEPTEMBER 2018		

**Proposed Floor Plan**



1:100 @ A3

**Material Details**

**WALLS:**

Cavity walls consisting of fair faced blocks internally and timber cladding externally. Cladding to be painted dark brown

**ROOF:**

Cement fibre slates

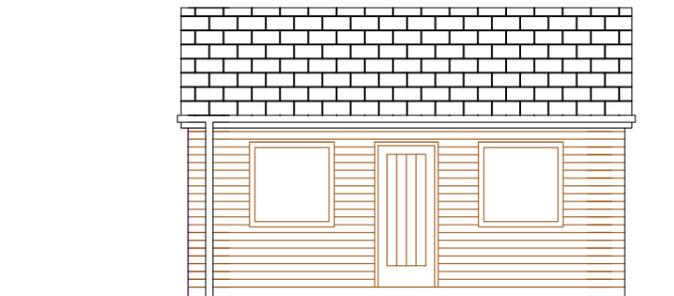
**WINDOWS & DOORS:**

Dark brown UPVC double glazed windows  
Dark brown solid timber doors

**Note:**

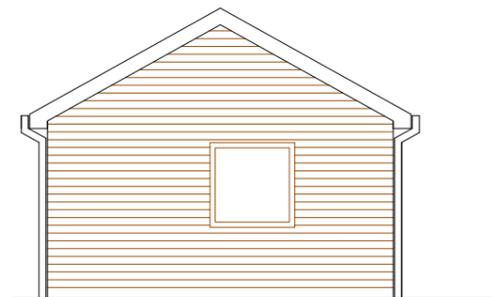
For location of proposed Utility Block refer to Tirlun Design Associates drawing no. TDA.2406.03

**Elevation A-A**



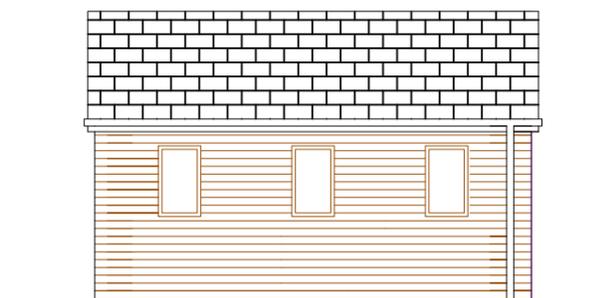
1:100 @ A3

**Elevation B-B**



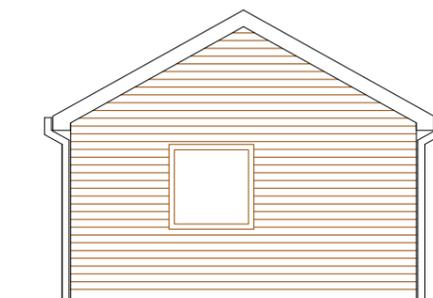
1:100 @ A3

**Elevation C-C**



1:100 @ A3

**Elevation D-D**



1:100 @ A3

REV	NOTES	BY	DATE
<p>TDA THE GRANARY NEWLAND FAWR FARM LLANGAN CF35 5DN TEL: 01446 789367</p> 			
CLIENT		MR. TERRY SMITH	
DRAWING NUMBER	SCALE		
TDA.2406.06	1:100 @ A3		
DRAWN	DATE		
RhC	SEPTEMBER 2018		
PROJECT			
PROPOSED EXTENSION TO EXISTING GYPSY & TRAVELLER SITE AT OAK FIELD, NASHEND LANE			
DRAWING TITLE			
PROPOSED UTILITY BLOCK (PLAN & ELEVATIONS)			

## Appendix 2

## SCHEDULE OF PROPOSED CONDITIONS

1. The site shall not be occupied by any persons other than Gypsies & Travellers as defined in Annex 1 of the Planning Policy for Traveller Sites.

2. Notwithstanding the details shown on TDA drawing no. TDA.2406.03 a 'site development scheme' for the internal layout of the site including the siting of the caravans, hardstanding, parking, amenity areas, means of foul and surface water drainage, boundary treatment and landscaping (including details of species, plant sizes, proposed numbers and densities) shall be submitted for the written approval of the local planning authority prior to occupation of the site. The said scheme shall include a timetable for its implementation.

3. If within a period of five years from the date of implementing the landscaping details approved in accordance with condition 2, any trees or shrubs are removed, uprooted, destroyed or die, another tree or shrub of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

4. No commercial activities shall take place on the land, including the storage of building materials.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) (with or without modification) no other means of enclosure shall be erected other than those proposed in the approved 'site development scheme'.



Department for  
Communities and  
Local Government

Dr Angus Murdoch  
Murdoch Planning  
PO Box 71  
Ilminster  
Somerset  
TA19 0WF

Our Ref:  
APP/G5180/A/11/2154680/NWF

14 August 2013

Dear Dr Murdoch

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 78  
APPEAL BY MR P CONNORS  
LAND AT AND ADJACENT TO 148 CROYDON ROAD, KESTON, BR2 8HN  
(APPLICATION REF: DC/10/02052/FULL1)**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Phillip J G Ware BSc Dip TP MRTPI, who held an inquiry that opened on 4 January 2012 into your client's appeal against a decision of the London Borough of Bromley (the Council) to refuse planning permission for the use of land as a private residential gypsy site and associated fencing and hardstanding for up to 8 mobile homes on land at and adjacent to 148 Croydon Road, Keston, BR2 8HN in accordance with application reference DC/10/02052/FULL1, dated 1 July 2010.
2. On 1 July 2011 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990 because the appeal involves a proposal for significant development in the Green Belt.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal for the Option 1 scheme for up to 7 pitches be allowed and planning permission granted subject to conditions. For the reasons given below, the Secretary of State disagrees with the Inspector's conclusions, and allows the appeal and grants planning permission subject to conditions for the Option 2 scheme for 5 pitches. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

## **Procedural matters**

4. In a letter the day before the inquiry began the Council raised three procedural issues which were discussed at the start of the inquiry. The Secretary of State has considered these matters and the Inspector's assessment in his report. The Secretary of State notes that the Council questioned the validity of the application on the basis of the certificate of ownership. He agrees with the Inspector, that as the other persons that were noted as having an interest in the land were notified during the course of the proceedings and did not respond, there was no prejudice to any party and he is content that the appeal can be determined (IR5-10). The Secretary of State notes the inquiry was adjourned to deal with the late submission by the Council that much of the site was designated as being in a Site of Metropolitan Importance for Nature Conservation (SMINC) (IR11-13).
5. The Secretary of State notes that the appellant submitted changes to the original proposal before the inquiry. The first change was to alter the proposal from up to 8 mobile homes to 7 pitches and the inquiry considered the modified proposal as Option 1; with no consideration given to the original proposal (IR14-15). In seeking to address the late objection on biodiversity the appellant submitted Option 2, a revised layout that reduced the site area and the number of pitches to 5. The Secretary of State notes that consultation was carried out on the Option 2 scheme during an adjournment in the inquiry and agrees with the Inspector's approach of considering both options in this case (IR16-20 and 38-40).
6. On 16 November 2012, following the completion of the inquiry, you submitted a transcript of the judgment of Mrs Justice Cox DBE in the case of Charmaine Moore v Secretary of State for Communities and Local Government and the London Borough of Bromley; requesting that this be considered in the determination of this appeal. A copy of this correspondence may be obtained from the address on the first page of this letter. The Secretary of State does not consider that this is new evidence that requires him to refer back to parties before determining this case.
7. At the inquiry applications for costs was submitted by your client against the Council and by the Council against your client. These applications are the subject of a separate decision letter.

## **Policy considerations**

8. In determining the appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
9. In this case the development plan comprises the London Plan (2011) (LP) and saved policies of the Bromley Council Unitary Development Plan (2006) (UDP). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR35-36. The Secretary of State notes that the emerging Local Plan is at an early stage and that there is no timetable for a Site Allocations Plan (IR37). He is aware that the Council completed consultation on an Options and Preferred Strategy Document in April 2013.

10. Other material considerations which the Secretary of State has taken into account include the *London Boroughs' Gypsy and Traveller Accommodation Needs Assessment 2008 (GTAA)*, the *National Planning Policy Framework 2012 (the Framework)*, *Planning Policy for Traveller Sites 2012 (PPTS)(IR41)* and *Circular 11/95 The Use of Conditions in Planning Permission*.

## **Main Issues**

### **Background and agreed matters**

11. The Secretary of State notes the matters agreed between the parties and agrees with the Inspector's reasoning and conclusions on the background and agreed matters (IR109-116).

### **Policy context**

12. The Secretary of State agrees with the Inspector's reasoning and conclusions in relation to policy matters (IR117-125). He agrees that little weight should be given to UDP Policy H6 as it is substantially at odds with current national policy in the PPTS (IR123). He further agrees that very little weight can be accorded to the emerging Local Plan due to the early stage of preparation (IR124). The Secretary of State notes that consultation on the Options and Preferred Strategy Document had been completed after receipt of the Inspector's report, but this does not lead him to alter the weight he attaches to the emerging Local Plan.

### **Green Belt**

13. The Secretary of State notes that the parties agree that gypsy sites are inappropriate development in the Green Belt. Such development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Secretary of State agrees with the Inspector's conclusion that the harm as a result of inappropriateness is a consideration that weighs substantially against both schemes (IR126-129). He further agrees that both options would result in loss of openness of the Green Belt; Option 2 by intensification of use of the permitted site and the small expansion onto the sliver of land to the west; and Option 1 by additional loss of openness as a result of the greater site area. The Secretary of State agrees with the Inspector that this consideration weighs substantially against the appeal (IR130-134).

### **Trees and biodiversity**

14. The Secretary of State agrees with the Inspector's assessment that the loss of tree cover on the appeal site, which is subject to a woodland Tree Preservation Order (TPO) has already taken place and that neither scheme would result in any further loss (IR135-140). He also agrees with the Inspector's assessment of the effect of the proposals on biodiversity; Option 2 would be neutral and Option 1 would have a negative impact that weighs against the option as a result of part of the SMINC being taken up by hardstandings, caravans and other domestic paraphernalia, but also a positive impact as a result of the remainder of the SMINC being replanted or left to naturally regenerate and the ability to impose conditions to prevent any harmful use of the land (IR141-146).

15. The Secretary of State agrees with the Inspector's reasoning and conclusions on replanting versus natural regeneration of the cleared area and that this matter could only be subject to conditions if Option 1 is approved (IR147-149). He has carefully considered the Inspector's assessment of the three potential mechanisms for replanting or regeneration (IR150-154). He is not persuaded that Option 1 is the only mechanism for ensuring regeneration of at least a substantial part of the cleared area. This is because he shares the Inspector's view that there is no reason to suppose that natural regeneration would not happen (IR137) and because he also gives some weight to the protection that would be provided to any regenerated woodland by the site's status as part of a TPO. The Secretary of State considers that the possibility of such natural regeneration of the entire cleared area, without the necessity for the sterilisation of part of it as the Option 1 proposals would entail, should not be discounted. However, he accepts that Option 1 is the only option that would enable conditions to be imposed to manage regeneration or replanting or to require the clearance of the structures associated with the former Girl Guide use (IR154). In other respects, the Secretary of State agrees with the Inspector's conclusions on this matter (IR155-159), with the exception of the degree of weight he attaches to Option 1 in IR159. His reasons for this are explained in the overall balancing of considerations.

### **The need for and supply of gypsy sites**

16. The Secretary of State agrees with the Inspector's assessment of need and supply and gives weight to national, regional and local need and to lack of supply of sites to meet current need (IR160-172). He agrees with the Inspector that significant weight should be accorded to the immediate and identified need for sites in the Borough and the contribution which both the appeal schemes would make towards meeting this need (IR178-179 and 180-181). The Secretary of State does not accept the Inspector's conclusions on double counting (IR173-177). He considers that failure of policy should attract significant weight in its own right as a contributor to the inability to demonstrate an adequate supply of specific, deliverable sites to meet locally set targets.

### **Personal circumstances**

17. The Secretary of State has carefully considered the personal circumstances of the occupiers and agrees with the Inspector's reasoning and conclusions at IR182-192. He agrees that the lack of suitable and alternative sites is a significant factor weighing in favour of the appeal (IR188). The Secretary of State considers that the interests of the children within the extended family are of primary importance and he has afforded significant weight to the benefits of a settled base for continuity of education and access to healthcare (IR191). He agrees that the personal need for a settled site weighs significantly in favour of the appeal and that both schemes would resolve this need (IR192).

### **Inequality and discrimination**

18. The Secretary of State agrees with the Inspector's reasoning and conclusion on these matters (IR193-201). He agrees that the weight to be accorded to matters of alleged discrimination is very limited (IR201).

## **Sustainability and accessibility**

19. The Secretary of State agrees with the Inspector's reasoning and conclusions on these matters (IR202-208). He agrees that the site is in a generally accessible location (IR207) and that subject to the consideration of matters raised by local residents in the following paragraph, there were no objections to either scheme on grounds of sustainability or accessibility (IR208).

## **The amenity of the surrounding area**

20. The Secretary of State agrees with the Inspector's reasoning and conclusions on matters relating to noise, burning of waste, parking and traffic generation, flood risk and co-existence and integration (IR209-214). He agrees that none of the above matters weigh against either scheme (IR214).

## **Planning conditions**

21. Having considered the Inspector's comments at IR215-224, the Secretary of State is satisfied that the conditions proposed by the Inspector for a permanent permission are reasonable and necessary and comply with the provisions of Circular 11/95. However he does not consider that they overcome his reasons for dismissing Option 1, as discussed in the planning balance section below. The Secretary of State has amended condition 5 and deleted condition 10 to reflect his decision below.

## **The Planning Balance and Conclusions**

22. In accordance with the format of the Inspector's report, the Secretary of State first considered the smaller Option 2 scheme, submitted during the course of the inquiry in response to the late objection on biodiversity. He then considered the larger Option 1 scheme. As the inquiry did not consider the scheme as originally submitted, for upto 8 mobile homes, no consideration is given to this scheme and the Secretary of State has disregarded the Inspector's conclusions at IR243-246.

## **Option 2 – 5 pitches**

23. In relation to the Option 2 scheme for 5 pitches on the site, which covers the area with existing planning permission for 2 pitches, with a small extension onto a sliver of land to the west, the Secretary of State finds that the proposal would be inappropriate development in the Green Belt and the loss of openness caused weighs substantially against the scheme (IR226-227). However, against this he acknowledges that the majority of the site has planning permission, although for fewer pitches (IR226). He finds that this option would make a contribution to meeting general need and he agrees that its contribution to meeting personal needs weighs significantly in favour of the scheme (IR228-229). He agrees that the issue of trees and biodiversity is a neutral factor in the planning balance (IR230). He disagrees with the Inspector that the Council's intention to remove the site from the Green Belt and designate it as a gypsy site is an important factor, as he places little weight on the emerging Local Plan (IR231). As he does not propose to refuse planning permission the Secretary of State makes no comment on the Inspector's conclusions on inequality and discrimination (IR233-234). Given the acceptability of the scheme on a permanent basis, there is no need for consideration of a limited period condition (IR235). In conclusion, the

Secretary of State agrees with the Inspector that very special circumstances have been proven to justify the grant of permanent planning permission for the Option 2 scheme.

### **Option 1 – 7 pitches**

24. The Option 1 scheme for 7 pitches, which would extend the developed area into the area cleared by trees in 2006/08, would also be inappropriate development in the Green Belt and lead to an increased loss of openness (IR236). However, unlike the Inspector (IR241), the Secretary of State considers that the additional harm resulting from this proposal, by reason of inappropriateness and increased loss of openness from extension into the cleared land, is significant and adds to the substantial weight against the scheme. In this respect the Secretary of State gives weight to the fact that the Option 1 proposals would entail significantly more development in the Green Belt beyond the currently permitted site than is the case for the Option 2 proposals. In relation to trees and biodiversity, like the Inspector (IR238) the Secretary of State concludes that part of the cleared woodland would effectively be sterilised by the extension of gypsy site. While he also agrees that Option 1 is the only mechanism to encourage managed regeneration of the remaining area, for the reasons set out at paragraph 15 he concludes that the possibility of natural regeneration of the entire cleared area cannot be discounted. Overall the Secretary of State concludes that the balance in respect of trees and biodiversity is moderately in favour of allowing the appeal. However, unlike the Inspector (IR238), he does not consider this matter outweighs the additional harm to the Green Belt caused by the greater area of the Option 1 proposal.

25. The Secretary of State agrees that a positive factor is the extent to which the proposal would assist in meeting general and personal needs, but as Option 2 meets the personal needs of the appellant, he is not persuaded that the relatively small extra contribution that Option 1 would make to meeting general need is sufficient to tip the balance of considerations to outweigh the additional harm to the Green Belt arising from the larger Option 1 proposal and demonstrate the very special circumstances necessary to justify the development (IR237). In common with his assessment of Option 2, the Secretary of State disagrees with the Inspector that the Council's intention to remove the permitted part of the site from the Green Belt and designate it as a gypsy site is of relevance, as this proposal has not been subject to consultation and he places little weight on the emerging Local Plan (IR239). He therefore does not adopt the Inspector's reasoning in relation to a limited period permission at IR241. The Secretary of State also disagrees with the Inspector's conclusions at IR240; as he considers that Option 1 would result in more than limited additional harm, he does not consider that dismissal of this scheme would be disproportionate. By allowing Option 2 he has enabled the personal needs of the appellants for accommodation to be met; therefore he finds no infringement of Human Rights in dismissing Option 1. In conclusion, for the reasons set out above the Secretary of State disagrees with the Inspector, does not find very special circumstances exist to justify this scheme, and dismisses the appeal for the Option 1 scheme.

### **Formal decision**

26. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby:

**dismisses** your client's appeal for the **Option 1** scheme and refuses planning permission for the use of land as a private residential gypsy site and associated fencing and hardstanding for up to 7 pitches; and

**allows** your client's appeal for the **Option 2** scheme and grants planning permission for the use of land as a private residential gypsy site and associated fencing and hardstanding for up to 5 pitches, subject to the conditions set out in Annex A

on land at and adjacent to 148 Croydon Road, Keston, BR2 8HN in accordance with application reference 10/02052/FULL1, dated 1 July 2010.

**Right to challenge the decision**

27. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

28. A copy of this letter has been sent to the London Borough of Bromley. A notification letter/email has been sent to all other parties who asked to be informed of the decision.

Yours sincerely

**Pamela Roberts**

Authorised by Secretary of State to sign in that behalf

## Annex A Conditions

- 1) The development hereby permitted shall be carried out in accordance with the approved location plan (1:1250) and all development should be confined to the area identified for illustrative purposes as option 2 on plan reference 7807/01.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of 'Planning Policy for Traveller Sites' (2012).
- 3) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Patrick (the appellant) and Elizabeth Connors; Patrick (junior, the appellant's son) and Mary Connors; Anthony (the appellant's son) and Romy Connors; Elizabeth Connors (the appellant's daughter); Margaret Connors (the appellant's mother).
- 4) When the land ceases to be occupied by those named in Condition 3 above the use hereby permitted shall cease and all additional caravans, 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 shall be restored to its condition before the development took place.
- 5) There shall be no more than 5 pitches on the site and on each of the 5 pitches no more than 2 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) shall be stationed at any time, of which only 1 caravan shall be a static caravan. Any caravans positioned on the site shall be capable of being lawfully moved on the public highway without division into separate parts.
- 6) No commercial activities shall take place on the land, including the storage of materials.
- 7) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 8) No additional caravans shall be brought onto the site until details of the layout of the site have been submitted to and approved by the local planning authority in writing. The caravans shall only be positioned in the approved locations.
- 9) All static caravans on the site shall be secured to their hardstandings by chains at a number of points. The details of these security measures shall be submitted to and approved in writing by the local planning authority before any additional caravans are brought onto the site.



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# Report to the Secretary of State for Communities and Local Government

by Phillip J G Ware BSc DipTP MRTPI

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

Date: 22 January 2013

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**TOWN AND COUNTRY PLANNING ACT 1990**

**THE LONDON BOROUGH OF BROMLEY**

**148 CROYDON ROAD, KESTON**

**APPEAL BY MR P CONNORS**

Inquiry opened on 4 January 2012

Land at and adjacent to 148 Croydon Road, Keston BR2 8HN

File Ref: APP/G5180/A/11/2154680

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**File Ref: APP/G5180/A/11/2154680****Land at and adjacent to 148 Croydon Road, Keston BR2 8HN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr P Connors against the decision of the Council of the London Borough of Bromley.
- The application Ref DC/10/02052/FULL1, dated 1 July 2010, was refused by notice dated 20 December 2010.
- The development proposed is the use of land as a private residential gypsy site and associated fencing and hardstanding – up to 7 no. mobile homes.

**Summary of Recommendations: The appeal be allowed, and planning permission granted subject to conditions.**

<b>Abbreviations</b>	
The Appellant	Mr P Connors
The Council	The Council of the London Borough of Bromley
London Plan	The London Plan (2011)
UDP	The saved policies of the London Borough of Bromley Unitary Development Plan (2006)
SMINC	Site of Metropolitan Importance for Nature Conservation
The Framework	National Planning Policy Framework (2012)
PPTS	Planning Policy for Traveller Sites (2012)
GTAA	Gypsy and Traveller Accommodation Assessment
TPO	Tree Preservation Order
DPD	Development Plan Document
ECHR	European Convention on Human Rights

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## Procedural matters

1. At the Inquiry applications for costs were made by Mr P Connors against the Council of the London Borough of Bromley, and vice versa. These applications are the subject of a separate Report.
2. The Inquiry sat for a total of 11 days. The first 4 days (4 January, 8 – 10 May) dealt with procedural matters and legal submissions. The subsequent 5 days (17 – 21 September) heard evidence on planning matters and closing submissions. The final two days (15 October and 12 November) heard evidence related to costs matters, and costs claims by both parties. An accompanied visit to the appeal site was undertaken on 8 May 2012, and to the Council's gypsy sites at Star Lane and Old Maidstone Road on 20 September 2012 – at which time the Chalk Pit site was viewed from the road.
3. The appeal was recovered for decision by the Secretary of State on 1 July 2011. The reason for recovery was that the appeal involves a proposal for significant development in the Green Belt.
4. In a letter the day before the Inquiry began<sup>1</sup> the Council raised three procedural issues, which were discussed at the start of the Inquiry. These are considered in the sections below.

### *The validity of the application/appeal*

5. The Council raised a question as to the validity of the application and appeal in relation to the ownership of the appeal site. This was the subject of submissions from both parties on the first day of the Inquiry<sup>2</sup>.
6. The planning application form and the appeal form both certified that the appellant was the sole owner of the appeal site at the relevant times. However the Council's investigations with the Land Registry had revealed that two other persons (Messrs Delaney and Connors) were shown as having an interest in the land. The Council stated that the certificates on the planning application form and the appeal form had therefore been wrongly completed, and that not all of the landowners had been notified.
7. The Council stated that the appeal should be dismissed on the basis of invalidity. Alternatively, as a 'bare minimum', the Council sought an adjournment to allow notification of Messrs Delaney and Connors to take place.
8. The appellant's response was firstly to note that this was not the first planning application on the site, and that the Council had been fully aware of the ownership position for some years. To raise it on the day before the Inquiry was unreasonable. The appellant has owned the front part of the appeal site for some 10 years, and had purchased the remainder from Messrs Delaney and Connors in 2009. It was further stated that the appellant and Messrs Delaney and Connors could all attend to give evidence on oath to that effect if the Council requested that they did so<sup>3</sup>. Gypsies do not always transfer land in the same way as the settled community, and Land Registry records may often be out of date and are not definitive.

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<sup>1</sup> LPA 1

<sup>2</sup> Council submission at LPA 4

<sup>3</sup> This was not requested by the Council

9. The appellant stated that, as it appeared likely that the Inquiry was to be adjourned for other reasons<sup>4</sup>, Messrs Delaney and Connors could be notified during the adjournment. This was considered unnecessary by the appellant, but would ensure that there could be no prejudice. (In the event, this notification was carried out without any response<sup>5</sup>.)
10. If the appellant's position is accepted, there is no issue related to the validity of the application or appeal. If the Council's position is correct, the notification of the other landowners has been addressed. On occasion incorrect certificates are submitted with applications and appeals, for a variety of reasons. The key issue is whether any prejudice was caused to those who should have been notified. In this case, the 'missing' parties were notified and had ample opportunity to make representations. There was therefore no prejudice to any party, and the Inquiry proceeded accordingly. Although the final decision on validity rests with the decision maker it is recommended that the appeal can be determined. (This matter is the subject of the Council's costs claim.)

*The biodiversity issue*

11. In the Council's letter on the day before the Inquiry opened, the authority drew attention for the first time to the fact that that much of the appeal site was designated as being in a Site of Metropolitan Importance for Nature Conservation (SMINC) as defined in the London Plan. The Council accepted that this matter had been previously overlooked, that the introduction of the matter was late in the appeal process, that no relevant consultations had been carried out, and that it had not been the subject of evidence by either party. The Council asked that time be allowed for the formal position of the authority to be clarified, and requested that a period of time be given to the parties to produce a statement of case and evidence on the issue if the authority wished to raise it as an objection.
12. Given that the SMINC is a development plan designation, about which the Secretary of State would need to be informed, it was considered that the Inquiry should be adjourned in order for the authority to formally consider if it wished to pursue this matter as a further objection to the proposal. The authority subsequently decided that it wished to do so, and submitted an additional Statement of Case<sup>6</sup> setting out its position – as had been requested. The Council also carried out consultations on this matter (including with Natural England) and evidence dealing with this issue was submitted by both parties before the second session of the Inquiry in May.
13. The appellant's subsequent evidence included a reduced alternative proposal ('Option 2') which sought to address the new nature biodiversity issue. (This is dealt with below<sup>7</sup>.)

*Changes to the submitted proposal*

14. The planning application form sought permission for 'up to 8 mobile homes'. This was accompanied by a plan showing the extent of the proposed access road and hardstandings. By the time of the Inquiry the appellant was only seeking permission for 7 pitches (as opposed to mobile homes), and the Council

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<sup>4</sup> The Council's introduction of the nature conservation issue and the Council's failure to provide the gypsy and traveller information requested in the Planning Inspectorate's standard letter

<sup>5</sup> APP 1

<sup>6</sup> LPA 3

<sup>7</sup> Options 1 and 2 at APP 12 Appendices 2 and 4

suggested that this was substantially different from the original scheme. The fact that the original proposal was a gypsy site was clearly stated in the application, and the Design and Access statement referred to each pitch accommodating caravans (in the plural). It would have been appreciated that, in order to facilitate their nomadic way of life, gypsies and travellers generally have one static and one touring caravan on each pitch.

15. On that basis, the reduction from 8 to 7, which was a modification put forward by the appellant, was not considered to be substantial. There is nothing to suggest that the development would be so changed that to consider it would be to deprive those who should have been consulted of the opportunity of such consultation. The Inquiry proceeded to consider this modified proposal<sup>8</sup> ('Option 1') and there is no reason for the original scheme to be considered<sup>9</sup>.
16. However, the proposed layout and scale of the development arose again at the second session of the Inquiry. As noted above, the appellant sought to address the late objection related to biodiversity by the submission of a reduced proposal as an alternative ('Option 2'). This would substantially reduce the site area to be used for mobile homes and access/hardstandings, would consequently increase the amount of undeveloped land, and would reduce the number of pitches from 7 to 5. As before, this matter was discussed at the Inquiry, bearing in mind the reduction in the area of the site to be developed and the number of pitches. This is considered a reasonable response to the late introduction of the biodiversity issue, bearing in mind the original description of the development as 'up to 8 mobile homes', and as no prejudice would be caused to any party, the remainder of the Inquiry considered both options.
17. The second session of the Inquiry in May also had to be adjourned<sup>10</sup>. Taking advantage of this adjournment, local residents were consulted on Option 2<sup>11</sup>, as were statutory consultees.

*The approach to the decision*

18. With the above background, and in order to allow the appellant a reasonable opportunity to deal with the nature conservation issue which had been raised by the Council, the Inquiry considered the two schemes – Options 1 and 2 (set out below). However one planning application and one related appeal cannot give rise to two decisions, and the appellant has accordingly been asked how he wished the appeal to be determined.
19. The appellant stated that he wished the appeal to be considered in the same manner as one in Cherwell District Council<sup>12</sup> at Hampton Gay and Poyle. This appeal was decided by the Secretary of State on 22 September 2012. This report and decision considered the smaller option and then the additional elements of the planning balance brought into play by the larger proposal – which was then determined. The Council is aware of the appellant's suggested approach to the decision, has not raised an objection, and has stated that it has no further comments to add.

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<sup>8</sup> As set out in the heading to this report.

<sup>9</sup> Reference to this original scheme is made at the conclusion of this report.

<sup>10</sup> For reasons related to the Council's production during the Inquiry of a second letter from Natural England, adopting a different approach to that contained in another letter from Natural England.

<sup>11</sup> Responses on file

<sup>12</sup> APP/C3105/A/11/2144721

20. The same approach is followed in this case. The smaller scheme (Option 2) is considered first in each relevant section of the report, followed by the additional considerations arising from the larger scheme (Option 1).

### **The site and its surroundings**

21. The appeal site is located to the north of Croydon Road, and is within the Green Belt.
22. The front part of the land is in use as a gypsy site, and includes a mobile home. The rear of the site is largely a cleared area with trees along the eastern and northern boundaries.
23. To the west of the site, and separated from it by a commercial Christmas tree plantation, is the River Ravensbourne. The plantation also extends to the north of the site<sup>13</sup>. To the east is a residential area known as Keston Mark<sup>14</sup>.
24. The northern portion of the site is designated as a SMINC in the London Plan. More specifically the River Ravensbourne, Ravensbourne Valley Woodlands, Hayes and Keston SMINC<sup>15</sup>.
25. A woodland Tree Preservation Order (TPO) was made in 1952<sup>16</sup>. This covers a very wide area of Ancient Woodland, of which the appeal site is a small part. Aerial photographs<sup>17</sup> show that much of the site was wooded until, some time between 2006 and 2008, much of the site was cleared. The surviving trees are confined to the northern and eastern parts of the site<sup>18</sup>. These trees, aside from five oaks, appear to be around 20 to 25 years old. The cleared area is open ground, with some scrub vegetation.

### **Planning history**

26. Planning permission for the use of part of the appeal site as a private gypsy caravan site was granted on 8 May 1991 by the Secretary of State<sup>19</sup>. This permission, which has been implemented, was the subject of conditions restricting the development to no more than two gypsy families and no more than two permanent residential caravans and two touring caravans. There were no conditions relating to landscaping.
27. This permission relates to the front section of the appeal site, closest to Croydon Road. It does not cover the rear part of the site (amounting to around two thirds of its depth), nor does it cover a sliver of land to the west which is included in both options considered at the Inquiry.
28. Planning permission for brick steps and a plinth was granted in July 1992.
29. On 27 October 2006 an Enforcement Notice was served related to part of the appeal site and an area of adjoining land<sup>20</sup>. This required the removal of hardcore, access tracks and hard-standing. It did not relate to the removal of the trees.

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<sup>13</sup> Shown on (inverted) aerial photograph at APP 11 Appendix 6

<sup>14</sup> Location Plan LPA 13 Appendix 3

<sup>15</sup> LPA 13 Appendix 1 shows the appeal site, the Green Belt and the SMINC

<sup>16</sup> LPA 15 Appendix 1; extract at APP 11 Appendix 4

<sup>17</sup> LPA 9 and LPA 13 Appendix 6

<sup>18</sup> APP 11 Appendix 2 shows location of remaining trees

<sup>19</sup> APP 8 Appendix 2 – which also shows the extent of the 1991 permission

<sup>20</sup> LPA 8

30. There is an Injunction in force preventing any further breach of the TPO.
31. An earlier planning application for the use of the land for 8 residential caravans was submitted in 2008, but the application was withdrawn in 2009<sup>21</sup>.
32. The application which is the subject of this appeal was refused on 20 December 2010<sup>22</sup>. There were three reasons for refusal: Green Belt policy, failure to comply with UDP policy H6, and the effect on trees.

### **Policy context**

33. The development plan is the London Plan (2011) and the saved policies of the Unitary Development Plan (2006).
34. The London Plan does not include targets for gypsy and traveller pitches, but includes a general policy relating to their accommodation requirements, and the need to address these in coordination with neighbouring Boroughs<sup>23</sup>. The London Plan also supports the extent of the Green Belt and its protection from inappropriate development<sup>24</sup>, and seeks to protect Sites of Importance for Nature Conservation (SMINC)<sup>25</sup>.
35. Three UDP policies were referenced in the reasons for refusal<sup>26</sup>:
  - G1 – Green Belt policy
  - H6 – Gypsy sites
  - NE7 - Trees
36. Following the introduction of the biodiversity objection, the Council also referred to an additional UDP policy:
  - NE2 – Nature Conservation
37. The emerging Local Plan is at an early stage<sup>27</sup> and, although the current timetable is for adoption late in 2013, Council witnesses described this as an 'optimistic' date<sup>28</sup>. There is no timetable for a Site Allocations DPD<sup>29</sup>.

### **The schemes considered by the Inquiry**

38. Option 1<sup>30</sup> proposes the stationing of mobile homes, touring caravans and the formation of hardstandings on an area of land extending more than half of the depth of the site from the Croydon Road frontage. The proposal is for seven pitches. Although the parties agreed that a detailed layout plan would need to be submitted, it is clear that the development would extend into the formerly wooded area within the SMINC and the Ancient Woodland. The rear part of the site would be separated from the developed area by a post and rail fence, and the parties agreed that conditions could be imposed on the undeveloped area

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<sup>21</sup> LPA 13 Paragraph 3.4

<sup>22</sup> LPA 13 Appendix 2

<sup>23</sup> Policy 3.8 and LPA 13 Paragraph 6.13

<sup>24</sup> Policy 7.16 APP 13 Paragraphs 6.14/6.15

<sup>25</sup> Policy 7.19 LPA 16 Paragraph 2.5

<sup>26</sup> LPA 13 Appendix 5

<sup>27</sup> LPA 6

<sup>28</sup> Ms Slater in chief

<sup>29</sup> Ms Slater in chief

<sup>30</sup> APP 12 Appendix 2

relating to replanting or managed regeneration<sup>31</sup>. (These alternatives are discussed below.)

39. Option 2<sup>32</sup> is for five pitches and on a reduced site to avoid the main area of the SMINC and the Ancient Woodland. Much of the development would be within the area permitted in 1991 (aside from the sliver of land adjoining the River Ravensbourne).
40. The appellant originally put forward a replanting scheme for the majority of the formerly wooded area, which could be the subject of conditions in relation to Option 1<sup>33</sup>. On receipt of the Natural England letter<sup>34</sup> expressing a preference for managed regeneration rather than replanting, the appellant stated that managed regeneration would be an acceptable approach<sup>35</sup> - which could again be the subject of conditions in relation to Option 1. The parties agreed that, if Option 2 was approved, neither replanting nor managed regeneration conditions could reasonably be imposed on the northern part of the site. The Council in particular took the view that this northern area would then be effectively outside the Option 2 site.

### **Agreed facts**

41. The parties agreed a number of matters largely relating to the gypsy and traveller issue<sup>36</sup>:
- The parties agree that the site is within the Green Belt and that the proposal (both options) constitutes inappropriate development for the purposes of the UDP, the National Planning Policy Framework ('the Framework') and Planning Policy for Traveller Sites (PPTS).
  - No sites for gypsy and traveller use are identified in the UDP<sup>37</sup>. This is a material consideration, as is the fact that UDP policy was not derived from any quantitative assessment of the need for sites.
  - The appellant and his family are gypsies within the meaning of Annex 1 of the PPTS. They are Irish Travellers.
  - The London Boroughs' Gypsy and Traveller Accommodation Needs Assessment (GTAA) (2008) indicated an unmet need for between 17 and 96 pitches in Bromley by 2012<sup>38</sup>.
  - The Council agrees that there is an immediate need for a further 25 permanent pitches, and that this constitutes a substantial level of need. (The appellant considers the level of need to be greater – as discussed below.)
  - The appeal site is the only authorised private gypsy site in the Borough. (The position of the Chalk Pit site is considered below.)

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<sup>31</sup> Illustrated at APP 11 Appendix 2

<sup>32</sup> APP 12 Appendix 4

<sup>33</sup> APP 11 Section 4

<sup>34</sup> APP 4

<sup>35</sup> APP 12 Paragraphs 1.5 – 1.7

<sup>36</sup> Doc 3

<sup>37</sup> Doc 3

<sup>38</sup> Document D in the Council's response files to the PINS letter

- There is no identified 5 year supply of specific deliverable gypsy sites in the Borough.
  - There are no suitable, acceptable alternative sites available for the appellant's family in the Borough.
42. The parties also agreed the range of material considerations which might comprise very special circumstances in relation to Green Belt policy:
- The extent of need for gypsy sites nationally, regionally, locally and personally.
  - The availability or lack of availability of suitable, affordable, acceptable alternative sites.
  - Personal circumstances – including the health and educational needs of the proposed occupants – and the consequences of the appeal being dismissed.
  - Any relevant deficiencies in local policy related to gypsy and traveller sites.
  - Matters of discrimination and homelessness.

### **The case for the appellant<sup>39</sup>**

#### *The reasons for refusal and Option 2*

43. The proposal would meet some of the significant need for gypsy sites which has been acknowledged by the Council.
44. Given that the Council's preferred approach<sup>40</sup> to meeting the need is to take the Option 2 land out of the Green Belt and designate it as a gypsy site, the objections to that Option have fallen away. The Council's witness confirmed that the Green Belt harm was only the definitional harm as a result of inappropriateness, and the only issue related to intensification of the already permitted site<sup>41</sup>. The Council is content to permit intensification at its own sites at Star Lane and Old Maidstone Road, and could not explain the distinction between this approach and the Option 2 proposal.
45. The Council accepts that any new gypsy site in Bromley must be in the Green Belt. The justification to take any land out of the Green Belt for this purpose must be on the basis of need in the Borough as being a very special circumstance. This must apply equally to any new sites and to the current proposal.
46. The existing permitted site does not include the 'sliver' of land to the west, which wraps round a sub-station – an urbanising feature in its own right. This sliver of land has been used as part of the permitted gypsy site since 1991, as was accepted by the Council<sup>42</sup>, and in any event no issue related to trees or biodiversity was raised in relation to this small area.

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<sup>39</sup> The case given here is an edited version of the closing submissions at APP 8, together with the oral response to the Council's closing, along with the evidence. No references to evidence were given in closing, and some have been added.

<sup>40</sup> LPA 14 Appendix 1

<sup>41</sup> Mr Addae-Bosomptra in xx

<sup>42</sup> Mr Addae-Bosomptra in xx

47. UDP Policy H6 has been criticised by many Inspectors on appeal and was agreed by the Council to carry limited weight, as it excludes all sites in the Green Belt from consideration as a potential gypsy site<sup>43</sup>. It did not comply with the former Circular and does not comply with the PPTS<sup>44</sup>.
48. Woodland and biodiversity issues were not raised in relation to Option 2. It was specifically confirmed by the Council that this scheme would have no implications for tree cover or biodiversity<sup>45</sup>.
49. The only issue related to Option 2 is therefore whether the permission should be temporary or permanent. Given that the Council's emerging policy<sup>46</sup> is to take the Option 2 site (amongst others) out of the Green Belt and allocate it as a permanent gypsy site, there is no reason to restrict Option 2 to a limited period.

*Option 1 or Option 2?*

50. Option 2 therefore cannot be resisted, and is barely opposed by the Council. The real issue is whether permission should be granted for the extended site as in Option 1 or for the intensified use of the permitted site in the case of Option 2. If only Option 2 were approved, this would have the following consequences:
- The opportunity of maximising the number of plots to meet the acknowledged need, at no cost to the public purse, would be lost.
  - The opportunity of regenerating the woodland would be lost, and that part of the site would be left as a wasteland. The redundant structures and buildings would remain on it. There would be nothing to prevent the appellant grazing his horses on the former woodland. The Council agreed that a benefit of Option 1 would be the opportunity to impose conditions regarding replanting/restoration<sup>47</sup>.
  - Option 1 is the best opportunity to expand the only lawful private site in the Borough – using readily available land.
51. If both options were dismissed, there would be the following consequences:
- The site would stay as it is – a wasteland at the rear and an unattractive site at the front (as no landscaping was required by the 1991 permission).
  - The redundant structures and buildings on the rear part of the site would remain. The former woodland could be grazed and there would be no planting or natural regeneration.
  - The opportunity to regenerate the ancient woodland would be lost.
  - There would remain an accommodation problem for the appellant and his family.

*Ancient woodland and biodiversity*

52. The site is almost devoid of trees and flora/fauna. There are a range of important factors in this respect:

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<sup>43</sup> Mr Addae-Bosompra in xx

<sup>44</sup> APP 8 Paragraphs 27 - 33

<sup>45</sup> Ms Gibson in chief

<sup>46</sup> LPA 14 Appendix 1

<sup>47</sup> Mr Addae-Bosompra in xx

- The land was used for many years as a Girl Guide camp site, with associated hardstanding, bonfires and toilets.
- The appeal site is separated from the main area of ancient woodland by the Christmas tree plantation to the west. These trees are non-native species and the plantation would feature the use of pesticides. The plantation was established without planning permission some 50 years ago, and the Council explained that it does not investigate breaches of planning control unless there is a complaint<sup>48</sup>. There is no potential for the reconnection of the appeal site to the ancient woodland.
- The appellant is an Irish Traveller, whose traditional way of life includes keeping horses. In the absence of conditions (which could be imposed in relation to Option 1), he could use the former woodland area for grazing and for domestic activities, and this would render regeneration of the woodland unlikely.
- There is considerable uncertainty as to what action the Council could now take in relation to the breach of the TPO. Granting conditional planning permission for Option 1 would be a more certain route to replanting. This is the only 'whole site' solution to address the issues of trees and biodiversity.
- If planning permission is granted for Option 1 not only would two thirds of the ancient woodland area be landscaped/regenerated and alien structures removed, but the gypsy site could also benefit from landscaping or regeneration.
- The appellant's landscaping proposal would replant much of the woodland area with native trees, whilst improving habitat by creating a ride and a glade bounded by native shrub plants. There would be a small wildflower meadow. This proposal remains on the table and could be the subject of a condition in relation to Option 1.
- However, all parties and Natural England agreed that managed regeneration of the former woodland area is the best way forward rather than replanting. This could be subject of a condition in relation to Option 1.
- Essentially Option 1 is a trade-off whereby the appellant agrees to restrict his normal activities on two-thirds of the former woodland and allow its managed regeneration in order to gain planning permission to add the remaining one-third to the existing lawful gypsy site.

#### *Need and provision of sites*

53. The Council accepts that regional and sub-regional need is a material consideration to which weight should be given<sup>49</sup>. The authority also accepts a minimum need of 25 pitches within the Borough – well above the EIP Panel recommendation of 19. It was further accepted by the Council that there are around 10 'hidden households' at Star Lane (5), Old Maidstone Road (2) and the appeal site (3) – caused by overcrowding<sup>50</sup>. This brings the total need figure to 35.

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<sup>48</sup> Mr Addae-Bosompra in xx

<sup>49</sup> Ms Slater in xx

<sup>50</sup> Ms Slater in xx

54. However, that figure does not take account of the additional need arising from unauthorised incursions during 2012<sup>51</sup>, which illustrates a further level of need. In addition, there is a history of enforcement cases in the Borough<sup>52</sup>, and those families who have been moved on as a result of the Council's actions represent a further need for sites. This brings the current need to around 65<sup>53</sup>, which is still less than the GTAA figure of up to 96 pitches. The bi-annual count also shows a persistent level of unmet need, but there are errors and under-counting in these data<sup>54</sup>.
55. Whichever figure is chosen, there is a clear and immediate need for more gypsy and traveller accommodation. Associated with this need are the following material matters, conceded by the Council, which illustrate the importance of allowing Option 1, which offers the maximum number of pitches:
- All existing gypsy sites and any new gypsy site in the Borough are/will be in the Green Belt<sup>55</sup>.
  - There are no suitable available sites in the Borough or anywhere in Kent.
  - The Council is in breach of its duty under s225/226 of the Housing Act 2004. The authority has failed to bring forward a site allocation DPD or make any provision for gypsies.
  - The Council has a five year housing land supply for the settled population, but none for the travelling community - despite the provisions of the PPTS<sup>56</sup>. The authority is in breach of its duty under the Equality Code and the Equality Act 2010<sup>57</sup>. There has been a clear failure to facilitate the gypsy way of life, in breach of the PPTS.
  - The Council has overestimated the supply of sites. The authority persists in referring to the Chalk Pit site as a gypsy site, when it is well known that the site (though owned by ethnic gypsies) is not available for gypsies and has not been occupied as a gypsy site for at least 10 years<sup>58</sup>.
  - There is a large waiting list for public sites<sup>59</sup> and a very small turnover<sup>60</sup>. The Council's Allocations Policy<sup>61</sup> for its own sites does not state that Irish Travellers will not be permitted on Romany sites, nor could it do so. However it does state that due account will be taken of the need to ensure that those who are allocated plots are compatible with existing family groupings. All residents on the Council's two sites are Romanies and the Council accepted that it is 'probably the case' that Irish Travellers could not co-exist on a Romany site<sup>62</sup>.

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<sup>51</sup> LPA 10

<sup>52</sup> LPA 10

<sup>53</sup> Dr Murdoch in chief

<sup>54</sup> Count at APP 10 Appendix 1; APP 8 Paragraphs 54 – 56; APP 10 Paragraphs 7 – 11

<sup>55</sup> Accepted by Mr Addae-Bosomptra in evidence

<sup>56</sup> Mr Addae-Bosomptra in xx

<sup>57</sup> Especially with reference to the Baker case

<sup>58</sup> APP 9 Paragraphs 19 – 24, Ms Slater in xx

<sup>59</sup> Document G in the Council's response files to the PINS letter

<sup>60</sup> Mr Addae-Bosomptra in xx

<sup>61</sup> LPA 12

<sup>62</sup> Mr Addae-Bosomptra in xx

56. In addition to this general need, the personal circumstances of the appellant and his family must be considered<sup>63</sup>. In particular the best interests of the children in terms of education and the medical circumstances of some of the family members are important material considerations<sup>64</sup>. The appellant's family comprises five households, and any additional pitches above this figure could be put towards the general need for sites.
57. There is a long history of need for additional gypsy pitches in the Borough, as reported in studies in 2003 and 2005<sup>65</sup>. In the appeal decisions submitted by the Council there are repeated references to the need demonstrated by both studies<sup>66</sup> but, since the first of these reports, only 2 permanent pitches have been provided, in the form of an extension to an existing public site<sup>67</sup>.
58. The Council's emerging approach to meeting the need is set out in a June 2012 Committee report, which should be given considerable weight. The approach in this report was agreed for consultation, and one implication is that the existing permitted site at Croydon Road would be taken out of the Green Belt and would be designated as a gypsy site<sup>68</sup>.
59. The submitted appeal decisions also illustrate that, in granting planning permission for temporary sites, Inspectors have been convinced on each occasion that the Council was about to produce a DPD<sup>69</sup>. However no DPD has ever been produced and the Council has never granted planning permission for a private gypsy site.

*Green Belt policy and very special circumstances*

60. The material considerations which comprise the very special circumstances are:
- Site specific matters, including the fact that part of the appeal site is a lawful gypsy site in the Green Belt.
  - Need at the national, regional and Borough level.
  - The lack of alternative sites.
  - The failure of policy.
  - Breaches of the Housing Act 2004.
  - Breach of Articles 8 and 14 of the European Convention on Human Rights (ECHR).
  - Inequality and race relations breaches.
  - The likely location of any new gypsy site in the Green Belt.
  - Personal circumstances including need, health and education.

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<sup>63</sup> APP 8 Paragraphs 65 - 73

<sup>64</sup> APP 10 Paragraphs 12 – 16 and APP 2

<sup>65</sup> APP 9 Paragraph 6 and LPA 14 Paragraph 3.13

<sup>66</sup> APP 9 Paragraphs 11 - 15

<sup>67</sup> The Council's email dated 10 February 2012 confirms that another permission, for 3 pitches at the Star Lane site, was never implemented and has lapsed

<sup>68</sup> LPA 14 Appendix 1 Paragraph 4.3

<sup>69</sup> APP 9 Paragraphs 16 - 18

### *Sustainability*

61. Sustainability was not a reason for refusal nor was there any criticism raised in relation to UDP policy H6(iii), which deals with this matter. Despite that, some criticism was made of the accessibility of the site by a Council witness – but this was based on incorrect information<sup>70</sup>. In fact, the site is highly accessible, with buses passing the front of the site and nearby, giving access to Orpington, Bromley, Croydon and Biggin Hill. There are schools and shops within a reasonable walking and cycling distance.

### *Human Rights*

62. Green Belt issues are not the only consideration. Under Article 8 of the ECHR there is a positive obligation to facilitate the gypsy way of life. Article 8 is engaged in this case<sup>71</sup>. Questions of discrimination and inequality of approach are material planning considerations and should be also considered in the context of the Human Rights balance.

### *Temporary permission*

63. If Option 2 is allowed, a temporary permission would be unreasonable as the case for a permanent permission has not been seriously resisted. This is in the light of the Council's intention to take the site out of the Green Belt.
64. If Option 1 is not accepted on a permanent basis, a minimum of a five year period should be allowed, to allow for the adoption of a Local Plan and for the inevitable slippage.

### *New national policy*

65. The PPTS must be applied in conjunction with statutory and case law and other policy considerations<sup>72</sup>.
66. The PPTS was introduced in the light of the failure of previous national policy, and has an overarching aim of ensuring fair and equal treatment for travellers in a way that facilitates their traditional nomadic habit of life<sup>73</sup>. The key approach is the promotion of more private sites and the need to address general under-provision<sup>74</sup>. Need should be assessed locally using a robust evidence base<sup>75</sup>, and Councils should identify a five year supply of specific deliverable sites. If criteria based policies are used, these should be fair and should facilitate a nomadic way of life<sup>76</sup>. There is a preference for using previously developed, untidy or derelict land<sup>77</sup>.

### **The case for the Council<sup>78</sup>**

67. The Council maintains its position that the appeal is invalid<sup>79</sup>.

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<sup>70</sup> Mr Addae-Bosompra

<sup>71</sup> APP 13 Paragraphs 2.1.8 – 2.1.11

<sup>72</sup> APP 13 Paragraph 3.1.1 – 3.1.5

<sup>73</sup> Paragraph 3

<sup>74</sup> Paragraph 4

<sup>75</sup> Paragraphs 4 and 6c

<sup>76</sup> Paragraph 10

<sup>77</sup> Paragraph 24

<sup>78</sup> The case given here is an edited version of the closing submissions at LPA 13 along with the evidence. No references to evidence were given in closing, and some have been added.

<sup>79</sup> Dealt with in procedural matters above and the Council's submissions at LPA 4.

68. There are four main issues:

- Whether very special circumstances exist to outweigh the harm to the Green Belt by reason of inappropriateness, and other harm.
- The effect on the area protected by the TPO and the SMINC.
- If planning permission is granted, whether it should be for Option 1 or Option 2.
- If planning permission is granted, whether it should be temporary or permanent.

#### *Green Belt*

69. There is planning permission for two mobile homes and two touring caravans on the front part of the site<sup>80</sup>. In fact there was only one mobile home on the land at the time of the Inquiry (although evidence was given that there had been another single unit mobile home on the site in 2009-2010<sup>81</sup>).
70. It was asserted that part of the appeal site to the west of the permitted area also has an established use as part of this approved gypsy site. However no evidence was produced to substantiate this claim and, if the evidence for the appellant that he acquired the land in 2009 is correct<sup>82</sup>, any such claim must be based on someone else's occupation of the land. But there is no such evidence and aerial photographs show that this area was not in use as part of the gypsy site in 2006 and 2008<sup>83</sup>.
71. The proposed use is agreed to be inappropriate development in the Green Belt. In the Council's evidence certain features were additionally highlighted which would lead to a loss of openness<sup>84</sup>. In cross-examination the Council's witness stated that he relied only on harm by reason of inappropriateness, but in re-examination he explained that he included loss of openness as part of inappropriateness. There would be a significant loss of openness in relation to either Option 1 or Option 2. In any event the appellant accepts that Option 1 would result in a loss of openness and an increase in urbanisation.
72. The appeal site is on the edge of the Green Belt, which is particularly vulnerable to incremental development. Nothing has changed since the Secretary of State granted planning permission for the use of part of the site and imposed conditions to restrict the amount of development. There would be definitional harm and harm to openness, which would conflict with the Framework<sup>85</sup> and the PPTS<sup>86</sup>. Substantial weight should be attached to this harm. Allowing the appeal would have the effect of altering the boundary of the Green Belt – which should only be done in exceptional circumstances through a review of the Local Plan<sup>87</sup>.
73. The Council accepts that there is a general need for an additional 25 pitches in the Borough, and that some weight should be attached to this. The Council also

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<sup>80</sup> APP 8 Appendix 2

<sup>81</sup> Dr Murdoch

<sup>82</sup> Dr Murdoch

<sup>83</sup> LPA 9 Photographs 13 and 15

<sup>84</sup> LPA 13 Paragraphs 7.4, 7.5 and 7.8

<sup>85</sup> Paragraph 87

<sup>86</sup> Paragraph 14

<sup>87</sup> Framework Paragraphs 15 and 83

accepts that there is a national need for traveller sites, but the extent is unknown, and therefore little weight should be attached to it. No weight should be attached to the alleged need of travellers who have left land in the Borough following the refusal of planning permission or for other reasons, or to any alleged need related to those travellers passing through the Borough, as there is no evidence that they are in need of permanent sites.

74. In relation to personal need, the start point must be that the appellant is entitled to place two double-unit mobile homes on the land, pursuant to the 1991 permission. He has not done so, and there is no evidence why another mobile home was removed in 2009/2010 and has not been replaced. At least some of the family members could lawfully be accommodated without the need for further planning permission<sup>88</sup>. Neither the appellant nor his family members have joined the waiting list for the Council's sites nor sought alternative locations<sup>89</sup>.
75. The only medical need put forward relates to the appellant's granddaughter, who is treated at a hospital in central London. Notwithstanding this, she was travelling with her mother at the time of the Inquiry. Either her condition is not as serious as has been reported, or she has access to treatment whilst travelling. In any event, she and her mother could live in one of the permitted units on the site. This factor can be given only limited weight.
76. The need for the children to live on the site is undermined by the fact that, when the Inquiry was sitting during the school year, they had gone travelling with their parents.
77. The Council's draft approach to meeting the accepted need is to remove the following sites from the Green Belt and allocate them as gypsy and traveller sites by way of the Local Plan<sup>90</sup>:
- All the land which currently has permission for gypsy and traveller sites, including the permitted part of the current appeal site, and the Council's gypsy sites at Star Lane and Old Maidstone Road.
  - Those which have temporary permissions for use as gypsy and traveller sites.
  - A site at Saltbox Hill which has an expired permission for six caravans.
  - A site at Chalk Pit, Old Maidstone Road which has a lawful development certificate as a caravan site (not restricted to use by gypsies and travellers).
78. The need for more pitches should first be met by the use of land within those sites<sup>91</sup>, in line with Framework policy<sup>92</sup>. Some intensification of the use of the permitted area of the appeal site might be allowed<sup>93</sup>.
79. The Council was criticised for the inclusion of the Chalk Pit site in the supply side, as it is not currently available to gypsies. However once allocated as a gypsy site its owners would have to deal with it in the light of this allocation if they wished to change its use.

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<sup>88</sup> LPA 14 Paragraph 37

<sup>89</sup> Details at Appendix G in the Council's response files to the PINS letter

<sup>90</sup> LPA 14 Appendix 1

<sup>91</sup> Set out at LPA 14 Appendix 1 report

<sup>92</sup> Framework Paragraph 15

<sup>93</sup> Ms Slater in chief

80. The Council was also criticised for failing to comply with s.225 of the Housing Act 2004 in relation to the assessment of the accommodation needs of gypsies. Following the publication of the former Circular 1/2006, the Council and other London Boroughs began work on a joint Gypsy and Traveller Accommodation Assessment (GTAA), because it was envisaged that matters would be dealt with on a regional basis. This led to the Fordham Report (2008)<sup>94</sup> which indicated an unmet need for between 17 and 96 pitches in Bromley by 2012. This was considered by the Panel Report on the Examination in Public (2011), which concluded that the Council should provide 19 pitches.
81. However in 2012 the Mayor of London decided that the London Plan would not include pitch figures for each Borough. The Council (and other Boroughs) had spent six years working on the basis that they had a GTAA which met the requirements of s.225 of the Housing Act. Therefore the Council did not fail in its duty.
82. The Council was also criticised for having a strategy for housing the settled population, but not one for gypsies and travellers. However in view of the matters related to the GTAA, this cannot be a material consideration of any great weight. The Council is as defensive of the Green Belt in relation to conventional housing as it is in relation to gypsy sites.
83. The Council is well aware of its equality duties. The report on the application which led to the appeal referred to guidance which, in turn, dealt with the problems of gypsies and travellers and the duties of public authorities. However the application was refused because the appellant failed to submit any considerations which might comprise very special circumstances in Green Belt terms.
84. UDP Policy H6 does not discriminate against travellers. It states that proposals for gypsy sites will be acceptable outside areas of constraint and, bearing in mind that gypsy sites are inappropriate development in the Green Belt, this puts travellers on the same footing as the settled population.
85. Overall, the proposal is contrary to policy 7.16 of the London Plan, policy G1 of the UDP, the PPTS, and the Framework.

*Trees and biodiversity*

86. Option 1 includes development on land which is covered by a woodland TPO and is ancient semi-natural woodland and a SMINC.
87. Most of the trees have been felled in breach of the TPO, some in July 2006 and most in November 2008<sup>95</sup>. The previously wooded nature of the site made a positive contribution to the character of the area, and the felling of the trees breached UDP policy NE7. The Council still has time to take action over the felling, and the development of Option 1 would prevent the replacement of the trees on much of the cleared area.
88. If the land were to remain in its current condition and no development were to take place it would regenerate into woodland – it is likely that this would comprise the same species as previously existed. If Option 1 were to go ahead, the landscaping proposed by the appellant could be planted or managed

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<sup>94</sup> Document D in the Council's response files to the PINS letter

<sup>95</sup> LPA 15 Paragraph 2.4 and Appendix CG2

regeneration could take place<sup>96</sup>. However, whilst there is no objection to the species proposed in the appellant's replanting scheme, this would not cover the whole area from which the trees were removed, and the proposed glade and hedge planting would be out of character.

89. The appellant argues that, in the absence of conditions which might be imposed in relation to Option 1, he could graze horses on the land. However the area is subject to a County Court injunction preventing any further infringement of the TPO, and grazing or other activities could be in breach of the injunction.
90. The appellant also argued that the Christmas trees growing on land to the west and north could result in non-native species invading the appeal site, and that herbicides related to the commercial plantation could adversely affect regeneration. However the Christmas tree plantation has been there since the 1950's and it was accepted that there was no evidence to support these theories<sup>97</sup>.
91. The Christmas trees on the strip of land to the west, between the appeal site and the main part of the woodland, do not destroy the value of the appeal site as part of the wood. It was agreed by the appellant that the presence of the Christmas tree plantation would not have justified the tree felling if consent had been sought in 2006/2008<sup>98</sup>.
92. Option 1 would not lead to the complete restoration of the woodland, because some of the area where there were formerly trees would be taken up with the extended gypsy site. Option 2 would not achieve any regeneration or replanting, because the land which has been cleared would be excluded from the site to be developed and there is no Planning Obligation which might deal with replanting.
93. In relation to biodiversity, ancient semi-natural woodland is a uniquely valuable habitat. It is a complex and integrated system with four key features – old trees and dead wood, woodland flora, woodland soils and human traces<sup>99</sup>. These features develop over a long period and accordingly take a long time to replace. Following the clearance of the trees from a large part of the site this priority habitat has been lost.
94. The effect of the proposal must be judged against what exists at present and also against the habitat which existed before the trees were illegally felled. Prior to the felling the biodiversity of the site would have been very high. Option 1 includes mobile homes and hardstandings on part of the SMINC, so around one third of the former area of ancient semi-natural woodland would be lost. This loss of biodiversity would be contrary to the London Plan<sup>100</sup>, the UDP<sup>101</sup> and the Framework<sup>102</sup>. Option 2 would not have a direct impact on the ecological value of the northern part of the site, although there could be dumping on this part of the site and requests for the cutting back or removal of the regenerating woodland.

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<sup>96</sup> APP 11 Appendix 2

<sup>97</sup> Mr Keen in xx

<sup>98</sup> Mr Keen in xx

<sup>99</sup> LPA 16 Paragraph 1.2

<sup>100</sup> Policy 7.19

<sup>101</sup> Policy NE2

<sup>102</sup> Paragraph 109

### *Option 1 or Option 2?*

95. If the view is taken that very special circumstances exist to outweigh the harm to the Green Belt, permission should only be granted for Option 2. This approach would cause less harm to the Green Belt and would not result in development on the cleared woodland area or the SMINC.

### *Temporary or permanent*

96. The harm to the Green Belt in the case of both options, and the harm to the woodland and the SMINC in the case of Option 1, would be such that even limited period planning permission should not be granted. The Council's failure to demonstrate an up to date five year supply of sites is not a significant material consideration<sup>103</sup>.
97. If a limited period permission were to be granted it should be only for three years. The LP is due to be adopted in the winter of 2013<sup>104</sup> and it is reasonable to allow a further period for implementation.

### *Human Rights*

98. Article 8, which is a qualified right, is engaged. The application of Article 8 excludes those who have a home on the site by virtue of the 1991 permission.
99. If the appellant is the owner of the site, he also has the benefit of Article 1 of the First Protocol, but that again is a qualified right.
100. Proportionality is a matter of balance. The harm to the environment which would be caused by the grant of planning permission outweighs the harm which would be caused by refusing it. Green Belt policy is in the public interest, and this can only be safeguarded by the refusal of planning permission. The balancing exercise is to weigh the need for a home for those who cannot already lawfully reside on the site against the harm to the Green Belt. This must result in a finding that dismissal of the appeal would not result in a violation of Convention rights.

### **Written representations**<sup>105</sup>

101. D P Ings objected on the basis of the disruptive habits of the occupiers and encroachment into the countryside.
102. J Webb objected on the basis of Green Belt protection, the effect on property values and the loss of trees.
103. F A Clark objected to both options on the basis of the encroachment into ancient woodland, the effect on biodiversity, and traffic issues.
104. C Reeves objected to the loss of trees and the effect on the Green Belt.
105. C Hughes (Vice Principal of Ravens Wood School) objected on traffic grounds, and for reasons related to the burning of waste and the loss of trees.

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<sup>103</sup> PPTS Paragraphs 25 and 28

<sup>104</sup> LPA 6

<sup>105</sup> On case file

106. E Perry opposed the development on Green Belt grounds, together with the effect on property prices, crime/disruption, traffic and parking.
107. K R and M M Tebay objected on flooding grounds, and issues related to bonfires and the loss of trees.
108. T Smithson objected on the basis of Green Belt policy, loss of trees and biodiversity, noise/dogs/horses, traffic issues caused by Christmas tree sales, and sanitation problems.

## Inspector's conclusions

[Numbers in square brackets denote source paragraphs]

### ***Background and agreed matters***

109. Three procedural matters were raised by the Council just before the Inquiry opened and were discussed at the Inquiry. These related to the validity of the application and the appeal, the late introduction of a biodiversity objection, and amendments to the submitted proposal. These matters are all considered above [5-17]. In summary:

- It was considered that there was limited evidence that there was any error in the ownership certificates and that the position could in any event be assured by notification of the other alleged landowners. This was done.
- It was accepted that the Council's biodiversity objection should be considered, but that the parties (and consultees) needed an adjournment to consider the position and produce evidence. This was done.
- Amendments to the submitted proposal were accepted for consideration.

110. The part of the site closest to the road is in use as a gypsy site pursuant to a 1991 planning permission. The rear part of the site is an area of cleared land and trees. The site is located between a largely residential area to the east and woodland to the west [21-25].

111. The whole of the appeal site is within the Green Belt. The majority of the site is affected by a woodland Tree Preservation Order (TPO) covering a wide area of Ancient Woodland, and a Site of Metropolitan Importance for Nature Conservation (SMINC). These designations have slightly different boundaries but all affect the rear part of the current site [24].

112. A number of matters [most dealt with at paragraph 41] were agreed between the appellant and the Council, which are useful in focussing on the key issues:

- The appellant and his family are gypsies (Irish Travellers) within the meaning of Annex 1 of Planning Policy for Traveller Sites (PPTS). No evidence to the contrary was given, and the details given by the appellant clearly indicate that they are persons of a nomadic habit.
- The appeal proposal (both options) is inappropriate development in the Green Belt.
- The lawful use of the front part of the land is as a gypsy site, pursuant to the 1991 planning permission (limited to a maximum of two permanent residential caravans and two touring caravans). A sliver of land to the west of the site was not included in this permission, nor was the area to the rear (north) which is within the current site [26, 27].
- There is currently an unmet general need for gypsy sites in the Borough. The London Borough's Gypsy and Traveller Accommodation Needs Assessment (2008) (GTAA) indicated an unmet need for between 17 and 96 pitches by 2012. The Council agreed that there is an immediate need for 25 permanent pitches, and that this constitutes a substantial level of need. (The appellant considers the level of need to be greater, and this is discussed below.)

- No sites for gypsy and traveller use are identified in the Unitary Development Plan (UDP). The extant UDP policy was not derived from a quantitative assessment of the need for gypsy and traveller sites.
  - All existing gypsy sites in Bromley are in the Green Belt, and it was agreed that any future sites will also be in the area currently designated as Green Belt [77].
  - The appeal site is the only private gypsy site in the Borough.
  - There is a 5 year housing land supply for the settled community, but no identified 5 years supply of deliverable gypsy sites [41].
  - There are no suitable, acceptable alternative gypsy sites available for the appellant and his extended family in the Borough.
113. The Inquiry considered two options. Each section of the report considers the smaller scheme before considering any additional issues raised by the larger proposal. The approach to the decision is set out above [18-20].
114. 'Option 1' is similar to the scheme as originally submitted to the Council, and proposes 7 pitches extending more than half way back into the site (including the existing gypsy site). This is a slight reduction of the scheme as originally submitted to the Council. In relation to this scheme, the parties agreed that replanting or regeneration conditions could be applied to the area not proposed as a gypsy site – part of which has been cleared of its original woodland cover [52, 87].
115. 'Option 2' was submitted in response to the Council's introduction of a biodiversity objection, and proposes 5 pitches on the originally permitted site together with a sliver of land to the west. It was agreed by the parties that it would be unreasonable to impose replanting or regeneration conditions related to the remaining land in relation to this option, as this was outside the development site [50, 92].
116. It is useful to consider the planning status of the sliver of land to the west of the permitted gypsy site at this stage. This land was not covered by the 1991 permission but is part of both current options. The appellant maintains that this land has been used in association with the permitted gypsy site for at least 10 years, and is therefore lawful [46, 70]. However there is nothing to substantiate that claim, which sits uneasily with the appellant's statement that he bought the land in 2008, as there is no evidence of any previous landowner using any part of the land as a gypsy site. Aerial photographs do not support the claim [23, 25]. In any event, this appeal is not the appropriate vehicle for establishing the lawful use of the land. The remainder of this report therefore proceeds on the basis that this sliver of land is not part of the lawful gypsy site.

### ***Policy context***

117. The development plan comprises the London Plan (2011) and the saved policies of the Unitary Development Plan (UDP) (2006).
118. The London Plan does not include individual Borough targets for gypsy and traveller pitches, but has a general policy relating to the identification of gypsy accommodation requirements, and sets out the need for Boroughs to address those requirements in coordination with neighbouring authorities [34]. The

London Plan supports the protection of the Green Belt from inappropriate development [34].

119. Three UDP policies were relied on by the Council when refusing planning permission, relating to the Green Belt (G1), trees (NE7) and gypsy sites (H6). An additional policy related to nature conservation (NE2) was subsequently added [35,36].
120. No issue was raised to the relevance of three of these policies. However the relevance of UDP policy H6 (particularly criterion (ii)) was contested by the appellant, and was the subject of evidence and submissions at the Inquiry [47, 84]. It is useful to deal with the weight to be accorded to policy H6 at this stage.
121. The introduction to UDP policy H6 is generally permissive of proposals for gypsy sites. However the policy then sets out four criteria which have to be met, one of which (criterion (ii)) is that sites should be situated outside any areas of constraint. As the parties agreed this clearly includes the Green Belt. Given that all the land in Bromley outside the built up area is within the Green Belt, and both parties accepted that urban locations would not be suitable or feasible for a gypsy site, the literal interpretation of this criterion would be that no new gypsy sites could be created in the Borough.
122. This policy was drafted in the context of national policy as it existed before 2006. It therefore predates Circular 01/2006 - which has itself been superseded by PPTS. Although PPTS makes it explicit that gypsy and traveller sites are inappropriate development in the Green Belt, the policy allows for the possibility of permission being given if very special circumstances clearly outweigh the harm by reason of inappropriateness and any other harm. UDP policy H6 does not allow for this possibility, and is therefore substantially at odds with current national policy (as it was with Circular 01/2006).
123. This policy has been considered in relation to a number of appeals for other gypsy sites, and has generally been given little weight in those cases [47]. The Council accepted at the Inquiry that little weight should be given to UDP policy H6 and to the second reason for refusal, which largely alleges a breach of the policy. The lack of consistency with national policy and the age of the UDP weigh heavily against policy H6.
124. The emerging Local Plan is at a very early stage, and consultation is in hand on issues related to the Core Strategy. The current timetable is for adoption late in 2013, but even the Council described this at the Inquiry as optimistic and explained that the programme has already showed signs of slippage [64]. Given the very early stage that this document has reached, it can be accorded very little weight.
125. Running parallel with the emerging Core Strategy, the Council is considering the approach to be taken to the provision of gypsy and traveller sites. A report in June 2012 set out the preferred strategy, which will be the subject of consultation [44, 77, 78]. Although only at an early stage, this report is useful in indicating the approach currently being considered by the Council – which includes taking the 1991 approved gypsy site out of the Green Belt and designating it as a gypsy site.

### ***Inappropriate development in the Green Belt***

126. The PPTS makes it clear that gypsy sites are inappropriate development in the Green Belt, and this is common ground between the parties.
127. The Framework provides that substantial weight will be attached to harm to the Green Belt. This includes definitional harm by reason of inappropriateness. This is an important material consideration which is uncontested by the parties and applies to both schemes – for this reason the consideration of inappropriateness in this report is brief, but this does not imply that it has correspondingly limited weight. (The same caveat is made below regarding the effect on the openness of the Green Belt.)
128. The appellant has noted that all existing and future gypsy sites in the Borough are in and will be in the Green Belt, as all the non-urban areas of the Borough are covered by this designation. This is accepted by the Council, but the planning merits of any future sites will be considered individually and the fact that other sites are in and will be in the Green Belt does not diminish the weight to be accorded to the harm resulting from inappropriateness.
129. The harm as a result of inappropriateness is a consideration which weighs substantially against both schemes.

### ***The openness of the Green Belt***

130. The fundamental aim of Green Belt policy as set out in the Framework is to prevent urban sprawl by keeping land permanently open, and openness and permanence are accordingly identified as the essential characteristics of Green Belts. The effect of a proposal on openness is primarily a matter of the nature, scale and site coverage of the development.
131. The Council's position on loss of openness was explored at the Inquiry. Although this was not specifically referred to in the Council's reasons for refusal, it was raised in the statement of case of the authority and in written evidence. However the Council's planning witness (who clearly has considerable experience of such matters) stated on a number of occasions that there was no allegation of harm beyond the definitional harm as a result of inappropriateness. In re-examination he sought to amend this position by explaining that he included loss of openness in the consideration of inappropriateness [44, 71]. Although this explanation was not persuasive this confusion in the Council's position is largely academic as the appellant accepted that there would be some localised harm to the openness of the area.
132. The smaller scheme (Option 2) would largely restrict the gypsy site to the existing permitted area. However, even allowing for the fact that the appellant suggests that the detailed layout could be the subject of a condition, it is clear that the use of the site would be intensified in comparison with what is currently on the land. It would also be intensified in comparison with what could be placed there if the 1991 permission were implemented to its fullest extent. There would be additional mobile homes, touring caravans, hardstandings and assorted domestic paraphernalia and this would harm openness. In addition, there would be a relatively small expansion of the gypsy site onto the sliver of land to the west. As discussed above, there is nothing to suggest that this area can lawfully be used as part of the permitted site, and there would accordingly be an additional loss of openness in this respect.

133. In the case of the larger scheme (Option 1), it is clear that there would be some additional loss of openness as a result of the greater site area. The proposal envisages the access, some hardstandings, mobile homes and caravans extending into the area of the site which was formerly undeveloped (aside from small structures and hardstandings associated with the former use by Girl Guides). There would consequently be a loss of openness to the Green Belt.
134. As with inappropriateness, this is an important material consideration which is not substantially contested by the parties. For this reason this section of the report is brief, but this does not imply that it has correspondingly limited weight. It is a consideration which weighs substantially against the appeal.

### ***Trees and biodiversity***

#### *The loss of trees*

135. The rear part of the site, beyond the extent of the permitted gypsy site, was formerly substantially covered in trees as shown in various aerial photographs. There is some evidence of clearance and regeneration of the woodland over time [23, 25].
136. A woodland TPO, albeit of some age and apparently not reviewed, includes the appeal site in the wider Ancient Woodland, and there is no suggestion that the appeal site was incorrectly included in the protected area. The wooded part of the appeal site formerly made a substantial contribution to the amenity of the wider area, both in its own right and as part of the large expanse of woodland to the west. However, despite the TPO, a substantial amount of clearance was undertaken between 2006 and 2008, with the result that the rear of the appeal site is largely a cleared area with some scrub cover, and some remaining trees along the eastern and northern boundaries.
137. There is no sign of natural regeneration taking place at present, but equally there is no reason to suppose that this would not happen in due course if the land is left undisturbed. The ability of woodland to regenerate rests in the soil and the seed bank within it, and neither party suggested that the land had been stripped – which would have limited the ability of the area to regenerate.
138. There is a Christmas tree plantation on a strip of land to the west of the appeal site, between it and the River Ravensbourne. This was apparently established in the 1950's and is part of a much larger plantation to the north. The appellant argued that this has effectively divorced the appeal site from the main area of woodland, and that this has diminished the value of the appeal site [52].
139. However the Christmas tree strip is quite narrow, and both parties agreed that the presence of these plantation trees would not have justified the clearance on the appeal site in 2006 – 2008 [91]. The argument related to the Christmas trees accordingly carries little weight and there is no reason to conclude that, if the appeal site were to return to its former state, the presence of the Christmas trees would significantly reduce the benefit of the site to the amenity of the wider area.
140. The loss of tree cover has already taken place, and neither scheme would result in any further loss. However UDP policy NE7 provides that particular account should be taken of trees on the site and on adjoining land, and refers to the importance of suitable replanting. The issue of the best means of ensuring the restoration of the northern part of the site was accepted by both parties to be relevant to the appeal. The best mechanism for this will be considered below.

### *The effect on biodiversity*

141. Related to the loss of trees and the clearance of the land is the associated question of the loss of biodiversity, highlighted by the fact that the northern part of the site is designated as a SMINC in the London Plan. There is no doubt that ancient semi-natural woodland is a valuable habitat, which develops over many years, and that a significant part of the habitat was lost as a result of the tree felling and clearance. The importance of nature conservation in relation to SMINCs is set out in the London Plan and in UDP policy NE2 [34, 36].
142. The appellant suggested that the biodiversity interest of the land has been reduced by the fact that it was used for many years as a Girl Guide camp site, with associated hardstandings and toilets, a use which doubtless also featured bonfires [52]. However, although it is clear that the land was used for this purpose some time ago and some small structures remain, there is no evidence that this has significantly harmed the biodiversity of the site. It is also reasonable to assume that the activity only took place infrequently – annual events were mentioned at the Inquiry - and that this did not affect the entire site.
143. It was also suggested by the appellant that the proximity of the Christmas tree plantation could result in non-native species invading the appeal site and that herbicides on the plantation could adversely affect natural regeneration [52, 90]. However the plantation has been there for many years and there is no evidence of such effects on the appeal site or elsewhere.
144. The way in which the two options would affect the biodiversity of the northern part of the appeal site is therefore a material consideration.
145. Option 2 would not directly affect the SMINC, and the Council accepted that this scheme would not have a direct impact on the ecological value of the northern part of the site [48]. Nor were any replanting/regeneration conditions put forward in relation to this part of the site in the context of Option 2. Reference was made to the possibility of the dumping of materials on the northern part of the site and requests for the cutting back or removal of the regenerating woodland – but there was no suggestion that these matters could not be controlled under other legislation. Option 2 is therefore essentially neutral in relation to biodiversity in that there would be no adverse effect, but equally no potential for positive enhancement.
146. The position is different in relation to Option 1. In this case a part of the SMINC would be taken up with hardstandings, caravans and other domestic paraphernalia. This would obviously effectively preclude any regeneration of that part of the cleared site, and this obviously weighs against this option. However, on the positive side, if this option were implemented the remainder of the SMINC could either be replanted or left to naturally regenerate – with additional conditions designed to prevent any harmful use of the land [52].

### *Replanting or natural regeneration?*

147. Before turning to the conclusion on this issue, it is useful to consider the relative merits of the replanting of the cleared area as opposed to managed regeneration. These are the two options which could be the subject of conditions - but only if the larger scheme (Option 1) were approved.
148. The appellant's landscaping proposal would replant much of the woodland area with native trees, and provide a ride and a glade bounded by native shrub

plants, together with a small wild flower meadow [52]. This could be required by conditions, and the Council's reservations about minor elements of the layout could also be addressed by a condition requiring the submission of a detailed scheme.

149. However what has been lost is ancient woodland, which is an ecosystem which develops over a long period of time. The replanting approach, although it has its attractions, would be a somewhat 'artificial' approach to attempt to recreate what has been lost. The advice from Natural England (accepted by both parties) is that it is possible to restore the site to a functioning and valuable ecosystem similar to ancient woodland by managed regeneration. If the soils are left untouched the original flora would regenerate, potentially providing ecologically rich intermediate habitats [52, 88, 94]. On the assumption that the original soil has not been stripped – and there is nothing to suggest that this has happened - this is the preferred approach.

*Mechanisms for replanting or regeneration*

150. There are three potential mechanisms which might, to varying degrees, provide replanting or regeneration of the cleared area of the site: enforcement of the TPO; granting planning permission for the smaller Option 2; or granting planning permission for the larger Option 1. These will be discussed in turn.
151. In terms of enforcing the TPO, the illegal felling appears to have occurred between July 2006 and November 2008 – based on various aerial photographs and site inspection notes by Council officers. Any action which could be taken in respect of the breach of the TPO could result in replanting. However the Council accepts that no action can now be taken in respect of the 2006 clearance, and that there remains a very short period to address the 2008 clearance. Despite the fact that Council officers were aware of both periods of tree felling shortly after it occurred and that the felling has been highlighted whilst the Inquiry has been sitting, no action has been taken and there is no suggestion that any action is now contemplated by the authority. There is therefore only a theoretical possibility of enforcing the TPO, and this can effectively be discounted.
152. The grant of planning permission for the smaller scheme (Option 2) would leave the rear part of the site, where clearance has taken place, unaffected by the proposed development and separated from the extended gypsy site by a fence. Woodland and biodiversity issues were not raised in relation to this option by the Council. Although leaving the land untouched could open the way to natural regeneration, there would be no active maintenance of the land – for example the periodic removal of any alien species. In addition, the redundant structures and buildings on the rear part of the site would remain.
153. Furthermore, the appellant has stated that he could graze his horses on the rear part of the land, as there is no planning condition in place to prevent that activity. The Council suggested that grazing and some other activities could be in breach of the injunction related to the TPO, but this was disputed by the appellant [52, 89]. In any event, it does not seem likely that horses eating very small saplings could be the subject of effective legal action, and nothing was put forward to substantiate this assertion.
154. The grant of planning permission for the larger scheme has one obvious drawback, namely that part of the cleared land would be occupied by the extended gypsy site. The likelihood of any natural regeneration within that

developed area would be extremely small, and the option therefore does not represent a 'whole site solution' as suggested by the appellant [52]. However the majority of the northern part of the site could be replanted or allowed to naturally regenerate. This area could also be the subject of conditions which could prevent any use of the regenerating land (including the grazing of horses) and could require the clearance of the structures associated with the former Girl Guide use. The approval of Option 1 therefore represents the only method of ensuring the restoration of at least a substantial part of the cleared land.

#### *Conclusion on trees and biodiversity*

155. The loss of trees and biodiversity has already occurred. However in considering the current appeal it is important to address the extent to which either scheme would contribute to the regeneration (the preferred approach) of the cleared land. This could benefit the ancient woodland and the biodiversity of the site.
156. Reliance should not be placed on the Council taking action in relation to the breach of the TPO. Some of the illegal clearance took place too long ago for action to be taken, and there is no suggestion that the Council intends to take action in relation to any later clearance – and the time period is shortly to expire.
157. The only current realistic approaches to this issue would be the grant of planning permission for either scheme in the context of the current appeal.
158. Option 2 would effectively leave the cleared land untouched and undeveloped. Although there would be the theoretical possibility of natural regeneration taking place, this is significantly reduced by the lack of control which the Council would have over the use of the land in the absence of conditions. This option would therefore be essentially neutral in relation to this issue, and would not meet the objectives of the policies summarised above.
159. Option 1 would have the negative effect of effectively sterilising part of the cleared site by its use as a gypsy site. However this would be outweighed by the fact that the remainder of the land would be allowed to regenerate naturally (or be replanted if that option were selected) and that the replanted or regenerating woodland would be protected by enforceable conditions. This is the only mechanism currently available to secure at least the partial restoration of the land (in line with policy) following its clearance, and this must be given significant weight in the light of development plan policies.

#### ***The need for and supply of gypsy sites***

##### *Need*

160. Dealing first with the general need for gypsy sites, it was accepted by both parties that the extent of need for sites nationally, regionally and locally is a material consideration to which weight should be given. (Personal need will be addressed below.)
161. The London Boroughs' Gypsy and Traveller Accommodation Needs Assessment (GTAA) (2008) aimed to assess accommodation needs by individual Boroughs, as part of the policy making process. It indicated an unmet need in Bromley of between 17 and 96 pitches by 2012 [41]. However in the event the adopted London Plan does not include pitch figures for individual Boroughs and, as the UDP is also silent on pitch provision, there is therefore nothing in the

development plan which sets a target for the provision of pitches within Bromley.

162. In any event the Council accepts that there is an immediate need for 25 permanent pitches in the Borough, and the authority agrees that this constitutes a substantial level of need [73]. In addition, the Council did not significantly contest the appellant's overcrowding figures related to the two Council sites (Star Lane and Old Maidstone Road) and at the appeal site itself (although it was pointed out by the authority that the accommodation at the appeal site is currently less than was permitted by the 1991 permission) [74]. It is reasonable to take account of these 'hidden households', and this increases the extent of the current unmet need to 35 [53].
163. To this figure of unmet need the appellant seeks to add an additional element arising from unauthorised temporary encampments in the Borough and a further element related to successful enforcement actions taken by the Council [54, 73]. However in relation to the first group, there is no evidence that those temporarily residing in the Borough on unauthorised sites are seeking permanent accommodation. It could equally be that they have sites elsewhere and are passing through Bromley as part of their nomadic way of life. In relation to the second group, although it is possible that individuals who have been moved off sites in Bromley still require accommodation in the Borough, it is also possible that they do not – for a variety of reasons. It would be unreasonable to add either of these groups to the total in the absence of any substantial evidence.
164. It is agreed that there is a long history of need for additional gypsy pitches in the Borough. This was reported in studies in 2003 and 2005, referenced in numerous appeal decisions [57], and supported by the bi-annual counts – albeit that these are only snapshots [54]. This need is continuing and, based on the evidence to the Inquiry, it is reasonable to assume a total need figure of 35 permanent pitches.

#### *Supply*

165. It was accepted by both parties that the supply of sites to meet the current need is a material consideration to which weight should be given.
166. The provision of gypsy sites in Bromley has remained almost static for some time. There is no identified 5 year supply of specific deliverable gypsy sites in the Borough [41].
167. No sites are identified in the UDP or any other adopted document, and there are only two public sites in the Borough – Star Lane and Old Maidstone Road. Both these sites have waiting lists and the Council did not dissent from the appellant's view that these waiting lists move very slowly [55, 74].
168. The front part of the appeal site is the only private gypsy site in the Borough (the position of the Chalk Pit site is discussed below) and the Council did not disagree that the authority has never granted planning permission for a private gypsy proposal [59]. Planning permission was granted for small extensions to the Council's sites at Star Lane and Old Maidstone Road – the former (3 pitches) was not implemented and has lapsed, whilst the latter (2 pitches) has been implemented.
169. The appellant asserts that the Council's supply figures [55, 77-78] overestimate the position in a number of respects. But much of this assertion was by way of

cross-examination and limited evidence was produced to counter the Council's position in most cases.

170. However, in one instance – the Chalk Pit site – more evidence was given [55, 79]. This is a site which has an established use for up to 25 caravans (without pitch utility blocks). Although there are a number of caravans on the site, it appears (from the evidence and from an external view) that they are currently unused. Apparently this site is owned by ethnic gypsies, although they live in permanent accommodation nearby, and it was agreed that the site has not been occupied as a gypsy site for at least 10 years. In fact nothing was presented to demonstrate that it has ever been a gypsy site. The Council's current approach (discussed below) includes the allocation of this land as a gypsy site. However the simple fact of allocating a site for this purpose does not make it available for the use and, with this background and in the absence of any evidence of the owner's intentions, to include it as part of the supply of sites achieves nothing. The evidence suggests that this site should therefore be currently excluded from the supply side of the calculations. This obviously significantly increases the need for additional sites in the Borough.

171. The Council's approach towards meeting the need for additional sites in the emerging Local Plan is at an early stage. The current position is set out in a report in June 2012 [58, 77]. This approach can only be given limited weight at this time, and there remain a number of uncertainties and potential difficulties. The proposals include:

- Seeking funding for an additional 3 pitches at a Council site (Star Lane) as previously approved. However there is no indication of the availability of funding, and the planning permission for the extension of the site has lapsed and would have to be the subject of a new application.
- Taking some existing sites (including the permitted area of the current appeal site) out of the Green Belt and allocating them as gypsy and traveller sites. A number of these have limited period planning permissions, some of which have expired, and these could be made permanent. The Council's approach is that the need for more pitches should first be met by the use of land within those sites, and that some intensification of the use of the permitted part of the appeal site might be allowed [58, 77]. However the removal of land from the Green Belt and any subsequent planning applications would undoubtedly be sensitive matters, and this has yet to be considered.
- Setting a criteria based policy to address any future proposals after dealing with the above sites.

172. Overall, although the Council's emerging approach to the provision of sites is at an early stage, it is a useful pointer to the Council's current thinking. However, aside from any intensification of the current use of some sites, the approach would only have the effect of making a number of temporary/unauthorised sites into permanent ones. Whilst this would assist in addressing the numerical shortfall, it might not significantly increase the number of actual pitches in existence.

#### *Failure of policy*

173. The appellant argued that a 'failure of policy' is a material consideration in support of the appeal.

174. Certainly the need for additional gypsy sites has been known for a considerable time, as illustrated in reports in 2003 and 2005 and in a number of appeal decisions. During this time little has happened on the ground, although previous Inspectors have clearly anticipated that the Council was shortly to produce a Site Allocations DPD [57].
175. However neither the UDP nor any other Council document has allocated additional gypsy and traveller sites, and UDP policy H6 approaches the position from a more negative viewpoint than national policy. Aside from the two approvals to extend Council sites, one of which has lapsed, the authority has not granted any planning permissions for gypsy and traveller sites.
176. The reasons why there remains a significant shortfall in provision should not be ignored, especially to the extent that this has resulted from the Council's lack of site allocations or production of a policy more in tune with the national position. However the national and London-wide policy position has been changing significantly during the past decade, and the work which the Council and others have undertaken has often been overtaken by events [80-81]. The 'blame' for the lack of progress cannot therefore be laid solely at the door of the authority.
177. In any event, any past failure of policy will have contributed to the outstanding current general need, and there is a danger of double counting if this element were given significant weight in addition to the weight resulting from the outstanding need itself.

*Conclusion on the need for and supply of sites*

178. The extent of unmet need for gypsy sites nationally, regionally and locally is clearly a material consideration.
179. There is a long history of largely uncontested need for additional gypsy pitches in Bromley, as concluded in studies in 2003 and 2005, various appeal decisions, the GTAA, and Council reports. There is no five year supply of specific deliverable sites. The extent of the need, though not agreed between the parties, is significant.
180. The Council's figures on the provision of sites is, in respect of the Chalk Pit site, over-optimistic. The Council's emerging approach (including taking the permitted part of the appeal site out of the Green Belt and designating it as a gypsy site) is some considerable way from delivering new pitches on the ground.
181. Both schemes would meet some of the significant need which exists in the Borough, whilst the larger scheme would obviously maximise the number of pitches. Significant weight should be accorded to the immediate and identified need for sites in the Borough, and the contribution which both the appeal schemes would make towards meeting this need.

***Personal circumstances***

182. In addition to the general need for additional gypsy sites within the Borough, the personal circumstances of the appellant and his extended family must be considered. The appellant's family comprises five separate households, who are currently based at the permitted site – although no details of how they are accommodated when not travelling were given [56]. Option 2 would accommodate this family group, whilst Option 1 would do this and additionally provide pitches towards meeting the general need.

183. The need of the extended family for a settled site was not contested by the Council, although it was noted that the appellant is entitled to place two double-unit mobile homes on the land, further to the 1991 permission. There was apparently a second mobile home on the site until relatively recently, but this had been removed by the time of the Inquiry [74]. No information as to why this was removed was provided, and it is certainly the case that the existing permitted site could be more intensively used than at present.
184. However, given the fact that there are five separate family groups, the 1991 permission could not accommodate all the households in separate accommodation. The Council suggested that separate family groups could share accommodation, but this would result in a far from satisfactory arrangement, as the reasonable desire of each family group to have their own accommodation would not be met. There is therefore an unmet personal need for additional accommodation beyond that permitted in 1991.
185. There are widely accepted benefits stemming from the provision of settled bases for the gypsy and traveller community. Most particularly there is easier access to GPs and other health services and it is obvious that the best interests of children are served by regular attendance at a specific school. There are also physical benefits arising from access to electricity and sanitation. The Council did not contest these general advantages, which weigh in favour of the provision of a settled site – though such a site does not necessarily have to be the appeal site.
186. There is nothing to suggest that the appellant or any of his family have made attempts to find an alternative site. In many cases this might be regarded as reducing the arguments in favour of granting planning permission. However in this case it is common ground that there are no suitable alternative sites available in the Borough, and the appellant's statement that this well known situation prevails well beyond the Borough boundaries was not contested [55].
187. None of the occupiers of the appeal site are on the waiting list for either of the Council's sites, but it was agreed that the waiting list moves very slowly. Furthermore, the appellant and his family are Irish Travellers and the Council accepted that their sites are dominated by Romanies. Although the Council's Allocations Policy naturally does not state that Irish Travellers will not be permitted on 'Romany sites', the policy does provide that due account will be taken of the need to ensure that those who are allocated plots are compatible with existing family groupings. The Council accepted that it is 'probably the case' that Irish Travellers could not co-exist on a Romany site [55]. With that background, the fact that the appellant and his family have not applied to go on the waiting list is understandable.
188. The lack of available and suitable alternative sites for the extended family is a significant factor weighing in favour of the appeal.
189. In terms of education, evidence was provided that four of the children of the extended family attend (or were about to attend at the time of the Inquiry), the local primary school [56, 76]. The Council made the point that when the Inquiry was sitting during part of the school year, the children had gone travelling with their parents. The Council suggested that this reduced the weight to be attributed to educational need. However no evidence was provided as to the length of the absence or whether this was an isolated occurrence or part of a regular pattern, and without such evidence it would be unreasonable to accord the absence any great weight.

190. Specific medical issues were raised only in relation to one resident, the appellant's granddaughter, who is registered with a local GP. She attends Royal Brompton and Harefield Hospital and Epsom General Hospital to deal with her condition. The Council again noted that she was travelling with her mother at the time of the Inquiry – and suggested that either her condition is not as serious as reported, or that she has access to treatment whilst travelling. However it appears from the evidence that there is a requirement for her to attend hospital for check ups and monitoring, and there is nothing to suggest that she would be unable to travel between visits [56, 75]. Her medical condition adds some weight to the appeal.
191. The difficulties which would be experienced in obtaining health care (not just for the resident with reported problems) and continuity of education in the absence of a settled base should also be afforded significant weight. This should not be diminished by the Council's arguments related to absences, for the reasons given above. Although some of the family groups could be accommodated on the appeal site by virtue of the 1991 permission, this cannot reasonably apply to the whole of the extended family.
192. Overall, there is clearly a need for the five extended family groups to be accommodated on a satisfactory site, and there is no suggestion that any alternative to the appeal site exists. The personal need for a settled site weighs significantly in favour of the appeal, and both schemes would resolve this need.

### ***Inequality and discrimination***

193. The appellant alleged that the Council were in breach of their duties under the Housing Act, the Local Government Act, the Equality Code and the Equality Act 2010, and Article 1 of the First Protocol and Articles 6, 8 and 14 of the ECHR.
194. The question of the human rights balance will be addressed below, in relation to whether there is a justification for interference and whether this would be proportionate in the circumstances of the case. However, aside from consideration of the human rights balance, the parties also agreed that matters of discrimination could be material planning considerations, and this is considered in this section.
195. This matter can be most readily illustrated by the fact that there is a 5 year housing land supply for the settled population, but not for the gypsy and travelling community. As discussed above, there remains a continuing need for additional gypsy sites in the Borough, and the Council has made little progress over the years in identifying suitable and available sites.
196. The only adopted development plan gypsy policy in Bromley is UDP policy H6. It is clear that this is more negative in its effect than national policy – either in the form of the previous Circular or the current PPFT. The Council has stated that the policy puts gypsy proposals in the Green Belt on the same footing as proposals for the settled population. However this is not the complete picture as the settled community has the potential to be accommodated in urban areas, which is an option effectively closed to the gypsy community.
197. In terms of a replacement for this policy, the Council has advised previous Inspectors at various times that a Site Allocations DPD was being progressed, and this has been reflected in a number of decisions. But, although the Council has not brought forward policies and allocations to facilitate the gypsy way of

life, as required by the previous Circular and now by the PPFT, the position is not that simple.

198. It appears that, after the previous Circular was published, the Council and other Boroughs began work on a GTAA - as it was envisaged that the need for gypsy and traveller sites would be addressed in the first stage through the London Plan. This led to a report in 2008 and subsequently an Examination in Public in 2011. Subsequently it was decided that the London Plan would not include figures for each Borough 80-81]. Since that decision, the Council has begun work on the approach to be adopted on a Borough wide basis [77].
199. The result of the changes to the process is that there is still no new adopted policy or any site allocations. Whilst regrettable, there is no evidence to suggest that the Council has done other than follow the statutory process, and to blame the Council for the delays and changes in the process itself would be unreasonable.
200. Criticism was also raised by the appellant that Council reports on the appeal proposal and other matters did not set out the equality duties of the Council. However there is nothing in the reports to suggest that the Council was other than well aware of its equality duties, and the reports themselves refer to other documents dealing with equality matters in more detail.
201. Overall, although UDP policy H6 does not provide an entirely level playing field between the settled community and gypsies, this is the only area where the policy or actions of the Council could be alleged to be discriminatory. However the Council has accepted for some time (to judge from previous appeal decisions) that little weight should be accorded to this policy. The weight which can be accorded to matters of alleged discrimination is therefore very limited.

### ***Sustainability and accessibility***

202. The question of the sustainability of the appeal scheme was not a reason for refusal, nor was it referred to in the Council's closing submissions, and no objection was raised in relation to UDP policy H6 (iii) which deals with this matter. However accessibility was a matter touched on briefly in the Council's evidence, although this was not part of the Council's formal objection to the proposal [61]. Regardless of the Council's position, given the importance of sustainability in national policy (both the Framework and PPTS), this matter would have been addressed in any event.
203. Guidance on the application of sustainability principles in relation to gypsy sites is found at paragraph 11 of the PPTS. This sets out 8 criteria that should be incorporated into planning policies and, whilst not strictly related to decision-taking, they are a clear indication of the matters which are considered important.
204. No objection was raised by the Council in relation to criteria b), c) and f) (health services, education and infrastructure) – which were considered above. Similarly criterion d) (the importance of a settled base) was not an issue – although the location of such a settled base is at the heart of this appeal. Criterion h), relating to working on sites, is not relevant in this case as the appellants do not propose a mixed use site and this could be controlled by a condition.

205. No objection was raised by the Council in relation to criteria a), e) and g) (peaceful/integrated co-existence, environmental quality, and flooding) although these matters were touched on by 3<sup>rd</sup> parties and will be considered below.
206. Accessibility to local services is an important element (though not the only element) of sustainability. The Council's written evidence was that the appeal site is in a rural location without a scheduled bus service to local shops and services [61].
207. However, describing this as a rural location substantially over-emphasises its remoteness. It is essentially a suburban area, with housing on one side and an area of woodland on the other (with more residential areas beyond). The appellants' evidence, which was verified on site, was that there are bus stops along the road, with numerous scheduled services to major centres in the area. There is a primary school and other facilities in walking distance, with more services within cycling distance. The site is therefore in a generally accessible location [61].
208. Overall, subject to the consideration below of the points raised by local residents, there are no objections to the either scheme on grounds of sustainability or accessibility.

### ***The amenity of the surrounding area***

209. The Council's second reason for refusing planning permission refers, amongst other matters, to the effect on the amenities of the area in relation to local residents. However this matter was not pursued in the Council's evidence or at the Inquiry, and the Council did not raise any objection in relation to UDP policy H6 (iv), which refers to amenity. However various related matters have been raised by residents [101-108].
210. Complaints have been made regarding noise and the burning of waste, although this has not been supported by evidence. In any event, even if such activities have taken place in the past, the suggested conditions would prevent any commercial activity on the site. This would give the Council greater control than the authority has at present, as there are no such conditions on the 1991 permission.
211. No evidence has been submitted to substantiate concerns regarding parking and traffic generation. The site (either scheme) is of sufficient size to allow for on-site parking and turning, and the Council's highways engineer has not objected to the proposal.
212. The application was accompanied by a Flood Risk Assessment, which was not contested by the Environment Agency. There is nothing to support concerns related to flood risk.
213. The promotion of peaceful and integrated co-existence between the site occupiers and the local community is one element of sustainability. However in this case there is no evidence to suggest that the existing permitted site has caused particular difficulties in this respect, nor that it would do so if it were extended.
214. Accordingly, in the absence of evidence, none of the above matters weigh against either scheme.

## ***Planning conditions***

215. A range of conditions were discussed (and substantially agreed) at the Inquiry (Annex to this report). Those conditions which were not agreed in whole or in part are identified below.
216. The only plan which forms part of the application is a site location plan, and any permission should refer to that for the avoidance of doubt (Condition 1). In addition, the layout of the development should be the subject of a condition requiring details to be submitted for approval (Condition 8).
217. Given the nature of the proposal and the arguments advanced by both parties, any permission should be limited to occupation by gypsies and travellers as defined in the PPTS (Condition 2).
218. The personal circumstances of the occupiers of the site are material considerations which are part of the planning balance leading to the recommendation to grant permission for the development. If the conclusion of that balancing exercise is accepted, conditions should be imposed (Conditions 3 and 4) limiting the permission to the appellant's extended family and their resident dependants. (However in the event that it is considered that the personal circumstances are not a key part of the planning balance, but that permission should nonetheless be granted, these conditions should be omitted. Annex B.)
219. In the interests of the amenity of local residents, conditions are necessary to prohibit commercial activity on the site, and to limit the maximum size of vehicles (Conditions 6 and 7).
220. In line with the appellant's Flood Risk Assessment and for the safety of the occupiers of the site, a condition should be imposed requiring static caravans to be chained down, and for the details of these measures to be submitted for approval (Condition 9).
221. A management plan for the natural regeneration of the land not covered by caravans and hardstandings should be submitted for approval (Annex A Condition 10). The management plan should run for 10 years, or the same period as any limited period planning permission, (Footnote to Condition 10). If the replanting option is preferred, an alternative condition is recommended (Annex 3). (Both parties agreed that, even if only a limited period planning permission were granted, both the managed regeneration or replanting approaches would be reasonable and could make a positive contribution to the area.)
222. If planning permission is granted on the basis of general need and personal circumstances, then a condition should be imposed limiting the number of pitches to 7 (Condition 5). However if only the personal circumstances are considered to justify the grant of planning permission, this should be reduced to 5 pitches, to tie in with the number of households in the appellant's extended family (Annex B).
223. As discussed below, it is considered that the planning balance leads to the grant of permanent planning permission for the larger scheme. However if a limited period permission is granted, the timescale for the LP to potentially deliver sites should be considered. The Council's written timetable for the LP shows adoption in one year. However the evidence to the Inquiry was that this timetable has already slipped [64], and accordingly the Council suggested (if permission was

to be granted) a limited period of three years to allow for the implementation of any allocations and to allow for any gypsy and traveller proposals to be considered. The appellant sought a five year permission for the same reason. There is some doubt as to the likely date of the adoption of the LP, to which must be added time to consider proposals for gypsy and traveller sites in the light of any new policy. There is also uncertainty at this stage as to how many actual new pitches – as opposed to permanent permissions for currently temporary or unauthorised sites - may emerge from the process. On that basis, a four year temporary period would be considered reasonable (Annex B 11).

224. Two other conditions were suggested by the Council related to flooding issues (Annex C). These were considered onerous by the appellant, and the Council was unable to justify their inclusion. In the absence of evidence to demonstrate their necessity, they are not recommended.

### ***The planning balance and conclusions***

225. As set out above, for reasons related to the late introduction by the Council of a biodiversity objection, there are two schemes considered by this report. Much of this report has considered the schemes together so as to avoid duplication. For ease of explanation, the smaller scheme (Option 2) – both in terms of site area and number of pitches - will be considered first in this section.

#### *Conclusions on Option 2*

226. This option would largely restrict the proposed gypsy site to the existing permitted area. There would also be a small extension onto a sliver of land to the west which, based on the current evidence, is not part of the lawful gypsy site. This extension into the Green Belt, although limited in area, would constitute inappropriate development. In addition it is clear that the use of the permitted site would be intensified in comparison both with what is currently on the land and also with what could be placed there if the 1991 permission were fully implemented.
227. The parties therefore agreed that Option 2 would be inappropriate development in the Green Belt and that, despite the Council's slightly confusing position on the matter, it would cause a loss of openness. The definitional harm as a result of inappropriateness and the effect on openness are considerations which weigh substantially against both schemes.
228. Set against that harm, there is a long history of unmet need for additional gypsy pitches in the Borough. The extent of that need, though not wholly agreed between the parties, is significant – and that is accepted to be the case even if the Council's figure were adopted. Set against that, there is no five year supply of deliverable gypsy sites, and the Council's figures on provision are over-optimistic in relation to the inclusion of the Chalk Pit site in the supply figure. The Council's progress towards meeting the general need has been very limited over time, and emerging LP proposals aimed at addressing the issue have some way to go. Given the need for sites and the level of local provision, the contribution which the proposal would make towards meeting the general need should be accorded significant weight.
229. In addition there exists a clear personal need for the accommodation, as it would result in the appellant's extended family being able to have one mobile home for each household. By providing a settled base, there would also be a benefit in relation to access to educational and medical services. The lack of

available alternative accommodation for the appellant's extended family, together with the other personal circumstances put forward, weigh significantly in favour of the scheme.

230. Turning to the issue of trees and biodiversity, Option 2 would leave the cleared woodland untouched and undeveloped. There would be no conditions (aside from a condition requiring a fence between the two areas) which would affect the cleared land, as the parties agreed that this would be outside the development site and not reasonably related to the proposal. This factor is therefore essentially neutral in the balance. Although the site of the mobile homes could be the subject of a landscaping condition, and this would improve an untidy area of land (as there was no landscaping condition on the 1991 permission), there would be no wider enhancement of the environment.
231. An important factor is the Council's current intention that the existing permitted gypsy site would be removed from the Green Belt and designated as a gypsy site. It has also been suggested that some intensification of the use might be considered by the authority. This approach has been agreed by a Council Committee, although it is clearly at an early stage in the process and is still subject to consultation and review. The difference between this emerging approach and Option 2 therefore only really relates to the inclusion of the additional sliver of land to the west. There is no significant difference between the Option 2 proposal and the Council's emerging approach.
232. Submissions were made to the effect that rights under Articles 6, 8 and 14 and Article 1 of the First Protocol of the ECHR would be violated if the appeal were dismissed. If the recommendation that planning permission should be granted is accepted there is no need to deal with the question of whether a refusal of this option would result in a violation of such rights.
233. However, if the decision is to refuse planning permission, Article 8 and Article 1 to the First Protocol, dealing with home and property rights (including the need to facilitate the gypsy way of life), are potentially engaged. The Council argued that Article 8 excludes those who have a home on the site by virtue of the 1991 permission. However it is clear that reliance on that permission would not provide a satisfactory home for all the wider extended family. Under these circumstances the interference with these qualified rights would be serious – the question of whether this would be a violation would be a matter for the decision maker.
234. Article 14, dealing with the prohibition of discrimination, was referred to by the appellant, although no detailed submissions were made. However this Article confers no free standing rights, and is doubtless linked in this case to Article 8. Reference was also made to Article 6, but nothing was put forward to suggest that the appeal process was unfair and there was no argument about the equality of arms.
235. In conclusion on the smaller scheme (Option 2), the harm by reason of inappropriateness and the effect on openness is clearly outweighed by the totality of the other considerations outlined above. The very special circumstances necessary to justify the development therefore exist. Given the emerging approach of the Council to the future designation of this site, it is not considered that there is any justification for such a permission to only be for a limited period. (If this conclusion is not accepted, a limited period of 4 years is recommended for reasons set out above.)

### *Conclusions on Option 1*

236. The larger scheme would extend the developed area into the area which was cleared of trees in 2006/2008. The proposal would clearly be inappropriate development, and lead to an increased loss of openness in the Green Belt.
237. The positive factors related to general and personal need, and the lack of available sites, are the same as the smaller scheme – except that the greater number of proposed pitches means that both the personal need and an additional element of general need could be met on the site. These factors should be accorded significant weight in the case of both schemes.
238. The position in relation to the larger site is significantly different in relation to the loss of trees and the impact on biodiversity. On the one hand part of the cleared woodland would be effectively sterilised by the extension of the gypsy site, but on the other hand this scheme offers the only mechanism available to encourage managed regeneration of the remaining area. It would also allow the remaining land to be protected by conditions. Overall, the balance in relation to trees and biodiversity is significantly in favour of allowing the appeal.
239. The emerging Council intention that the 1991 permitted area may be taken out of the Green Belt and designated as a gypsy site is also of relevance in relation to this scheme.
240. The Human Rights issues set out above need to be considered again for the two additional pitches. The majority of the considerations are as before, but Article 8 confers a positive obligation to facilitate the gypsy way of life and the two additional pitches would accord with this obligation. Having regard to the limited additional harm that would be caused the dismissal of the scheme for the additional two pitches would be disproportionate.
241. In conclusion on the larger scheme, the additional 2 pitches would only cause limited additional harm by reason of inappropriateness and the effect on openness, and this is clearly outweighed by the totality of the other considerations outlined above. The very special circumstances necessary to justify the development therefore exist. Given the emerging approach of the Council to the future designation of part of the site, it is not considered that there is any justification for such a permission to be only for a limited period. (If this conclusion is not accepted, a limited period of 4 years is recommended for the reasons set out above.)
242. Overall, in relation to Option 1, the harm by reason of inappropriateness and in relation to openness is clearly outweighed by the totality of the other considerations outlined above. The very special circumstances necessary to justify the development therefore exist.

### *The proposal as originally submitted to the Council*

243. As set out above [14-15] the original planning application sought permission for 'up to 8 mobile homes', and was accompanied by a plan showing the extent of the proposed access road and hardstandings. This proposal was reduced by the appellant before the Inquiry as it no longer represented their intentions for the site (Option 1). It was then further reduced (Option 2) – both in terms of the number of pitches and the extent of the developed area [16, 39].

244. The Inquiry did not consider the original scheme, and both parties were content with this approach and agreed that there would be no prejudice caused to any party [15]. However, if it is considered that this original proposal should be determined, the following points should be considered:

- The extent of the intrusion into the Green Belt would be significantly greater, as would the loss of openness.
- The majority of the land which has been cleared of trees would be occupied by the access road, hardstanding and mobile homes, which (to judge from the submitted plan) could also intrude further into the remaining area of trees.
- No replanting or managed regeneration proposals have been put forward in relation to this original scheme.
- The original scheme would provide one additional pitch above that proposed by Option 1, and this would have some benefit in relation to the general need for pitches.
- Other considerations are very similar to those set out in the body of the report.

245. The conclusion on this original proposal is that there would be significant harm to the Green Belt by reason of inappropriateness and openness, and that this is not clearly outweighed by the totality of the other considerations summarised above. The very special circumstances necessary to justify the development do not therefore exist, and the legitimate aim of protecting the Green Belt can only be adequately safeguarded by the refusal of planning permission.

246. If this proposal were to be determined, it is recommended that planning permission be refused.

### ***Recommendation***

247. It is recommended that the appeal be allowed and planning permission be granted for the larger scheme (Option 1), namely 'the use of land as a private residential gypsy site and associated fencing and hardstanding – up to 7 no. pitches', subject to conditions set out in the Annex to this report.

*P. J. G. Ware*

Inspector

## APPEARANCES

FOR THE APPELLANT: Mr A Masters of Counsel, instructed by Dr A Murdoch He called:	
Mr I Keen Dip Forestry MICF FAA	Arboricultural consultant
Dr A D S Murdoch BA(Hons) MRTPI MSc PhD MA	Planning consultant

FOR THE LOCAL PLANNING AUTHORITY: Mr D Loveday (Days 1 - 4) Mr P Darby (Days 5 – 11) Both instructed by the Head of Legal Services Mr Darby called:	
Mr E Addae-Bosompra BA(Hons) MA	Planner, Appeals and Planning Investigations
Ms G Slater DipTP MRTPI	Planner, Development Plan Team
Ms C Gibson BSc DipTP MRTPI	Principal Tree Officer
In relations to costs matters concerning Natural England correspondence only:	
Mr E Addae-Bosompra BA(Hons) MA	As above
Ms C Gibson BSc DipTP MRTPI	As above
Mr A Hayes	(Former) Heritage Co-ordinator
Mr D Murray	Planning Investigation Officer
Mr G Ullman	Council's Solicitor
Mr T Bloomfield BA(Hons) MSC	Development Control Manager

## DOCUMENTS

		<b>Inquiry Documents</b>
Document	1	List of persons present at the Inquiry
Document	2	Statement of Common Ground re. Natural Environment
Document	3	Statement of Common Ground re. Planning
		<b>Appellant's Documents</b>
APP	1	Notice (5 April 2012) served on alleged landowners, and proof of posting.
APP	2	Documents related to health and education
APP	3	Natural England letter 11 April 2012
APP	4	Natural England letter 12 April 2012
APP	5	Emails between Council and Natural England 9 May 2012
APP	6	Appeal decision (15 February 2002) at Salt Box Hill (1070617)
APP	7	Baker v SSCLG & Bromley [2007] EWCH [2008] EWCA Civ 141
APP	8	Dr Murdoch's Proof and Appendices
APP	9	Dr Murdoch's first Supplementary Proof and Appendices
APP	10	Dr Murdoch's second Supplementary Proof and Appendices

APP	11	Mr Keen's Proof and Appendices
APP	12	Mr Keen's Supplementary Proof and Appendices
APP	13	Closing submissions
		<b>Council's Documents</b>
LPA	1	Letter from Council to appellants (3 January 2012)
LPA	2	Application documents related to the 1991 permission
LPA	3	Council's statement of case on Nature Conservation
LPA	4	Council's submission on landownership and notice of application for costs
LPA	5	Extract from Traveller Liaison Officer notebook
LPA	6	LP timetable as at 28 June 2012
LPA	7	Photographs of appeal site dated 19 July 2006
LPA	8	Enforcement Notice 28 October 2006
LPA	9	Bundle of photographs (20 no.)
LPA	10	Unauthorised incursions 2012, and record of gypsy and traveller enforcement cases
LPA	11	Plan of gypsy and travelling showpeople sites 2012
LPA	12	Council's Allocations Policy and Procedure
LPA	13	Mr Addae-Bosompra's Proof and Appendices
LPA	14	Ms Slater's Proof and Appendices
LPA	15	Ms Gibson's Proof and Appendices (Trees)
LPA	16	Ms Gibson's Proof and Appendices (Nature Conservation)
LPA	17	Closing submissions

#### PLANS

Plan	A	Plan – Option 1
Plan	B	Plan – Option 2

## Annex A – Recommended conditions

- 1) The development hereby permitted shall be carried out in accordance with the approved location plan (1:1250).
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of 'Planning Policy for Traveller Sites' (2012).
- 3) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Patrick (the appellant) and Elizabeth Connors; Patrick (junior, the appellant's son) and Mary Connors; Anthony (the appellant's son) and Romy Connors; Elizabeth Connors (the appellant's daughter); Margaret Connors (the appellant's mother).
- 4) When the land ceases to be occupied by those named in Condition 3 above the use hereby permitted shall cease and all additional caravans, 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 shall be restored to its condition before the development took place.
- 5) There shall be no more than 7 pitches on the site and on each of the 7 pitches no more than 2 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) shall be stationed at any time, of which only 1 caravan shall be a static caravan. Any caravans positioned on the site shall be capable of being lawfully moved on the public highway without division into separate parts.
- 6) No commercial activities shall take place on the land, including the storage of materials.
- 7) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 8) No additional caravans shall be brought onto the site until details of the layout of the site have been submitted to and approved by the local planning authority in writing. The caravans shall only be positioned in the approved locations.
- 9) All static caravans on the site shall be secured to their hardstandings by chains at a number of points. The details of these security measures shall be submitted to and approved in writing by the local planning authority before any additional caravans are brought onto the site.
- 10) Prior to the first occupation of any additional static caravan a management plan for the natural regeneration of the land to the north of the post and rail fence shown on plan '7801/01 Option 1' shall be submitted to and approved in writing by the local planning authority. This management plan shall extend for a period of 10 years<sup>106</sup> and shall include how the land is fenced, the details of acceptable species to remain, details of species to be removed, cultural practices required to achieve those objectives, the removal of existing structures from the land, and the restriction of activities which could be damaging to the woodland. The approved management plan shall be implemented throughout its duration.

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<sup>106</sup> Or 4 years if a limited period planning permission is granted. (The duration of any limited period and the management plan should be the same.)

## **Annex B - Conditions related to need, limited period and replanting - if recommendations are not accepted**

If permission is granted only on the basis of general need, and that personal circumstances are not a key part of the planning balance, but that permission should nonetheless be granted, Conditions 3 and 4 in Annex A should be omitted. (Paragraph 218 refers)

If permission is granted only on the basis of personal circumstances, condition 5 in Annex A should refer to 5 pitches only. (Paragraph 218 refers)

If a limited period permission is granted the following condition should be imposed (Paragraph 223 refers):

- 1) The use hereby permitted shall be for a limited period being the period of 4 years from the date of this decision. At the end of this period the use hereby permitted shall cease, and 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 a condition which shall have been submitted to and approved by the local planning authority in writing before any additional caravans are brought onto the site.

If the replanting option is preferred, condition 10 in Annex A should be omitted and the following substituted (Paragraph 221 refers):

1. No additional caravans shall be brought onto the site until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping of the land to the north of the post and rail fence shown on plan '7801/01 Option 1', which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of any additional static caravan, and any trees or plants which within a period of 4 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

## **Annex C – Conditions suggested by the Council but not recommended**

(Paragraph 224 refers)

1. No additional caravans shall be brought onto the site until details of a surface water management scheme and rooftop rainwater recycling scheme have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
2. The pitches and hardstandings shall be constructed of a permeable material.



## Department for Communities and Local Government

### **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

#### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

#### **SECTION 2: AWARDS OF COSTS**

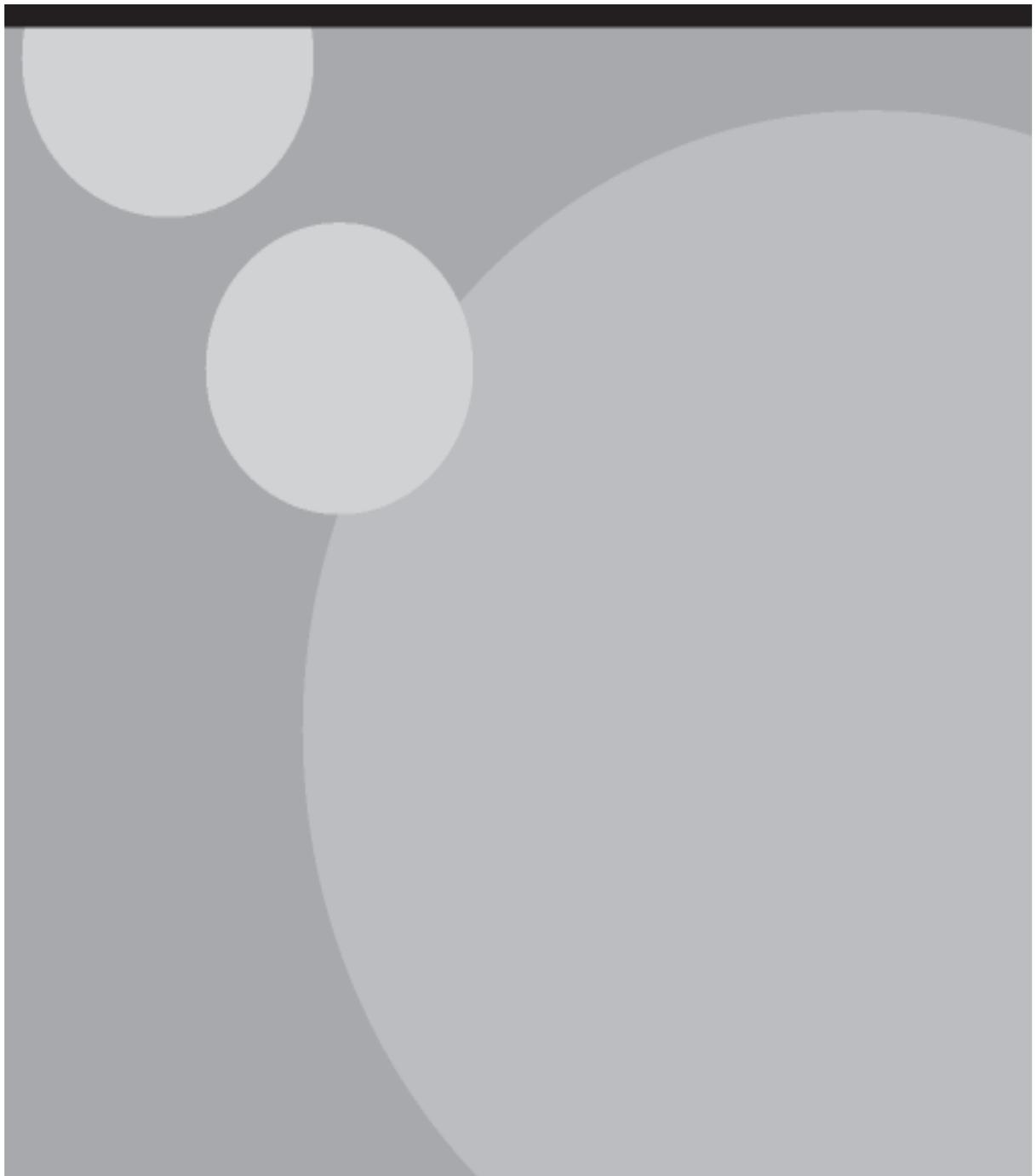
There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

#### **SECTION 3: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.



Progress report by the ministerial working group on  
tackling inequalities experienced by Gypsies and  
Travellers





Progress report by the ministerial working  
group on tackling inequalities experienced by  
Gypsies and Travellers

April, 2012  
Department for Communities and Local Government

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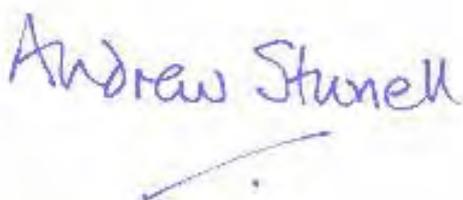
# Ministerial foreword

Improving social mobility is a principal goal of the Coalition Government's social policy. We are determined to give everyone the ability and aspiration to prosper, breaking down barriers to social mobility.

Across Government we are very concerned that Gypsies and Travellers are being held back by some of the worst outcomes of any group across a range of social indicators. The Ministerial Working Group therefore brought together ministers from key government departments under the chairmanship of the Secretary of State for Communities and Local Government to look at ways to reduce and tackle these inequalities. This supports our commitment in the Coalition Agreement to promote improved community relations and opportunities for ethnic minority communities.

This progress report outlines the challenges, but also includes 28 commitments from across Government that will help mainstream services work better with Gypsies and Travellers. We intend to produce another report once we have had an opportunity to assess progress in delivering against these commitments. By working with the Gypsy and Traveller communities and other external partners, and with local services driving change, we can all help to produce measurable and lasting improvements in the life chances Gypsies and Travellers.

I want to thank the members of the working group for their help in getting us to this point. This is an important issue; if we want to create strong communities, built on a shared set of values, we must act to ensure that no-one, or no one group, is held back or left on the margins.



**Andrew Stunell MP**  
Parliamentary Under Secretary of State  
Department for Communities and Local Government

# Members of the working group

**Rt Hon Eric Pickles MP**, Secretary of State for Communities and Local Government (Chair)

**Lynne Featherstone MP**, Home Office

**Nick Gibb MP**, Department for Education

**Mark Hoban MP**, HM Treasury

**Lord McNally**, Ministry of Justice

**Maria Miller MP**, Department for Work and Pensions

**Anne Milton MP**, Department of Health

**Andrew Stunell MP**, Department for Communities and Local Government

# Chapter 1

## Introduction

*Fairness is one of the values of the Coalition Government, along with freedom and responsibility... For us, fairness means everyone having the chance to do well irrespective of their beginnings.*<sup>1</sup>

- 1.1 Gypsies and Travellers experience, and are being held back by, some of the worst outcomes of any group, across a wide range of social indicators:
  - In 2011 just 12% of Gypsy, Roma and Traveller pupils achieved five or more good GCSEs, including English and mathematics, compared with 58.2% of all pupils<sup>2</sup>
  - There is an excess prevalence of miscarriages, stillbirths, neonatal deaths in Gypsy and Traveller communities<sup>3</sup>
  - Around 20% of traveller caravans are on unauthorised sites.<sup>4</sup>
  - Studies have reported that Gypsy and Traveller communities are subjected to hostility and discrimination<sup>5</sup> and in many places, lead separate, parallel lives from the wider community.<sup>6</sup>
- 1.2 In November 2010, the Secretary of State for Communities and Local Government set up a ministerial working group to tackle these issues, bringing together ministers from seven Government departments<sup>7</sup>.
- 1.3 A lack of trust and understanding between Gypsy and Traveller communities, their neighbours and mainstream service providers was identified as a factor in many of the problems. The ministerial working group looked at what Government could do and through a series of meetings developed proposals that would help mainstream services work more effectively with Gypsies and Travellers.

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<sup>1</sup> HM Government (2011); *Opening Doors, Breaking Barriers; A Strategy for Social Mobility*

<sup>2</sup> Source: Dept for Education

<sup>3</sup> Parry, G. et al. (2004): *The Health Status of Gypsies and Travellers in England*. University of Sheffield.

<sup>4</sup> DCLG; *Traveller Caravan Count*

<sup>5</sup> See for example, Greenfields M, Home R, Cemlyn S et al., *West of England - Gypsy Traveller Accommodation (and Other Needs) Assessment 2006–2016*, Buckinghamshire Chilterns University College (2007)

<sup>6</sup> CRE *Common Ground* 2006 p13

<sup>7</sup> Rt Hon Eric Pickles MP (Chair) and Andrew Stunell MP, Department for Communities and Local Government; Nick Gibb MP, Department for Education; Anne Milton MP, Department of Health; Lynne Featherstone MP, Home Office; Lord McNally, Ministry of Justice; Maria Miller MP, Department for Work and Pensions; Mark Hoban MP, HM Treasury

- 1.4 This report contains 28 commitments, for which Government will be held to account, in the following areas:
- Identifying ways of raising educational aspirations and attainment of Gypsy, Roma and Traveller children
  - Identifying ways to improve health outcomes for Gypsies and Travellers within the proposed new structures of the NHS.
  - Encouraging appropriate site provision; building on £60m Traveller Pitch Funding and New Homes Bonus incentives.
  - Tackling hate crime against Gypsies and Travellers and improving their interaction with the criminal justice system.
  - Improving knowledge of how Gypsies and Travellers engage with services that provide a gateway to work opportunities and working with the financial services industry to improve access to financial products and services.
  - Sharing good practice in engagement between Gypsies and Travellers and public service providers.
- 1.5 The working group took an evidence-based approach, but we recognise that the evidence base on Gypsies and Travellers can be weak. This report outlines work done to improve understanding of how Gypsies and Travellers use services and includes commitments to identify gaps in data and research.
- 1.6 The focus of the Ministerial Working Group was on ethnic Gypsies and Travellers (including those who are living in conventional housing and, where appropriate, travelling show people). Some issues affecting Roma in this country overlap with those impacting Gypsies and Travellers; Department for Education policy and evidence explicitly includes Roma, for example, and that is reflected in this report.
- 1.7 The devolved administrations have their own approaches towards Gypsies and Travellers in areas where responsibility is devolved. Some of the policy areas covered by this report such as health, accommodation and education therefore only apply to England. The commitments relating to the work of the police to address hate crime and those relating to the criminal justice system apply to England and Wales. Commitments relating to Department for Work and Pensions employment services apply to England, Scotland and Wales.

# Chapter 2

## Improving outcomes in Gypsy, Roma and Traveller education

### Introduction

- 2.1 At present, Gypsy and Roma pupils, along with pupils of Irish Traveller heritage, are amongst the lowest-achieving groups at every Key Stage of education, although individual pupils can and do achieve very well. In 2011, just 25% of Gypsy, Roma and Traveller pupils achieved national expectations in English and mathematics at the end of their primary education, compared with 74% of all pupils. At the end of secondary education, just 12% of Gypsy, Roma and Traveller pupils achieved five or more good GCSEs, including English and mathematics, compared with 58.2% of all pupils.
- 2.2 Attainment gaps are a complex issue and the underperformance of Gypsy, Roma and Traveller pupils may be due to a combination of factors, including financial deprivation, low levels of parental literacy and aspiration for their children's academic achievement, poor attendance and bullying. There is a particularly strong link between deprivation and underachievement and in primary schools, 43.2% of all registered pupils registered as either Gypsy, Roma or of Irish Traveller background are currently eligible for Free School Meals; this figure rises to 45.3% in secondary schools and 57.5% in Special Schools. Those pupils who are eligible for Free School Meals are already benefiting directly from the Pupil Premium, which is providing an additional £488 per pupil in 2010-2011 to help raise their attainment. This figure will rise to £600 per pupil in 2012-2013, when the premium will be extended to all pupils who have been eligible for Free School Meals during the past six years, whether or not they currently qualify.
- 2.3 The Government is clear that schools and local authorities are best placed to respond to local needs and priorities, and should take a lead in tackling the underperformance of disadvantaged and vulnerable pupils. But for them to succeed, they must be given the freedom and funding to do so. That is why this year we have once again provided just over £201m for ethnic minority achievement via the Dedicated Schools Grant, to help schools improve the performance of ethnic minority and Gypsy, Roma and Traveller pupils, as well as those with English as an Additional Language. Schools can use this funding to 'buy in' support or specialist advice, to employ an additional teacher or teaching assistant or to fund community outreach work with local Gypsy, Roma and Traveller pupils. Where Schools Forums wish it, the funding may be retained at local authority level to provide centralised Ethnic Minority Achievement and Traveller Education Support Services.

## Focusing on the most vulnerable and disadvantaged

- 2.4 Along with this increased freedom however, comes increased responsibility and, in the future, the Government intends to ensure that schools have the same high expectations for all their pupils, regardless of background or ethnicity. We will continue to monitor and publish information about the progress and attainment of individual pupil groups, based on national tasks and tests, and we will pay particular attention to the achievements of disadvantaged, underperforming or vulnerable groups, including Gypsy, Roma and Traveller pupils.
- 2.5 We are also refocusing school inspection around the core areas of achievement, teaching, leadership and behaviour/safety. Within this more streamlined approach is a requirement for Ofsted to consider the extent to which the education provided at the school meets the needs of all its pupils. This means considering the data on all groups and individuals, with a particular emphasis on the most vulnerable and disadvantaged.

### **Commitment 1**

Gypsy, Roma and Traveller pupils are specifically highlighted as a vulnerable group in the revised Ofsted framework, ensuring that school inspections will pay particular attention to their progress, attainment and attendance.

- 2.6 It is not just schools that have a responsibility to support the most vulnerable children in our society – Local Authorities also have a crucial role to play in safeguarding the well-being of vulnerable and disadvantaged groups, including ensuring their equal access to high quality education.

### **Commitment 2**

The Department for Education will establish a Virtual Head Teachers pilot for Gypsy, Roma and Traveller pupils, along the lines of the successful Looked After Children model. The pilot will run in a small number of Local Authorities with higher than average numbers of Gypsy, Roma and Traveller pupils, beginning in April 2012. Funding will be allocated to each authority for the appointment of a senior dedicated individual to champion the interests of Gypsy, Roma and Traveller pupils across the authority and to monitor and respond to issues of low attainment and attendance. They will provide training and support to schools; work to identify and return to school those Gypsy, Roma and Traveller children who are missing from education and raise awareness among schools and others about the barriers to success which these children face - and how best to overcome them.

We will carefully monitor the impact of the pilot on attendance, attainment and rates of permanent and fixed exclusions and will share the results with schools and local authorities.

## Improving attendance

- 2.7 Over the last few years the level of participation of Gypsy, Roma and Traveller children in early years and primary education has improved. Attendance remains generally low however, and the gains in primary have not been mirrored in secondary education. Gypsy, Roma and Traveller pupils have the lowest attendance profile of any minority ethnic group and national data show a marked decline in the number of enrolled Gypsy, Roma and Traveller pupils between primary and secondary school. There are continued concerns about the number of children who fail to make the transition to secondary school or who drop out before Year 9.

### **Commitment 3**

The Department for Education will introduce the following measure designed to tackle poor attendance among Gypsy, Roma and Traveller pupils.

Existing legislation (set out in Section 444 (6) of the 1996 Education Act) protects mobile Gypsy and Traveller families from prosecution for their children's non-attendance provided that:

- they are engaged in a trade of business of such a nature that requires them to travel from place to place;
- the child has attended at a school as a registered pupil as regularly as the nature of that trade permits; and
- any child aged six or over has attended school for at least 200 half day sessions during the preceding year.

The Government believes that this concession has come to be seen by some schools - and by Gypsy and Traveller families themselves - as giving tacit consent for mobile pupils to benefit only from a significantly shortened school year. We intend to look again at the impact of this legislation and to consult on whether it should be repealed.

In parallel with this action, we intend to review the statutory guidance in relation to Children Missing Education and will make sure this reflects the need to identify Gypsy, Roma and Traveller pupils, who are missing out on their education.

- 2.8 In addition to generally low attendance, Gypsy, Roma and Traveller pupils also have the highest levels of permanent and fixed term exclusions when compared to other minority ethnic groups and to pupils entitled to Free School Meals.

#### **Commitment 4**

In response to the unacceptably high levels of exclusion among certain pupil groups, the Department for Education will take steps to assess the impact of school-based commissioning, alternative provision and early intervention on the most vulnerable and disadvantaged.

In the Schools White Paper in 2010, the Government announced its intention to test a new approach to permanent school exclusion which will see schools, rather than local authorities, placing excluded pupils in appropriate alternative settings, funding the placements from a devolved budget and monitoring both attainment and attendance. The exclusions trial will take place in 300 secondary schools and will cover three school years, beginning in autumn 2011. It will have a particular focus on those disadvantaged and vulnerable groups who are most affected by exclusion including Gypsy, Roma and Traveller pupils.

## **Tackling bullying**

- 2.9 There is considerable anecdotal evidence that bullying and prejudice against Gypsy, Roma and Traveller pupils are contributing to their poor attendance and behaviour – leading to disproportionately high levels of exclusion. It is never acceptable for a child to be victimised because of their ethnicity or religion. We have published advice to schools on their legal powers and obligations to tackle bullying, as well as basic principles of effective anti-bullying strategies adopted by successful schools. The Government will continue to look at the evidence on all forms of prejudice-based bullying, including that experienced by Gypsy, Roma and Traveller pupils, and will support schools to use the powers available to them to respond to and prevent poor behaviour and bullying.

#### **Commitment 5**

In line with its Schools White Paper commitment, Ofsted is conducting a survey on prejudiced-based bullying, which is now under way. This will involve inspectors talking to pupils about their experiences of bullying and the way in which it is handled in their schools. Bullying of minority groups will be picked up in this survey, and the results will be published in 2012.

## Sharing success

- 2.10 A great deal of knowledge already exists within schools about the best way to tackle the underperformance of disadvantaged and underperforming groups. In some of our highest attaining primary and secondary schools, the data suggest that headteachers and staff are working effectively to narrow attainment gaps.

### **Commitment 6**

The Department for Education has approached some of the higher performing primary and secondary schools for Gypsy, Roma and Traveller pupils to find out from them what lies behind their success. The Department for Education will collect and publish brief case studies from each of these schools to be shared with schools, local authorities and education professionals around the country.

- 2.11 While there is a great deal that Government, schools and local authorities can do to boost the attainment of Gypsy, Roma and Traveller pupils, the communities themselves must also play their part in addressing this complex and long-standing issue.
- 2.12 In August 2010, the Department for Education established a group made up entirely of representatives from the Gypsy, Roma and Traveller communities. The group provides a forum for sharing effective practice in raising the attainment and aspirations and promoting more positive school / community links. The Government intends to continue working closely with this group, both in supporting the delivery of these commitments and in shaping future policy direction.

# Chapter 3

## Improving the health outcomes of Gypsies and Travellers

### Introduction

- 3.1 Gypsies and Travellers are a small but significant group who continue to suffer from poor health and lower life expectancy.
- 3.2 Studies consistently show differences in life expectancy of over 10% less than the general population, although a recent study stated that the general population were living up to 50% longer than Gypsies and Travellers.<sup>8</sup> Research also shows that the health of Gypsies and Travellers starts to deteriorate markedly when individuals are over 50.<sup>9</sup>
- 3.3 Other health issues such as high infant mortality rates, high maternal mortality rates, low child immunisation levels, mental health issues, substance misuse issues and diabetes are also seen to be prevalent in the Gypsy and Traveller communities.<sup>10</sup>
- 3.4 Gypsies and Travellers, along with other vulnerable groups, experience a range of health needs, which are exacerbated by social factors. Those with multiple complex needs make chaotic and greater use of health care services than other groups and experience a range of barriers, in particular when accessing primary care services. Gypsies and Travellers often lack trust in health professionals to provide appropriate care and to engage with their community on equitable terms. Gypsies and Travellers can fear hostility and/or prejudice from healthcare providers.

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<sup>8</sup> Barry J, Herity B, Solan J. (1987): *The Travellers' health status study, vital statistics of travelling people, 1987*. Dublin: Health Research Board, Baker, M, (2005) *Leeds Baseline Census 2004-2005 Gypsies and Travellers*. Leeds: Leeds Racial Equality Council,

It is important to note that whilst studies show that life expectancy is low across the group, life expectancy can vary across the Gypsy and Traveller community.

<sup>9</sup> Richardson, J. Bloxson, J. & Greenfields, M. (2007) *East Kent Sub-Regional Gypsy and Traveller Accommodation Assessment Report (2007-2012)*. Leicester: De Montfort University. Available at: <http://www.doverdc.co.uk/pdf/EastKentGTAAreport17July07.pdf> [Accessed 24 October 2011].

<sup>10</sup> Parry, G. et al. (2004): *The Health Status of Gypsies and Travellers in England*. University of Sheffield.

## Health outcomes

- 3.5 National data are not collected about the needs of Gypsies and Travellers, or the services they receive. As a result, evidence of the health of Gypsies and Travellers is relatively weak. However, studies have found that their health status is much poorer than that of the general population and other marginalised groups:
- 39% of Gypsies and Travellers have a long-term illness compared with 29% of age and sex matched comparators, even after controlling for socio-economic status and other marginalised groups<sup>11</sup>
  - Travellers are 3 times more likely to have chronic cough or bronchitis, even after smoking is taken into account<sup>12</sup>
  - 22% of Gypsies and Travellers reported having asthma and 34% reported chest pain compared to 5% and 22% of the general population<sup>13</sup>
  - Gypsies and Travellers are nearly three times more likely to be anxious than average and just over twice as likely to be depressed<sup>14</sup>
  - Irish Travellers are 3 times as likely to die by suicide than the general population<sup>15</sup>
  - There is an excess prevalence of miscarriages, stillbirths and neonatal deaths in Gypsy and Traveller communities and high rates of maternal death during pregnancy and shortly after childbirth<sup>16</sup>
  - A high prevalence of diabetes has been reported in Gypsy and Traveller communities, and a lack of community knowledge of the risk factors<sup>17</sup>
  - Studies show that Gypsy and Traveller women live 12 years less than women in the general population and men 10 years less, although recent research suggests the life expectancy gap could be much higher.<sup>18</sup>

## Access to health services

- 3.6 Providing and commissioning services is complex. Commissioners may not address need; providers may not have incentives to deliver high quality care to the hard-to-reach; specialist practitioners often work in isolation and feel undervalued; mainstream practitioners can lack the skills and support to deal effectively with high-need clients.

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<sup>11</sup> Parry, G. et al. (2004): *The Health Status of Gypsies and Travellers in England*. University of Sheffield.

<sup>12</sup> *ibid*

<sup>13</sup> *ibid*

<sup>14</sup> *ibid*

<sup>15</sup> Rose-Walker, M (2008): *Suicide Among the Irish Traveller Community 2000-2006*. Wicklow County Council

<sup>16</sup> *ibid*

<sup>17</sup> Saunders, R. (2007): The Forgotten Minority. *Diabetes Update*, Spring 2007

<sup>18</sup> **Barry J**, Herity B, Solan J. (1987): *The Travellers' health status study, vital statistics of travelling people, 1987*. Dublin: Health Research Board, Baker, M, (2005) *Leeds Baseline Census 2004-2005 Gypsies and Travellers*. Leeds: Leeds Racial Equality Council,

It is important to note that whilst studies show that life expectancy is low across the group, life expectancy can vary across the Gypsy and Traveller community.

3.7 Common challenges faced by Gypsies and Travellers accessing primary care services can include:

- Registration. One of the most commonly reported barriers is GPs' insistence on having proof of identity and proof of a permanent address.<sup>19</sup>
- Poor literacy and, for recently migrant Roma communities, poor English, can make it very difficult to navigate the health system.
- Anticipation of discrimination from GP practices or at A&E. As a result, some, particularly those living in bricks and mortar accommodation, will not identify their ethnicity.<sup>20</sup>
- Health professionals lack the knowledge, confidence and expertise about the beliefs and culture of the Gypsy and Traveller communities.<sup>21</sup>
- Those who are mobile have an increased reliance on A&E and walk-in centres, which can lead to problems with follow up and continuity of care.
- Local Involvement Networks (LINKs) have not ensured the diversity of representation needed to ensure all members of a community, including Gypsies and Travellers, can have their say or get involved in influencing local services.

## Action to improve health outcomes

3.8 Tackling health inequalities is a Government priority, part of a wider focus on fairness and social justice. Everyone should have the same opportunities to lead a healthy life, no matter where they live or who they are. As well as helping people live longer, healthier and more fulfilling lives, we aim to improve the health of the poorest fastest.

3.9 Tackling health inequalities is at the heart of the reforms of the NHS and public health. The NHS Commissioning Board and clinical commissioning groups will be under a duty to have regard to the need to reduce health inequalities in access to and the outcomes from healthcare.

3.10 The Government's health reforms aim to put patients at the heart of the NHS by giving them more choice and control over their healthcare, including more choice of GP practice. This means that patients will be able to choose a GP practice that can meet their specific needs.

3.11 Public Health England will provide information, advice and support to local commissioners, and local authorities will have a ring-fenced public health grant, targeted for health inequalities. We are also developing a health premium that will reward communities for the improvements in health outcomes they achieve and incentivise action to reduce health inequalities.

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<sup>19</sup> Cemlyn et al. *Inequalities experienced by Gypsies and Travellers: A review* (EHRC)

<sup>20</sup> Van Cleemput, P. et al. (2007) Health-related beliefs and experiences of Gypsies and Travellers: a qualitative study. *Journal of Epidemiology and Community Health*

<sup>21</sup> *ibid*

## Inclusion Health

- 3.12 Within the broad strategy to tackle health inequalities, the Inclusion Health programme aims to improve access and outcomes of the most vulnerable people, including Gypsies and Travellers.
- 3.13 The programme is led by the National Inclusion Health Board. Four working groups of professionals and practitioners will deliver the programme commitments.

### **Commitment 7**

Department of Health will work with the National Inclusion Health Board and the NHS, local government and others to identify what more must be done to include the needs of Gypsies and Travellers in the commissioning of health services.

- 3.14 Local authorities will establish a health and wellbeing board and undertake a Joint Strategic Needs Assessment. The Joint Strategic Needs Assessment will be used to prepare the joint health and wellbeing strategy, which in turn will inform clinical commissioning groups and local authority commissioning plans. The health and wellbeing board will be a key forum to consider service integration across NHS services and health-related services provided by the local authority.

### **Commitment 8**

Department of Health will explore how health and wellbeing boards can be supported to ensure that the needs of Gypsies and Travellers with the worst health outcomes are better reflected in Joint Strategic Needs Assessments and joint health and wellbeing strategies.

## Improving data and research

- 3.15 Whilst there is some local information, the evidence on health outcomes and successful interventions for Gypsies and Travellers, as with many socially excluded/vulnerable groups, remains relatively weak. Those responsible for Joint Strategic Needs Assessment and commissioning will need access to relevant information to make decisions on which services to commission.

### **Commitment 9**

Department of Health will work with the UCL Institute of Health Equity and the Inclusion Health working groups to identify gaps in data and research, and look to identify the specific interventions that produce positive health outcomes.

- 3.16 A possible focus of early research could be maternal health and child immunisation; studies show that these are significant health issues within Gypsy and Traveller communities.

**Commitment 10**

Department of Health will work with the Inclusion Health working groups to identify what more needs to be done to improve maternal health, reduce infant mortality and increase immunisation rates.

## Improving leadership and workforce

- 3.17 Whilst good progress has been made in some areas on developing links with outreach workers and other health professionals, there is still some way to go to make this happen everywhere. The Inclusion Health programme recognises the need to address prejudice, cultural and practical barriers faced by vulnerable people when accessing health services. Two key areas of work are building clear national and local leadership, and supporting and developing a strong, stable and capable workforce.

**Commitment 11**

Department of Health will work with the Inclusion Health Board to embed the Inclusion Health programme in training for all health professionals, with the aim of developing a strong, stable and capable workforce that can drive change and make a difference to the lives and health outcomes of the most vulnerable.

## A wider determinants approach

- 3.18 To improve health outcomes for Gypsies and Travellers, we need to adopt a more integrated approach, focused on the life course and the wider determinants of health.

# Chapter 4

## Providing appropriate accommodation

### Introduction

- 4.1 Although Gypsies and Travellers are often seen through the prism of high profile unauthorised sites, the vast majority of traveller caravans (80%) are on authorised sites that have planning permission<sup>22</sup>.
- 4.2 However, there are still around 3000 caravans on unauthorised sites, either on sites developed without planning permission, or on encampments on land not owned by travellers. Gypsies and Travellers living on unauthorised sites can face additional difficulties accessing health and education services and the precarious nature of their homes can further exacerbate inequalities and stifle life chances.
- 4.3 The new planning policy for traveller sites will return decisions on traveller site provision to local authorities who are best placed to know the needs of their communities. We will encourage local authorities to provide appropriate sites and it is important that local planning authorities continue to plan for the needs of all in their community, including Gypsies and Travellers.

### Financial incentives

- 4.4 The Department for Communities and Local Government has put in place a package of financial incentives and other support to help local authorities and elected members make the case for the appropriate development of traveller sites in their area.
- 4.5 We secured £60m Traveller Pitch Funding to 2015 as part of the Homes and Communities Agency's Affordable Homes Programme. This investment will help local authorities and other registered providers with the cost of providing new sites. On 7 January 2012 we announced the allocation of £47m that will help provide over 750 new and improved pitches.<sup>23</sup>
- 4.6 Instead of top-down targets, we are focusing on providing incentives for development so communities reap benefits and not just costs of development. The New Homes Bonus commenced in April 2011, and will match fund the

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<sup>22</sup> DCLG; *Traveller Caravan Count January 2011*

<sup>23</sup> DCLG; *Stunell: New site funding offers fairer deal for travellers and the settled community*; <http://www.communities.gov.uk/news/planningandbuilding/2061166>

additional council tax raised - using the national average in each band - for new homes and long term empty properties brought back into use, with a premium for affordable homes, for the following 6 years. The New Homes Bonus will operate in exactly the same way for traveller sites as it does for other forms of housing ensuring that policy on traveller sites is aligned with that for other forms of housing and that it is fair for traveller and settled communities. The Government's goal is to increase and underline the local benefits of development. Local authorities that take responsibility and encourage growth should be recognised proportionately.

- 4.7 The New Homes Bonus also means that for the first time we are providing financial incentives to local authorities for the development of all authorised traveller site accommodation. Private provision is a key element of traveller pitch supply; the largest proportion of caravans (and growing) are on private sites; they are usually built by the travellers themselves and many Gypsies and Travellers want to live on them.

## Changing perceptions of sites

- 4.8 To help change the perception of traveller sites and address the concern that can develop around traveller site development proposals, we are working on gathering examples of well-kept small private family sites. Gypsy and Traveller representative groups have been invited to lead on this and the Department for Communities and Local Government has also been in contact with local authorities to identify the best sites in their area.

### **Commitment 12**

The Department for Communities and Local Government will help Gypsy and Traveller representative groups showcase small private sites that are well presented and maintained.

Subject to site owners agreeing to have their homes included we will help produce a case study document which local authorities and councillors, potential site residents and the general public could use. It could also be adapted and used in connection with planning applications.

## Support for elected councillors

- 4.9 Consultation with local communities about planning applications is a fundamental part of the planning process but councillors can sometimes find this difficult in the face of opposition towards traveller site proposals.
- 4.10 Local Government Group has been running a successful course delivered by councillors for councillors to support them with their leadership role around traveller site provision, including advice on dealing with the controversy that can sometimes accompany planning applications for traveller sites. Councillors

have reported that the training helped them to conduct better planning meetings leading to fair and more effective decision-making.

- 4.11 We are funding this training so it can continue to 2015. The new programme, which starting in autumn 2011, will help the transition to the new planning system. It will support councils or groups of councils to find locally acceptable approaches to increasing the number of planned-for pitches that gain consent in their area without going through the planning appeal process.

## Encouraging healthy living conditions

- 4.12 In addition to the provision of accommodation from which health services can be accessed, we want traveller sites to be healthy places to live.
- 4.13 One of the Government's aims in respect of traveller sites is to enable provision of suitable accommodation, which supports healthy lifestyles, and from which travellers can access education, health, welfare and employment infrastructure. Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally and should, therefore, ensure that their policies promote, in collaboration with commissioners of health services, access to appropriate health services.

### **Commitment 13**

The Government will continue to promote improved health outcomes for travellers through the planning system.

- 4.14 In April 2011 we applied the Mobile Homes Act 1983 to traveller sites owned by local authorities. This means that residents of these sites now have greater protection against eviction and other rights and responsibilities that already apply to residents of other residential mobile home sites. It also means residents can challenge poor site management through the residential property tribunal if the site owner (the local authority) has not fulfilled obligations set out in the pitch agreement.
- 4.15 The terms implied by the Mobile Homes Act into pitch agreements oblige the local authority (where they are the site owner) to maintain the parts of the site they are responsible for in a clean and tidy condition and to repair the amenity blocks provided on the pitch. Likewise, the pitch agreement also obliges residents to maintain, in a clean and tidy condition, their pitch and the outside of their mobile home.
- 4.16 We will review the impact of the application of the Mobile Homes Act to local authority sites in two years' time. This review will look at the extent to which residents are aware of their new rights and responsibilities.

# Chapter 5

## Tackling hate crime against Gypsies and Travellers

### Introduction

- 5.1 We live in a society where prejudice still remains and some people think that it is acceptable to discriminate against an individual or group because of who they are. Hate crime is a reality that affects people in their everyday lives. Incidents can range from verbal abuse and abusive written material through to physical attacks, leading to terrible and sometimes even tragic consequences. It blights communities, threatening community cohesion, spreading hostility and fear.
- 5.2 Studies have reported that Gypsy and Traveller communities are subjected to hostility and discrimination and experience problematic relations with settled communities.<sup>24</sup> There is also some evidence of mistrust of criminal justice agencies within Gypsy and Traveller communities and a perception that the criminal justice system serves the settled community better, which may have an impact on their access to and contact with the criminal justice services.<sup>25</sup>
- 5.3 We are clear that the same standards of behaviour and respect for the law should be expected from all members of the community, whether Gypsies or Travellers or the settled community, based on mutual respect and with equal rights, responsibilities, entitlements and obligations.
- 5.4 The Government is committed to tackling all forms of hate crime, including that which is targeted against Gypsy and Traveller communities. Everyone should have the freedom to live their lives free from fear of targeted hostility or harassment on the grounds of their appearance, ethnicity or lifestyle. Ensuring that the criminal justice system's response to hate crime is effective enough to support those who are affected and deals appropriately with those who commit these sorts of crimes is a key aspect of the Government's approach, forming part of its wider agenda to tackle the barriers to equality.

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<sup>24</sup> See for example, Greenfields M, Home R, Cemlyn S et al., *West of England - Gypsy Traveller Accommodation (and Other Needs) Assessment 2006–2016*, Buckinghamshire Chilterns University College (2007)

<sup>25</sup> Mason et al (2009). *Access to Justice: a review of existing evidence of the experiences of minority groups based on ethnicity, identity and sexuality*; Ministry of Justice Research Series 7/09

## Commitment 14

We have published a new cross-Government hate crime action plan, setting out our vision and approach for tackling hate crime over the remainder of this Parliament.

The plan is based on three core principles, which we believe are necessary to reach our long-term goal. We will focus on:

- Preventing hate crime – by challenging the attitudes that underpin it, and early intervention to prevent it escalating;
- Increasing reporting and access to support – by building victim confidence and supporting local partnerships; and
- Improving the operational response to hate crimes – by better identifying and managing cases, and dealing effectively with offenders.

## Definition of hate crime

5.5 The courts have found that Romany Gypsies and Irish Travellers are ‘racial groups’ within the meaning of the Race Relations Act 1976 (now superseded by the Equality Act 2010). This means that they are fully protected by the anti-discrimination provisions in the Equality Act 2010.

5.6 The agreed definition of monitored hate crime in England, Wales and Northern Ireland, adopted by criminal justice agencies in 2007, which covers all strands of hate crime (disability; gender identity; race, religion or belief; and sexual orientation) includes the following in relation to race:

*‘A Hate Crime is any criminal offence which is perceived, by the victim or any other person, to be motivated by hostility or prejudice based on a person’s race or perceived race. Included subjects are: any racial group or ethnic background including countries within the United Kingdom and Gypsy and Traveller groups’*

5.7 We are satisfied that the definition as it stands is adequate, but we know that this is not an end in itself.

## Data and scale

5.8 In September 2011, the Association of Chief Police Officers published figures covering the five monitored hate crime strands recorded by the police in England, Wales and Northern Ireland in 2010. The figures show that there were 48,127 recorded hate crimes, with 39,311 recorded in relation to racist hate crime. However, data on race cannot be disaggregated to specifically identify hate crimes against Gypsies and Travellers.

- 5.9 As a victim perception-based crime, many hate incidents and crimes may go unreported, because victims may not necessarily associate what has happened to them to as having been targeted at them on the basis of a personal characteristic. Coupled with distrust in the police and authorities and the feeling that they will not be treated fairly, it is likely that Gypsy and Traveller communities will not always report hate crime when it happens to them. This makes it difficult to know the true extent of hate crime against Gypsies and Travellers.

**Commitment 15**

The Home Office will promote better recording of all hate crimes helping us to target our work more effectively and help the police to better focus resources.

## Increasing reporting

- 5.10 Working with key voluntary sector partners, we want to improve the recording of all forms of hate crime, by building confidence in communities to encourage greater reporting. For example, by developing third party reporting centres, those people who are reluctant to report directly to the police can report hate crimes to separate organisations that can then forward details of incidents to the police for action as necessary.
- 5.11 We have already worked closely with the Association of Chief Police Officers to support their development of the *True Vision* website, which was launched on 1 February 2011 and allows victims of hate crime to report it electronically.

**Commitment 16**

The Association of Chief Police Officers will develop an information pack and self-reporting form specifically tailored for Gypsy and Traveller communities as part of its True Vision Website resource.

Working with external partners, the Association of Chief Police Officers will develop culturally suitable and accessible material for Gypsy and Traveller communities. This will aim to provide information about what hate crime is and how it can be reported. The material will take a rights-based approach aiming to send the message that victims have the right to expect a high standard of service.

## Improving the response

- 5.12 Tackling hate crime forms part of a multi-agency response. The police, as a frontline service, have made strenuous efforts to understand and deal with

hate crime in recent years. This includes work to improve engagement between the police and Gypsy and Traveller communities.

- 5.13 However, we are not complacent and acknowledge that there is still further work to be done. We need to ensure that hate crime is identified as such in the first instance and distinguished from what is sometimes regarded as anti-social behaviour. This will help in signposting victims to appropriate support services and putting in place effective protection measures.
- 5.14 In 2005 the Association of Chief Police Officers issued a Hate Crime Manual as a working resource for all police forces in England, Wales and (Northern Ireland); in order to take into account the emerging issues relating to hate crime they will update their guidance to forces.

#### **Commitment 17**

The Association of Chief Police Officers will issue a refreshed Hate Crime Manual which will include specific guidance for police officers on working effectively with Gypsy and Traveller communities, to inspire confidence so they report hate crime and incidents, and to ensure they receive a fair, effective and proportionate police response when they do.

The Hate Crime Manual will be refreshed to take account of new legislation and changes to practice since it was published in 2005. This provides the opportunity to include specific guidance on a range of emerging issues for the police service as well as providing guidance on dealing with particular types of hate crime. A specific chapter providing guidance on working with Gypsy and Traveller communities will be included. The guidance will also include best practice advice on community engagement and 'third party' reporting schemes. It is being delivered with the co-operation of the Hate Crime Strategy Board (a cross-departmental officials group) and in consultation with Gypsy and Traveller community groups.

- 5.15 We also need to ensure that local partnerships and agencies are aware of their responsibilities and duties and the importance of working in partnership to support victims and tackle all forms of hate crime.

#### **Commitment 18**

The Home Office will collect and publish local examples of what works in preventing and tackling hate crime for Community Safety Partnerships. The guidance will include specific advice on working effectively and engaging with Gypsy and Traveller communities.

## Preventing hate crime against Gypsy and Traveller Communities

- 5.16 We are committed to preventing hate crime through education and ensuring that communities are aware of the damage it inflicts on those that experience it.
- 5.17 Almost every serious or violent offence motivated by hate will have been precipitated by an escalation of offending behaviour from lower-level incidents such as bullying and verbal abuse<sup>26</sup>. Local communities need to take responsibility for challenging unacceptable behaviour when they witness it and reporting crimes when they occur, when it is right and safe for them to do so. The earlier we challenge prejudicial views, the more likely we are to prevent those views being acted upon through verbal or physical attacks.

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<sup>26</sup> Paul Iganski *Hate Crime and the City*

# Chapter 6

## Improving interaction with the National Offender Management Service

- 6.1 The National Offender Management Service is committed to ensuring the provision of a fair service to all. The specific needs of Gypsy and Traveller prisoners have been considered by prison establishments for a number of years.
- 6.2 The available evidence on the experiences of Gypsy and Traveller groups identifies a number of factors that may affect Gypsies' and Travellers' experiences in prison and under probation supervision in the community.
- 6.3 *Power's* (2004) study of Irish Travellers, cited in a Ministry of Justice literature review in 2009<sup>27</sup>, suggested, for example, that prison officers acted in a way that may be seen as discriminatory towards Irish Travellers and also highlighted potential difficulties for Gypsies and Travellers arising from sentencing and after-care systems largely designed for sedentary populations.
- 6.4 The Prison Service's Race Review, *Implementing Race Equality in Prisons: Five Years On* (2008, p.59), referred to a number of difficulties experienced by Gypsy and Traveller prisoners, such as:

*"difficulties accessing services, including offender behaviour programmes, as the literacy level required was too high; derogatory and racist name calling primarily by prisoners, and by some staff, in two of the prisons visited; lack of confidence in the complaints system; and the lack of cultural awareness and understanding of staff. For example, Irish Travellers complained of being accused of intimidating or bullying prisoners and staff and they felt this was the result of officers misinterpreting their distinct accent and non-verbal communication style".*

- 6.5 The recent report by the Irish Chaplaincy in Britain, *Voices Unheard: A Study of Irish Travellers in prison* also reported disadvantages experienced by Gypsy and Traveller prisoners. The report's recommendations focused on addressing perceived difficulties in gaining access to education, vocational

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<sup>27</sup> Power, C. (2004). *Room to Roam: England's Irish Travellers*. Research Report published by consortium of Irish Traveller groups and supported by the Community Fund. Cited in Mason et al (2009). *Access to Justice: a review of existing evidence of the experiences of minority groups based on ethnicity, identity and sexuality*. Ministry of Justice Research Series 7/09.

training, interventions and discrimination relating to parole conditions and Home Detention Curfew.

- 6.6 It is possible that the negative perceptions reported in these studies may affect Gypsy and Traveller prisoners' interaction with staff they come into contact with in the criminal justice system. It could also affect some prisoners' willingness to identify as Gypsy or Traveller, which would have implications for service provision and the ability to proactively consider and address the issues that affect this group of prisoners and offer services in the most appropriate form.

**Commitment 19**

The National Offender Management Service will monitor the population of Gypsies and Travellers in prison and under probation supervision, to ensure access to activities is appropriate and meets the needs of Gypsies and Travellers through their rehabilitation.

- 6.7 Following the inclusion of 'Gypsy or Irish Traveller' in the ethnicity categories of the 2011 Census, the prison information system, P-Nomis, has been amended and now has the facility to record and monitor Gypsy and Traveller prisoners. There are some concerns, however, that many Gypsy and Traveller prisoners may be reluctant to self-define as Gypsy or Traveller. Many prisons are now putting in place measures to increase confidence which over time is expected to encourage more prisoners from Gypsy and Traveller backgrounds to disclose their ethnicity. Best practice suggests Gypsy and Traveller prisoners can encourage other Gypsy and Traveller prisoners to engage and that this approach is often more successful than other mechanisms as peers are more likely to be trusted. Some prisons employ Gypsy and Traveller prisoners as representatives within their prisoner equality representative group.

**Commitment 20**

The National Offender Management Service will regularly review the good practice guidance provided to staff on equality and diversity to ensure information and cultural awareness of Gypsy and Traveller culture is incorporated and that it adequately addresses the needs of Gypsy and Traveller offenders.

- 6.8 A number of guidance resources are currently available for all staff on a range of equality and diversity issues, including those relevant to Gypsy and Traveller prisoners. This includes a Good Practice Guide produced by the crime reduction charity Nacro and a number of publications aimed at helping staff understand Gypsy and Traveller culture and history, the difficulties faced by this group both inside and outside prison, and to challenge common misconceptions.

- 6.9 Whilst a matter for individual prison establishments, the guidance also recommends that Gypsy and Traveller prisoner groups are facilitated to ensure Gypsies and Travellers are able to raise issues that affect them effectively and directly with prison managers.

**Commitment 21**

The National Offender Management Service will revise the equalities training provided to new entrant prison officers with an expectation that sessions on race equality will include Gypsy and Traveller issues and awareness.

- 6.10 Previous national race awareness campaigns across the National Offender Management Service have included Gypsy and Traveller role models alongside those from other ethnic backgrounds, to ensure awareness is raised of Gypsy and Traveller issues.
- 6.11 The Good Practice Guide recommends local awareness training on Gypsy and Traveller issues and work is underway to revise new entrant training courses which will include integrated training on Gypsy and Traveller issues and managing Gypsy and Traveller prisoners.

**Commitment 22**

The National Offender Management Service will introduce a cluster arrangement of prisons overseen by a Lead Governor who will have greater discretion to commission the offender learning and skills provision required locally to best meet the needs of the offenders they are managing.

- 6.12 Educational provision for offenders is funded by the Skills Funding Agency, through contracts with providers of further education, to deliver the Offenders Learning and Skills Service. Learning needs are assessed and addressed on an individual basis.
- 6.13 In May 2011 the Government published a review of offender learning, *Making Prisons Work: Skills for Rehabilitation*. This review recommended, amongst other measures, a change to the arrangements for delivering learning, where the National Offender Management Service brings together into clusters those prisons that regularly transfer prisoners between them. This will deliver a system that is responsive to local needs and demands within an agreed governance framework and will allow particular learning needs to be met, whilst providing a consistent skills offer that supports continued participation during prisoners' progress through their sentences. Prison governors and their staff will have an essential role in ensuring that the skills provision is consistent with the prison's offender management strategy, the range of prisoners they will manage (including Gypsies and Travellers), and plans for

getting offenders into employment as part of its focus on reducing re-offending.

- 6.14 Also as a result of the review, work is in progress between the National Offender Management Service and the Skills Funding Agency to co-commission a new service from August 2012. The service specification calls for a new focus on assessing and addressing the needs of those with learning difficulties and/or disabilities including the provision of additional learning support, personalised programmes and the use of specialist staff. Addressing low levels of literacy will feature highly within the curriculum. Gypsies and Travellers presenting low levels of literacy or difficulties engaging in learning will benefit from this service.
- 6.15 An additional tool to aiding offenders' learning is the new Virtual Campus, which is being introduced across the prison estate. This is an education platform that allows tailored provision for learners and with considerable graphical and interactive content is particularly useful for those learners with low literacy skills. It also allows for the continuity of learning from custody into the community, as it can be accessed from any PC in the community.

# Chapter 7

## Improving access to employment and financial services

### Access to Department for Work and Pensions employment services

- 7.1 The Department for Work and Pensions is committed to giving personalised support to those who need it to secure employment.
- 7.2 Anecdotal and qualitative evidence from a number of studies indicates that historically Gypsies and Travellers have made little use of Jobcentre Plus work-related programmes and services, and may have a cultural bias against claiming out-of-work benefits to which they may be entitled. There is also evidence that changes in the economy may be leading Gypsies and Travellers to leave traditional occupations and engage more with Government services.<sup>28</sup>
- 7.3 There is little specific evidence on the interaction of Gypsies and Travellers with the Department's employment services, and quantitative evidence on unemployment rates has not been collected. The Commission for Racial Equality Gypsies and Travellers Strategy paper in 2004<sup>29</sup> noted a lack of systematic data on Gypsy and Traveller employment. It does report anecdotal evidence indicating unemployment is high among Gypsies and Travellers who need training in practical skills as well as opportunities to obtain qualifications for skills they already have.
- 7.4 In response to this lack of evidence officials from the Department for Work and Pensions undertook internally commissioned 'Insight' work with Gypsies and Travellers to help gain greater understanding of the barriers the community faces in engaging with employment services. This work was supported by discussions with organisations such as Leeds Gypsy and Traveller Exchange, York Travellers Trust, Irish Community Care Merseyside and Citizens Advice, a review of existing research, and a review of existing Departmental/Jobcentre Plus guidance.
- 7.5 The findings support our existing provision and current direction of travel. Whilst some Gypsies and Travellers felt that their individual needs were not

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<sup>28</sup> For example: "Never [signed on] it's not in our culture", p. 117, *Roads to Success: Economic and Social Inclusion for Gypsies and Travellers*, ITMB, 2011

<sup>29</sup> Commission for Racial Equality, *Gypsies and Travellers, A Strategy for the CRE 2004-2007*, London: CRE, 2004.

taken account of, they noted that they felt most positive about their experiences with Jobcentre Plus employment support when they had been able to build a relationship with a single named adviser who could offer continuity of service.

- 7.6 Many Gypsies and Travellers leave the education system before the age of 16 with poor literacy and numeracy skills. In discussions we had with members of the community, most felt their poor literacy skills impacted on their understanding of the conditionality requirements of the Jobseeker's Allowance regime, as well as significantly disadvantaging them in seeking employment. They also felt they lacked qualifications and softer skills such as confidence and motivation that would help them in gaining employment.
- 7.7 Jobcentre Plus has now moved to a model of support where claimants are assigned to one Adviser for the duration of their claim. In addition the Work Programme (introduced in June 2011) allows providers the flexibility to innovate and develop support tailored to the needs of the individual. We are also committed to simplifying the benefits system and will be introducing the Universal Credit in 2013.
- 7.8 Jobseeker's Allowance claimants (who are required to actively seek and be available for work) can be mandated to undertake activity to address an identified skills need which will aid their movement into work. The skills training available includes vocational skills, basic skills and softer skills such as confidence and motivation.

**Commitment 23**

The Department for Work and Pensions will provide personalised support to Gypsies and Travellers via the Work Programme and where needed, Gypsies and Travellers will have access to appropriate skills support.

- 7.9 There is a lack of data within Government on the numbers of Gypsies and Travellers who are in employment or claiming out-of-work benefits. The Department for Work and Pensions has not routinely collated information identifying individuals as belonging to the Gypsy and Traveller community. This has made it difficult to assess the degree of engagement with Gypsy and Traveller claimants and the success or level of interventions. Gypsies and Travellers were included as an ethnic category in the 2011 Census for the first time and they are also now included as a category in the Labour Force Survey. The introduction of Universal Credit presents an opportunity to update the Department's monitoring systems to include Gypsies and Travellers.

**Commitment 24**

The Department for Work and Pensions will include Gypsies and Travellers as a monitoring category in our IT, processing and management information systems with changes being made for the introduction of Universal Credit in 2013.

- 7.10 Findings from the work undertaken by the Department indicated that in general Gypsies and Travellers did not feel they were individually discriminated against by Jobcentre Plus because they were Gypsies and Travellers. However, there still exists a real fear of possible discrimination and a belief that staff working with them may not always be sensitive to their culture.
- 7.11 Gypsies and Travellers are distinct ethnic groups. A review of equality and diversity training material for staff indicates that this has not always been made clear.

**Commitment 25**

The Department for Work and Pensions will improve internal guidance and staff awareness of Gypsies and Travellers as ethnic groups. We will work to identify informative case studies and instances of best practice and review and promote the existing guidance on working with Gypsies and Travellers. We will also work with Human Resources colleagues to update Diversity guidance and training materials on race to include mention of Gypsies and Travellers.

- 7.12 The Ethnic Minority Advisory Group is an independent body (supported by the Department for Work and Pensions) whose main focus is to help reduce the gap between the ethnic minority employment rate and the employment rate for the working age population as a whole. It provides advice to Government on issues related to the disadvantage individuals from ethnic minority backgrounds face in relation to the labour market.
- 7.13 Historically Gypsies and Travellers have not been included within the Ethnic Minority Advisory Group's remit, which focuses on minorities whose ethnicity is 'visible'. Work conducted by the Department supports the views of key external partners that Gypsies and Travellers can often be visually or culturally identifiable as distinct from the 'settled' community and may suffer discrimination as a result.

**Commitment 26**

The Department for Work and Pensions consulted with the Ethnic Minority Advisory Group on the inclusion of Gypsies and Travellers. The Ethnic Minority Advisory Group agreed that Gypsies and Travellers should be represented and, following an application process, the Irish Traveller Movement in Britain now represent Gypsies and Travellers on the advisory group.

## Access to financial products and services

- 7.14 Studies have reported that some Gypsies and Travellers face difficulties accessing financial products and services; for example, difficulties providing suitable ID (identification documents) and difficulties providing evidence of a stable address which can be a barrier to opening a bank account. Gypsies and Travellers have also reported concerns that financial services would be hostile towards them.<sup>30</sup>
- 7.15 A recent positive development in widening the financial services market for Gypsies and Travellers has been the establishment of a home and contents insurance policy directly targeting Gypsies and Travellers living on authorised traveller sites. Meanwhile, the Department for Work and Pensions has been working across Government to ensure communities are aware of the services credit unions offer.
- 7.16 To help clarify ID requirements, the Financial Inclusion Team at the Department for Work and Pensions worked with the banking industry to arrange a comprehensive list of what ID is needed to open a range of basic bank accounts. This is now available on the Money Advice Service website.
- 7.17 Transact (a financial inclusion organisation) has also been involved in discussions with the Department for Communities and Local Government and Gypsy and Traveller representative groups about financial inclusion issues and we will continue to work with them. The British Bankers Association and the Association of British Insurers have both agreed to work with Gypsy and Traveller community groups if the community groups can set out examples of the specific barriers faced in accessing financial products and services.

### **Commitment 27**

The Government will encourage measures to improve the financial inclusion of Gypsies and Travellers. The Department for Work and Pensions will continue to work across Government to ensure communities are aware of the services that credit unions offer.

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<sup>30</sup> Irish Traveller Movement in Britain; *Roads to Success*,(2010), p52; p108

# Chapter 8

## Improving engagement with service providers

- 8.1 Some Gypsies and Travellers are unable or unwilling to engage with public services, contributing to the poor outcomes highlighted in this report. In turn some services are not appropriately equipped to engage with Gypsies and Travellers and do not always make efforts to reach out to them.
- 8.2 There are examples of successful engagement between service providers and Gypsies and Travellers. We want service providers, Gypsies and Travellers and their representative groups to be able to easily access this good practice, learn from it and share their own experiences.

### **Commitment 28**

The Department for Communities and Local Government will promote examples of good engagement and good practice on the Gypsy and Traveller Knowledge Network which service providers and others are welcome to join through the Knowledge Hub website. This will provide a space in which service providers, Gypsies and Travellers and others can discuss good practice and learn about what works across the range of issues covered in this report.

- 8.3 You can join the Gypsy and Traveller Knowledge Network at:

**[knowledgehub.local.gov.uk](https://knowledgehub.local.gov.uk)**

Further comments and contributions regarding this report can be addressed to:

**[gtmwg@communities.gsi.gov.uk](mailto:gtmwg@communities.gsi.gov.uk)**

# Summary of commitments

1. Gypsy, Roma and Traveller pupils are specifically highlighted as a vulnerable group in the revised Ofsted framework.

**Department for Education**

2. We will pilot a Virtual Head Teacher for Gypsy, Roma and Traveller pupils in a small number of local authorities. Funding will be allocated to each authority for the appointment of a senior dedicated individual to champion the interests of Gypsy, Roma and Traveller pupils across the authority and to monitor and respond to issues of low attainment and attendance.

**Department for Education**

3. To tackle poor attendance at school, we intend to look again at the impact of legislation that under certain circumstances protects mobile Gypsy, Roma and Traveller families from prosecution for their children's non-attendance at school. This will be done in parallel with a review of statutory guidance.

**Department for Education**

4. In response to the unacceptably high levels of exclusion among Gypsy, Roma and Traveller pupils, we will take steps to assess the impact of school-based commissioning, alternative provision and early intervention on the most vulnerable pupil groups.

**Department for Education**

5. The results of an Ofsted survey on prejudiced-based bullying, which will pick up bullying of minority pupils, will be published next year.

**Department for Education**

6. We will collect and publish brief case studies from the highest performing schools for Gypsy, Roma and Traveller pupils to find out from them what lies behind their success.

**Department for Education**

7. We will work with the National Inclusion Health Board, the NHS, local government and others to identify what more must be done to include the needs of Gypsies and Travellers in the commissioning of health services.

**Department of Health**

8. We will explore how health and wellbeing boards can be supported to ensure that the needs of Gypsies and Travellers with the worst health outcomes are better reflected in Joint Strategic Needs Assessments and joint health and wellbeing strategies.

**Department of Health**

9. We will work with the UCL Institute of Health Equity and the Inclusion Health working groups to identify gaps in data and research, and look to identify the specific interventions that produce positive health outcomes.

**Department of Health**

**10.** We will work with the Inclusion Health working groups to identify what more needs to be done to improve maternal health, reduce infant mortality and increase immunisation rates.

**Department of Health**

**11.** We will work with the Inclusion Health Board to embed the Inclusion Health programme in training for all health professionals with the aim of developing a strong, stable and capable workforce, that can drive change and make a difference to the lives and health outcomes of the most vulnerable.

**Department of Health**

**12.** We will help Gypsy and Traveller representative groups showcase small private sites that are well presented and maintained.

**Department for Communities and Local Government**

**13.** The Government will continue to promote improved health outcomes for travellers through the planning system.

**Department for Communities and Local Government**

**14.** We have published a new cross-Government hate crime action plan, setting out our vision and approach for tackling hate crime over the remainder of this Parliament.

**Home Office**

**15.** We will promote better recording of all hate crimes. Helping us to target our work more effectively and help the police to better focus resources.

**Home Office**

**16.** The Association of Chief Police Officers will develop an information pack and self-reporting form specifically tailored for Gypsy and Traveller communities as part of its True Vision Website resource.

**Home Office**

**17.** The Association of Chief Police Officers will issue a refreshed Hate Crime Manual which will include specific guidance for police officers on working effectively with Gypsy and Traveller communities.

**Association of Chief Police Officers**

**18.** We will collect and publish local examples of what works in preventing and tackling hate crime for Community Safety Partnerships.

**Home Office**

**19.** The National Offender Management Service will monitor the population of Gypsies and Travellers in prison and under probation supervision, to ensure access to activities is appropriate and meets the needs of Gypsies and Travellers through their rehabilitation.

**Ministry of Justice**

20. The National Offender Management Service will regularly review the good practice guidance provided to staff on equality and diversity to ensure information and cultural awareness of Gypsy and Traveller culture is incorporated and adequately addresses the needs of Gypsy and Traveller offenders.

**Ministry of Justice**

21. The National Offender Management Service will revise the equalities training provided to new entrant prison officers with an expectation that sessions on race equality will include Gypsy and Traveller issues and awareness.

**Ministry of Justice**

22. The National Offender Management Service will introduce a cluster arrangement of prisons overseen by a Lead Governor who will have greater discretion to commission the offender learning and skills provision required locally to best meet the needs of the offenders they are managing.

**Ministry of Justice**

23. We will provide personalised support to Gypsies and Travellers via the Work Programme and where needed, Gypsies and Travellers will have access to appropriate skills support.

**Department for Work and Pensions**

24. We will include Gypsies and Travellers as a monitoring category in our IT, processing and management information systems with changes being made for the introduction of Universal Credit in 2013.

**Department for Work and Pensions**

25. We will improve internal guidance and staff awareness of Gypsies and Travellers as an ethnic group.

**Department for Work and Pensions**

26. Gypsies and Travellers are now represented on the Department for Work and Pensions' Ethnic Minority Advisory Group.

**Department for Work and Pensions**

27. We will encourage measures to improve financial inclusion for Gypsies and Travellers. The Department for Work and Pensions will continue to work across Government to ensure communities are aware of the services that credit unions offer.

**Department for Communities and Local Government / Department for Work and Pensions**

28. We will promote examples of good engagement between service providers and Gypsies and Traveller and other good practice through the Knowledge Hub website.

**Department for Communities and Local Government**