



Appeal by Thomas Smith (Philip Brown Associates Limited)

**Change of use of land to use as residential caravan site
for 5 gypsy/traveller families, each with two caravans
including no more than one static caravan/mobile home,
together with the laying of hardstanding and erection of
communal amenity building at Spring Lane Nurseries,
Warrington.**

(LPA Ref:2024/00668/FUL)

Statement of Case On Behalf of WBC

Planning Inspectorate Reference:

APP/M0655/W/25/3367247

10 September 2025

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1.0 Introduction

- 1.1** This Statement of Case (SOC) is prepared on behalf of Warrington Borough Council ("The Council") in relation to this appeal. The Statement details the Council's response to the appellant's case against the refusal of planning permission.
- 1.2** The planning application (LPA ref 2024/00668) was registered on 11 December 2024 and refused under delegated powers on 19 March 2025.
- 1.3** An enforcement notice came into effect on 14.8.25 alleging that;
Without planning permission, the material change of use of the land to use as residential caravan site for gypsy/ traveller families, with associated storage, siting of caravans, vehicles, machinery, laying of hardstanding and construction of buildings / sheds.

2.0 The Appeal Site and Planning History

- 2.1** The Council will seek to agree a detailed description of the appeal site and its planning history through the Statement of Common Ground.
- 2.2** The Council will also provide details of the current enforcement notice at the site which took effect on 14.8.25.

3.0 The Proposed Development

- 3.1** The Council evidence will provide a detailed description of the proposed development.
- 3.2** The application was supported by supporting documents that were received by The Council on 24 May 2024, 20 November 2024, 6 December 2024 and 10 December 2024. The full list of documents that form the planning application will be set out in the Statement of Common Ground and are listed on the Council's decision notice.

4.0 Planning Policy Framework

- 4.1 The Warrington Local Plan (LP) was adopted in December 2023 and is the Development Plan in force in the area.
- 4.2 Cheshire East, Cheshire West and Chester, Halton and Warrington published a joint Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA) in 2018.
- 4.3 The Council reserves the right to refer to other relevant existing and emerging policy and guidance.

5.0 The Case for the Local Planning Authority

RFR1 – Green Belt

- 5.1 In respect of the first reason for refusal (RFR1), the Council will show that the appeal proposals are inappropriate development in the Green Belt and are contrary to Local Plan policy GB1 (Green Belt) as well as guidance within the NPPF.
- 5.2 The appellant has not put forward a case for Very Special Circumstances but instead relies on NPPF para 155 and puts forward that the development is Grey Belt and that there is an unmet need for Gypsy Traveller accommodation in the borough.
- 5.3 In relation to need for Gypsy Traveller accommodation in the borough, when the application was determined in March 2025, it was concluded that there was not an unmet requirement in the borough having regard to recent consents granted and the identified need in the 2018 GTAA.
- 5.4 The Council has commissioned a new GTAA (in partnership with 3 neighbouring authorities) and this report is expected to be published early 2026.

- 5.5 The Council acknowledges that the revised GTAA will identify an UpToDate level of need for the borough. This will then allow the Council to identify / assess its 5 year supply of deliverable sites to meet the accommodation needs for Gypsy & Travellers in the borough. The requirement for the borough will not be known until the publication of the new GTAA.
- 5.6 In relation to development in the Green Belt and exceptions to inappropriate development identified within the NPPF, Para 154 g) includes limited infilling or the partial or complete redevelopment of previously developed land (PDL) (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
- 5.7 The site has unauthorized hard standing which is subject of an enforcement notice which came into effect on 14.8.25 and therefore the Council disputes the extent of the site that constitutes PDL and on this basis disagrees that the proposal relates to partial or complete redevelopment of PDL.
- 5.8 Turning to the matter of Grey Belt land the Council does not consider the site meets the definition of Grey Belt land.
- 5.9 Grey belt is defined in the NPPF as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143.
- 5.10 The NPPF definition of 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.
- 5.11 In relation to the assessment of the site in relation to Green Belt purposes

a), b) and d) of para 143 the Council's 2016 Green Belt assessment recognizes that the site does not strongly contribute to any of these three purposes (in relation to parcel assessment CR6).

- 5.12 Areas identified in footnote 7 includes areas at risk of flooding or coastal change and Green Belt.
- 5.13 In relation to footnote 7 and flood risk the Council's position is that there are known risks of flooding affecting the site and therefore the Council considers that the site is excluded from the definition of Grey Belt land due to the known flood risks.
- 5.14 Para 155 sets out that the development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where all the following apply:
- a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
 - b. There is a demonstrable unmet need for the type of development proposed (as qualified by Footnote 56);
 - c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework (as qualified by Footnote 57);
- 5.15 In relation to 155 a) the Council disagrees that the site constitutes Grey Belt land for the reasons set out above.
- 5.16 Notwithstanding the Council's position regarding 155 a), in relation to 155 b) footnote 56 states that in the case of traveller sites [demonstrable unmet need] means the lack of a five year supply of deliverable traveller sites assessed in line with Planning Policy for Traveller sites. As set out at para 5.5, the Council are currently updating the Gypsy Traveller Accommodation Assessment needed to assess this requirement. It is not expected that the new GTAA will be published ahead of the inquiry

however the Council reserve the right to update its position accordingly and will present any updated data to the inquiry when it is available.

- 5.17 In relation to para 155 c) Footnote 57 references the requirement of para 13 of Planning Policy Traveller Sites (PPTS) relating to considerations of ensuring traveller sites are sustainable economically, socially and environmentally.
- 5.18 PPTS para 13 states that LPA policies should ;
- a) promote peaceful and integrated co-existence between the site and the local community;
 - b) promote, in collaboration with commissioners of health services, access to appropriate health services;
 - c) ensure that children can attend school on a regular basis;
 - d) provide a settled base that reduces both the need for long-distance travelling and possible environmental damage caused by unauthorised encampment;
 - e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers.
- 5.19 Due to the site's location the Council are of the view that the site does not comprise a sustainable location and therefore fails to meet the requirement of NPPF paragraph 155 c) having regard footnote 57 (requirements of PPTS para 13 and the requirements of Local Plan policy DEV3) in relation to environmental considerations, transport and access to services. This is in addition to the implications of Footnote 7. These matters are also relevant to RFR2, 3, 4, and RFR5.
- 5.20 The appellant also relies on NPPF para 11 and tilted balance and claims that the presumption in favour of sustainable development is applicable here.
- 5.21 In relation to para 11 NPPF foot note 7 is clear that the tilted balance does

not apply where the application of policies in this Framework that protect areas or assets of particular importance (Footnote 7) provides a strong reason for refusing the development proposed. As set out in relation to the second reason for refusal the appeal site is located in an area of known flood risk.

- 5.22 Furthermore the proposal fails to meet NPPF para 155 criteria and therefore comprises inappropriate development in the Green Belt and requires very special circumstances to be demonstrated. In this regard footnote 7 also references application of policies for land designated as Green Belt whereby the tilted balance does not apply. The consideration of the tilted balance only becomes a matter for consideration IF the proposed development is not inappropriate development in the Green Belt.

RFR2 – Flood risk

- 5.23 It is recognized that since determination of the application the Environment Agency (EA) have amended their flood mapping. In relation to areas at risk from flooding from Rivers and Sea as well as surface water flood mapping. Based upon the latest available surface water flood mapping, a significant part of the site is at high risk of surface water flooding. It should also be noted that several watercourses are located in the vicinity of the site including 2 designated main rivers.

Fluvial Flood Risk

- 5.24 In relation to fluvial flood risk a relatively small part of the site was located within flood zone 3 according to the previous Environment Agency (EA) mapping at the time the application was determined. Following the revision to the EA mapping, the site and wider area has been removed from flood zone 3. It is considered that the Environment Agency's updated flood mapping does not accurately reflect the fluvial

flood risk to the site and this has been confirmed by the EA.

- 5.25 Whilst the mapped fluvial flood risk is considered to represent a potential underestimate and notwithstanding this matter should be considered further in any updated FRA (by engaging with the Environment Agency), the Council acknowledge that the area previously identified as being within FZ3 was so limited that the Council do not consider this requires further investigation as part of the appeal.

Surface Water Flood Risk

- 5.26 The amendments made by EA to their surface water flood mapping since the application was determined now show increased risk to the southern part of the site including the access and amenity building and potentially some of the pitches.
- 5.27 The appellant's Flood Risk Assessment submitted at application stage stated *"The site is primarily located outside of an area shown as being at risk from surface water flooding. The southern fringe of the site is shown as being at "Low Risk" from surface water flooding, with between a 0.1% and 1% chance of flooding in any one year. Even in a 1% event, the depth of flooding would be less than 30cms. Neither the residential accommodation or access driveway would be affected by surface-water flooding."*
- 5.28 Local Plan policy ENV2 Point 8a states that the Council will require development proposals to provide safe and clear access and egress routes in the event of a flood. Having regard to the latest EA mapping, the FRA submitted with the application does not adequately assess the risk from surface water flooding. The Council considers that there is no obvious design solution or mitigation that could be proposed to deal with the type of development and the surface water flood risk in relation to the proposed site layout.

- 5.29 The status of the site in terms of surface water flood risk will be evidenced by the Council having regard to the sensitive end use. It is noted that the appellant has not addressed this reason for refusal in their Statement of Case and simply states that the proposed caravan site is not located within an area shown on the Environment Agency's flood maps as being at high risk from flooding.
- 5.30 Local Plan policy ENV2 (Flood Risk and Water Management) point 5 sets out that the Council will only support development proposals where the risk of flooding has been fully assessed, understood and justified, with the implementation of appropriate mitigation measures where necessary. Point 6 states that a site specific Flood Risk Assessment is required for any development proposals within Flood Zone 1, which has critical drainage problems (as notified to the Local Planning Authority by the Environment Agency); and development proposals or a change of use to a more vulnerable class that might be susceptible to other sources of flooding.
- 5.31 Given the level of risk to the site, the Council maintain that the flood risk assessment provided by the appellant is inadequate and lacks sufficient assessment of risk to enable a determination as to whether the proposed development would be safe from flooding having regard to Local Plan policy ENV2 and the requirements of the NPPF.
- 5.32 The Council consider that a detailed site-specific flood risk assessment is required due to:
- Environment Agency flood mapping showing part of the site is at high risk of surface water flooding.
 - Caravans, mobile homes and park homes intended for permanent residential use being classed as 'highly vulnerable' according to Annex 3: Flood risk vulnerability classification.

Proposed Surface Water Drainage

- 5.33 In respect of drainage of the site itself, the appellant proposes that the primary method of surface water disposal is to be via filter drains / infiltration drainage.
- 5.34 No information appears to have been provided as part of the application documents (or appeal submission) to demonstrate that this is appropriate at the site.
- 5.35 The appellants flood risk assessment explains the proposal for “A 30-metre-long trench, one metre wide and one metre deep, with a gravel porosity of 30% would provide an available storage volume of 9.0m³”
- 5.36 The FRA also states that “*the proposed filter drains would have more than adequate capacity to cope with surface water run-off even during an extreme rainfall event and, would not result in flooding off-site.*”
- 5.37 The Council considers that the key issue for the proposal is whether the ground is suitable for infiltration drainage. On this basis, the Council cannot determine whether the site can be drained adequately by infiltration drainage and further information is required to support the appeal proposal. Without the necessary infiltration testing having been undertaken to confirm that infiltration drainage is an appropriate method of surface water disposal from the site, it is not possible to deal with drainage of the site itself via a condition that requires detailed scheme to be submitted and agreed.
- 5.38 The presence of unauthorized hard standing at the site (as set out in the enforcement notice) is a relevant consideration in relation to the assessment of surface water drainage of the site and the requirements of Local Plan policy ENV2.
- 5.39 The Council maintains that the appeal proposal does not address the

requirements of Local Plan policy ENV2 in relation to flood risk from surface water and in relation to surface water drainage.

RFR 3 - Air Quality

- 5.40 The third reason for refusal (RFR3) relates to air quality, the development will place new residential units close to a major road, the M62, and there are also potential odour impacts from the nearby chicken farm. The Council maintains that a detailed air quality assessment is required for impacts from traffic related emissions and an odour assessment relating to the chicken farm. Local Plan policy ENV8 – Environmental and Amenity Protection, part 5 requires that development proposals for sensitive end uses (including but not limited to residential, schools, nurseries, hospitals) are not desirable where they are located in areas of poor air quality including air quality management areas (AQMAs), unless a suitable assessment, review and identification of mitigation to lessen the effects on future site users is provided. ENV8 states that an air quality assessment will be required where a development may place new sensitive receptors in areas of poor air quality; and/or that may lead to a deterioration in local air quality resulting in unacceptable effects on human health and/or the environment.
- 5.41 The appellant has not made any assessment of traffic impacts in relation to the road and occupiers in close proximity to a motorway and major junction.
- 5.42 The appellant acknowledges potential impacts from odour from the nearby chicken farm but has not sought to address this matter and simply refers to information regarding management of the chicken farm to minimize environmental impacts and reference to a 2001 appeal decision where an Inspector found that those living in rural areas might reasonably expect such odour from time to time. The details of this appeal site are not known but it is noted that the inspector at para 21 of the decision

letter recognises the intervening distances between the egg unit and the nearest houses. This intervening distance/ relationship to appeal site in the 2001 decision may have been notably different to this appeal case at Spring Lane. The appellant's reliance on conclusions in another appeal decision is not a substitute for an air quality assessment that is required in relation to the assessment of this appeal.

- 5.43 In relation to RFR3 the Council will evidence the concerns regarding Air Quality having regard to the requirements of policy ENV8 as well as DEV3 in relation living conditions and amenity of future occupiers of the appeal site.

RFR4 - Noise

- 5.44 In relation to RFR4 the appellant has submitted new supporting information in the form of Noise Assessment by LF Acoustics dated May 2025. The noise report submitted reports and concludes that an acceptable level of amenity will be provided for the future occupiers of the site. The Council does not agree with this conclusion and will respond in detail to the new evidence submitted.
- 5.45 The acoustic report indicates that screening bunds (paragraph 3.6) would be constructed along the western and eastern boundaries of the site in order to reduce noise levels across the site. The appeal submission however does not include details of the height of these bunds - so depending what height was assumed within the model vs what the appellant might intend to propose is not clear. The location of the site next to the elevated motorway also makes the effectiveness of any such mitigation unclear (notwithstanding the lack of detail).
- 5.46 The Council maintains that the appellant has not demonstrated that the proposal would provide an acceptable and/ or safe habitable environment for the intended occupiers of the site. The Council will consider living

conditions and amenity on site generally and the lack of adequate or practical mitigation for the mobile homes proposed as well as the amenity building and amenity areas. The Council's case is that the proposal conflicts with Local Plan policies ENV8 and DEV3.

RFR5 – Sustainability

- 5.47 RFR5 relates to the sustainability of the site. Local Plan policy DC1 requires that within the countryside and settlements, appropriate and sustainable development will be directed to the settlements on varying scales reflecting existing services and infrastructure. Policy DEV3 requires that Gypsy traveller sites either are or can be made accessible to key local services such as primary schools, GPs, shops and other community facilities.
- 5.48 The Council contend that the site's location is not sustainable having regard to the proximity to the nearest settlement, Croft and the ease of accessing services having regard to Local Plan Policy DEV3.
- 5.49 The location of the site on Spring Lane and access to public transport having regard to lack of footpaths or streetlighting create adverse conditions for pedestrians and likely reliance upon car journeys.
- 5.50 The appellant states that the site residents would be in a similar position to the many other families living in this rural area and, even if primarily reliant on the private car, car trips would be relatively short in both length and duration. This is not considered to address the Council's concerns that the site has inadequate pedestrian access and streetlighting which makes the site significantly less sustainable and fails to comply with Local Plan policies.
- 5.51 Environmental considerations relating to impact upon the health, safety or general wellbeing of residents is also a material consideration in terms

of the assessment of the sustainability of the site having regard to Local Plan policy DEV 3 a) and b) and reasons for refusal 2, 3, and 4.

RFR6 – BNG

- 5.52 Gypsy and Traveller developments are not excluded from the statutory requirement to provide a Biodiversity Net Gain (BNG) under 7A of the Town and Country Planning Act 1990.
- 5.53 A Preliminary Ecological Appraisal was submitted with the application which stated that a biodiversity net gain (BNG) would be required for the proposal however no detail as to how BNG could be provided was submitted with the application. This factor carries significant weight as it is a legislative requirement.
- 5.54 The appellant claimed an exemption as a self build development at application stage however, no mechanism has been put forward to demonstrate the self build status of the applicant and there is no evidence to suggest that the applicants were intimately involved in the design of the proposal.
- 5.55 The definition of self build is contained within A (1) and A (2) of the Self Build and Custom Housing Act 2015. The Act at A (1) states that “self-build and custom housebuilding” means the building or completion by— (a) individuals, (b) associations of individuals, or (c) persons working with or for individuals or associations of individuals, of houses to be occupied as homes by those individuals. It continues at (A2) to state that it does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person.
- 5.56 The Council does not consider the site is or can be secured as self-build based on the information provided and maintains that there is a statutory

requirement for BNG delivery that has not been addressed as well as requirement of Local Plan policy DC4.

- 5.57 The Council considers the requirement to comply with the statutory biodiversity condition must be established at the time of granting planning permission allowing for any monitoring of BNG to also be put into place via planning condition or legal agreement.
- 5.58 Having regard to the enforcement notice that has been served, the unauthorized status of the existing hardstanding at the site is relevant to the consideration of BNG and the pre development metric.
- 5.59 It is noted that the appellant has not addressed the statutory requirement for BNG in their appeal statement of case.

6.0 Conclusions

- 6.1** The Council remains of the firm view that the development proposed is inappropriate development in the Green Belt resulting in harm by reason of inappropriateness and harm to openness. Very special circumstances have not been demonstrated.
- 6.2** Insufficient information is available at this time to permit assessment of the scheme, in relation to flood risk from surface water and surface water drainage of the site, noise, air quality and biodiversity net gain and consequently the Council cannot assess and identify any required mitigation. Without such assessment, the Council cannot confirm that the potential impacts of the appeal proposal on the safety, amenity and living conditions of future occupiers and in relation to BNG can be addressed having regard to adopted Development Plan policies, the National Planning Policy Framework and the requirements of Schedule 7A of the Town and Country Planning Act 1990.
- 6.3** Furthermore the site is considered to be in an unsustainable location and the proposed development conflicts with Local Plan policies DC1 and DEV3.