

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL 2

**APPEAL BY MR DREW PRICE AND MR JAMES BALL AGAINST A
REFUSAL BY SOUTHCAMBRIDGESHIRE COUNCIL OF AN
APPLICATION FOR A MATERIAL CHANGE OF USE OF LAND
THROUGH INTENSIFICATION TO THE STATIONING OF CARAVANS
FOR RESIDENTIAL PURPOSES, NINE DAYROOMS AND THE
FORMATION OF HARDSTANDING ANCILLARY TO THAT USE**

**PINS REF: APP/W0530/W/22/3308444
GPS REFERENCE: 21_1161B
LPA APPEAL REFERENCE: 22/01703/FUL**

APPEAL 3

**APPEAL BY JAMES BALL AGAINST AN ENFORCEMENT NOTICE
ISSUED BY SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL ON 18
JULY 2024, ALLEGING 'WITHOUT PLANNING PERMISSION, THE
MATERIAL CHANGE IN USE OF THE LAND FOR THE STATIONING OF
CARAVANS FOR RESIDENTIAL OCCUPATION.'**

**PINS REF: APP/W0530/C/24/3349303
GPS REFERENCE: 21_1161C
LPA APPEAL REFERENCE: EN/00309/22A**

**COMMENTS ON THE NPPF AND PPTS 2024
ON BEHALF OF THE APPELLANT**

1. These comments have been prepared in response to the publication of the NPPF and PPTS on the 12th December 2024, and following a request by the Planning Inspectorate.

Planning Policy for Traveller Sites

2. The policies within the PPTS 2024 of particular relevance to this appeal are set out below.

- i. In Policy A at paragraph 7(c) the need for a '*robust evidence base to establish accommodation needs*'.
- ii. In Policy B at paragraph 10(a) the need to maintain a five-year supply of sites.
- iii. Policy C which deals with traveller sites in rural areas and the countryside.
- iv. Policy H which deals with determining applications (and therefore appeals). In particular:
 - i. paragraph 24 refers to the presumption in favour of sustainable development
 - ii. paragraph 25 which sets down some of the material considerations to be considered by the decision maker.
 - iii. Paragraph 28 sets out that if a local planning authority cannot demonstrate an up-to-date 5-year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply.

3. The following changes to the PPTS require particular attention:

Lack of 5 year supply and NPPF paragraph 11(d)

4. Paragraph 28 states:

“If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply.”

5. This now makes it clear that the ‘tilted balance’ at paragraph 11(d) NPPF is engaged where the Council cannot demonstrate an up-to-date 5 year supply of deliverable sites.
6. The Appellant’s position that as the Council are unable to demonstrate an up-to-date 5-year supply of deliverable sites, the Council themselves admit this and the level of need and approach of GPS in calculating this will be expanded on in the Appellant’s Need Statement, is reinforced as it is now irrefutable that this now engages the ‘tilted balance’ at paragraph 11(d) NPPF.

Annex 1: Definition of Gypsies and Travellers

7. The definition of gypsies and travellers within the PPTS 2024 has been amended and is as follows:

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such”.[GPS Emphasis]

8. This change is understood to be, in part, as a result of the Court of Appeal judgement in the case of **Lisa Smith v SSLUHC [2022] EWCA Civ 1391** (Appendix C3).
9. It is noted that the *Equality Analysis for MHCLG December 2024 government response to consultation* on changes to national planning policy, states in relation eliminating unlawful discrimination:

In making changes to the NPPF we seek to ensure that its policies apply equally to all those with protected characteristics, as regards outcomes, and have reviewed new or amended policies with this in mind. We have sought to address the concerns raised about the definition of “gypsies and travellers” so that it is aligned more closely with the aims of the PPTS to facilitate the traditional and nomadic way of life for Gypsies and Travellers. We expect that this and wider policy changes to the NPPF and PPTS will support the increased supply of traveller pitches, but recognise that further changes may be needed to our proposals to ensure adequate provision. As such, we are seeking further evidence on how the proposals would impact on different groups, including Gypsy and Traveller communities, through a targeted consultation early in 2025.

10. Assessments of gypsy and traveller accommodation needs by Green Planning Studio have always taken a realistic and practical approach in including all gypsy and traveller sites. With the revision to the definition in the 2024 PPTS the Government has now firmly fallen into line with the approach towards assessing gypsy and traveller need taken by Green Planning Studio for almost 20 years.

11. The change in the definition therefore has the following implications for this appeal:

- i. To confirm the approach taken within the forthcoming Appellant’s Need Statement in assessing the need arising from all gypsies and travellers within the district is now clearly supported by national policy.
- ii. As the Council are unable to demonstrate an up-to-date 5-year supply of deliverable sites based on their own admission and the reasons which will be set out in the Appellant’s Need Statement and Appeal Statement, it is irrefutable that this now engages the ‘tilted balance’ at paragraph 11(d) NPPF.

- iii. Any condition imposed on a grant of planning permission, would need to reflect the new PPTS definition.

NPPF

12. The policies within the NPPF 2024 of particular relevance to this appeal are set out below.

- i. Paragraph 8 which sets out the three dimensions to sustainable development.
- ii. Paragraph 11 which sets down the presumption in favour of sustainable development.
- iii. Paragraph 32-34 sets out how Local Plans should be prepared and reviewed.
- iv. Paragraph 39 relates to decision-making of Local Planning Authorities and all other levels. It states that decision-takers at every level should seek to approve applications for sustainable development where possible.
- v. Paragraph 48-51 which set out how weight should be attributed to Development Plan policies.
- vi. Paragraph 57 states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other aspects.
- vii. Paragraph 61 which seeks to ensure sufficient land is developed to boost the supply of homes including *‘that the needs of groups with specific housing requirements are addressed.’*
- viii. Paragraph 63 stipulates that these groups should include travellers.
- ix. Paragraph 116 states that “development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would

be severe, taking into account all reasonable future scenarios”.

- x. Paragraph 135 of the NPPF stipulates that decisions should aim to ensure that developments are sympathetic to local character.
- xi. Paragraph 200 states decisions should ensure new development can be integrated effectively with existing businesses and that any if existing business could have a significant adverse effect on new development suitable mitigation should be provided by the applicant (or ‘agent of change’) before the development has been completed.
- xii. Paragraph 232 states that *‘existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework’*.

13. The following changes to the NPPF require particular attention.

Increased housing provision aim

14. As noted in the *Equality Analysis for MHCLG December 2024 government response to consultation*, with the Governments clear intention to improve the provision of housing, this could result in greater difficulty for Gypsies and Travellers in terms of availability of suitable land. The consultation response states:

“The increase in land used for housing as a result of these proposals may impact Gypsies and Traveller’s by reducing land available for traveller sites. However, planning policy requires that local authorities’ assess the needs of Gypsies and Travellers and identify sufficient land allocations to meet those needs.”

15. This puts a greater emphasis on the need for the Council to ensure that they have a robust and up-to-date needs assessment and make sufficient allocations.

The 'Tilted Balance'

16. Paragraph 11(d) now has an addition as highlighted below:

11(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, **having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.***

17. The meaning of 'having particular regard to' is not yet clear, however, it is not considered to have any negative implications for the appeal.

Conclusion

18. The changes to the NPPF and PPTS emphasise the Government's intention to increase the number of homes, including for gypsy and travellers.
19. The alterations to the NPPF and PPTS serve to reinforce the approach taken by GPS to this appeal and that permanent planning permission for the development sought ought be granted.

Green Planning Studio Limited
Unit D Lunesdale
Upton Magna Business Park,
Shrewsbury SY4 4TT
appeals@gpsltd.co.uk

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