Planning Inspectorate

Appeal Decisions

Hearing held on 3 July and 13 November 2025

Site visit made on 14 November 2025

by Peter Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2026

Appeal A: APP/Z3635/C/23/3335127
Land south east of The Ranges, addressed as 1A Priory Stables, Shepperton TW17 9NU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr E Cash against an enforcement notice issued by Spelthorne Borough Council.
- The notice was issued on 7 November 2023.
- The breach of planning control as alleged in the notice is described as *'The carrying out on the land of building, engineering, mining or other operations in particular the laying of an area of hardstanding and a roadway on Green Belt land. Marked in blue on the attached plan and a change of use of the use of the land to the commercial storage of vehicles'*.
- The requirements of the notice are:
  - *Removal of the large area of hardstanding (Marked and hatched in blue on the plan) and all resultant debris from the site.*
  - *Removal of the roadway (Marked and hatched in blue on the plan) and all resultant debris from the site.*
  - *Cease the use of the land for the commercial storage of vehicles and permanently remove all commercially stored vehicles from the site.*
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (e) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal B: APP/Z3635/W/24/3348103
1A Priory Stables, Chertsey Road, Shepperton, Surrey TW17 9NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr E Cash against the decision of Spelthorne Borough Council.
- The application Ref is 24/00203/FUL.
- The development proposed is Change of use of the land for the stationing of 6 static homes for Gypsy / Traveller occupation, with associated hard and soft landscaping.

Decision: Appeal A (APP/Z3635/C/23/3335127)

1. It is directed that the enforcement notice is varied by the deletion of 2 months as the period for compliance at Schedule 4 of the notice and the substitution of 6 months.

2. Subject to that variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Decision: Appeal B (APP/Z3635/W/24/3348103)

3. The appeal is dismissed.

Preliminary Matters

4. Appeal B was the subject of a hearing, conducted by a different planning inspector, which opened on 12 February 2025. However, my colleague adjourned the hearing and arranged for a hearing to take place on 3 July. In the event, I conducted that hearing, rather than the previous inspector. Appeal A was considered at the same hearing, since it was clear that the issues were interlinked. It was not possible to complete matters on 3 July, so the hearing resumed on 13 November, with the site visit taking place the following day.

5. The description of the Appeal B proposal set out in the planning application form is as set out in the heading above. The description on the Council's decision notice and on the appeal form is '*Change of use of the land for the stationing of 6 mobile static homes for Gypsy / Traveller occupation, with associated hard and soft landscaping, parking and roadway. As shown on plan no.'s 2023-1338v3-Mobile received 19.02.2024; amended site location plan 2023-1338v3-Location received 02.04.2024; amended plan 2023-1338v3-Block received 02.04.2024'*.

6. Since it is evident that the plans were submitted prior to the determination of the planning application by the Council, and the revised description reflects those plans, I have approached the appeal on the basis of the revised description.

7. The submitted block plan includes land (coloured green) outside the red line defining the planning application site on the location plan, but does not show any development in that additional land, and so the proposed development falls entirely within the red line boundary.

8. The mobile homes currently on the site are not, in fact, laid out in accordance with the submitted site plan. I have approached the appeal on the basis that the layout shown in the drawings is what is proposed. In any event, since the layout could be controlled by a planning condition, the layout actually currently on the site is not critical to the merits of the development before me.

9. On the resumption of the hearing on 13 November, the appellant's representative requested that the hearing be closed and the appeals be determined by way of an inquiry instead, due to the range and complexity of the issues. Having sought the view of the Council, I determined that the issues could be satisfactorily be decided by way of a hearing. Had I decided at any time that the hearing was not the appropriate procedure, I would have closed the event and arranged for an inquiry to be held instead[1]. In the event, there was no reason to do so, and the hearing was completed as planned.

10. During the hearing it became apparent that both parties considered the electricity generation scheme proposed for neighbouring land was unlikely to be implemented. Furthermore, during the hearing the appellant provided evidence concerning an easement that would be required concerning land controlled by Surrey County Council, leading to further doubt on the matter. In order to provide further clarity on the point, and in view of the fact that this evidence was new to the Council, I gave the parties an opportunity after the hearing to establish whether

[1] See Rule 8(2) - The Town and Country Planning (Enforcement) (Hearings Procedure) (England) Rules 2002

there was agreement regarding the likelihood of the scheme being implemented. In the event, the Council confirmed that it felt that the scheme was 'highly unlikely' to be implemented, which is consistent with the view expressed by the appellant at the hearing. I have no reason to reach any different view and have therefore approached the appeal on the basis that the scheme is highly unlikely to go ahead.

11. Prior to the resumption of the hearing on 13 November, I sought an update on progress with the emerging Spelthorne Local Plan. The Council provided details of the consultation on Main Modifications and an update regarding the anticipated timeline for adoption of the plan, which has slipped due to the need for further consultation relating to a specific site, which was to have been allocated for housing for 24 units but is no longer available. It now appears that the plan will not be adopted until the latter part of February at the earliest. However, I have no reason to suppose, on the information before me, that the change relating to a fairly modest housing site, at this very late stage in the preparation of the plan, is likely to put the eventual adoption of the plan in jeopardy.

12. The Framework advises that local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to the Framework. Accordingly, given its advanced stage of preparation, policies of the emerging plan are capable of carrying weight, depending on the extent of unresolved objections and consistency with the Framework.

13. I have been referred to the River Thames Scheme – a project being developed by the Environment Agency (EA) and Surrey County Council to reduce flood risk in the area. However, that scheme is currently subject to a review and so its relevance to the scheme before me is not currently clear.

14. It is more convenient to consider Appeal B first, followed by Appeal A, and so I deal with them in that order below.

Appeal B

Main Issues

15. The main issues are:

- Whether the development is inappropriate in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies.
- The effect of the development on the openness of the Green Belt and its purposes.
- The effect of the development on the character and appearance of the area
- Whether the development complies with policies designed to address flood risk.
- Whether the development causes or is affected by ground contamination
- Whether the site is appropriate for this residential use having regard to potential impacts from the electricity generation development proposed on adjacent land, with particular regard to noise and air quality.
- Whether any harm to the Green Belt, and any other harm, is clearly outweighed by other considerations, including any need for the development and the

circumstances of those living at the site, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development in the Green Belt

16. The site lies within the Green Belt. Policy GB1 of the Spelthorne Borough Local Plan 2001 sets out Green Belt policy but is no longer in alignment with current national policy on Green Belt. Consequently, I give more weight to the Green Belt policy in the Framework.

17. The Framework advises at Paragraph 154 that development in the Green Belt is inappropriate unless one of the specified exceptions applies. The appellant's case relies on two exceptions set out at Paragraph 154(g) and Paragraph 155.

Paragraph 154(g)

18. Paragraph 154(g) sets out the following exception to inappropriate development in the Green Belt:

> *limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.*

19. The first question, therefore, is whether this is previously developed land (PDL). The Framework defines PDL as:

> *Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed. Previously developed land excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.*

20. The appellant argues that this site is PDL on the basis that the caravans fall within the curtilage of the adjacent stable buildings, one of which has planning permission, the other being unauthorised.

21. However, while the lawful stable building is on land in the appellant's control, there is nothing before me to show that the hardstanding is required in connection with it. Indeed, the hardstanding was originally used for vehicle storage, before its current use as a caravan site. It appears to me that the lawful stable building has a stronger association with the field to the other side, which it faces towards and on which horses were grazing when I viewed the site. Consequently, the area occupied by the caravans is not intimately associated with the stable so as to form

part and parcel with it, and I do not regard this extensive area as forming any part of the curtilage of the stable.

22. The appeal site itself does not contain any lawful buildings or other development relevant to the question of PDL. Although planning permission was granted for an access and turning head, that is confined to a limited area of the site, close to Chertsey Road. The evidence before me indicates that the appeal site was scrubland which had blended into the landscape before the hardstanding and access were laid, having been used for mineral extraction at some time in the past. Accordingly, I do not regard the site as previously developed land. It follows from this that it does not benefit from the exception at Paragraph 154(g).

Paragraph 155 and grey belt

23. Paragraph 155 sets out circumstances where development on 'grey belt' land is 'not inappropriate'. The appellant argues that this is a grey belt site, while the Council take the contrary view.

24. Grey belt is defined at the glossary to the Framework as:

> *land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development*.

25. I consider flood risk later, and conclude that the site is not an appropriate location for this residential use, and set out my concerns and findings of conflict with local and national policy. In my judgement, the application of policies in the Framework relating to areas at risk of flooding provide a strong reason for refusing or restricting development on this site, in all the circumstances of the case. It follows from this that the site is not 'Grey Belt' and cannot benefit from the exception at Paragraph 155.

Conclusion – whether inappropriate development

26. I conclude that neither of the exceptions cited by the appellant apply. It follows that this amounts to inappropriate development in the Green Belt. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Openness and purposes

27. The courts have established that openness is capable of having both spatial and visual aspects. Other relevant factors in considering openness may include the duration of the development, and its remediability and the degree of activity likely to be generated. In this case, the introduction of mobile homes, complete with associated items such as touring caravans, erodes the openness of the appeal site and the Green Belt to a degree. Although the site is located between Chertsey and Shepperton, and despite some urban features in the area, it is not an urban location, and the mobile homes are in clear contrast to their surroundings. The impact of the development is limited by the location of the units within an area

surrounded by high fencing and one lawful stable[2], which means that the site was not wholly open in character prior to commencement of the current use. Activity associated with the development is also likely to be fairly limited, given its scale. Nevertheless, the physical presence of the mobile homes and associated items means that there is a degree of harm to openness.

28. Green Belt serves five purposes, but the Council's concerns relate to only two of these, which are:

    b) to prevent neighbouring towns merging into one another; and

    c) to assist in safeguarding the countryside from encroachment.

29. On the first of these, the Council says that the site is part of the land separating Chertsey and Shepperton. However, the guidance relates specifically to towns, rather than other types of settlement. While there is no dispute that Chertsey is a town, the appellant argues that Shepperton is a village.

30. There is no source of information or criterion drawn to my attention to definitively answer the question of whether Shepperton is a town or a village, and it is therefore a judgement I must make on the basis of the information before me. In considering the matter, I am mindful of the wide range of services and facilities available within the settlement. It is, perhaps, comparable with Chertsey in terms of its overall size.

31. However, it seems to me that whether or not it is a village is not simply a matter of scale. Signage within Shepperton refers to it as a village, and the appellant referred me to a Wikipedia extract which does likewise. It has a village hall and I am told that it does not have a Town Council. By contrast, I have not been provided with any documentation referring to it as a town. The settlement hierarchy within the local plan does not say whether it is a town or village.

32. Viewing matters as a whole, I regard Shepperton as a village. Accordingly, purpose (b) cannot be compromised.

33. As to purpose (c), the development has resulted in the formation of an access and hardstanding, and the use of land for the siting of residential caravans on what was an area of scrubland. As I have already commented, the site is enclosed by fencing and has a lawful stable building adjacent to it. However, the introduction of a new residential caravan use and associated operational development onto an area of scrubland, which I am told was previously used for mineral extraction, has resulted in a degree of encroachment of the countryside in my view. Accordingly, there is conflict with purpose (c).

Character and appearance

34. Given the agreement that the neighbouring electricity generation scheme is highly unlikely to go ahead, I have not taken it into account in my assessment of the visual impact of the development.

35. The appeal site was formerly part of a mineral extraction site. I understand that the site was restored and an aerial photograph from May 2018 attached to Mr Dudley's evidence shows it partly greened over, although the full extent of the greenery is not obvious from the image.

[2] There is a second stable, which is unauthorised

36. The site lies within the Thames Valley National Character Area, while the Surrey Landscape Character Assessment of 2015 places it within the River Floodplain Landscape Type and the Thames River Floodplain Character Area. Both sides have provided detailed appraisals of the visual impact of the development, and I have had regard to them. The appellant's assessment, carried out by Petrow Harley, identifies 7 distinct landscape areas within its study area, placing the appeal site within an area described as a 'Post Construction Landscape'. The description of this refers to it having an industrial character. However, while bounded by the M3 to the north, and despite some existing built development and previous land uses such as mineral extraction, it appears to me that the area has a more rural character than that description implies, with extensive greenery and scrub.

37. The assessments for the parties arrive at different conclusions in terms of landscape impact. For the appellant, Mr Petrow concludes that the landscape effects overall are neutral. For the Council, Mr Dudley advises that the effects of the submitted scheme upon the landscape would be significant and adverse, of major/moderate significance.

38. The best evidence available to me regarding the appearance of the site prior to the development is the 2018 aerial photograph. Comparing the site now with its appearance then, there has been significant visual harm. The lengthy accessway and extensive hardstanding, constructed of dark road chippings, give the site a much more developed appearance than before, introducing a rather crude material that contrasts starkly with the mainly green appearance of the site before. Moreover, the mobile homes, together with associated domestic items, such as outdoor toys, bins and plant pots, give the site a plainly residential character and erode the largely rural character of the area, causing further visual harm.

39. The visual harm is significantly limited by the screening around the site, including high fencing and greenery, which limits views into it. Nevertheless, elements of the development, including the mobile homes, can be seen in some long-range views, such that there is a degree of harm to the wider area. It may be that the appearance could be improved with new landscaping. However, that would take time to establish. Even if a landscaping scheme were successfully implemented, the site would retain a fundamentally developed appearance, in stark contrast to its pre-development character.

40. Of course, the reality is that the site has now changed, and so I have also considered how it might appear if the enforcement notice is upheld. The notice requires the hardstanding and roadway to be removed from the site, but does not require any particular restoration or replanting. Moreover, it appears that the soil is likely to be poor quality, which may limit the capacity for its return to grassland in the near future. Nevertheless, it seems likely to me that there would be a degree of greening up over time. In any event, the removal of the mobile homes and surfacing would give the site a less developed appearance, more in keeping with the surrounding countryside. Thus, even if the site could not be returned to its previous state in the short term, the development still causes visual harm.

41. For these reasons I conclude that the development harms the character and appearance of the area. This brings it into conflict with Policies EN1 and EN8 of the Council's Core Strategy and Policies Development Plan Document, which respectively require a high standard of design and seek to protect and improve the landscape.

Flood risk

Background and policy on flood risk

42. The site lies close to the River Thames. Flood Maps for Planning, produced by the Environment Agency (EA), show that the site lies primarily within Flood Zone 2, which is defined as land having between a 1% and 0.1% annual probability of river flooding; or land having between a 0.5% and 0.1% annual probability of sea flooding. Mapping provided by the EA also shows a very small part of the site within Flood Zone 3, which relates to land which has a 1% or greater annual probability of river flooding; or Land having a 0.5% or greater annual probability of sea flooding. However, the area affected is minimal and does not affect my assessment of the site.

43. Paragraph 170 of the Framework states that: 'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere'.

44. Annex 3 of the Framework categorises mobile homes intended for permanent residential use as highly vulnerable to flooding. The PPG establishes at Table 2 that the exception test is required for highly vulnerable development in Flood Zone 2 (where the sequential test has been passed).

45. The Framework establishes that a site-specific flood risk assessment (FRA) should be provided for all development in Flood Zones 2 and 3. The appellant has provided an FRA. This considers various potential forms of flooding, but focuses in particular on the risks arising from fluvial flooding from the River Thames. It indicates that the area where the mobile homes are located is entirely within Flood Zone 2. The FRA includes a topographical survey and compares this to modelled flood data, provided by the EA.

46. Local Plan Policy LO1 sets out the policy for flooding, and does not permit 'more vulnerable' uses within Zone 3a or Zone 2 where flood risks cannot be overcome. National policy has evolved since LO1 was adopted, but it contains principles that remain relevant and I attach significant weight to it.

47. Policy E3 of the emerging local plan sets out a detailed approach to managing flood risk. Although not part of the current development plan, the policy has evidently been subject to extensive discussion and appears consistent with the principals set out in national policy and guidance. It appears to have broad support, including from the EA. It is subject to main modifications, but these concern matters of detail rather than the principles of the policy. Thus, it appears likely to me that the policy will be adopted in its currently-proposed form, or something very similar to that. Accordingly, I attach very significant weight to the policy.

48. I have also been referred to the Level 1 Strategic Flood Risk Assessment for Spelthorne, which includes a policy recommendation that new development must have safe access/escape during design flood conditions, including an allowance for climate change.

Safety

49. The topographical survey attached to the appellant's FRA was carried out in 2024. This is the best evidence available to me regarding current levels at the site. The survey shows levels at the northern end of the site – where the hardstanding and mobile homes are located – at approximately 13.00m AOD or above. This places the mobile homes above the modelled flood events for that part of the site, which indicate a maximum of 12.38m AOD for a 'design flood' (1% Annual Exceedance Probability plus 35% climate change allowance) or 12.39m AOD for a 0.1% AEP event. Levels drop towards the southern end of the site, where it joins Chertsey Road.

50. I have also been referred to a topographical survey carried out in 2019. This shows generally lower levels at the northern end of the site. However, planning permission was granted in 2019 to raise levels in this part of the site by up to 0.6m[3]. Comparison with the 2024 survey suggests that levels have been raised beyond the area permitted by that permission. Nevertheless, even without any unauthorised raising of levels, it appears to me that the mobile homes would be above modelled flooding levels.

51. However, parts of the site are only marginally above the design flood levels, and much of the surrounding land would be inundated with flood water in a design flood event, such that the appeal site would not be accessible via a dry route. Such a flood event would seriously affect Chertsey Road, which provides the route to the site.

52. Hazard Mapping provided by the EA shows that the depth and flow of flood water on much of Chertsey Road would result in a rating of 'Danger for Most'. That means that there would be risk to the majority of people, such that it would be difficult to stand or escape safely. While it does not necessarily preclude people being reached by the emergency services, it is undesirable to place excessive reliance on emergency services in making planning decisions on flood risk. Moreover, depending on the route taken, the higher 'Danger for All rating could also be encountered. Policy E3 of the emerging local plan and the PPG highlight the importance of ensuring safe access and egress for development in areas at risk of flooding.

53. The appellant's FRA acknowledges that flood waters along Chertsey Road and other nearby roads would be too deep, meaning that an escape route with very low or no vulnerability hazard, cannot be provided. However, it points out that the site lies within an EA Flood Warning Area, in which the EA issues warnings when flooding is expected. This, it is said, would give the site occupants the opportunity to take action in good time, in accordance with a Flood Plan.

54. However, I am not persuaded that this adequately addresses the issue. National and local policy is designed to avoid locating development in areas affected by flooding so far as possible, through the application of the sequential test. Excessive reliance on the flood warning system is not consistent with that approach, and runs the risk of allowing flood events to cause additional disruption, as opposed to seeking to avoid flood risk. Moreover, there is no guarantee that people will act on a flood warning. Even if a flood plan encourages people to take steps such as moving family, pets and valuables when flooding is expected, they may well be

[3] Ref 19/01096/FUL

reluctant to do so in practice. This may be especially true if more than one warning is issued within a short space of time, as occurred in early 2014. Thus, I am not persuaded that it can be relied upon as a solution to my safety concerns.

55. I have considered the various conditions proposed to address flood risk, including raising and tethering the caravans, but these do not overcome my concern that people could be stranded on the site without a safe means of escape during a flood event. Reliance on emergency services to rescue people would put additional strain on those services at a critical time.

56. For these reasons, I conclude that it has not been shown that the site is safe.

The Sequential Test

57. The Framework advises that:

> *174. Within this context the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test.*
>
> *175. The sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).*

58. Although Paragraph 176 indicates that some minor development and changes of use should not be subject to the sequential test, Footnote 62, establishes that this does not include changes of use to a caravan, camping or chalet site, or to a mobile home or park.

59. Paragraph 27 of the Flood Risk and Coastal Change section of the PPG says:

> *In applying paragraph 175 [of the Framework] a proportionate approach should be taken. Where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development (therefore addressing the risks identified e.g. by Environment Agency flood risk mapping), without increasing flood risk elsewhere, then the sequential test need not be applied.*

60. Looking at national policy/guidance as a whole, it appears to me that a proportionate approach must be taken to the need (or otherwise) for a sequential test. In this case the starting point is that the site falls (almost entirely) within Flood Zone 2 and includes use as a residential caravan site – a highly vulnerable use, specifically cited in Footnote 62 in respect of the sequential test. Account must also be taken of what the FRA shows in terms of safety. While the FRA indicates that the hardstanding is above the area liable to flood, I am not satisfied that the development would be safe for its lifetime, for the reasons set out above. Accordingly, this is not a case where the need for the sequential test is avoided on the basis that the development has been shown to be safe.

61. The appellant argues that alternative sites for residential use are limited, pointing out that there are extensive areas within the Borough that lie within Flood Zone 3 and that about 65% of the borough is within the Green Belt.

62. However, no comprehensive assessment has been provided. There is no analysis or justification for any particular area of search and no identification or comparison of alternative sites. The PPG is clear that the applicant is responsible for providing information to enable the sequential test to be carried out, yet the FRA makes no reference to it. Consequently, I am not in a position to make any assessment of whether the sequential test could be passed and find that this policy requirement has not been satisfied. In these circumstances, it is not necessary to go on to consider the exception test.

63. In reaching that view I have had regard to the judicial authorities cited by the parties. However, in the absence of any adequate assessment of alternative sites, I am unable to conclude that there are no realistic alternatives as per *Mead Realisations Ltd v Secretary of State for Housing, Communities and Local Government [2025] EWCA Civ 3* and *Doncaster MBC v FSS & Angela Smith [2007]*. While in *SCDC v. SSCLG and Julie Brown [2008] EWCA Civ 1010* the Court of Appeal found that there was no requirement for the applicant to demonstrate that no other sites were available, I do not see that that obviates the need to consider the sequential test - as set out in Government policy - in this instance.

64. I have been referred to an appeal decision to grant planning permission for the siting of a residential caravan for a traveller family at Old Oak Farm near Reading (APP/T0355/W/24/3352872), in which flood risk was also raised as a consideration. However, in that case there was agreement that the appeal proposal would pass the sequential test, which is not the case here. Consequently, that is not a genuinely comparable case and does not lead me to any different view.

65. In allowing an appeal concerning 2 traveller pitches near Woking (Ref APP/D3640/W/23/3332001) the inspector concluded that 'while it is incorrect to say that the sequential test has been passed …… it is unlikely that it would identify any reasonable available sites that are sequentially preferrable'. I have insufficient information regarding the likelihood of preferable alternatives in this case to reach any such conclusion. While there is a shortfall in the provision of pitches within the Borough, I am unable to conclude that there are no preferable sites, given my safety concerns relating to this site. For the same reason, the appeal decision concerning an extension to an existing Gypsy/Traveller site at Chertsey (APP/Q3630/W/22/3306901) does not lead me to any different conclusion on the facts of the case before me.

Conclusion – Flood Risk

66. Residential mobile homes are highly vulnerable to flood risk and national policy requires careful consideration of flood risk and safety issues. While an FRA has been submitted, it does not address the sequential test and does not demonstrate that the development can be made safe. I therefore conclude that the site is not an appropriate location for a residential use of this kind, having regard to flood risk considerations, and find conflict with Local Plan Policy LO1, Policy E3 of the emerging Spelthorne Local Plan and the advice set out in the Framework and the PPG.

Ground contamination

67. The Council and EA advise that the site is located on a former landfill site. Thus, it is said that there is a significant risk from landfill gasses. However, the evidence relating to the previous landfill use is unclear and disputed. Had the Council provided some clear evidence of a risk to be addressed, it would have been important for the appellant to adequately assess that risk and show that it could be addressed. However, it seems to me that the Council's concerns should have at least some evidential basis. The matter was not raised when planning permission was refused and there is a lack of information to back up the Council's concerns.

68. In these circumstances, had I been otherwise minded to grant planning permission, a proportionate approach to the issue would have been to attach planning conditions, along the lines of those discussed at the hearing.

69. The EA and the Council also raise concerns that contamination could be caused by what appear to be drainage pipes entering the ground from the caravans. However, it appears to me that such concerns could be addressed with a condition requiring appropriate drainage provisions to be made.

70. I conclude, on the evidence before me, that planning permission should not be withheld due to concerns relating to ground contamination.

Noise and air quality

71. During the hearing, the Council confirmed that its concerns relating to noise and air quality would not arise if the neighbouring electricity generation scheme is not implemented. Since there is now agreement that that scheme is highly unlikely to be implemented, there is no reason, on the information before me, to find harm in respect of these matters, and I find no conflict with any of the policies drawn to my attention.

Need and supply

72. Planning Policy for Traveller Sites (PPTS) advises at paragraph 28 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'.

73. Paragraph 11(d) of the Framework states:

> *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.*

74. It is common ground that the Council in this case cannot demonstrate a 5-year supply. Neither side has provided me with any detailed, up to date assessment to establish the extent of the shortfall, even in broad terms. However, the Gypsy and Traveller Accommodation Assessment (GTAA) dates from 2018 and identified a need for 3 pitches for those who met the PPTS definition (at the time), 7 pitches for households deemed unknown, and 17 pitches for households which did not meet the definition. I understand that the current local plan has a total allocation of just 3 pitches. An appeal decision in 2022[4] concerning a Traveller caravan site at Stanwell Moor, Staines concluded that overall need was likely to have been no less than 27 pitches in total when the GTAA was prepared, and I see no reason to reach any different view. Indeed, the Gypsy/Traveller definition is now broader still, suggesting need is likely to have increased. I also agree with my colleague that the persistent under-provision of pitches can be characterised as a failure of policy.

75. Since it is clear that policies relating to meeting the needs of Gypsies and Travellers are out of date, given the inadequate supply, paragraph 11(d) of the Framework is engaged. However, I have concluded that there is harm and conflict with policies in the Framework in respect of flood risk and the Green Belt. In my judgement, on the facts of this case, these provide a strong reason for refusing the development, such that paragraph 11(d)(i) applies. Consequently, I will not apply the 'tilted balance' set out at paragraph 11(d)(ii).

76. Nevertheless, the plainly inadequate provision of pitches weighs in favour of the development. While the Council points to the lack of detail of the current occupants of the site, the allegation in the notice, and therefore the subject of the deemed planning application, relates to Gypsy and Traveller accommodation, and so the availability of pitches is a very important consideration, irrespective of who currently occupies the site.

The site occupants and their circumstances

77. I am told the site is occupied by people who fall within the definition of Gypsies and Travellers, as defined by the PPTS. I sought information regarding those occupying the site, both in writing in advance of the hearing, and at the hearing itself. However, I was told at the hearing that the appellant is not making out any case based on the personal circumstances or specific needs of those living at the site (as opposed to the more general need for pitches within the area), and the appellant was unable to provide any details of those at the site.

78. Nevertheless, I have borne in mind that the refusal of planning permission could have a bearing on those living at the site. Should that lead to the loss of anyone's home, that would represent a serious interference with their right to respect for their private and family life and home in accordance with Article 8 of the European Convention on Human Rights, as set out in Schedule 1 of the Human Rights Act 1998.

79. In the absence of further details, it is reasonable to suppose that the interests of those living at the site lie in them having the option to remain there. In that respect, the refusal of planning permission would harm their interests, and this weighs in the appellant's favour in the overall balance. However, the lack of information about occupiers of the site is such that the appellant's claim that they would be

[4] Appeal Decision APP/Z3635/W/22/3292634

forced into a roadside existence in the event of failure of these appeals is not supported, notwithstanding the general lack of pitches within the borough.

Other considerations

80. This is intentional unauthorised development. In a Written Ministerial Statement made on 17 December 2015, the Government confirmed that this is a material consideration. I attach some weight to this consideration.

81. I have had regard to the conditions proposed by both parties and discussed at the hearing. However, while they would ameliorate some effects of the development, they would not overcome my key concerns.

82. I have been referred to Core Strategy Policy HO6, which is concerned with sites for Gypsies and Travellers. However, the policy is now seriously dated, having been prepared against a very different policy background, and I attach very little weight to it.

83. I have been referred to a range of appeal decisions in which similar issues have been raised and where planning permission has been granted, despite harm in respect of matters including Green Belt and flood risk. As those cases establish, harms and benefits, including any need arising from a shortage of pitches, must be carefully balanced in each case. They do not, however, show where the balance lies on the facts of the case before me.

Planning Balance

84. I attach substantial weight to the harm to the Green Belt. There is additional harm to the character and appearance of the area. The risk of flooding and conflict with relevant local and national policy on flood risk is an important consideration, given the vulnerability of mobile homes to the effects of flooding. I am also mindful that this is intentional unauthorised development. Set against those harms is the very important consideration of the lack of provision for Traveller pitches within the Borough. While the appellant does not make any case based on the personal circumstances of those living on the site, I understand that some or all of the units are occupied, and have borne that in mind in my assessment. The refusal of planning permission plainly has the potential to seriously affect those living at the site.

85. Looking at the case as a whole, having considered all matters raised in support of the development, I conclude that, collectively, they do not clearly outweigh the totality of the harm I have identified. Accordingly, very special circumstances do not exist, and the development is at odds with the Green Belt policy set out in the Framework. There is also conflict with Local Plan Policy GB1, although I attach little weight to that given its lack of alignment with current national policy. There is conflict too with Core Strategy policies EN1, EN8 and LO1. The conflict with key development plan policies leads me to conclude that there is conflict with the development plan as a whole.

86. While the refusal of planning permission could ultimately result in anyone living on the site losing their current home, I cannot see that the aim of protecting the Green Belt or following policies relating to flood risk could be achieved by any other means which would cause less interference with their rights under Article 8, which is a qualified right. The interference in this case is in accordance with the law, given

the provisions of the Town and Country Planning Act 1990. In my judgement, withholding planning permission is a necessary and proportionate response, and would not result in any violation of those rights.

87. I have considered whether planning permission should be granted on a temporary or personal basis. However, I have no details of the site occupants or details of how they would be personally affected. Moreover, I have significant safety concerns, arising from my findings on flood risk. Consequently, notwithstanding the current lack of pitches within the Borough, I am not persuaded that a temporary or personal planning permission would be appropriate in this instance.

Conclusion – Appeal B

88. For these reasons, the appeal should be dismissed.

Appeal A

Ground (e)

89. The appeal on ground (e) is made on the basis that the enforcement notice was not served on Chertsey Commercials – the company that was storing commercial vehicles on the appeal site. Section 172 of the 1990 Act (as amended) requires a copy of the enforcement notice to be served on the owner and on the occupier of the land to which it relates. Schedule 5 of the enforcement notice lists all parties served with a copy of the notice, and Chertsey Commercials is not listed. I am told that the Council had previously been provided with details of the company.

90. However, section 329(2) of the Act indicates that, where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice or document shall be taken to be duly served if it is appropriately addressed and marked and 'it is delivered to some person on those premises, or is affixed conspicuously to some object on those premises'. In this case the Council advises that a notice for the occupier was posted in the post box at the site and a separate notice was affixed to the gate at the front of the property. While I do not have any photographic evidence of the notice in place, affixing notices to sites in this manner is common practice, and I have no reason to doubt the Council's evidence on the matter. Thus, it appears to me that the notice was duly served on the site occupiers.

91. I have been referred to 2 appeal decisions in support of the appellant's view that this did not amount to correct service. However, in the case of appeal ref APP/M5450/C/21/3271955 the dispute related to service on the owner of the land, and not the occupier, as in this case.

92. Appeal Ref APP/J0350/C/19/3239940 was concerned with the service of a notice on the occupiers of flats and the appeal succeeded on ground (e) after the inspector concluded that the Council had not made sufficient efforts to try and ascertain the names of the occupiers of each unit and address copies of the notice to them accordingly. However, section 329(2) draws a clear distinction between the requirements relating to service of any person having an interest in premises as opposed to persons who are occupiers. It appears to me that the wording of that section does not include any requirement of 'reasonable inquiry' in relation to notice

served on occupiers. Accordingly, while I have considered the appeal decision carefully, it does not alter my view in this case.

93. In any event, even if the notice was not correctly served, section 176(5) of the Act states 'Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him'.

94. Here, there is no evidence before me to suggest that any occupier of the site has been deprived of the opportunity to appeal or otherwise prejudiced. The company was notified of the appeal hearing, but did not attend to make representations. It is also clear that the company is no longer using the site, which is now occupied by the mobile homes. Thus, it appears highly unlikely that its interests have been prejudiced in any way.

95. I conclude, on the balance of probability, that the notice was correctly served. Even if I am wrong on that, it does not appear to me that any person has been substantially prejudiced by any shortcomings. Accordingly, I conclude that the appeal on ground (e) should fail.

Ground (a)

Main issues

96. The main issues are:

- Whether the development is inappropriate in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies.
- The effect of the development on the openness of the Green Belt and its purposes.
- The effect of the development on the character and appearance of the area.
- Whether the development complies with policies designed to address flood risk.
- Whether any harm to the Green Belt, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

97. At the hearing, the appellant confirmed that permission is not sought in respect of the change of use alleged in the enforcement notice. I have therefore considered whether planning permission should be granted in respect of the operational development (the hardstanding and access) only.

98. The appellant's representative queried whether flood risk is a main issue in respect of Appeal A, and I am mindful that it was not referred to in the enforcement notice or the Council's initial appeal statement. However, it was raised by the Council in its additional evidence document, submitted before the hearing on 3 July, and was raised by the Environment Agency (EA) as well. Accordingly, I regard it as a main issue and am satisfied that the appellant has had sufficient opportunity to respond to the matter.

Green Belt – inappropriateness, openness and purposes

99. As I have already explained in relation to Appeal B, this is not previously developed land. The appellant argues that the development is needed to serve the stable on the appellant's land. However, there is already permission for an access onto the appellant's site, and it has not been shown that the extensive access and hardstanding that have now been created are necessary in connection with the single lawful stable. Thus, they are not appropriate facilities for outdoor recreation of the kind contemplated in Paragraph 154(b) of the Framework. Nor has it been shown that the development is needed in connection with any other lawful use of the land or that it falls within any of the other exceptions at Paragraphs 154 and 155 of the Framework. I conclude, therefore, that the operational development described in the enforcement notice is inappropriate within the Green Belt.

100. On their own, the access and hardstanding have no significant impact on the openness of the Green Belt. However, the extent of the access and, in particular the hardstanding, unrelated to the lawful use of the site, means that there has been an element of encroachment, contrary to purpose (c), as set out at Paragraph 143 of the Framework.

Character and appearance

101. Without the mobile homes and the residential occupation of the site, the visual harm arising from the development would be significantly reduced. Nevertheless, for the reasons explained in respect of Appeal B, the access road and hardstanding cause visual harm, and consequent conflict with Core Strategy policies EN1 and EN8.

Flood Risk

102. My concerns relating to flood risk in respect of Appeal B arise from the residential use of the site, and are not applicable to the operational development targeted by the notice. I have noted the concern raised by the Council and the EA that raising land levels within the site may displace water elsewhere. However, while it is clear there have been changes to levels since the 2019 topographical survey, the extent to which the specific works targeted by the notice have raised land levels is not clear, on the evidence before me. Consequently, I am not persuaded that there is sufficient reason to oppose the operational development on the basis of flood risk considerations, and find no conflict with Core Strategy Policy LO1, or with Policy E3 of the emerging local plan.

Other considerations

103. The lawful stable building is located some distance into the appellant's site, well beyond the access and turning area permitted in 2017. The access that has now been created reaches the stable building and, to that extent, may be regarded as a benefit of the development. That said, I have only limited detail of how the access has been constructed and whether it is the most appropriate form of construction in technical and visual terms. Nor does the evidence before me demonstrate any genuine need for the access based on the single lawful stable on the land. Accordingly, I attach only limited weight to this consideration. I cannot see any justification for the extensive hardstanding that has been created based on the lawful use of the wider site within the appellant's control.

Planning balance

104. I attach substantial weight to the harm to the Green Belt. There is additional harm to the character and appearance of the area.

105. Having considered all matters raised in support of the development I conclude that, collectively, they do not clearly outweigh the totality of the harm I have identified. Accordingly, very special circumstances do not exist, and the development is at odds with the Green Belt policy set out in the Framework. There is also conflict with Local Plan Policy GB1, although I attach little weight to that given its lack of alignment with current national policy. There is also conflict with Core Strategy policies EN1 and EN8. The conflict with key development plan policies lead me to conclude that there is conflict with the development plan as a whole.

Conclusion – Appeal A, Ground (a)

106. For the reasons set out above, the appeal on ground (a) fails.

Ground (g)

107. The notice gives 2 months in which to remove the operational development and cease the use of the land. In fact, the storage of commercial vehicles has already ceased, and I have no reason to doubt, on the evidence before me, that it would be physically possible to remove the operational development within the 2 months specified.

108. However, 6 mobile homes are now on the site, and I understand that at least some of these are occupied. I have no detail of the occupants or their personal circumstances. Nevertheless, the fact that people are occupying the land is, at the very least, a significant complication to the removal of both the access and the hardstanding on which the units are sited. Proper consideration needs to be given to the impact of upholding the notice on those people. In these circumstances, I regard the 2 months specified in the notice as unrealistic.

109. Nevertheless, I have insufficient evidence to justify the 12 month period the appellant now seeks. No case has been made out on the basis of the personal circumstances of those living at the site. I am also mindful that it is desirable that the breach of planning control is remedied without undue delay. In my view, 12 months is excessive in these circumstances.

110. Viewing matters as a whole, I consider that a 6 month period would strike an appropriate balance and would be proportionate, in all the circumstances of the case. Consequently, there would not be any violation of the rights of the individuals concerned. I will therefore vary the notice to specify a 6 month compliance period. To that extent, the appeal on ground (g) succeeds.

Peter Willows

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Alan Masters – Counsel

Brian Woods – WS Planning and Architecture

Robert Petrow – Petrow Harley

Tom Quigg – Flume Consulting Engineers

David Fernleigh – dBA Acoustics

Edward Cash – Appellant

Wendy Draper

FOR THE LOCAL PLANNING AUTHORITY:

David Lintott – Cornerstone Barristers

Stephen Jupp for Spelthorne BC Planning Service

Ian Dudley – Rowellian Environmental Consulting Ltd

Neil Landricombe – Environment Agency

Chloe Alma Daykin – Environment Agency

Judith Montford – Environment Agency

David Denham – Spelthorne BC Environmental Health

Claire Lucas - Spelthorne BC Pollution Control

Sandy Muirhead – Head of Commissioning and Transformation

DOCUMENTS

1. Spelthorne Core Strategy and Policies DPD extract
2. Emerging Local Plan Main Modifications – MM17, Policy ST3
3. Spelthorne Local Plan Representations made in relation to the Main Modifications
4. Wikipedia extract – Shepperton
5. Council website extract regarding Shepperton Village Hall
6. Gypsy and Traveller Accommodation Assessment 2018
7. Council's response to Inspector's request for information – received 6 November 2025
8. Spelthorne Local Plan Main Modifications Consultation Representations Summary and Officer Response
9. Email from WSPA dated 6 November 2025 responding to inspector's request for information
10. Noise Impact Assessment Report (November 2025) – dBA Acoustics
11. LPA Email dated 11 November 2025 regarding the emerging local plan
12. Text message – electricity generation scheme
13. Council's proposed ground gas condition
14. Planning condition – ground gas risk scheme
15. Council email dated 21 November – Response to inspector's request