



Department for
Communities and
Local Government

Ms Alison Heine
10 Whitehall Drive,
Hartford,
Northwich,
Cheshire CW8 1SJ

Our Ref: APP/P0240/V/14/2214146

11 July 2016

Dear Ms Heine,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION BY MRS JADE GOLBY WEBB
VALLEY VIEW, HEMEL HEMPSTEAD ROAD, DAGNALL,
BERKHAMSTED, HP4 1QR**

APPLICATION REF: CB/13/03219/FULL

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, W G Fabian, BA Hons Dip Arch RIBA IHBC, who held a public local inquiry beginning on 5 August 2014 into your client's application CB/13/03219/FULL dated 16 September 2013 for one additional static caravan and two additional touring caravans for one Romany Gypsy family, with parking for two motor vehicles and associated hardstanding for use of the immediate family.
2. On 19 February 2014 the Secretary of State directed, in pursuance of section 77 of the Town and Country Planning Act 1990, that your client's application be referred to him instead of being dealt with by the local planning authority Central Bedfordshire Council.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the application be approved subject to conditions.
4. For the reasons given below, the Secretary of State disagrees with some of the Inspector's conclusions and her recommendation and approves the application for a 3year temporary period only. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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Procedural matters

5. Like the Inspector, the Secretary of State has considered the application on the basis of the amended site layout plan, revision A, dated 5 August 2014 (IR3).
6. Following the High Court Judgment in the case of *Redhill Aerodrome vs. SSCLG and others* [2014] EWHC 2476 (Admin), the parties' attention was sought for their views on the implications, if any, of the Judgment on their case. However, on 9 October 2014, the Court of Appeal set aside the Judgment and Order of Patterson J dated 18 July 2014. As such, the Secretary of State, like the Inspector, does not take account of the original High Court Judgment in making his decision (IR4).
7. On 19 June 2015, the Secretary of State wrote to parties to seek comments on the Judgments in *Mark Wenman v SSCLG & Waverley Borough Council* [2015] EWHC 925 (Admin) and *Woodcock Holdings Limited v SSCLG & Mid-Sussex District Council* [2015] EWHC 1173 (Admin). On 16 August 2015 the Secretary of State wrote further to parties to seek comments on the replacement Planning Policy for Traveller Sites published in August 2015. On 9 December 2015 the Secretary of State wrote further to parties to seek comments regarding the 1999 planning permission.
8. In reaching his decision on this appeal, the Secretary of State has taken account of all correspondence on the above matters. As this correspondence was copied to the parties to this case the Secretary of State does not consider it necessary to reproduce it here. Copies may be obtained on request to the address at the foot of the first page of this letter.

Policy and statutory considerations

9. In reaching his decision, 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.
10. In this case, the development plan consists of saved policies of the South Bedfordshire Local Plan Review 2004. The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR13, namely Policies BE8, T10, H15 and NE3.
11. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the guidance'), as well as Planning policy for traveller sites 2015 (PPTS).

Development Plan

12. For the reasons given at IR13 and having considered paragraph 215 of the Framework the Secretary of State agrees with the Inspector that Policies BE8, T10, H15 and NE3 are all broadly consistent with the Framework and gives limited weight to these policies. He notes there are no extant saved development plan policies relevant to gypsy and traveller sites but that the application as applied for is in accord with the development plan as a whole. The Secretary of State is aware that

at the time of the Inspector's report emerging policy consisted of a Gypsy and Traveller Local Plan and a Development Strategy. However, both were subsequently withdrawn.

13. The Council launched a new Local Plan in February 2016 with a draft due to be published for consultation by the end of the year. Having regard to paragraph 216 of the Framework, the Secretary of State concludes there are as yet no relevant policies in the emerging plan and therefore gives no weight to emerging policy at this very early stage.

Main Issues

14. The Secretary of State considers that the main issues are those identified by the Inspector at IR113.

Gypsy status

15. The Secretary of State is satisfied that the applicant meets the PPTS definition for gypsies and travellers and like the Inspector agrees there is no planning reason why a traveller family should not occupy the site (IR117).

Green Belt, openness and purposes

16. The Secretary of State agrees with the Inspector that the proposed development would reduce openness to a moderate degree (IR123). He further agrees that the proposal would not result in urban sprawl or encroachment and these aspects do not weigh against the proposal (IR124). He agrees that the development harm caused by the inappropriate nature of the development and to the openness of the Green Belt attracts substantial weight against the proposal (IR125). The application should therefore not be approved except where very special circumstances are shown to exist.

Character of the open countryside, the Area of Great Landscape Value (AGLV), the area of Outstanding Natural Beauty (AONB) and the visual amenity of the Green Belt

17. For the reasons given by the Inspector at IR129 and IR130, the Secretary of State agrees that the proposal would cause only a small degree of visual impact given its minor scale. He agrees with the Inspector that this outcome weighs neither for nor against the proposal.

Other considerations – need for Gypsy and Traveller pitches

18. The Secretary of State notes the Inspector's conclusion at IR141 that substantial weight in favour of the proposal should be attached to the current unmet need for Traveller sites in the District and to the failure of the development plan to identify a five year supply of specific deliverable sites to meet that need, as required by the PPTS (IR136 & 141).

Other considerations - alternative sites and personal circumstances

19. The Secretary of State has noted the current lack of alternative sites or accommodation and the possibility of a roadside existence if the application is refused. He agrees this would not provide a secure basis for family life (IR143–145). He has carefully considered the personal needs and circumstances of the applicant. He agrees with the Inspector that the medical conditions are not unusual but accepts they require ongoing medication and monitoring and gives these needs moderate weight. The Secretary of State has not given any consideration or weight to the health needs of the applicant's father as the application does not include him.
20. The Secretary of State agrees with the Inspector that the lack of a settled base would make regular access to education and healthcare very difficult and could prevent the mutual support which is part of the Gypsy cultural way of life (IR147). He further agrees that in such circumstances interference with the right to respect for the private and family life of the occupants, under Article 8 of the Human Rights Act 1998 could arise. This incorporates the Secretary of State's obligations under United Nations Convention of the Rights of the Child, including under Article 3 (IR148). He gives these matters significant weight in favour of the proposal.

Other matters

21. The Secretary of State notes the Inspector's comments at IR150-157 and agrees with his reasoning at IR153 that the site is previously developed land, which, like the Inspector, he agrees adds a little weight in favour of the proposal.

Balancing exercise

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. The Secretary of State agrees there are no extant saved development plan policies relevant to gypsy and traveller sites as applied for, and agrees with the Inspector that Policies BE8, T10, H15 and NE3 are all broadly consistent with the Framework, and gives limited weight to these policies. He also concludes that there are as yet no relevant policies in the emerging plan and therefore gives no weight to emerging policy at this very early stage.
23. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
24. The Framework and the PPTS state that inappropriate development in the Green Belt is harmful and should not be approved except in very special circumstances. The Secretary of State has considered whether the potential harm to the Green Belt, by virtue of inappropriate development, and any other harm, is clearly outweighed by other considerations.
25. The Secretary of State agrees with the Inspector that the harm to the Green Belt due to inappropriateness and loss of openness attracts substantial weight against the proposal. The Secretary of State agrees other harms will not result in urban sprawl or encroachment and gives these factors no weight. The proposal will only

have a small degree of harm on the character and appearance of the open countryside, the Area of Great Landscape Value, the visual amenity of the Green Belt and will conserve the landscape and scenic beauty of the Area of Outstanding Natural Beauty, and he weighs these as neutral in the planning balance.

26. The Secretary of State has also taken into account the benefits of the proposal. He agrees with the Inspector that the failure of the development plan policy to identify a five year supply of deliverable sites, together with the acknowledged unmet need, attract substantial weight in favour of the application. He also agrees with the Inspector that a little weight can be given as the site is previously developed land.
27. Added to this he gives significant weight in favour of the development to the health needs of the applicant and the welfare, educational and health needs of her child (IR163), given the continuity of access to these services that the development would provide.
28. In terms of the appellant's rights under Article 8 of the European Convention on Human Rights, the Secretary of State agrees with the Inspector that these rights are engaged, and he gives significant weight to these. However these rights are qualified and it is his role as planning decision-taker to ensure that any interference with these rights is in accordance with the law and is necessary in a democratic society, applying the principle of proportionality. He agrees with the Inspector that dismissing the appeal would likely force the applicant and her family into a roadside existence and that this would represent an interference with their private and family life. However, having considered these impacts the Secretary of State takes the view that in this case the harm to the Green Belt and other harm is such that dismissal of this application for a permanent permission is a necessary and proportionate response in pursuit of safeguards to the Green Belt.
29. Having weighed the harm to the Green Belt caused by inappropriate development and any other harm, against the matters which support granting permanent permission including the best interests of the child, the Secretary of State does not consider that very special circumstances exist to grant a permanent permission.

Consideration of a temporary permission

30. The Secretary of State has gone on to consider the Inspector's analysis regarding the granting of temporary planning permission for a period of 4 years. He acknowledges that there is no 5 year supply of specific deliverable sites as required by paragraph 10 of the PPTS and, that having considered paragraph 24 of the PPTS, considers that this is a significant material consideration in favour of granting temporary planning permission.
31. Having weighed the harm to the Green Belt caused by inappropriate development and any other harm, against the matters which support granting temporary permission as set out at paragraphs 25-27 above, the Secretary of State does not consider that very special circumstances exist such as to grant a 4 year temporary permission. However, he considers that very special circumstances do exist such as to warrant a 3 year temporary permission. The Secretary of State notes that the Council launched a new Local Plan in February 2016 with a draft due to be published for consultation by the end of the year. The Council plan for adoption in September 2018. The Secretary of State notes the expectation that the plan making process will

begin to meet need in 2018. Under this projected timetable the Secretary of State considers it reasonable to expect local sites to be deliverable and available at the end of a 3 year period. Consequently the Secretary of State considers that the totality of harm to the Green Belt is outweighed by other considerations such as to justify a temporary permission for 3 years.

Public Sector Equality Duty

32. In making his decision, the Secretary of State has had due regard to the requirements of section 149 of the Public Sector Equality Duty 2010, and the need to eliminate discrimination, advance equality of opportunity and foster good relations between those with protected characteristics and those who do not. The application is likely to have an impact on the identified racial group of Gypsies and Travellers.
33. The impacts are likely to be on Article 8 rights. In this regard and in coming to his decision the Secretary of State has considered the provision of and need for sites and the lack of alternative sites. The Secretary of State recognises refusing permanent permission will not provide a permanent home in circumstances where there is a lack of alternative sites. However the Secretary of State considers that approving a temporary permission mitigates the disadvantages caused such as to warrant approval of permission for 3 years.

Conditions

34. The Secretary of State has considered the Inspector's comments at IR108 – 111 and her proposed conditions at Annex A of the IR. He is satisfied that these conditions are necessary and relevant to the proposed development and meet the policy tests of the planning guidance – Use of Conditions and paragraph 206 of the Framework. However, he does not consider that they would mitigate the adverse impacts of the application such as to overcome his reasons for refusing permanent planning permission.
35. The Secretary of State is satisfied with conditions 10 – 18 inclusive as listed within the Inspector's Report for the granting of temporary permission. However, he considers that condition 4 should be included and amended to reflect Annex 1 of PPTS, condition 12 should be amended to limit the period to 3 years from the date of this decision, or the period during which the premises are occupied – whichever is the shorter, and condition 13 amended limiting the time period to 3 years.

Formal Decision

36. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby refuses permanent planning permission and grants a 3 year personal temporary permission for one additional static caravan and two additional touring caravans for one Romany Gypsy family, with parking for two motor vehicles and associated hardstanding for use of the immediate family, subject to the imposition of the conditions set out at Annex A to this letter.
37. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

Right to challenge the decision

38. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
39. A copy of this letter has been sent to Central Bedfordshire District Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours sincerely

Phil Barber

Phil Barber

Authorised by Secretary of State to sign in that behalf

Annex A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Site Layout, revision A, dated 5 August 2014 and Drainage Plan PP-02861037.
- 3) The occupation of the site hereby permitted shall be carried on only by the following: Mrs Jade Golby Webb, Mr Charlton Webb and their resident dependants and shall be for a limited period being the period of 3 years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.
- 4) 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 (2015)*.
- 5) When the premises cease to be occupied those named in condition 3 above, or at the end of 3 years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed within one month of the cessation date.
- 6) Unless within 3 months of the date of this decision schemes for the following works are submitted to the Local Planning Authority for approval and unless each approved scheme is implemented within 3 months of the approval of that scheme, the use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed:
 - i) Details of external lighting;
 - ii) Details of storage provision for refuse and recycling; and
 - iii) Details of the foul and surface water drainage of the caravan hereby permitted and the associated hard standing. Thereafter the drainage shall be managed and maintained in accordance with the approved scheme.
- 7) 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 fences, gates or walls or any other means of enclosure or any amenity or storage buildings or other structures shall be erected on the land without the grant of further planning permission.
- 8) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be a static caravan) shall be stationed on the whole of the site at any time.
- 9) No commercial activities shall take place on the land, including the storage of materials.
- 10) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

Report to the Secretary of State for Communities and Local Government

by W G Fabian BA Hons Dip Arch RIBA IHBC

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

Date: 14 October 2014

Town and Country Planning Act 1990 (as amended)

Central Bedfordshire Council

Call-in under Section 77

of

an application by Mrs J Golby Webb

for

**one additional static caravan and two additional touring caravans for one
Romany gypsy family, with parking for two motor vehicles and associated
hardstanding for use of the immediate family**

at

Valley View, Hemel Hempstead Road, Dagnall, Berkhamsted HP4 1QR

Inquiry held on 5, 6 & 7 August 2014

Site visit carried out on 7 August 2014

Valley View, Hemel Hempstead Road, Dagnall, Berkhamsted HP4 1QR

File Ref: APP/P0240/V/14/2214146

File Ref: APP/P0240/V/14/2214146

Valley View, Hemel Hempstead Road, Dagnall, Berkhamsted HP4 1QR

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 19 February 2014.
- The application is made by Mrs Jade Golby Webb to Central Bedfordshire Council.
- The application Ref CB/13/03219/FULL is dated 16 September 2013.
- The development proposed is one additional static caravan and two additional touring caravans for one Romany gypsy family, with parking for two motor vehicles and associated hardstanding for use of the immediate family.
- The reason given for making the direction was the proposal concerns matters that may conflict with national policies on important matters.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application: i. its consistency with the development plan for the area; ii. its conformity with the policies set out in Planning Policy for Traveller Sites (March 2012); iii. its conformity with the Written Ministerial Statement on Planning and Travellers published on 2 July 2013; iv. its conformity with the policies set out in the National Planning Policy Framework on protecting Green Belt land; v. its conformity with the policies set out in the National Planning policy Framework on conserving and enhancing the natural environment; and vi. any other matters the Inspector considers relevant.

Summary of Recommendation: The application be approved.

Procedural Matters

1. At the opening of the inquiry several individuals noted that they had not received the Council's letter of notification of the inquiry venue and date, although the Council's records indicate that this was sent out to all persons concerned on 8 April 2014. In particular, as a consequence, the Studham Parish Council reported through Councillor Stay that none of its members would be able to attend the inquiry. A statement on behalf of the Parish Council was submitted to the inquiry by Councillor Stay¹. Email correspondence from the Parish Council confirms that 'it is unlikely that we would need to make any additional representations at the Planning Inquiry'². I note that the notification letter was also posted on the Council's website on 10 April 2014³ and consequently has been in the public domain for a considerable period. Accordingly I am satisfied that adequate opportunity for representation has been provided. The Parish Council's written representations are recorded in this report.
2. During the inquiry it became apparent that interested parties had not seen documents relating to the gypsy status and health of the applicant and her family, which had been submitted both with the application (a letter from the Gypsy Council and the Health Status Summary) and with the Applicant's Statement of Case (the Gypsy Status Statement). Although the Council published the Statement of Case on its website on 8 April 2014, the attached Statement on gypsy status was not made public until 5 August 2014, the first day of the inquiry⁴. As the Health Status Summary had been marked private

¹ Inquiry document 2

² Inquiry document 2

³ Inquiry document 11

⁴ Inquiry document 11

and confidential this was not posted on the website and there had been no dialogue between the Council and the applicant regarding releasing it for view by interested parties at the Council offices. An un-redacted version was made available at the inquiry.

3. An amended site layout plan, revision A, dated 5 August 2014⁵ was submitted at the inquiry. The drawing reflects the applicant's proof of evidence which sought to amend the proposal so that the proposed touring caravans would be located on a different part of the site. I have considered the application on the basis of this minor amendment.
4. Since the close of the inquiry the parties' attention has been drawn to the recent High Court decision on Redhill Aerodrome Ltd v SSCLG and others. Written comments received regarding the decision are listed as additional inquiry documents. However, on 9 October 2014 the Court of Appeal overturned the decision of the High Court in that case. Accordingly this report does not take account of the Redhill judgement.

The Site and Surroundings

5. Valley View is an existing authorised residential caravan site owned by the applicant's father. It lies within a shallow valley with the A4146 (Hemel Hempstead Road) running along the narrow bottom. The site is on rising land set back from the road, with a backdrop of woods on the hillside above. This attractive rural location in rolling countryside is within the South Bedfordshire Green Belt and the Chilterns Area of Outstanding Natural Beauty. In addition it is within an Area of Great Landscape Value defined by the development plan.
6. It is reached by a single track access lane shared by two large detached secluded dwellings, Merryweather and Woodlands. (Woodlands also has an alternative access route from the other side of the property.) The site is flanked at one side and to the road by two paddocks. These are used for grazing horses and are in the same ownership as the site. Across the paddock is a further dwelling, Barnfield.
7. The site is heavily screened from the main road by an evergreen leylandii hedge some 3-4 metres high and divided from the adjacent paddock by a timber post and rail fence. The uphill end of the application site and paddocks abut Hudnall Common, which at this point is an open access area of mixed dense woodland (owned by the National Trust). The site fences at this woodland boundary and the higher end of the access road are both of concrete posts and timber panels around 1.8m high. The gateway onto the access lane includes high brick piers with ornate metal double gates.
8. The single authorised static caravan on the application site is a large mobile home that resembles a small bungalow surrounded on three sides by narrow strips of stone paved patios/'decking'. At the side facing the access road there is gravel hardstanding which extends to the gateway and some way beyond the two ends of the static caravan. A large brick dog kennel and run as well a fuel tank are in place on the hardstanding, uphill of the entrance gate. At the downhill end the gravel extends to an authorised day room which occupies the

⁵ Inquiry document 6

corner of the application site, hard against the high hedge. At the uphill end of the static caravan the gravel extends some 10m or so beyond it. At my visit two touring caravans were parked on the gravel areas, one at each end of the static, as well as a 'sprinter' van and two pick-up trucks adjacent to the dayroom.

9. Beyond the gravel and behind the mobile home a substantial area of the application site is grassed, with various domestic paraphernalia in place at the time of my visit including a large mobile gas barbecue, children's toys and outdoor tables and chairs. A single small horse trailer was parked close to the woodland boundary fence and some three drag carts were parked at the upper boundary fence to the access road.

Planning History⁶

10. In 1994 a lawful development certificate was granted for residential use of the static mobile home at Valley View. A lawful development certificate was granted for use of the land as a caravan site in 1998 and a site licence issued⁷. In 1999 planning permission ref SB/TP/99/0210⁸ was granted for siting on the existing caravan site of a 'caravan', as defined by s29(1) of the Caravan Sites & Control of Development Act 1960 and amended by s13 of the Caravan Sites Act 1968, for residential occupation. In 2003 an updated site licence was issued⁹. The licence limited the site for stationing one mobile home and no touring caravans, without the written consent of the Authorised Officer. In 2011 the Council's environmental health officer confirmed by email that the touring caravan on site was not being used for residential purposes¹⁰.
11. An application was refused in 2006 for the erection of a dwelling. In 2009 an application was refused for a lawful development certificate regarding the siting of 4 caravans for residential use. The appeal¹¹ in this respect was also refused. In 2009 also an enforcement appeal decision¹² in respect of the residential use of a storage building on the site records at paragraph 11 a verbal assurance given to the applicant (Mr James Golby, the site owner) by the Council that '.....use of the building on the application site as a day-room ancillary to use of the adjoining land for the siting of caravans for residential purposes would be lawful.'
12. Applications were withdrawn in 2011 for planning permission for the change of use of land to use as a residential caravan site for 3 gypsy families with a total of 5 caravans and in 2012 for a lawful development certificate for the siting of 3 caravans for residential use.

⁶ Full list with reference numbers given in planning officers' report, appendix LA1 POE Mr Davies

⁷ Inquiry document 23

⁸ Inquiry document 14

⁹ Inquiry document 15

¹⁰ Inquiry document 17

¹¹ Inquiry Document 5

¹² APP/N0220/C/08/2082843

Planning Policy

Development Plan

13. Saved policies of the *South Bedfordshire Local Plan Review, 2004*, (LP) cited as relevant to the application are BE8 which relates to design considerations, T10 which seeks to control parking in new developments and H15 which sets out that the siting of mobile homes or residential caravans in the green belt will be treated in the same way as applications for permanent dwellings. However there is no extant saved development plan policy relevant to gypsy and traveller sites, as applied for. Saved policy NE3 seeks to control development within the Areas of Great Landscape Value (AGLV) defined by the LP Proposals Map. The Government's *National Planning Policy Framework* (the Framework) at paragraph 215 indicates that due weight should be given to relevant policies in the development plan in accordance with their degree of consistency with the Framework. These policies are all broadly consistent with the Framework.
14. The Council's *Landscape Character Assessment, 2009*, (LCA) considers the rural landscapes within the district and aims to provide a robust evidence base to help guide future change and development to ensure that it conserves and enhances, rather than erodes landscape character. Amongst the key characteristics described for the Gade Chalk Valley, within which the application site lies, are relatively gently sloping distinct valley landforms with narrow valley floors and medium to long views channelled along the valley corridor contained by the rising valley sides. The valley sides are mainly used for arable crops and slope more steeply at the upper level, where they are mainly wooded onto the upper plateaus.
15. The Council's draft *Gypsy and Traveller Local Plan* (GTLP) was approved by full Council in April 2013 and submitted with all consultation responses and supporting evidence to the Secretary of State on 23 June 2014.
16. Policy GT5 relates to applications for new gypsy and traveller sites. Policy GT7 allows for the expansion of existing sites where there is evidence to demonstrate the need for the scale and nature of accommodation proposed; to safeguard the countryside this should be achieved through the subdivision or infilling of existing pitches or plots. Notes to the policy clarify that infilling/subdivision is preferable where there is sufficient space and would not harm residents' amenity and would meet the site licensing requirements. The policy also allows for expansion where an existing site cannot be subdivided, provided this is directly adjoining the existing site and has no adverse impact on the area. Where existing sites are in the Green Belt, planning permission for expansion will only be granted where there are demonstrable very special circumstances that clearly outweigh the harm to it.
17. The public examination into it is expected to be held in September 2014 and the inspector issued his pre-hearing questions in July 2014¹³. The plan and policies have not yet been examined for soundness so could be subject to modification and very little weight can be attributed to them at this stage.

¹³ Inquiry document 7

18. The Council's emerging *Development Strategy for Central Bedfordshire* (DS) pre-submission version was published in January 2013. The draft revised pre-submission version was approved for submission to the Secretary of State and endorsed for development management guidance on 12 June 2014. The consultation period is open until 26 August 2014, with submission anticipated in October 2014 and examination in spring 2015. As such the emerging policies carry very little weight at this stage. DS policy 3 designates the Green Belt for the district. Policy 33 sets out that the Council will allocate 66 pitches for gypsy and travellers that are deliverable in the first five years of the GTLP. Policy 36 relates to development in the Green Belt.
19. A written statement¹⁴ received following the close of the inquiry comments that the 'Council's proposed plan has recently been withdrawn'. It is unclear whether this refers to the GTLP or the DS. This may be a matter about which the Secretary of State wishes to seek further clarification.

National Policy

20. Government guidance set out in the *National Planning Policy Framework* (the Framework) states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. This applies to most forms of new building except those for a number of limited uses listed in the Framework. Substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
21. *Planning policy for traveller sites* (PPTS) sets out the Government's overarching aim to ensure fair and equal treatment for travellers, in a way that facilitates their traditional and nomadic way of life while respecting the interests of the settled community. It encourages local planning authorities to plan for sites over a reasonable timescale and requires them to use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions. It states at policy E that traveller sites are inappropriate development in the Green Belt and that decision-makers should protect the Green Belt from inappropriate development. At policy H it sets out that local authorities should strictly limit new traveller sites in open countryside that is away from existing settlements and that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.
22. The PPTS also requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets. This should ensure that the needs of the traveller population are met in a similar way, in terms of housing land allocations, to those of the settled population. At paragraph 25 it sets out that if a local authority cannot demonstrate an up-to-date five year supply of deliverable sites, this should be a significant material consideration when considering the grant of temporary consent.

¹⁴ Inquiry document 31, final sentence

23. With reference to conserving and enhancing the natural environment, the Framework establishes at paragraph 115 that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty (AONB), which have the highest status of protection in this regard. The conservation of wildlife is an important consideration in these areas.
24. In July 2013 a Ministerial written statement set out the Government's intentions with regard to the importance of the protection of the Green Belt and makes clear that the single issue of unmet demand, whether for traveller sites or for conventional housing, is unlikely to outweigh harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development in the Green Belt. A further statement in January 2014 re-emphasises this point.

The Proposals

25. The proposal is for the installation of an additional static caravan on the site and two touring caravans. The static (mobile) caravan would be located half on the existing hardstanding at the uphill end of the site and half projecting onto the existing grassed garden area at this end, with the existing gravel hardstanding extended along one side as a short narrow strip. Two touring caravans are already on site, the applicant has clarified that these are the touring caravans the subject of the application. They would be re-located and would be parked on the existing gravel hardstanding adjacent to the existing dayroom. Additional screen planting is proposed to extend the line of the existing hedge across the adjacent paddock boundary and at the rear of the site against the woodland boundary.
26. The applicant and her family already live on the site in one of the touring caravans. If the application is granted they would be the occupants of the proposed additional static caravan. They are Mrs Jade Golby Webb, her husband Mr Charlton Webb and their daughter Louisiana, around 18 months old. They would share the use of the existing day room and hardstanding on site with the owner of the site – Mr Jim Golby (the applicant's father), his wife Mrs Louise Golby (the applicant's mother) and their youngest son, William, 15 years old (the applicant's brother). The couple's two adult sons are James and Jason, (also the applicant's brothers). James travels around Kent and Jason rents a plot near Aylesbury.

Agreed facts and relevant matters

Statement of Common Ground

27. The parties agree that the proposal would constitute inappropriate development in the Green Belt as set out in PPTS. Substantial weight must be attributed to this harm.
28. The Council does not dispute the applicant and her family's status as Romany gypsies who meet the definition of gypsies and travellers at Annex 1 to PPTS. However, interested parties have questioned this and further evidence submitted in this regard is set out with the applicant's case.

The Case for the applicant Mrs Jade Golby Webb

Statement of Case and Gypsy Status Statement, Proof of Evidence Mrs Heine, Health Status Summary and oral evidence Mr Jones, oral evidence and inquiry document 3 Mr Webb.

Gypsy status

29. The gypsy status of the site owner and his family is not at issue as the existing residential caravan site for a single caravan is not restricted to use by gypsies and travellers. However, Mr Golby, the site owner is a member of the Gypsy Council, as confirmed by a letter submitted with the planning application¹⁵. The letter confirms that the Golby family is a known family within the Romany gypsy community. Full details of Mr and Mrs Golby's family background are set out in the gypsy status statement.
30. Gypsy status is not lost by not living in a caravan. Previous applications at the site have not relied on gypsy status and it is not surprising that the site owner would not wish to draw attention to his gypsy and traveller status. The affidavit¹⁶ submitted to the inquiry in this respect does not state that he is not a gypsy. The use of a dayroom, as at this site, is typical of the gypsy and traveller way of life, due to their cultural preference to separate sleeping, toilet and cooking functions. This type of dayroom does not occur on other caravan sites.
31. The existing site has been counted by Opinion Research Services (ORS) within the current *Gypsy and traveller accommodation assessment* (GTAA) as an existing authorised gypsy and traveller site. The family has not objected to this status. The Council is required to include the family in their assessment of need for sites. Many residential caravan sites are not restricted to use by gypsies and travellers; this does not prevent use by the gypsy and traveller community. This Romany gypsy family's occupation of the site means that regard can be had to PPTS and development plan policies concerning gypsy and traveller sites.
32. Mr Golby and his wife and four children lived on the site from mid 1995, when Jade (the applicant) was 6 years old. Three of the children, including the applicant, are now adults. The family used to go to the main horse fairs including Appleby, Barnet, Stow and Epsom to buy and sell horses and tack and for general dealing. Mr Golby continues to travel for work three to four times a year.
33. The applicant, Mrs Jade Golby Webb, married Mr Charlton Webb on 20 September 2008. The letter from the Gypsy Council confirms that Mr Charlton Webb and Mrs Jade Goby Webb and the family at Valley View are members of the Romany gypsy community by birth and by culture, and for planning purposes they qualify for gypsy status.
34. Mr Charlton Webb was born in Watford. His grandfather was a showman and his grandmother an Irish Traveller. His mother's family travelled in Australia painting barns. His great grandfather bought the land at Mayfair, Oxhey Lane Watford in 1918. Mr Webb grew up here and attended primary school in Watford. He left school at 14 years old to work with his father in asphaltting,

¹⁵ Letter dated 28 October 2013 from Gypsy Council, main file, flagged

¹⁶ Inquiry document 27

building and general 'hawking' trading. When 18 years old he started work with Mr Jason Golby, the applicant's elder brother. From 2002 – 2005 they travelled around the country, including to Scotland, to building sites to buy and sell mainly construction tools. With the recession this changed; from 2005 - 2007 Mr Webb worked at the Dreamland Amusement site, Margate, where he hired ride operators during the summer and continued to sell power tools in the winter. After the amusement company went into liquidation he built up a scrap metal business trading in catalytic convertors from car exhausts.

35. He continues with this as his main work; it involves driving around the country to acquire car exhausts from garages and scrap yards. These are exported to Germany for stripping to extract precious metals. This forms his major income; the business is conducted in accordance with the regulations for such trade and taxes are paid¹⁷. He travels to Birmingham, Manchester, Derby and Devon, usually with his wife and now his baby daughter. Receipts for catalytic convertors and for fuel for the van and motorway tolls have been provided¹⁸.
36. The business address for the scrap metal business is at Mayfair, Oxhey Lane Watford¹⁹. This is a yard owned jointly by his father and his aunt, who have caravans on the site. It was a former brick kiln site. The bungalow was built around ten years before Mr Webb's grandmother died in 1996 as she had had a stroke and needed care. It is now used as an office; no one lives there. The rear yard is used as a trailer site with portacabins and scaffold equipment. There is also a skip hire business based there. Next door are a showmen's trailer site, a haulage company and Brickfield Farm.
37. To a lesser degree Mr Webb also trades horses, donkeys and trailers when travelling to horse fairs around the country. This involves buying and selling-on around ten horses per year. Some are bought and sold-on while away at the fairs, some are kept in the paddocks at Valley View before selling-on.

Green Belt, openness and purposes

38. It is accepted that the proposal would be inappropriate development in the Green Belt.
39. Although the existing use of the site is not restricted to use by gypsies and travellers, this is how the site functions; the resident owner and his family are Romany gypsies. The proposal is on behalf of the owner's married daughter. National policy encourages gypsy-travellers to settle.
40. The proposal is for the limited infilling of an existing caravan site, which is previously developed land. The additional impact on the Green Belt would be insubstantial given the existing context. The loss of openness would also be minimal. The proposed touring caravans would be stored on existing hardstanding. The proposed static caravan would extend only 6m into the garden area, on a new hardstanding. Half of it would be sited on the existing hard standing.

¹⁷ Inquiry document 3, letter from Cash Bureau Accountants

¹⁸ Inquiry document 3

¹⁹ Inquiry document 3, aerial photograph

41. The proposal would cause additional loss of openness, but in the context of residential permitted development rights for adjacent dwellings this would not be significant (the neighbouring property has established that a mobile home and far larger detached outbuilding may be installed within the curtilage of the dwelling).
42. There would be no further encroachment into the Green Belt.

Character and appearance of the open countryside, the Area of Great Landscape Value, the Area of Outstanding Natural Beauty and the visual amenity of the Green Belt

43. The PPTS does not preclude sites in the open countryside. Although paragraph 23 advises that new sites away from existing settlements should be strictly limited, the proposal is not for a new site; it is for the infilling of an existing one.
44. Visually, the proposed additional pitch would be seen in the context of an existing authorised caravan site. The existing site is small and set well back from the road. It is seen against much larger residential properties and set against a wooded backdrop. The site is already well screened by an existing hedge as well as by planting on the adjoining property. The additional mobile home would be set to the rear of the existing one on slightly higher ground, but would only project 6m beyond the existing hardstanding here. The two touring caravans, which are already on site, would both be parked on the hardstanding close to the dayroom.
45. Additional planting could be carried out along the southern boundary of the site and within the adjoining paddock. This would not look out of place, given that adjacent dwellings have heavy planting around them in this wooded landscape. The Gade Valley Character Area is assessed as moderately sensitive; the valley is noted as dominated by a transport corridor, such that the landscape character sensitivity is reduced. The Council's landscape strategy along the road corridor is to restore and improve the condition and structure of hedgerow boundaries and renew some of the hedgerows that run perpendicular to the road to link to the more wooded ridgelines.
46. The PPTS does not preclude sites in the AONB. The proposal is not for major development in the AONB and there is no requirement in terms of paragraph 116 of the Framework to establish exceptional circumstances in this respect. Paragraph 24 requires weight to be given to the effective use of previously developed land – such as the application site.
47. The main landscape features of the countryside and the natural beauty of the AGLV and the AONB would not be harmed and the purposes of its designation would not be compromised. There would be little harm to the character and appearance of the wider area or the AONB or the visual amenity of the Green Belt.

Other considerations – need for gypsy and traveller pitches in the district

48. There is a national and local need for gypsy and traveller sites. There is a substantial population of gypsy and travellers in Central Bedfordshire. Much of this population is located in the southern half of the district where built up settlements are almost entirely surrounded by the Green Belt, such that land affordable for sites is all within it and the land in adjoining local authority

districts is also in the Green Belt. Although strategic alterations are proposed to the Green Belt to meet the need for housing, employment and infrastructure, it is not proposed to remove any land from the Green Belt for travellers.

49. In its original draft GTLP the Council set a target for 65 pitches for the five years from 2013-2018; 38 pitches to meet the existing backlog and 33 for household formation based on a 2.5% growth rate. The usual growth rate used in other districts is 3%; this would lead to a requirement for 71 pitches in the same period.
50. However, the GTAA commissioned by the Council and published in January 2014 to inform the draft pre submission GTLP identifies an immediate need for 54 pitches for the same five year period, comprising a backlog of 35 and 19 for household formation, based on a growth rate of 2%. The ORS advised in the GTAA, that a range of values should be considered in the light of local evidence and recommended a 2.5% growth rate. It is unclear on what basis the Council has decided to use the 2% rate and this has not been consulted on.
51. Other issues with the assessment include: the short period over which it was conducted; only 44% of known households interviewed; not all those on the waiting list counted; assumption that, were those on private sites to move onto Council sites, private pitches would become vacant, whereas some of these are already 'doubled up'; assumed zero migration without assessment.
52. The GTLP identifies several sites to meet the identified need of 54 pitches. Planning permission has been granted for 16 of the allocated pitches. Planning permission has been granted for a further 6 pitches between December 2013 and March 2014. Although in the Green Belt, none of these has been subject to call-in by the Secretary of State. One, at Tilsworth, was for infilling on an existing site, as here. The 6 pitch site granted temporary permission on appeal at Mile Tree Road has now been quashed by the High Court; these pitches remain part of the unmet need. A deduction of 6 pitches was made for the refurbished pitches at the Council's Timberland site.
53. Further, several of the site allocations made in the GTLP to provide for a five year supply of pitches are within the Green Belt. The Council has previously granted planning permission for other gypsy and traveller sites in the Green Belt and AONB and relies on sites in these locations to meet the identified need. The justification relied on for those sites as amounting to very special circumstances are the same as in this case. These are the acknowledged unmet need in the district and the Council reliance, in the context of insufficient allocated sites, on windfall sites to meet the need.
54. The proposal would accord with emerging GTLP policy GT7 and in addition there are the personal circumstances of the applicant and her husband, who have lived on the site together since 2009.

Other considerations – alternative sites and personal circumstances

55. There are no other suitable alternative sites in the district available to the applicant. The Council's Timberlands site, under refurbishment, was previously occupied by Irish travellers and some of these families will have priority to return. Historically it is difficult for Irish travellers and Romany gypsies to live on the same site and management policy is usually to avoid this. The applicant

- has not applied for a place on this site and is not on the Council's waiting list due to her need to live close to her extended family for mutual support.
56. Were the application refused she and her husband and daughter would be forced into an unsettled life on the roadside or into overcrowded conditions, doubling up on other private sites.
 57. Until recently Mr and Mrs Golby and their children occupied the site in a large caravan²⁰ and used the dayroom/utility block. Subsequently, around two years ago, a larger static caravan/mobile home was installed. Mr and Mrs Golby and their youngest son William continue to live in the static caravan.
 58. The applicant's grandparents' address at Toms Lane was used so that the applicant, Mrs Jade Golby Webb, and Mr Webb could marry in the church at Abbots Langley. When first married they lived in a caravan at Mayfair, Oxhey Lane, Watford, to look after Mr Webb's mother who was seriously ill²¹. Mr Webb does not get on with his father, altercations have led to violence. Consequently after his mother's death in 2009 the couple moved to Valley View. They have lived on the site in a touring caravan since then. This was originally located on the same concrete base as Mr and Mrs Golby's static caravan. After installation of the larger static caravan the touring caravan has been parked by the dayroom/utility block. The applicant's household has lived on the site since 2009 without close neighbours being aware of any increased activity on the site.
 59. Published research shows that the life expectancy of gypsies and travellers is around 55 years, considerably lower than that of the general population²². They are also less likely to be able to access health services and often have to use emergency services. Poor education exacerbates the difficulties with access to health care. The applicant needs to live on the site to enable the family to provide the mutual support that is inherent to the traditional way of life of their ethnic group and to be able to access and achieve a continuity of health care as well as, in the future, education for her daughter.
 60. The applicant's father, Mr Jim (James) Golby, is registered with the Eddlesborough Clinic. He suffers stress and difficulty coping with the pressures of his life and the ongoing prospect of failing to secure a home for his daughter and her family. He has high blood pressure, diabetes and high cholesterol and takes medication for all of these. His daughter Mrs Jade Golby Webb helps him when he requires care and with taking his medication.
 61. Mrs Jade Golby Webb suffers depression and panic attacks as well as asthma. She is under medical care²³, takes medication and receives counselling. The support of her family and parents is important and part of the cultural way of life of Romany gypsies.
 62. At present the family is living in overcrowded conditions, this contributes to existing health issues and may cause future ones for the applicant's daughter, Louisiana, particularly if the family is forced to leave the site. If this occurs it

²⁰ This is described in submissions as a large touring caravan. The 2010 appeal decision refers to it as a mobile home.

²¹ Inquiry document 3, letter from Mr Webb's aunt, Kathleen Cunningham

²² References are given in the Health Status Statement

²³ Inquiry document 4

would lead to homelessness and travelling without a settled base. Infant mortality is also higher in the gypsy and traveller community than for the settled population; 1 in 20 families experience the loss of a child²⁴. The needs of the child should be paramount and the need of the family to continue to care for and support each other should attract significant weight in favour of the proposal.

63. Overall these considerations, taken with the weight to be given to the acknowledged unmet need for gypsy and traveller sites, the absence of adopted policy, the absence of a five year supply of land for pitches amount to the very special circumstances necessary to outweigh the harms to the Green Belt.

Other matters

64. Little Gaddesden Parish Council²⁵ has raised case law regarding whether the proposed intensification of use of the site would be in itself a material change of use; this would be a matter of fact and degree. Recent case law *Reed v SoSCLG & Another*²⁶ deals with this. It would be for the decision maker to decide whether the doubling of residential caravans on the site from one to two would so change the character of the site as to amount to a material change of use.
65. The 2010 appeal decision noted from the site visit in February 2010 that there were three touring caravans (one of these a camper van) stationed on the hardstanding and that from time to time additional caravans were stationed on the grassed area.
66. In this case the proposal is for the stationing of one additional static caravan and two additional touring caravans. This would be infilling on the existing site; much of the site would remain open and undeveloped. It would not amount to a material change of use and would accord with emerging GTLP policy GT7. It would not add greatly to noise from day to day living or traffic on the shared track.

²⁴ Health Status Summary October 2013, section 6, main file

²⁵ Statement submitted in response to notification of appeal – *Brooks and Burton Ltd v SoS for the Environment* [1977]

²⁶ Inquiry document 8

The Case for Central Bedfordshire Council

Proof of Evidence, Delegated Report dated 2 December 2013, Statement of Case, oral submissions.

Gypsy status

67. On the basis of the evidence submitted by the applicant with the application the Council has made the judgement, on the balance of probabilities, that the applicant and her family are Romany gypsies who meet the definition of gypsies and travellers at Annex 1 to PPTS. Additional information provided at the inquiry reinforces this conclusion. The status of the site owner, her father and his family as Romany gypsies is also accepted.

Green Belt and openness

68. The proposal would be inappropriate development in the Green Belt. The increased level of development on the site would also harm its openness. Substantial weight should be attributed to the harms.

Character and appearance of the open countryside, the Area of Great Landscape Value, the Area of Outstanding Natural Beauty and the visual amenity of the Green Belt

69. The site is located in the Gade Valley, within the Chilterns AONB and the AGLV. The key characteristics and sensitivities of important local landscape types and character areas are set out within the Council's LCA. The Gade Valley is identified as being distinctive for its clear valley land form with channelled views through the valley 'gap' and open rural views of the undeveloped valley sides. Land cover is dominated by arable crops with some smaller areas of pasture. The geometric field pattern, with boundaries perpendicular to the valley corridor, accentuates the valley landform. The tops of the slopes are characterised by woodlands, including the wooded area of the National Trust land to the southwest of the application site. Development is largely absent from the valley sides apart from occasional built form along the road corridor.
70. The application site forms part of a dispersed group of residential properties. The existing caravans on it are visible from the valley corridor to the northeast, from publically accessible woodland to the southwest and in wider landscape views. The proposal would increase the level of development on the site and this would have a negative impact on the rural character of the area.
71. The increased amount of development on the site would also fail to conserve or enhance the natural beauty of the AONB and the AGLV. However, the visual impact would be lessened by the context of existing development on the site, the group of properties adjacent to it and, in terms of distant views, by the wooded backdrop behind. It could be further minimised by the addition of additional screen planting, as proposed and this could be secured by a condition. These considerations reduce the weight to be given to the visual harms.

Other considerations – need for gypsy and traveller pitches in the district

72. There is acknowledged general unmet need for gypsy and traveller accommodation within Central Bedfordshire. The GTLP submission version is accompanied by the *Gypsy and Traveller Pitch and Travelling Show People Plot Trajectory*. This set out the pitch requirement for Central Bedfordshire at June 2014 as a total need for 117 pitches to 2031, with 42 required in period 1, from February 2014 to December 2019²⁷. The figure is made up of 24 pitch backlog and 18 required for a 2% household growth.
73. The emerging GTLP allocates six specific sites to deliver a total of 66 pitches, with 46 to be delivered within the first period; this equates to a five year supply sufficient to meet the identified need. Although these sites are deliverable, to date only three sites comprising 20 pitches in total have been granted planning permission. Delivery of the sites is a continuous rolling requirement and until the pitches identified on the allocated sites are granted planning permission and are delivered, the ongoing need for pitches continues to exist. This ongoing need weighs in favour of the proposal. Following the first period the need would be met by the provision of 20 pitches on allocated sites and thereafter by 79 predicted windfall sites.
74. While the existing site is not restricted to use by gypsies and travellers, the Council has reached a judgement, based on the evidence presented in respect of the application, that the applicant (who currently resides on the site) and her father and his family, the owner-occupants of the site, benefit from gypsy status in accordance with the definition in PPTS. The site has been assessed as an existing authorised site comprising a single pitch in the current GTAA²⁸ prepared by ORS. There are no up to date development plan policies relating to the needs of gypsies and travellers; as such emerging GTLP policies GT5 and GT7 should be given moderate weight. GT7 allows for infilling of existing sites – one additional pitch on this existing site would accord with the emerging policy and, as a windfall site, would contribute to the overall supply for the plan period, beyond the current five year period. These considerations weigh in favour of the proposal.
75. Matters relating to the methodology for the assessment of need should be the subject of the forthcoming local plan examination. However, the commonly used 3% rate has no evidential or policy basis and appears simply to have gained momentum during the Regional Spatial Strategy (RSS) process and subsequent adoption of the figure generally, without analysis or basis in published evidence. The letter from Brandon Lewis MP in March 2014 confirms that the 3% rate does not represent national policy²⁹. The RSS has been revoked. The 2013 ORS technical report sets out why the 3% figure would be a gross overestimate and that 1.5% would be plausible. The Council relies on the

²⁷ These figures are as presented in the Council's update in Mr Davies' POE and differ from those recorded in the submitted (unsigned) Statement of Common Ground

²⁸ Inquiry document 22 attachment

²⁹ Inquiry document 16

2% compound growth rate on the basis that it represents a robust assessment of future household formation rates based on the local evidence base³⁰.

Other considerations – alternative sites and personal circumstances

76. The Council's Timberlands site is currently being refurbished to provide 6 pitches. There is no definitive time frame for delivery of this site, although work is underway. The applicant may not be compatible with the Council's lettings policy for the site for ethnicity reasons (the previous occupants of the site were Irish travellers and some may be on the waiting list to return – the Council would avoid Irish travellers and Romany gypsies on the same site) and priority would be given to those on the Council's waiting list; the applicant is not registered on the waiting list.
77. The applicant has provided details of a range of medical conditions suffered by herself and her father that require prescription medication³¹. These are common conditions that do not demonstrate an overriding health requirement that can only be met by providing additional accommodation on the site. However, there appear to be family and cultural connections to the site for the applicant and her family. Weight does need to be given to the rights of the applicant's baby daughter to access education and research shows infant mortality significantly higher for the gypsy and traveller community than for the settled population. The applicant and her baby would benefit from a permanent base with access to the support of her family.

Other matters

78. The Council's policy aim is for an even distribution of allocated sites for gypsy and traveller provision across the district, but this cannot apply to windfall sites, such as this proposal. The Council's GTLP places reliance on windfall sites to meet need across the plan period, unless these would dominate existing settlements. The proposal would not dominate an existing settlement. Several of the sites referred to with regard to an over concentration of existing sites in the ward are also not allocated sites.
79. Neighbouring residents' fears regarding residential amenity are reasonable and understandable. However, there is no identifiable material harm in this respect. Disturbance arises from the day to day activities of family life. The potential increase in such activity from one additional household, including increased dog ownership and additional vehicle movements, would not be materially adverse. The fear of precedent for further similar development is genuinely held but would be subject to further planning applications and would be determined on the merits at that stage; this should not weigh against this proposal.

Temporary permission and overall conclusion

80. The Council does not support the grant of temporary permission as this would not contribute to the windfall supply for the plan period and would result in an increase in the assessed need in the district.

³⁰ This evidence base was not provided to the inquiry by the Council on the basis that any critique of it should be a matter for the local plan inquiry

³¹ Health Status Summary, main file with application

81. The proposal would amount to infilling the existing authorised site; it would not lead to an extension of the site into the open countryside. It would comply with emerging GTLP policy GT7 and the detailed requirements of GT5. In the absence of development plan policies relating to gypsies and travellers, moderate weight should be given to these policies. Taken together with the personal circumstances of the site occupants, the general unmet need and the ongoing need for gypsy and traveller sites, these material considerations in favour of the proposal amount to the very special circumstances sufficient to clearly outweigh the harm to the Green Belt and to the AONB and AGLV. The Council considers that permanent planning permission should be granted for the use of the site in the terms of the application.

Interested Parties – against the proposal

Councillor R Stay *oral submission*

82. The Studham Parish Council's written representations are supported. This ward already has around 40 pitches, a greater percentage of gypsy and traveller pitches within it than in Central Bedfordshire generally. Some wards have none. Expansion has already occurred at Keddington and Slip End. This is a largely rural ward and there is the potential for alternative accommodation available and suitable close by. It would be difficult to find a less suitable site than this one. If a dwelling were applied for here it would be refused.
83. There should be cooperation between neighbours, but here there is an increasingly hostile atmosphere at the application site. There have been a number of occasions when the police have had to be called³². At what point in the future would there be a halt to expansion at the Valley View site if this application is allowed. This family's circumstances have been cited, but what if other family members, for instance the owner's sons, want to move onto the site. Future growth should be restricted. The Council has found it expedient to grant planning permission to the unauthorised expansion of a site in the past at Jockey Farm.

Rural Heritage Society of Little Gaddesden, Ringshall, Hudnall and Ashridge *written statement presented by Mr Godar with additional oral submissions*³³

84. Mr Godar confirmed that Little Gaddesden Parish Council did not wish to make a statement to the inquiry.
85. Footpaths LG13 and LG15 cross Hudnall Common at the hilltop at Little Gaddesden above the site³⁴. In summer the National Trust woodland that borders the site screens views of it from these paths, but these deciduous trees and bracken die back – the site would be seen from this direction in winter as well as from the Hemel Hempstead Road. This was acknowledged by the appeal decision³⁵ in March 2010, which stated that caravans sited on the upper part of the site would be dominant seen from there and that the application site would take on a materially different character, as a mainly developed site. There are circular walk routes which link the footpaths on Hudnall Common and use the verge on Hemel Hempstead Road.
86. Whether the application site is regarded as an existing gypsy and traveller site or a potential one and whether emerging policy GT5 or GT7 should apply depends on whether Mr and Mrs Jim Golby have gypsy status or not. Even if GT7 should apply, the proposed additional caravans cannot amount to subdivision or infilling.
87. A balance needs to be struck between the harm to the Green Belt and AONB and other relevant factors. The personal circumstances statement put forward by the applicant details a number of common medical conditions. There seems

³² Inquiry document 22, attachment

³³ Inquiry document 18 statement

³⁴ Inquiry document 18 footpath map

³⁵ Inquiry document 5

to be the potential for alternative accommodation nearby. Unmet need is not a factor on its own likely to justify very special circumstances.

Mr S Humphreys *written statement with additional oral submissions*³⁶.

88. The applicant's family is financially solvent and they would not be reduced to the roadside should they not be able to stay on the application site. Mr Charlton travels to work, as I do. It is not credible that he takes his wife and small daughter with him. The caravans remain on the application site apart from holidays.
89. From seventeen years ago, neighbourly relations with the applicant's father were fine for the first eight or nine years. This changed from around 2002 onwards. After this the previous wooden shed was replaced with the larger brick dayroom. The hardstanding was extended and additional caravans brought onto site. Complaints and the resulting enforcement notices have led to incidents including police involvement. I believed the peace and solitude of my home was protected by the Green Belt.
90. A previous application for essentially the same proposal as this one was withdrawn and the officer's report for that application has not been made available by the Council.
91. The Council has assessed this application on the basis that the site is already in occupation as a gypsy and traveller site and has applied emerging policy GT7. If it is not an existing site, the application would be for a new gypsy and traveller site in the Green Belt. Until 2013 the site was considered to be a residential caravan site; in the January 2013 GTAA Valley View is listed as an unauthorised 2 pitch site and in the January 2014 GTAA it appears as a site for 1 gypsy and traveller pitch with permanent planning permission and 1 unauthorised pitch³⁷.
92. The only difference between this case and the 2010 appeal is the evidence regarding the gypsy and traveller status of the applicant. The application seeks additional caravans on the application site, restricted to gypsy and traveller use. The same site already has planning permission as a residential caravan park, which is not restricted to gypsy and traveller use. The letter submitted from the Gypsy Council confirms the whole family has gypsy status. Mr Jim Golby has not previously been shown to have gypsy status and did not pursue a nomadic way of life for work while living at Valley View before he retired³⁸. This was confirmed in the 2010 appeal decision. Evidence has been produced at the inquiry to show that Mr Charlton Webb has gypsy status. Without access to this evidence in sufficient time before the inquiry it has not been possible to cross check it.
93. The PPTS seeks to protect those who are of a nomadic way of life, who travel for work. Mr and Mrs Golby have lived at Valley View for eighteen years and do not travel for work. It is not clear why a travelling way of life followed by their

³⁶ Inquiry document 22

³⁷ Inquiry document 22 GTAA extract

³⁸ Inquiry document 27

daughter and her family can confer gypsy status on them (be passed up rather than down the generations).

94. It is contrary to Government policy and recent ministerial statements to allocate sites within the Green Belt when there is little need. The current backlog is 4 pitches and 22 additional pitches are needed in the five year period. The Council has 26 pitches allocated in the GTLP and there is a further anticipated five year windfall supply of 19 sites; there is not a pressing need.
95. Timberlands, a possible alternative site for the applicant and her family, looks complete and attractive but empty³⁹.
96. The family's health needs are not unusual; Mr Golby's conditions (pulmonary hypertension, high cholesterol and type two diabetes) are all common and controlled by pills. All families need the support of loved ones.
97. Conditions regarding the number of caravans on site for the current authorised use have not been enforced over the last eight years. We have no confidence that conditions attached to a new permission would be either and have little faith in the planning system. There would be little therefore to prevent the applicant's family using the adjacent field in the same ownership to expand their use. Mr Golby's adult sons may wish to return or his resident son, when he becomes of age, may wish separate accommodation.

Campaign to Protect Rural England *written statement presented by Mr Adburgham*⁴⁰.

98. Regarding the risk of homelessness should the application be refused, the applicant has no real interest in living elsewhere as one of the considerations she has put forward is that her father relies on her for additional support. There is nothing to show that she has looked for accommodation elsewhere. Only a few months ago there were vacancies at the Greenacres site in Billington. In these circumstances the issue of unmet need in the area is irrelevant.
99. Objections to this application are not due to bias against the gypsy community; until recently the applicant's father did not claim gypsy status. Resistance to previous applications to expand the site were on the basis of its use as a general caravan site. As with those previous dismissals the application would have a significant impact on the landscape. The very special circumstances put forward in this case are not sufficient to outweigh the harm.

Mrs A Humphreys *written statement with additional oral submissions read from notes*⁴¹

100. Sitting in the garden we can hear outdoor conversations at Valley View and muffled conversations from inside the mobile home. We are aware of daily life and comings and goings on the site on a continual basis. I spend much of the week at home. Apart from infrequent instances which I assume were visits, I have not seen or heard the applicant's baby. I have also not seen vehicles with an attached caravan or horse box, despite the manoeuvring involved in getting

³⁹ Inquiry document 22 photographs

⁴⁰ Inquiry document 24

⁴¹ Inquiry document 25

into the site gateway. The family does not travel from the site on a regular basis as claimed, apart from for annual holidays.

101. In relation to the claim that Mr Webb trades in horses; there is little change-over of horses in the paddocks at the site. Recently there has only been one new horse after the sale of a cob that had been in the field for a few years. There was a recent incident where I assisted to lead a mother and foal that had escaped onto the road. These were owned by friends of the family and Mr Webb seemed inexperienced and unequipped to handle them. He also had no tools on site to repair the fence.

Ms L Williams *written statement*⁴²

102. Previous applications for this site have been refused due to the impact on the AONB and the AGLV. The other sites referred to that have been granted planning permission in the Green Belt are not comparable to this one; although those are in the Green Belt, they are large established very urbanised sites with industrial businesses on a major trunk road.
103. There would be visual impact resulting from this proposal and noise and pollution from all the additional ancillary vehicles, business materials and vehicles. The addition of a mobile home onto the higher garden area of the site would intrude further and there would be an additional hard base and external lighting. The existing lighting is intrusive at night. An additional dayroom may be required. The existing noise level, particularly from dogs kept out of doors on the site, is intrusive.
104. There have been two large touring caravans on site and there is normally a large number of vans and large vehicles, which are frequently parked on the site and also on the access lane. These are all visible from surrounding public areas. There are piles of metal and exhausts which are worked on to sort and break up, often on a daily basis.
105. Due to difficulties with accessing our property using the shared lane, we have had to resort to constructing an expensive alternative access by a different route to avoid the conflict with the access to Valley View.
106. The high boundary fence to my garden has only been there since last year, previously there were direct views into the Valley View site, from my access and the shared lane. There are still views from the upstairs of my property. Mr Webb frequently visits the site for his work and swaps vehicles there, but the applicant's family has not lived there until very recently – during the last two weeks.
107. Alternative accommodation could include the applicant's family sharing a larger mobile home with her parents. There is also the option of the Timberlands site, but the applicant is not on the waiting list for this. Mr Golby appears to be able; he drives and keeps his site in good order. Mr Golby's need for assistance with his medical care could be met by his wife, Mrs Golby, and his teenage son who both live on the site.

⁴² Inquiry document 26

Conditions

108. A list of conditions was included in the Statement of Common Ground⁴³ and discussed at the inquiry. Should the Secretary of State be minded to grant permanent planning permission, the Schedule of Conditions appended to this Report at Annex A comprises those conditions that I consider should be imposed. The conditions comply with the Planning Practice Guidance.
109. A personal condition is recommended as this is the basis on which the application was made. However, my conclusion as set out below is that the personal considerations are not determinative and that the proposed pitch would be acceptable in principle as a traveller site. As such a condition is also necessary restricting use to the wider gypsy and traveller community, should the personal use cease. A condition requiring compliance with the submitted plans (as amended) is recommended for the avoidance of doubt and in the interests of proper planning. For the same reason, a condition specifying the number and type of caravans on site is necessary.
110. In order to protect the appearance of the AONB and the AGLV a condition is necessary to secure the submission of schemes for the provision of landscaping and any external lighting as well as for storage of refuse and recycling. Further drainage details are also necessary. In addition, for the same reason, conditions are necessary restricting commercial activities and the size of vehicles on the site as well as to restrict permitted development rights for the erection of means of enclosure or storage buildings or other structures.
111. An alternative list of suggested conditions relating to a personal temporary planning permission is included as well as one requiring remediation of the site, should the Secretary of State be minded to approve the application on this basis. The suggested period for a temporary permission, was reviewed in the light of the likely realistic provision of additional gypsy sites in the district following adoption of the emerging GTLP. The inquiry was told that the Council expects this during 2015. However, at the inquiry, a period of 4 years was agreed by both parties to be realistic⁴⁴, to allow for alternative sites for the family to become available through the process of bringing forward the allocated sites.

⁴³ Inquiry document 12

⁴⁴ Additional information in this regard is noted at paragraph 15

Inspector's Conclusions

The numbers in square brackets [] refer to earlier paragraphs in the report on which my conclusions are based.

112. Both parties have indicated that the proposal amounts to inappropriate development in the Green Belt. [27]
113. Accordingly, the main considerations identified at the opening of the Inquiry, in the light of the Secretary of State's call-in letter were:
- i) Whether the applicant has gypsy/traveller status within the definition set out at paragraph 1 of Annex 1 to the PPTS;
 - ii) the effect of the proposal on the openness of the Green Belt and on the purposes of including land within it;
 - iii) the effect of the proposal on the character and appearance of the surrounding open countryside, the Area of Great Landscape Value and the visual amenity of the Green Belt and whether it would conserve the landscape and scenic beauty of the Chilterns Area of Outstanding Natural Beauty; and
 - iv) whether the harm to the Green Belt, 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 within the Green Belt.

Gypsy status [29 – 37, 67, 88, 91, 92, 93, 100, 101]

114. It may be that the applicant's parents' status as Romany gypsies was not overtly acknowledged in the context of previous applications for development on the site, but this is unsurprising in the light of the continuing resistance to efforts to secure a more settled way of life which is frequently encountered by gypsies and travellers, as well as the poor media coverage that they tend to receive.
115. The Council accepts the Romany gypsy status of the applicant and her extended family. As to whether the applicant's father formerly pursued a travelling way of life and so meets this definition but has ceased to travel now due to ill health, little evidence was available to the inquiry on this matter. Nevertheless, this does not affect the applicant and her family's status in any event.
116. Neighbours suggest variously that the applicant's family has not been resident on the site and that they have not observed a travelling way of life being pursued from the site for work. This is based on not seeing or hearing the applicant's daughter on the site and not seeing comings and goings for travelling with a caravan. There is little to substantiate these speculations, which are also mutually exclusive. From the evidence submitted with the application as well as the additional documentary information tabled at the inquiry and the oral submissions to it, in addition to the way of life apparent at the site during the site visit, there is little doubt in my mind that the applicant, her husband and her extended family are all bona fide members of the gypsy and traveller community. I am also satisfied that the applicant's husband maintains a travelling way of life in pursuing his work and this meets the definition established by Annex 1 to the PPTS.

117. Concerns have been raised as to the whether the status of the application site either as a residential caravan site or a site for gypsies and travellers would affect which planning policy should apply and thus alter the determination of the application. The site is in authorised use as a residential caravan site for one static caravan and the dayroom on it is also acknowledged by the Council to be lawful. There is no planning reason why a gypsy and traveller family should not occupy the site.
118. As set out above, as a matter of fact and degree, the family members that occupy it are Romany gypsies. Accordingly the Council has identified the site in its current GTAA as an authorised gypsy site comprising one pitch. The application in this case is a proposal for an additional pitch for a Romany gypsy family, who meet the definition set out in Annex 1 to the PPTS. As such relevant development plan policies and national policies for gypsy and traveller sites in the Green Belt apply. There is no relevant extant development plan policy in this regard and very little weight should be given to the Council's emerging policies. The PPTS identifies that such sites in the Green Belt are inappropriate and should not be approved, except in very special circumstances.
119. Even if the applicant and her family were not of gypsy and traveller status, development plan and national policy establishes that the proposal for an additional static caravan and two touring caravans would be inappropriate development. In this case also it should not be approved except in very special circumstances.
120. Inappropriate development in either case is by definition harmful to the Green Belt and very special circumstances will not exist unless the potential harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
121. In both scenarios the other considerations put forward by the applicant fall to be taken into account in the balance as to whether very special circumstances exist.

Green Belt, openness and purposes [5, 8, 9, 25, 40, 41, 42, 68]

122. The Framework reiterates that the essential characteristics of Green Belts are their openness and their permanence. This is not a matter of the appearance of the land, but its openness, free from development.
123. In terms of openness, the proposal would introduce one additional static caravan, located in line with the existing authorised one already on site. This would be installed partly on an area of existing gravel hardstanding and partly on a small extension to the hardstanding which would project some 6m further into the adjacent area of grassed residential curtilage. The effect of this small additional area of hardstanding and the physical volume of the additional static caravan, with an inevitable increase in the domestic paraphernalia arising from the one existing static caravan would, all taken together, reduce the openness of the Green Belt to a moderate degree.
124. The application site is already authorised for residential caravan use and as such the proposal would not result in urban sprawl or encroachment into previously undeveloped countryside. Neither of these aspects weighs against the proposal.

125. The Framework advises that substantial weight should be given to any harm to the Green Belt. Accordingly, the harms caused by the inappropriate nature of the development and to the openness of the Green Belt both attract substantial weight in this application.

Character and appearance of the open countryside, the Area of Great Landscape Value, the Area of Outstanding Natural Beauty and the visual amenity of the Green Belt [5, 8, 9, 13, 14, 23, 25, 43 – 47, 69 – 71, 85, 98, 102, 103, 104]

126. The landscape surrounding the site corresponds to the landscape characteristics described as typical in the LCA for the Gade Chalk Valley. The existing single residential caravan site is secluded; it lies on gently rising ground above the road in the valley bottom and is separated from it by a paddock used for grazing horses and mostly screened from the road by a high hedge. It is surrounded on two further sides by the high shrubs and hedges in the adjacent properties and by the backdrop of the wooded hillside leading up to Hudnall Common.
127. There are partial views of the existing static caravan on the site, as well as the touring caravan parked just uphill of it, in distant views from across the valley, from the side of the neighbouring property at Barnfield, from the shared access drive at close quarters and in limited views, mainly from upper windows, from the neighbouring properties, Merryweather and Woodlands. There are also views into the site available from close quarters from within the open access woodland above it, but there are no formal footpaths here. In summer such views are very limited by the foliage of undergrowth and trees and would be similarly constrained albeit to a lesser degree by the branches of undergrowth and general density of the woodland. More distant and limited views may also be possible through the trees from footpaths higher up on Hudnall Common.
128. The PPTS says that new traveller sites located in open countryside away from existing settlements should be strictly limited. The site is within open countryside but is not itself undeveloped. The existing use as a residential caravan site with a dayroom is authorised. Thus the existence of physical development on site is established. The proposed addition of a single static caravan and two touring caravans has already been partially implemented; two touring caravans are already parked on the site. The static caravan would be installed in the position currently partly occupied by one of the parked touring caravans. As indicated on the amended drawing submitted to the inquiry, the two touring caravans would be parked alongside the existing dayroom, where vehicles associated with the existing site are parked and where they are least obtrusive, screened by the high hedge.
129. Given the existing authorised use, the distance from the road, the limited public views and the proximity to several nearby residential properties the visual harm to the open countryside would be very limited. The proposal has and would cause only a small degree of harm to the character and appearance of the open countryside and the Area of Great Landscape Value.
130. Overall, the additional visual impact resulting from the proposal would be perceptible but limited; it would not be eye-catching or visually prominent particularly in the context of the large residential properties close-by. Viewed in context, the small degree of visual harm arising from the proposal would not harm the visual amenity of the Green Belt or fail to conserve the landscape and

scenic beauty of the Chilterns Area of Outstanding Natural Beauty. Thus it would accord with the Framework in these terms. This neutral outcome weighs neither for nor against the proposal.

131. Reference has been made to paragraph 116 of the Framework, which requires that planning permission should be refused in the AONB except in exceptional circumstances where it can be demonstrated they are in the public interest. This relates to major developments; the application is not in respect of a major development.

Other considerations – need for gypsy and traveller pitches in the district
[48 – 54, 72 – 75, 82, 91, 94]

132. There is no dispute between the main parties that there is acknowledged general unmet need for gypsy and traveller accommodation within Central Bedfordshire.
133. The PPTS encourages local planning authorities to plan for sites over a reasonable timescale and requires them to use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions. The GTLP submission version and the accompanying evidence base sets out the pitch requirement for Central Bedfordshire at June 2014 as a total need for 117 pitches to 2031, with 42 required in the first five years, from February 2014 to December 2019. The figure is made up of a 24 pitch backlog and 18 pitches required to meet a 2% household growth.
134. The figure has not yet been subject to examination in public (EIP) and several objections, relating to the background evidence and the assessment methodology, have been drawn to my attention. The identified pitch requirement has been steadily reduced since the original draft; from initially 65 pitches for the first five years from 2013-2018, to 54 in the January 2014 version and now 42 in the submitted version.
135. The percentage rate used for household formation has also been reduced from 2.5% to 2%. The EIP inspector's pre-hearing questions raise possible criticisms and discrepancies. Until these have all been fully aired and concluded on in the EIP and the inspector's report it is not possible to accord the requirement figure set out in the GTLP any great degree of weight as a properly assessed requirement based on a robust evidence base to establish accommodation needs.
136. The PPTS also requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets.
137. The emerging GTLP allocates six specific sites to deliver a total of 66 pitches, with 46 to be delivered within the first period; this equates to a five year supply sufficient to meet the identified need set out in it. However, although the Council is confident that these sites are deliverable, to date only three sites comprising 20 pitches in total have been granted planning permission.

138. Further, the deliverability of the sites will also be fully explored in the course of the EIP. Importantly I note that the inspector's pre-hearing questions⁴⁵ include, at 2.10, a critique of pitch counting at allocated sites GT13 and GT12 (Old Acres and Greenvale) which it appears could lead to a reduction in the supply attributed to these sites from 22 to 6. If the criticism is substantiated, this could result in a fundamental reduction in the allocated provision figure of 46.
139. The Council also attributes weight to the contribution that would be made by the proposal as a windfall addition of 1 pitch to the overall supply in the district beyond the initial five year period. Following the first five year period the GTLP sets out that need would be met initially by the provision of 20 pitches on allocated sites and thereafter by anticipated windfall sites predicted at 79. Paragraph 48 of the Framework states that local planning authorities may make an allowance for windfall sites in the five-year supply if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. No compelling evidence base on windfall was made available to the inquiry and this casts further doubt on the Council's supply strategy.
140. It is apparent even on the basis of the Council's own figures that it does not currently have a five year supply of sites to meet its identified need and the figures established in the submitted version of the GTLP carry little weight at this stage.
141. I attach substantial weight to the current unmet need for traveller sites in the district and to the failure of the development plan to identify a five year supply of specific deliverable sites to meet that need. Both these factors weigh heavily in favour of the development. Additional moderate weight for the proposal also arises from the contribution that it would make to the supply of traveller sites in the district.

Other considerations – alternative sites and personal circumstances

[55 – 63, 76 – 77, 88, 92, 95, 96, 98, 100, 101, 102, 107]

142. The Council's site at Timberlands nearby was drawn to my attention. This is undergoing refurbishment and appears near completion, although the Council were unable to advise the inquiry as to when it would become available. In any event, the Council has confirmed that this site was previously in occupation by Irish travellers, some of whom may have the option to return. It also indicated that its own site management policy would be likely to preclude acceptance of the applicant's family onto the site given the cultural differences between Irish travellers and Romany gypsies, which sometimes cause them management difficulties.
143. The Council accepts that there are no alternative sites in the district available to the applicant's family and no others have been drawn to my attention. Suggestions that the applicant and her family could move into a larger mobile home with her parents would not provide them with independent family accommodation and would also lead to cramped conditions.

⁴⁵ Inquiry document 7

144. The Council has confirmed⁴⁶ that were this called-in application refused, then consideration would be given to taking enforcement action. The applicant and her family currently live on the application site in a touring caravan and share the dayroom facilities with the applicant's parents and brother. The applicant's husband confirmed at the inquiry that no suitable alternative sites are available to them and the family would be forced to embark on a roadside existence or to 'double up' elsewhere.
145. This would not provide a secure basis for family life. Their current living conditions are cramped and will become more so as their 18 month old daughter Louisiana grows. The children of the gypsy and traveller population have poorer health outcomes than those of the settled population and child mortality rates are higher. In two to three years Louisiana will need access to pre-school and then primary school. She will need a settled base from which to access this. In addition, while currently well, she will inevitably need medical attention for childhood ailments and for regular preventative treatment including routine screening and inoculations. A settled base is also necessary to access healthcare. These are important primary considerations in this case.
146. The applicant and her father have medical conditions that require regular healthcare and she assists her father in administering to his health needs. While these are not unusual conditions, they require ongoing medication and monitoring. These needs add some further weight.
147. These medical and educational needs could be met from any settled site, but there is little prospect of the applicant and her family finding any alternative sites in the district and none has been identified as suitable and available. Returning to a roadside existence would lead to an unsettled life style and make regular access to schooling and health care very difficult. It would also prevent the mutual support that the applicant and her family and her parents are able to offer each other, which is a part of their cultural way of life.
148. In such circumstances interference with the right to respect for the private and family life of the occupants, under Article 8 of the Human Rights Act 1998 could arise. This incorporates the decision maker's obligations under the United Nations Convention on the Rights of the Child, including under Article 3.
149. Taken all together these considerations add significant weight for the proposal.

Other matters [64 – 66, 78, 79, 82, 83, 89, 97, 100, 103, 106]

150. The Council places moderate weight on the compliance of the proposal with emerging local policy, in particular with GTLP policy GT7 in respect of the infilling of existing gypsy and traveller sites. For the reasons set out above I can give only limited, if any, weight to the emerging policies and as such this consideration carries negligible weight in this case.
151. A previous appeal decision⁴⁷, relating to a certificate of lawful use for siting four caravans for residential use at this site, found that allowing the proposal in that case would result in the character of the use changing from a low key caravan site. Such considerations are always a matter of fact and degree. The inspector

⁴⁶ Inquiry document 19

⁴⁷ APP/P0240/X/09/2111119

found that the proposal 'would result in a materially different character – it would appear as a mainly developed site as opposed to the current situation.'

152. The full circumstances of the previous case are not available to me, but I was told at the inquiry that the caravans proposed then would have been located further to the south on the site, in greater proximity to the woodland. That is not so in this case, the additional static caravan would project only 6m further towards the woodland than the existing hardstanding and the two touring caravans would be parked adjacent to the dayroom. I have found that there would be only a small degree of change to the character of the site arising in this case, such that it would not amount to a material change of use.
153. As set out above the site is already developed and as such amounts to previously developed (brownfield) land. Notwithstanding that the PPTS requires weight to be attached to the effective use of previously developed land for traveller sites, this is not of itself a reason to allow further development within the garden area. However, the proposal would largely take place on existing gravelled hardstandings and would extend into only a small part of the grassed garden area (some 6m in the context of a paddock sized area). As such a little weight due to the previously developed status of one area of this site should be attached to the proposed development for a single pitch for use by a Romany gypsy family. This aspect adds a little weight to the overall balance.
154. Neighbours are understandably concerned that there may be pressure in future for additional pitches for other family members. This would be a matter for further applications which would fall to be assessed on their planning merits and the development plan in place at that time.
155. With reference to noise and disturbance which may affect the living conditions of neighbouring residential occupants, I have seen little to convince me that the additional comings and goings and day to day activities of domestic life on the site would be so significantly increased by the addition of a single household in the context of the existing one already on site as to warrant any additional weight against the proposal.
156. Other matters raised relate to neighbour disputes, blocking of access routes and possible incidents with loose dogs. These are all matters for other recourse than through the planning system, by means of other legislation, as for similar problems arising amongst the settled population. These concerns are nevertheless understandable and the fear of crime is a legitimate planning consideration. However, no documented crime statistics were provided to the inquiry and representations on this matter were not made by the police or the Council. As such these considerations cannot weigh against the proposal.
157. Concerns with regard to an over concentration of existing sites in the ward are more pertinent to the EIP for the GTLP.

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

158. The totality of the harm to the Green Belt caused by the inappropriate nature of the development as well as to its openness attracts substantial weight against the proposal.

159. The applicant and her family are of gypsy and traveller status. In favour of the development generally, therefore, is the as yet unconfirmed, but substantial, level of unmet need for traveller pitches in the district. The Ministerial Statement published on 2 July 2013 clarifies that 'the single issue of unmet demand, whether for traveller sites or for conventional housing, is unlikely to outweigh harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development in the Green Belt'. However, there are unresolved doubts raised as to the evidence base for the assessment of need and therefore the adequacy of steps taken towards meeting that need. The Council has acknowledged that the need is unlikely to be met for at least two - four years and that allocated site provision will need to be made within the Green Belt. This also applies to the substantial amount of windfall site provision which is counted towards supply in the emerging GTLP.
160. The current failure of development plan policy to identify a five year supply of land for pitches, taken with the un-quantified but substantial unmet need both weigh heavily in favour of the proposal. The site partly amounts to previously developed land and this adds a little further weight to this heavy weight. Additional moderate weight arises from the contribution the proposal would make to the supply of traveller sites in the district. On balance, when added together in the site specific circumstances of this case, these material considerations are sufficient to clearly outweigh the overall harm. I conclude therefore that they amount to the very special circumstances required to justify the proposal in the Green Belt. Consequently, the proposal would comply with the policies relating to the Green Belt for gypsy and traveller provision set out in the PPTS. This is sufficient to justify allowing the application.
161. In respect of other harms, there would be a small degree of visual harm identified arising from the proposal to the AONB and to the AGLV, but the harm is not sufficient to prevent compliance with the development plan policy in this regard. Due to the recent High Court decision on Redhill Aerodrome Ltd v SSCLG and others, these additional harms have not been weighed in the Green Belt balance in assessing whether very special circumstances exist.
162. If non Green Belt harms had been weighed in the balance in assessing whether very special circumstances exist, although the Framework places great weight on conserving the landscape and scenic beauty of the AONB and local policy seeks to protect the AGLV, the small degree of harm arising in this case is not sufficient, if added to the Green Belt harms, to tip the balance so as to outweigh the totality of weight identified in respect of the other considerations in favour of the proposal as set out above.
163. The future education needs of the applicant's daughter as well as her general need for access to health care and the specific health needs of the applicant and her father, all together also weigh significantly in favour of the development, but these considerations are not determinative. However, having regard to the balance of considerations outlined above and the effect of the proposal upon the public interest, I conclude that refusal of the application would have a disproportionate effect upon the rights of the child and the rights of the family under the provisions set out above. For the reasons given above I find that the appropriate balance would be struck between the rights of the individuals and the protection of matters of acknowledged public interest by the grant of a permanent permission such that the action would not be disproportionate.

Temporary permission [15, 17, 19, 80]

164. In the event that the Secretary of State disagrees with my conclusion that a permanent planning permission should be granted, I must give consideration to a temporary permission. The applicant has indicated that whilst a permanent permission would be preferable, a temporary one would also be desirable. A temporary permission may be justified when it is expected that planning circumstances will change in a particular way at the end of the temporary period. Given that the EIP for the GTLP is underway, there is a very reasonable prospect that the Council's aspiration to fully identify the unmet need for gypsy and traveller sites in the district and to identify a five year supply of available suitable sites to meet the need will come to fruition in the short to medium term.
165. The Council resists the grant of planning permission on a temporary basis only as this would fail to contribute to the supply of windfall sites on which the Council relies heavily to meet the need for sites over the longer plan period. However, paragraph 25 of the PPTS states that if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. This applies in this case.
166. If the Secretary of State disagrees with my recommendation to grant full planning permission and is minded to grant a temporary permission only, the Council agreed at the inquiry that a four year period would ensure that alternative sites would be available elsewhere in the district. I agree that this is a realistic prospect.

Recommendation

167. I recommend that planning permission be granted subject to the conditions recommended in Annex A appended below.

Wenda Fabian

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms Saira Sheikh QC	Instructed by Legal Department, Central Bedfordshire Council
She called	
Mr Adam Davies	Planning Department, Central Bedfordshire Council

FOR THE APPLICANT:

Mrs Alison Heine	Heine Planning
She called	
Mr Joseph Jones	Gypsy Council
Mr Charlton Webb	Applicant's husband
Mrs Alison Heine	Heine Planning

INTERESTED PERSONS:

Councillor Richard Stay	Executive Member for External Affairs, Central Bedfordshire Council
Mr George Godar	Rural Heritage Society
Mr Stephen Humphreys	Local resident
Mr T H Adburgham	Campaign to Protect Rural England
Mrs Alison Humphreys	Local resident
Ms L Williams	Local resident

DOCUMENTS

- 1 List of documents published on Council's planning website for application site
- 2 Bundle of correspondence and emails from Studham Parish Council
- 3 Bundle of applicant's personal information re gypsy status with contents list
- 4 Hospital appointment letter 3 June 2014
- 5 2010 appeal decision Valley View
- 6 Revised site layout A4
- 7 Central Bedfordshire Gypsy and Traveller Local Plan Examination Inspector's pre-hearing questions July 2014
- 8 Court of Appeal decision Reed v SoS Communities and Local Government & Another 18 February 2014
- 9 Opening statement on behalf Central Bedfordshire Council
- 10 Opening statement on behalf applicant
- 11 List of documents published on Council's planning website for application site hand annotated with dates posted
- 12 Statement of Common Ground signed by main parties
- 13 Example of letter from Gypsy Council to DVLA, redacted
- 14 Planning permission Valley View 6 September 1999
- 15 Site licence 29 September 2003
- 16 Letter from Brandon Lewis MP 26 March 2014
- 17 Email 7 January 2011 from Environmental Health Officer
- 18 Statement – Rural Heritage Society and footpath map

- 19 Email 1 December 2011 re Valley View from Planning Enforcement
- 20 Bundle of letters in support of planning application
- 21 Letter 7 January 2011 re use of motor home Valley View
- 22 Statement – Mr S Humphreys with attachments
- 23 Site License 12 November 1998
- 24 Statement – Mr Adburgham CPRE
- 25 Statement – Mrs A Humphreys
- 26 Statement – Ms L Williams
- 27 Affidavit 24 October 2008 by Mr Golby and email 23 April 2013 from Mr Davies
- 28 Closing Statement on behalf of Central Bedfordshire Council
- 29 Closing Statement on behalf of applicant

DOCUMENTS received after the close of the inquiry in response to letter dated 21 August 2014 from the Planning Inspectorate regarding the High Court decision on Redhill Aerodrome Ltd v SSCLG and others

- 30 Comments Central Bedfordshire Council
- 31 Comments Mr Humphrey
- 32 Comments Mr Adburgham for CPRE
- 33 Comments Mr Poyner, Vice Chair Studham Parish Council

PLANS

As listed at Section 4 Statement of Common Ground

Additional plan tabled at inquiry – A4 OS map extract with site red line boundary and National Trust boundary

Proposed Site Layout, revision A, dated 5 August 2014 (Inquiry document 6)

ANNEX A

Recommended conditions in the event the planning permission is granted on a permanent basis:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Site Layout, revision A, dated 5 August 2014 and Drainage Plan PP-02861037.
- 3) The occupation of the site hereby permitted shall be carried on only by the following: Mrs Jade Golby Webb, Mr Charlton Webb and their resident dependants.
- 4) 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*.
- 5) Unless within 3 months of the date of this decision schemes for the following works are submitted to the Local Planning Authority for approval and unless each approved scheme is implemented within 3 months of the approval of that scheme, the use hereby permitted shall cease and all

caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed:

- i) Details of external lighting;
 - ii) Details of storage provision for refuse and recycling;
 - iii) Details of existing landscaping on the site to be retained and new landscaping to include native hedgerow planting comprising a mix of hawthorn and blackthorn around the boundary of the site with a programme for planting. Any retained trees and shrubs or new ones planted in accordance with this condition which are removed, uprooted, destroyed, die or become seriously damaged or defective during the lifetime of this permission shall be replaced by trees or shrubs of similar size and species to those originally required to be planted; and
 - iv) Details of the foul and surface water drainage of the caravan hereby permitted and the associated hard standing. Thereafter the drainage shall be managed and maintained in accordance with the approved scheme.
- 6) 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 fences, gates or walls or any other means of enclosure or any amenity or storage buildings or other structures shall be erected on the land without the grant of further planning permission.
 - 7) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be a static caravan) shall be stationed on the whole of the site at any time.
 - 8) No commercial activities shall take place on the land, including the storage of materials.
 - 9) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

Recommended conditions in the event the planning permission is granted on a temporary basis:

- 10) The development hereby permitted shall begin not later than three years from the date of this decision.
- 11) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Site Layout, revision A, dated 5 August 2014 and Drainage Plan PP-02861037.
- 12) The occupation of the site hereby permitted shall be carried on only by the following: Mrs Jade Golby Webb, Mr Charlton Webb and their resident dependants and shall be for a limited period being the period of 4 years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.
- 13) When the premises cease to be occupied those named in condition 12 above, or at the end of 4 years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and

- equipment brought on to the land, or works undertaken to it in connection with the use shall be removed within one month of the cessation date.
- 14) Unless within 3 months of the date of this decision schemes for the following works are submitted to the Local Planning Authority for approval and unless each approved scheme is implemented within 3 months of the approval of that scheme, the use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed:
- v) Details of external lighting;
 - vi) Details of storage provision for refuse and recycling; and
 - vii) Details of the foul and surface water drainage of the caravan hereby permitted and the associated hard standing. Thereafter the drainage shall be managed and maintained in accordance with the approved scheme.
- 15) 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 fences, gates or walls or any other means of enclosure or any amenity or storage buildings or other structures shall be erected on the land without the grant of further planning permission.
- 16) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be a static caravan) shall be stationed on the whole of the site at any time.
- 17) No commercial activities shall take place on the land, including the storage of materials.
- 18) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.



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 for permission 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

With the permission of the High Court 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. 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 for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: 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 Inspector's report of the inquiry or hearing within 6 weeks of the day after 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.