Appeal Decision

Inquiry opened on 27 October 2009
Site visit made on 29 October 2009

by Clive Hughes **BA (Hons) MA DMS MRTPI**

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

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Decision date: 30/11/2009

Appeal Ref: APP/Q3630/A/09/2105638
Land off A319, Willow Farm, Ottershaw, Surrey KT16

- 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 Mrs Kelly Rooney against the decision of Runnymede Borough Council.
- The application Ref RU.08/1220, dated 6 November 2008, was refused by notice dated 23 April 2009.
- The development proposed is change of use to include the stationing of caravans for 4 no. family Gypsy pitches with utility/day-room building and hard-standing ancillary to that use.
- The inquiry sat for 4 days on 27 to 30 October 2009.

Decision

1. I dismiss the appeal.

Procedural matters

2. By letter dated 16 September 2009 the Council stated that it was not pursuing reasons for refusal Nos 3 and 6 relating to prematurity and infrastructure contributions respectively.

3. There is an error in the Council's decision notice in that the first reason for refusal refers to Policy GB6 of the *Runnymede Borough Local Plan Second Alteration April 2001*. This is corrected in the *Statement of Common Ground* (SoCG) and I am satisfied that the appellant was not prejudiced by this error.

Background

4. The appeal site (0.45ha) is situated on the northern side of Chobham Road (A319) to the west of Ottershaw. The site is roughly rectangular and slopes uphill from the south eastern corner. There is a vehicular access along the eastern boundary and a large area of hardstanding at the top of the site which runs along the northern boundary and is being extended into the site. There is an agricultural building, now used for domestic storage, adjacent to the northern boundary and the concrete oversite for a second agricultural building. Adjacent to the site of this second building is a substantial lean-to structure that lies between a mobile home and the boundary with South Lodge. The ground level of much of the site appears to have been raised by the deposit of hardcore and further areas of hard surfacing. At the time of my visit the site was occupied by four mobile homes, three touring caravans and several sheds.

5. The site is occupied by Kelly Rooney and her children; Rosemary Rooney and her children; Margaret Rooney and her children; and Eileen and Martin Rooney.

It is not disputed that the appellants comply with the definition of Gypsies and Travellers as set out in ODPM Circular 01/2006 *Planning for Gypsy and Traveller Caravan Sites*. Based upon the written and oral evidence to the Inquiry I agree with that assessment. Kelly Rooney moved onto the site in 2003; Margaret Kelly moved on about a year or so later. The other residents moved to the site about a year ago, following an unsuccessful appeal against the refusal of planning permission in respect of a site about 500m to the west, in Surrey Heath Borough, known as Field 8594 Chertsey Road (2029048).

6. The site has a long planning history. The main points are that there is a Tree Preservation Order (TPO) dating from 1952 covering a belt of trees along the northern side of Chobham Road. In 1970 the Secretary of State confirmed a direction under Article 4 removing permitted development rights in respect of means of enclosure and agricultural and forestry buildings. The authorised use of the site appears to be livestock farming. There were three planning permissions in 1997 which involved the demolition of existing pig sties, the erection of sheds and the construction of a new access.

7. Following site visits in February and March 2003 the Council issued an Enforcement Notice (EN) on 24 March 2003 requiring the removal of hardcore and the reinstatement of the land. A Stop Notice, which took effect on 28 March 2003, required the cessation of the laying of hardcore. On 4 April 2003 an interim Injunction was granted by the High Court to prevent further laying of hardcore and to prevent the increase in the number of caravans from 6. A further EN was issued on 25 April 2005 requiring the cessation of the use of the land for the stationing of caravans and the removal of all caravans, equipment and services connected with or ancillary to the stationing and residential occupation of the caravans. Following a Public Inquiry, appeals against the ENs were dismissed by the Secretary of State by letter dated 22 April 2004. It is not disputed that circumstances, and in particular the policy context in respect of accommodation for Gypsies and Travellers, have changed very significantly since that date. Of the residents currently living on the site, only Kelly Rooney and her two older children were living on the site at the time of that Inquiry.

8. According to the Council's witness, and supported by aerial photographs, the number of caravans on the site has subsequently varied with a maximum of 10 in November 2005. The Council's Planning Committee has resolved to take direct action but this has not been actioned. In September this year the High Court granted a Consent Order that, amongst other things, provided that an Injunction dated 13 June 2005 be stayed pending the final outcome of the current planning application/ appeal. Notwithstanding the EN, the Stop Notice and the Council's actions through the Courts, it is acknowledged that the amount of hardcore and hard surfacing has increased. While the precise extent of the hardstanding authorised by the 1997 planning permissions is not known, it is clear from aerial photography and my observations on site that additional land raising and depositing of hardcore has taken place during 2009.

Main issues

9. It is agreed that the development constitutes inappropriate development in the Green Belt. The main issues are the effect of the development on (i) the character and appearance of the area; (ii) the openness of the Green Belt; (iii) the purposes of including land within the Green Belt; (iv) highway safety in the

vicinity of the appeal site; (v) whether the site is safe for human habitation with particular regard to migrating gasses; (vi) the effect of the development, on its own or in combination with other development, on the Thames Basin Heaths Special Protection Area (TBHSPA); and (vii) whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Effect on the character and appearance of the area

10. The appeal site is located in a prominent position adjacent to Chobham Road. This is a fairly busy road linking Ottershaw and Chobham. The development now on the site is clearly visible from the road as it is on made up rising land and is, in places, close to the road. It is partly screened by trees but mobile homes, caravans, vehicles, hardcore and sheds can be seen from the road and the footway. To the west lies South Lodge, a detached house with an extensive garden and a close boarded fence to the road. To the north and east is woodland. There is further woodland on the southern side of the road, with the residential development of Ottershaw Park being sited behind, and largely screened by, the woodland that fronts the road.

11. The character of the immediate area, and especially between the appeal site and Ottershaw, is predominantly rural with a gently undulating landscape largely dominated by deciduous woodland. Further west along Chobham Road, and where the name changes to Chertsey Road, the trees thin out with fields and a small airfield. In the gap between Ottershaw and Chobham there are a number of scattered houses and the occasional residential enclave, such as Ottershaw Park and Home Farm Close. However, the character is essentially rural. The development that has taken place on the appeal site has been severely harmful to that rural character. It has had an urbanising effect resulting from, amongst other things, the very extensive areas of hardstanding; the raising of the ground level by depositing hardcore; the siting of mobile homes and other structures; parking; external lighting; and fencing.

12. Notwithstanding the fact that the site is, in effect, a clearing within the woodland, I consider that the previous authorised use, for livestock farming, would have been in keeping with the rural character of the area. The buildings were directly related to the authorised agricultural use and were set well back from the road. In contrast, the development now proposed involves a residential use that would be seriously at odds with the character of this predominantly rural area.

13. In terms of its appearance, the development would be seen from the road and its footway. The site has a long road frontage and the road is fairly busy. The proposed site layout involves the retention of the existing access. The mobile homes, utility/day rooms, touring caravans and vehicle parking would be sited in the rear half of the site, behind new landscaping and a retention structure to allow for the change in ground levels. This development would therefore be on the highest part of the site. The close boarded fence to the north would be retained and while the agricultural building would be removed, the overall increase in the number and spread of structures on the site would be harmful

to the appearance of the area. The proposals would extend closer to the road than the agricultural buildings. However, the visual impact would be limited to some extent by the proposed landscaping and it would be localised. The precise visual impact of the proposals is difficult to ascertain as no details of the finished levels or the retention structure have been submitted, but based upon the submitted plans and my observations on and around the site, I have no doubt that it would be harmful to the appearance of the area.

14. Nearby residents have expressed concerns that the hardcore and hard surfacing is harming, or killing, the trees on and adjoining the site. Those on the site frontage are subject to the TPO. No arboricultural evidence was submitted with the application or at the appeal, but it seemed to me at the site visit that the extent of the deposited materials is now dangerously close to the likely root systems of some trees. There is an extant EN requiring the removal of the hardcore and any planning permission could be subject to a condition setting out a timescale for its removal.

15. With regard to the effect on the visual amenities of the Green Belt, the advice in Planning Policy Guidance 2: *Green Belts* (PPG2) is that the visual amenities should not be injured by proposals within the Green Belt. The development as proposed would result in significant harm to the character of the area and in some localised harm to the appearance of the area.

Effect on the Green Belt

16. The SoCG states that the development is inappropriate development in the Green Belt. The appellant acknowledges that the proposed development also results in some harm to the Green Belt by reason of the loss of openness, the encroachment into the countryside, and due to the coalescence of settlements. Concerning inappropriateness, paragraph 3.2 of PPG2 advises that this is, by definition, harmful to the Green Belt and that this harm carries substantial weight. Policy SP5 of the *South East Plan* 2009 and Policy GB1 of the Local Plan broadly reiterate the general presumption against inappropriate development in the Green Belt.

17. Concerning openness it is not in dispute that the development would result in a loss of openness. Paragraph 1.4 of PPG2 advises that openness is the most important attribute of Green Belts. In this case the fact that the remaining agricultural building would be removed would reduce the overall harm in this regard. The development would also involve removal of a substantial amount of hardcore that has been placed on the site. However, this removal of the hardcore is already required by an extant EN so I am unable to give this any weight in the appellant's favour. Overall, taking account of the totality of the development proposed including the fencing and retaining structure and the scale of the buildings to be removed, there would undoubtedly be a significant loss of openness to the Green Belt.

18. Paragraph 1.5 of PPG2 sets out the five purposes of including land in the Green Belt. The development clearly encroaches into the countryside. It would also make a limited contribution towards the coalescence of the settlements of Ottershaw and Chobham.

19. I conclude on this issue that the development is contrary to advice in PPG2 and to policies in the development plan. The development is inappropriate

development in the Green Belt to which I must give substantial weight. The development also reduces the openness of the Green Belt and conflicts with two of the purposes of including land within the Green Belt. These factors carry considerable weight.

Effect on highway safety

20. The relevant reason for refusal refers to the increase in turning movements on the A319 and to the restricted visibility in both directions from the existing access. During the Inquiry the highway witnesses produced a SoCG on Highway Matters which included agreement on the traffic flows associated with the previous agricultural use. This is agreed to be some 8-12 movements per day, which are the same as the figures considered by the previous Inspector and the Secretary of State in the 2004 appeals. The parties did not agree the likely traffic generation from the proposed development; the appellant put the figure at 16 movements per day plus occasional visits while the Council considered 24-32 movements per day to be more appropriate.

21. The Council's figures are based upon TRICS data for 2-bed houses (6-8 movements per household per day) but I am not convinced that this is a fair comparison as it does not take full account of the personal circumstances of the site residents or the tendency for car sharing and travel amongst Gypsies and Travellers. At present only two of the site occupiers have cars although a third occupier normally owns a car. The fact that some site residents are likely to be away travelling for parts of the year also needs to be taken into account. None of the residents is currently in employment; the only adult male living on the site is 76 years old and has retired. In these circumstances I consider that a figure of around 20 movements per day (16 movements plus visits) seems reasonable. This would, at worst, represent an increase of only 12 vehicle movements per day. Paragraph 66 of ODPM Circular 01/2006 says that proposals should not be rejected if they would only give rise to modest additional daily movements. I consider the maximum likely figure of 12 additional daily movements is modest. Provided adequate visibility can be achieved, the additional use of the access is therefore acceptable.

22. Concerning visibility, the SoCG and its accompanying diagram (Document 8) agrees an X distance of 2.4m. The existing Y distance to the right (when leaving the site) is agreed to be acceptable. The only disagreement between the parties concerns the length and position of the Y distance to the left. This disagreement arises from the different standards that each party has used, the Council relying on the *Design Manual for Roads and Bridges* (DMRB) and the appellant relying on *Manual for Streets* (MfS).

23. The County Council, as Highway Authority, has produced a list of attributes which, if a road possesses any of them, means that it will normally fall outside the scope of MfS. The A319 at the appeal site possesses several of these attributes and so the County Council considers that DMRB is appropriate. However, this list of attributes is an internal document and so does not constitute policy. It has not been through any external consultation process and so I am unable to give it any weight. MfS says that it focuses on lightly trafficked residential streets but that many of its key principles may be applicable to other types of street. It cites as examples high streets and lightly trafficked lanes in rural areas, neither of which is applicable here. It goes on to

say that it is the responsibility of users of MfS to ensure that its application to the design of streets not specifically covered is appropriate. It also says that the design requirements for trunk roads are set out in DMRB. It is clear, therefore, that neither of the cited standards is stated to be directly applicable for a busy Class A road in a rural area. Given the use of the phrases "may be applicable" and "responsibility of users" in the documents, I conclude that either standard may be used in this situation.

24. In deciding which standard is the more appropriate I have given great weight to the accident record for this stretch of road. While none of the accidents relate to the use of this access, the section of the A319 shown on the plan produced by the Council at Appendix HA9 (and as amended by the SoCG) indicates 15 accidents in the last 5 years (2003-2008) including a cluster of 6 accidents (or possibly 7 depending upon the location of accident 10) at the junction of the A319 and the access to Ottershaw Park. Two of the accidents have resulted in fatalities. There have been no other fatalities on Chobham Road/Chertsey Road. I have taken account of the improved surfacing materials which have been provided at the corners to the east and west of the appeal site and noted that this surfacing does not extend as far as the appeal site entrance. Overall, this seems to me to be a poor accident record.

25. In these circumstances I consider it prudent to adopt a precautionary approach and to use the more onerous sight line requirements set out in DMRB. This standard would require a Y distance of 144m which the Council requires to be 1m out from the nearside edge; that is to say it should relate to the visibility of a driver on the "wrong" side of the road carrying out an overtaking or passing manoeuvre. Using the full extent of the verge, which is assumed by the appellant (but not the Council) to be highway land based upon the map provided by the County Council, the achievable Y distance would be only 8.5m short of that sought by the Council. The Council conceded that this would be acceptable. In these circumstances, I consider that it would be reasonable to impose a condition requiring the maximum Y distance to the left that can be achieved using the full width of the verge. As acceptable sight lines can be provided either side of the access, even using the more onerous DMRB standard, the development would accord with Policy MV4 of the Local Plan.

Whether the site is safe for human habitation

26. The appellants carried out a contaminated land survey before the Inquiry opened. The *Statement of Common Ground Regarding Potential Land Contamination* was submitted during the Inquiry. It says that the parties now agree that, subject to suitable precautionary conditions, it is possible to ensure that the site is safe for human habitation. In these circumstances I consider that an appropriate condition could be imposed to overcome this reason for refusal and accord with PPS23: *Planning and Pollution Control*.

Effect on the TBHSPA

27. The site lies within a 5.2km travel distance of Cobham Common and the TBHSPA. The Council has approved an Interim Supplementary Planning Guidance (2008) (SPG) which includes various measures to help avoid the impact of residential development on the TBHSPA. In short, applicants for development that involves additional residential units within the specified area

can either contribute towards the use and improvement of Council-owned Suitable Alternative Natural Green Spaces (SANGS) or they can provide their own SANGS. If contributing towards Council-owned SANGS, the financial contribution sought by the Council is £2000 per unit.

28. In this case the appellants put forward a bond of £8000 (£2000 for each of the proposed 4 pitches) which was paid to the Council at the Inquiry. This bond was subject to a document, undated but signed by Counsel for the Council and the appellant, to the effect that if either the Inspector or the Council find that the correct sum should be less, then the amount overpaid would be repayable to the appellant's representative. If the appeal is dismissed it would be repaid in full. My understanding of this bond is that if a permanent permission was granted, then the bond would be payable in full. If a personal or temporary permission was granted then possibly a lesser amount should be paid, although the Council argued that the SPG makes no provision for a lesser amount.

29. During the Inquiry, the appellant questioned the calculations for contributions towards SANGS as set out in the SPG. In particular, the appellant took exception to the Council including within its requirements a financial contribution to recognise the value unlocked by allowing a development to proceed. As a direct result of this reluctance to pay the full £2000 per unit as specified in the SPG, the Council sought to withdraw its offer to provide the necessary land, thereby putting the onus on the appellant to provide alternative land for SANGS.

30. I consider that there is a clear choice for potential developers; either to provide SANGS themselves or to make a financial contribution towards the Council-owned SANGS. In this case the bond was paid at the full rate of £2000 per unit; its payment was duly acknowledged in the (undated) document signed by the respective Counsel. I am not aware of any reason as to why the Council cannot seek a financial contribution to recognise the enhanced value of the land on which development could proceed; there is, after all, the option for developers to provide their own land for SANGS. In this case the bond has been paid and I am satisfied that the sum accords with the Council's requirement as set out in the SPG.

31. I have some reservations, however, about the quantum of the sum sought by the Council. The calculations set out in Appendix F of the SPG are based upon differential site values for conventional housing. There is no evidence before me to show that these calculations or values are equally applicable to accommodation for Gypsies and Travellers. Notwithstanding these reservations, which could be overcome by requiring some of the bond to be repaid in accordance with the signed statement, I am satisfied that the payment of this bond overcomes the Council's final reason for refusal. It would sufficiently mitigate the effect of the development on the TBHSPA to enable the development to proceed. In the event that permission is refused, of course, the bond is repayable in full.

Other material considerations

32. The other material considerations advanced by the appellant included the need for sites for Gypsies and Travellers; the individual needs of the appellant and her extended family; the lack of suitable available, affordable, alternative sites;

the absence of any development plan policy concerning Gypsy and Traveller accommodation; the likely outcome of refusing permission taking account of the extant EN; education and health considerations; the likely timescale before any sites become available through the DPD process; and Human Rights. Apart from the personal circumstances, these matters are broadly similar to those recently considered in respect of an appeal in the Green Belt at Red Cottage, Lyne Road, Virginia Water where permanent planning permission was granted for 6 pitches in October 2009 (2097459).

The need for sites

33. It is not disputed that there is an identified need for additional Gypsy and Traveller pitches. That need is local, county-wide and regional. The North Surrey GTAA allocates 20 pitches to Runnymede for the period 2007-2012. The figure is arrived at by apportioning the participating districts' respective share of the identified need; it does not represent the actual need arising in the Borough. The GTAA recognises that the figures undercount roadside caravans. The Partial Review of the RSS indicates a requirement for the Council to provide 10 pitches in the period 2006-2016; this figure is also achieved on an apportionment basis. The Council drew attention to two instances of changed circumstances since the Red House Inquiry. Firstly, the permission on that site has increased the number of authorised pitches in the Borough and reduced the number of unauthorised encampments. Secondly, the Council also sought to argue that another site, identified at the previous Inquiry as being an unauthorised site, was no longer being counted as it was not clear whether it was being occupied by Gypsies or Travellers. However, no evidence to support this contention was submitted. In any event, this site has little impact on the overall number of unauthorised encampments in the Borough.

34. It is not contested that there are no known sites that are suitable, available, affordable and appropriate in the Borough, County or Region. While the appellant has made no attempt to search for alternative sites, given the known lack of site availability and the lack of any specific Gypsy and Traveller policies in the development plan against which sites in the Borough could be assessed, I do not consider this to be significant. I have also taken account of the fact that the appellant is not on a waiting list for a site in the Borough. However, the Council's sites are full and have, on average, only one vacancy per year. There is an existing waiting list of 12, so it would be likely to be around 13 to 16 years before all four of the appellant families could be accommodated on Council-run sites. In these circumstances I do not consider it surprising that they are not on a waiting list.

35. The bi-annual count of unauthorised encampments in the Borough gives figures of 47 not tolerated and 2 tolerated caravans on unauthorised sites (January 2009). In the Council's proof of evidence, five unauthorised sites are listed with a total of 42 pitches, including those at Red Cottage (6 pitches) and on this site (4 pitches). The Council acknowledges that it has no 5-year supply of deliverable sites for Gypsies and Travellers, although there is a 5-year supply for the settled population as required by PPS3: *Housing*.

36. Notwithstanding the reduction in the number of unauthorised pitches in the Borough due to the Red Cottage decision, I consider that the number of unauthorised caravans still indicates a significant level of need. In addition,

due to the omissions from the GTAA, there is likely to be a hidden need arising from overcrowding and from Gypsies and Travellers living in bricks and mortar who would prefer to live in caravans. The bi-annual count figure is noticeably higher than the average figures set out in the GTAA which covered the period 2002-2005. I also consider this need to be immediate as there are no known alternative sites. There is no realistic prospect of sites becoming available through the DPD process in the foreseeable future as the DPD is not expected to be adopted until 2012 (in the Red Cottage appeal the date was given as 2013). It will take some further time until any identified sites have the benefit of planning permission. Realistically it appears that it will be at least 4 years before sites become available for occupation. In the meantime the need for sites remains unmet. This weighs heavily in favour of the appellant.

The accommodation needs of the appellant, her extended family, and their personal circumstances

37. The appellant group are all related although they have not all travelled together as a group. Two of the four families have only lived on the appeal site for about a year. The site was first occupied for residential purposes in 2003 but only Kelly Rooney has lived on site continuously since then. Margaret Rooney moved on in about 2004 or 2005; she is not mentioned in the Inspector's Report of February 2004. Uncontested evidence from the Council is that there have been various different occupiers of the site over the past 6 years, with a maximum number of about 10 families. Kelly Rooney was unable to say where the other families who contested the 2004 appeals or those who have subsequently occupied the site now live; she thought that some were in France or Germany.

38. Kelly Rooney is a Romany Gypsy while her husband, from whom she is separated, is an Irish Traveller. In Gypsy and Traveller circles this is an unusual situation which would make it difficult for her or her children to settle on a Council-run site. Her husband, Danny, is the son of Martin and Eileen Rooney and brother to Rosemary Rooney who all now live on the appeal site. She moved to the site from the Reading area where she had travelled. She has 4 children living with her on the site. The eldest attends the secondary school in Addlestone while the middle two attend the C of E Junior School in Ottershaw. The youngest will start at the Ottershaw C of E Infants School in March. Concerning health, Kelly suffers from various illnesses as set out in the evidence while three of the children have asthma. The family is registered at the Ottershaw Surgery.

39. Margaret Rooney is also separated from her husband. She had previously lived for about 18 months in a house in Addlestone but this had not worked out as it was contrary to her way of life. Before that she had also travelled in the Reading area. She was diagnosed with a serious illness in March 2009 and has undergone 6 months of intensive treatment and will need further treatment. She also suffers from asthma. One of the four children who live with her is epileptic and is going to be home tutored. The youngest two children attend Ottershaw C of E Junior School; they have attended this school for about 2 years. The family is registered with a doctor in Addlestone.

40. Rosemary Rooney produced a witness statement. She moved to the site about a year ago and now lives there with her 5 children. They moved to the site

with her parents, Eileen and Martin Rooney, from a nearby site following a dismissed appeal. Kelly and Margaret Rooney are Rosemary's sisters-in-law. Concerning education, her eldest son is due to start at Jubilee High School, Addlestone. He needs extra help at school. Her elder daughter attends Ottershaw C of E Junior School and has speech therapy. The other three children are too young to attend school. Her elder daughter was born with a heart problem and has problems with her eyes that may require surgery.

41. Martin Rooney produced a witness statement on behalf of himself and his wife, Eileen, who are both in their 70s. They moved to the site with Rosemary. Eileen has various illnesses and will soon require some surgery. Martin has mobility problems. They are registered with a doctor in Ottershaw.

42. Concerning education there are 8 children of school age living on the site and 4 more under school age. I acknowledge that continuity of education is desirable and difficult to achieve from a roadside lifestyle. However, there is no evidence to show that there is anything being provided by their schools that could not be provided by other schools or that the children could not attend different schools. I give the education needs of the children only limited weight.

43. Concerning health, many of the cited problems are relatively common amongst both the settled and travelling communities and carry limited weight. However, the poor health of Margaret Rooney is a consideration that carries significant weight. The fact that all the families are registered with local doctors is also a material consideration that carries some weight as there are many benefits of access to health care.

44. With regard to the family considerations I give these only limited weight. While there is undoubtedly mutual support between the family members, they have not lived together as a group for very long. All the residents apart from Kelly Rooney and her two older children have moved onto the site since the appeals against the ENs were dismissed and the evidence of Kelly Rooney was that various other site residents have come and gone over the years.

Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations

45. Paragraph 3.1 of PPG2 sets out the general presumption against inappropriate development in the Green Belt and says that such development should not be approved, except in very special circumstances. Paragraph 3.2 says that inappropriate development is, by definition, harmful to the Green Belt and that it is for the appellant to show why permission should be granted. It further says that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

46. In this case there is harm arising from inappropriateness to which I must attach substantial weight. In addition there is considerable harm to the openness of the Green Belt. There is further harm arising from conflict with two of the purposes of including land within the Green Belt as identified in PPG2. There is also substantial harm to both the character and appearance of the area. Taken together this amounts to very severe harm.

47. Against this harm it is necessary to weigh the various other considerations advanced by the appellants. In particular there is the significant need for additional Gypsy and Traveller sites. This need is local, county-level and regional. The GTAA and the bi-annual counts demonstrate that there is a significant difference between the level of site provision and the demand for sites in Runnymede and the wider area. I attach considerable weight to this need. It is not disputed that there are no suitable alternative sites in the area that are affordable and available; there is no evidence to suggest that any will become available until after the DPD has been adopted and acted upon. This is likely to be at least 4 years. In the meantime there is no 5-year supply of deliverable sites.

48. I give weight to the probability that a refusal of permission will result in the appellant and the other site residents having to leave the site. In the absence of alternatives it is possible that they would have to resort to roadside camping. There is no detailed evidence as to the whereabouts of the other residents who have left the site over the years. Any roadside camping would be likely to result in serious harm to their quality of life. As most of the Borough is either urban, and thus not likely to be affordable, or in the Green Belt, roadside camping would be likely to cause some harm to the Green Belt. It would also have the potential to be harmful to the appearance of the countryside.

49. I give substantial weight to the health needs of one of the residents, Margaret Rooney, but only limited weight to the health needs of the other residents, which are not unusual or especially serious. I give some weight to the education needs of the various children living on the site as continuity of education is important and difficult to achieve from a roadside existence. This weight is limited, however, as these education needs could be met elsewhere. Other material considerations in the appellants' favour include the lack of any development plan policies against which any potential alternative sites that may become available can be assessed and the extent of the Green Belt.

50. As set out above, dismissal of this appeal is likely to mean that the appellant, her family and the other site occupiers would have to vacate this site. This may result in unauthorised camping. This would undoubtedly represent an interference with their rights under Article 8 of the *European Convention on Human Rights* (right to respect for private and family life). However, this interference must be weighed against the wider public interest. For the reasons given above, I have found that the proposals would be severely harmful to the Green Belt and to both the character and the appearance of the area. I do not consider that this harm can be overcome by the use of conditions or sufficiently lessened by granting a temporary planning permission. I am satisfied that this legitimate aim can only be adequately safeguarded by the refusal of permission. On balance I consider that the dismissal of this appeal would not have a disproportionate effect on the appellant, her family or the other site occupiers.

Do very special circumstances exist?

51. For the reasons set out above, my overall conclusions are that the material considerations advanced in support of the development do not clearly outweigh the substantial harm that would arise in terms of the effect upon the Green

Belt and on the character and the appearance of the area. I conclude, therefore, that the other material considerations do not amount to the very special circumstances necessary to justify the development.

Temporary planning permission

52. I have given consideration to the transitional arrangements as set out in paragraphs 41-46 of ODPM Circular 01/2006 and so have considered granting temporary planning permission. In this case there is an unmet need, no alternative sites and a reasonable expectation that sites will become available in the foreseeable future. I have therefore given substantial weigh to the unmet need. I have also taken account of the fact that the harm to the Green Belt and the character and appearance of the area would be less that would be the case with a permanent permission. However, I conclude that the harm would still be so severe that it would not be outweighed by these additional considerations. I do not consider that a temporary permission would outweigh the overriding planning objections to this development and so it would not be appropriate to grant temporary planning permission.

Conclusions

53. I have taken into account all the various other decisions and judgements that were put forward. I have also had particular regard to the recent planning appeal decision at Red Cottage that was referred to extensively at the Inquiry. I consider that the circumstances of this case differ materially from the Red Cottage site. There are significant and material differences concerning the impact on the Green Belt, the impact on both the character and appearance of the area, and in the personal circumstances of the respective appellants. In both cases the decisions have been the result of a balance between the conflict with policy and the other material considerations. In this case I conclude that the identified harm is not clearly outweighed by the other material considerations. I have also had regard to the fall back position. If permission is refused the use of the site could revert to an intensive agricultural use. I do not consider that such a use would be harmful in this rural area. I dismiss the appeal.

Clive Hughes

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

David Lintott of Counsel	Instructed by the Borough Solicitor
He called	
Mrs Gillian Britton-Williams DipTP MRTPI	Senior Planning Officer, Development Control Section, Runnymede Borough Council
Mrs Kerry James BA (Hons) DipTP MRTPI	Senior Transportation Development Control Officer, Surrey County Council
Mrs Christine Kelso BA(Hons) MRTPI	Team Leader, Development Control Section, Runnymede Borough Council

FOR THE APPELLANT:

Alan Masters of Counsel	Instructed by Green Planning Solutions
He called	
Jeremy Hurlstone BSc (Hons) MIHT CMILT	Managing Director, The Hurlstone Partnership
Matthew Green	Partner, Green Planning Solutions LLP
Kelly Rooney	Appellant
Margaret Rooney	Site resident

INTERESTED PERSONS:

Nigel Eastment	Local resident; on behalf of the management committee of the Ottershaw Park Estate Company Limited
John Knights	Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

1 Extract from Transportation Professional (April 2008): letter from Alan Young
2 MfS v DMRB; part of presentation by Alan Young (January 2009)
3 Figure JPH-1; potential visibility splay within highway boundary
4 Figures 4.6 and 4.7 from PICADY users manual
5 Statement of Common Ground
6 Letter dated 2 September 2009 from The Royal Surrey County Hospital and medical details concerning Mrs Margaret Rooney
7 Statement of Common Ground on highway matters with appendix
8 Visibility splays; achievable and sought
9 Statement by Nigel Eastment on behalf of the management committee of the Ottershaw Park Estate Company Limited
10 Statement of Common Ground regarding potential land contamination
11 Extract from TD 41/95 – Geometric Standards for Direct Access p2/1
12 Extract from Manual for Streets p90
13 Figure JPH-1 with tree positions added
14 Letter from Mr and Mrs P Hunt objecting to the development
15 Plan of Queenwood produced by Mr Knights
16 Extracts from TA 22/81 – pp4/1, 5/1
17 Extract from the COBRA Manual – p 5/1
18 Appeal decision APP/H1840/A/06/2006597 – The Mobile Home, Wood Norton, Evesham

19 Appeal and costs decisions APP/F2415/A/08/2064426 – Land and buildings at Mere Farm, Mere Road, Lutterworth
20 Signed witness statement of Kelly Rooney
21 Signed witness statement of Margaret Rooney
22 Signed witness statement of Rosemary Rooney
23 Bond acknowledgment signed by Counsel for Appellants and Council
24 Extract from Runnymede Borough Local Plan – Policy NE10 p.60
25 Extract from The Green Belts DoE 1988 p.22
26 Letter dated 29 October 2009 from Peter Sims
27 Email dated 30 October 2009 from Jo Clarke, Natural England
28 *FSS & Another v Robert Simmons [2005] EWCA Civ 1295*
29 *South Cambridgeshire DC v SoS Communities and Local Government & Archie Brown & Julie Brown [2008] EWCA Civ 1010*

PLANS
A Drawing No 07_150_001 – Location plan
B Drawing No 07_150_002_A – Existing lawful site (as understood)
C Drawing No 07_150_003_A – Planning
D Drawing No 07_150_004 – Utility/day room; indicative layout & elevation