
Appeal Decisions

Date of Hearing 27 March 2018

Site visit made on 27 March 2018

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

an Inspector appointed by the Secretary of State

Decision date: 03 July 2018

Appeal A: APP/Y2736/C/17/3174407

Land at Croft Farm, The Lane, Gate Helmsley, North Yorkshire YO41 1JT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Jobie Tyers against an enforcement notice issued by Ryedale District Council.
- The notice was issued on 27 March 2017.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land from equestrian use to a mixed use for equestrian and residential use with the erection of travellers' amenity building, and retention of mobile home, caravan and shed and the extension of the existing hardstanding area.
- The requirements of the notice are:
 1. Cease the use of the Land for residential purposes.
 2. Remove from the Land the mobile home, the two caravans and the timber shed.
 3. Restore the and [sic] to its former condition, through the removal of the additional car parking area.
 4. Cultivate and seed the Land to a condition fit for equestrian use.
- The period for compliance with the requirements is: within two years of this notice taking effect.
- The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and a variation.

Appeal B: APP/Y2736/W/17/3171463

Croft Farm, The Lane, Gate Helmsley, North Yorkshire YO41 1JT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Jobie Tyers against the decision of Ryedale District Council.
- The application Ref 16/01599/FUL, dated 30 September 2016, was refused by notice dated 21 December 2016.
- The development proposed is the residential use of the land for siting of mobile home, 2no touring caravans, timber shed and area of hardstanding.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Matters concerning the enforcement notice

1. The Council suggested that the allegation of the breach of planning control in the notice mistakenly includes "erection of travellers' amenity building" and the parties agreed that this wording should be omitted. In addition the appellants
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- accepted at the hearing that "caravan" was a clerical error and that since the requirements referred to "the two caravans", and there is no dispute that two caravans have been sited on the land, the notice could be amended to make the description of the breach consistent with the requirements. As no injustice would be caused to the parties I will correct these misdescriptions using powers contained in s176(1)(a) of the 1990 Act.
2. Further, "with the retention of" is not a description of development as such and for the sake of clarity the allegation should refer to the use of the land for residential purposes by the siting of the structures in question.
 3. The "extension of the existing hardstanding area" is an engineering operation that amounts to operational development. The existing car parking area has been extended and gravelled over. Facilitating works can be alleged in the same notice that deals with a material change of use. However if, as here, the notice does not allege both a material change of use and operational development, it would be better if the works were phrased in terms of "the construction of hardstanding to facilitate that change of use".
 4. Requirement 3 of the notice contains a clerical error in that "and" needs to be altered to "Land". Further, in order to clarify what is regarded as necessary to restore the land to its prior condition, it was agreed that Requirements 3 and 4 should be varied so as to merge them and omit reference to "a condition fit for equestrian use", as this is an uncertain requirement.
 5. I am satisfied that these further corrections and variation can be made without injustice to either party.

Appeal A on ground (c)

6. An appeal on ground (c) is that the matters which are the subject of the allegation do not constitute a breach of planning control. The burden of proof is on the appellant to demonstrate this on the balance of probability. The planning merits of the development are irrelevant to an appeal on this ground.
7. The appellant asserted that the alleged breach differs from the reasons for issuing the notice and its requirements, and that no appeal form or guidance notes were served on him. However, as corrected, the notice is internally consistent and the reasons for its issue are a matter for the Council. The appellant has been able to pursue an appeal and at the hearing he has been advised and represented by an agent from a planning related firm. Nor do the matters raised undermine the validity of the notice, nor do they demonstrate that there is no breach of planning control.
8. It is also claimed on this ground that the notice is invalid as the appeal site is not within the York Green Belt. I deal with the Green Belt position when considering the separate appeal against refusal of planning permission for the development. However that matter does not affect the validity of the notice or whether a breach of planning control is correctly alleged.
9. By s55 of the 1990 Act "development" means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. Save for limited exceptions, planning permission is required for the carrying out of any development on land and by s171A(1)(a) development without the required planning permission is a breach of planning control.

10. No extant planning permission has been granted for any of the matters in the allegation as corrected, in which case I find on the balance of probability that the matters identified therein constitute a breach of planning control. Consequently the appeal on ground (c) must fail.

Conclusion on Appeal A

11. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and a variation. By virtue of s180 of the Act the requirements of the upheld notice will cease to have effect so far as inconsistent with the permission which I propose to grant in respect of Appeal B.

Appeal B (s78 appeal)

Background, preliminary matter and main issues.

12. The gypsy status of those living on the site is not disputed and I am satisfied that they fall within the definition of travellers set out in Annex 1 to the Planning Policy for Traveller Sites 2015 (PPTS).
13. The application is described in the application form as retention of residential caravan, two touring caravans and one shed. The appellant agreed to the Council's amendment of the description to include the new area of hardstanding. In addition retention of buildings or works is not in itself development. In the banner heading above I have therefore substituted the description in the application form, prefaced by the wording "residential use of the land" more accurately to describe the proposal.
14. The main issues are:
- Whether or not the appeal site is in the Green Belt and if so, whether the proposal would be inappropriate development;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the surrounding area; and
 - If the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whether site is in the Green Belt

15. I have considered carefully the argument of the appellant that the appeal site is outside the Green Belt, but his case is unsupported. The Regional Strategy for Yorkshire and Humber has been revoked, save for its York Green Belt policies and the key diagram which illustrates those policies together with the general extent of the Green Belt around York. It is commonly referred to as the York Green Belt irrespective of the fact that it may extend beyond the administrative boundaries of the City.
16. Paragraph 83 of the National Planning Policy Framework (Framework) advises planning authorities with Green Belts in their area to establish Green Belt boundaries in their Local Plans that set the framework for Green Belt and

settlement policy. For the area in which the appeal site lies the Ryedale Local Plan, adopted on 22 March 2002 showed the extent of Green Belt on its Proposals Map. This was saved and is part of the Ryedale Plan - Local Plan Strategy 2013 (LPS). LPS Policy SP1 states "that part of the York Green Belt falling within the Plan Area is as defined on the adopted Proposals Map."

17. I am therefore satisfied that the appeal site falls within the York Green Belt.

Whether inappropriate development

18. Both parties agreed that on the basis that the site is within the Green Belt, the proposed development would constitute inappropriate development. I also agree. The Framework, a significant material consideration, makes clear that most development in the Green Belt is inappropriate and should be approved only in very special circumstances. The effect of Paragraphs 87, 89 and 90 when read together, is generally understood to be that all development in the Green Belt is inappropriate unless it falls within a category set out in Paragraph 90 or is a new building within an exception referred to in Paragraph 89.

19. This advice is reflected in PPTS which states that the use of land as a traveller site is inappropriate development in the Green Belt. Inappropriate development is by definition, harmful to the Green Belt and according to Paragraph 88 substantial weight should be given to any such harm. Such development should not be approved unless very special circumstances exist to justify why permission should be granted.

The effect of the proposal on the openness of the Green Belt.

20. Preventing urban sprawl by keeping land permanently open is a fundamental aim of Green Belt policy and the most important attribute of Green Belts is their openness. The site is a paddock with pre-existing timber buildings to the rear, one enclosed and the other, stable like with an open bay. The front of the site is now occupied by a static mobile home, two touring caravans and a further, smaller shed, together with additional hard surfacing that facilitates the stationing of the mobile structures and vehicles. The development is enclosed by a variety of mature hedges and fences and is therefore largely unseen from public views. The top of the mobile home is just visible within The Lane when approaching from the north. The appellant is willing to comply with landscaping conditions. Provided this consisted of soft landscaping, it could in my view successfully mitigate views from this direction.

21. The development is relatively small scale, self-contained and adjacent to the two existing buildings. The loss of openness, although more so than the previous temporary siting of a single van, is not serious and whilst the structures encroach on the countryside in conflict with the purposes of including land in Green Belts, they do so only to a limited extent. Thus whilst the development detracts from the openness and purposes of the Green Belt, contrary to the Framework, the extent of the harm is slight.

Character and appearance.

22. An assessment of the effect of the development on the character and appearance of the area should take into account that PPTS allows for traveller sites in rural areas. Paragraph 25 of the PPTS also advises that very strict limits be placed on new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development

plan. Sites in rural areas should “respect the scale of, and not dominate, the nearest settled community, and avoid placing undue pressure on local infrastructure.” In addition Paragraph 55 of the Framework advises that new isolated homes in the countryside should be avoided.

23. The appeal site is adjacent to the road, bounded by hedges and a close board fence with an entrance gate set back from the highway. Planning permission was granted in 2004, Ref 04/00038/FUL for the change of use to equestrian use, formation of parking area, and installation of timber shiplap cladding to front of the existing building. The site has been divided into two sections by sturdy timber open fencing and a gate to the centre. To the rear comprises the two existing timber clad buildings and a paddock area on which the appellant keeps two horses. The front section comprises the mobile structures, the small shed and a drive in front of the enclosed timber building.
24. A supporter of the development states that several mobile homes are within a mile radius of Croft Farm, although I could not verify this and found no evidence to support the claim. The nearest dwellings, on a spur off The Lane which might be regarded as within the built up area of Gate Helmsley, are across fields, some 300m south of the appeal site. On The Lane itself the nearest dwelling is a similar distance away, also in a southerly direction. The appeal site is enclosed, relatively small in area at 0.14 ha, and separated from the nearest settlement in such a way that it cannot be said to dominate it. However it is not so remote from other places, buildings or people in my opinion as would make it “isolated” within the terms of Paragraph 55.
25. The development can be seen at the entrance gate although it is recessed from the highway and as I have noted the structures are mostly hidden from view due to the hedge and fence boundaries. The domestic appearance of the mobile home, caravans and chattels are somewhat incongruous in the site itself, however they are few in number and located away from the gate. They sit within an intimate rural pasture, whilst immediately outside the soft rural feel to The Lane remains unaffected. The development would not be entirely concealed but the PPTS does not intend that gypsy sites should be hidden. The policy seeks to protect the environment, whilst emphasising that developments should not be so enclosed as to give the impression of deliberate isolation. I am satisfied that this modest and relatively inconspicuous site would be designed to minimise visual intrusion. It could be integrated into the landscape without unacceptably eroding its rural character or undermining the prevailing open character of the adjacent small settlement.

Other considerations

26. Emphasis is laid on the planning permission in 1990 for the temporary siting for two years of a caravan for residential purposes, implemented by a previous owner of the site. This does not provide a compelling case for permanent residential development in the Green Belt, however the permission is a relevant factor to consider, adding weight to my view that a temporary residential permission could subsist at the site.
27. The appellant stresses that when the usual searches were made before the appeal site was purchased, the only information given was in reply to the standard enquiries of local authorities (CON 29 form). It revealed the 1990 planning permission for the siting of a static caravan for residential purposes but did not disclose that the permission was temporary and had expired.

- However an inspection of the register of planning applications, an extract from which was supplied, would have revealed all the conditions attached to the permission. It is quite usual for purchasers or their advisers, to check the actual planning permission if this were to be relied on, however the standard question on the form is not specific as to details of any planning permission.
28. I also considered the reply given to the local land charges (LLC) register search, which contained no reference to the permission at all. There is no duty to register charges, such as restrictions in the form of planning conditions, that can be inspected in another record like the planning applications register, provided the LLC register contains a reference whereby that other record can be traced. The reply to the LLC search disclosed no details of the permission, but by then it had expired several years previously and the use had clearly ceased, so it may be unsurprising that the register was clear. Insofar as there may be said to be a discrepancy between the results of the LLC search and the reply to the CON29 enquiry, that would have been for the purchaser or his adviser to follow up. Therefore I do not consider that, based on what I have read, the Council misled the appellant as to the planning status of the land.
 29. A local councillor told me that it would be inequitable to allow the appellant to develop the site and would create an undesirable precedent. Nevertheless, planning applications can be considered retrospectively. The appellant used solicitors in his purchase of the land but he was clearly unaware of the temporary nature of the permission and I see no good reason why in the circumstances of this case any eventual failure there may have been by others to understand its terms should be imputed to the appellant. For the avoidance of doubt I do not regard the case as intentional unauthorised development.
 30. PPTS at Paragraph 10 expects Councils to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets, as well as a supply of specific, developable sites, or broad locations for growth, for years 6 to 10 and, where possible, for years 11-15.
 31. The Council's Gypsy and Traveller Accommodation Assessment: Final Report December 2016 (GTAA) declares a net surplus of 8 authorised pitches over the five year period from 2016/17 to 2020/21. Its purpose is to provide an evidence base to inform the development of planning policies, however it has not been tested through any examination process and since 2016 has remained as a "final" report that has not been put before the Council for approval.
 32. The GTAA recognises that travellers are more likely to establish their own household at a relatively early age and it is not uncommon for a traveller to be living in their own household by the age of 18. However the basis for then assuming that 50% of adult children will form households by 18yrs is unclear. To my mind therefore the future expected newly formed households, on the Council's own survey analysis of ages of the children, could be expected to be anything from 4 to 8.
 33. It is also stated in the Council's need analysis that by applying the definition of gypsy set out in PPTS to households living on the site, the overall surplus of pitches increases. However it is unclear how the Council intends to assess the accommodation needs of those who are ethnic gypsies and travellers but do not meet the planning policy definition.

34. These concerns are insufficient to undermine the overall methodology of the GTAA. However the numbers in the statistical analysis are necessarily small given the size of the district. Consequently changes in the assumptions could significantly affect the overall calculation of demand and supply across the study area and therefore the net pitch requirements.
35. There are no private authorised or unauthorised sites in the Council's area. The Council owns the only gypsy and traveller site, at Tara Park near Malton. In late September 2016, all residents were moved off the site, following threats made to occupants. It is undisputed that there are 14 vacant pitches available at Tara Park which I saw for myself, subsequent to my visit to the appeal site. The appellant regards the site as unsuitable due to the problems that led to the units becoming vacant, of which he was aware but declined to give details. The Council's planning officer was also unable to be more specific as to what problems existed on the site but said that it was managed by a gypsy family who moved away about a year ago. He stressed that the site has been refurbished and 7 new pitches with facilities constructed. These now appear to be mostly occupied, but the original pitches are still vacant.
36. Whilst therefore the appellant and his family's personal needs are a material consideration it cannot be said that there is an unmet need in terms of the Council's provision of sites to meet anticipated demand in the next five years.
37. The original pitches at Tara Park have a concrete base and no garden area. Given the need for the family, which includes older children and elderly parents, for at least three mobile structures, whether a static van or tourers, and the need to provide reasonable space between them, and further space for drying clothes, a trailer, and parking space for two vehicles as a minimum, it is doubtful whether renting one pitch would be adequate to accommodate the extended family unit. Furthermore Tara Park has no facilities for the stabling or keeping of horses. This is not so unusual in Council owned sites in cases where proper provision cannot be made for their management. However horses can engender conflict where they graze on the roadside or other land without permission, causing nuisance and a potential hazard. If the appeal were dismissed the family will in principle not be prevented from continuing to use the appeal site to keep horses although they will not be on hand to look after them. The appellant views the site as particularly suitable for their needs which includes a paddock with an existing stable building, where horses can be kept as part of their lifestyle.
38. The appellant bought the site with help from his extended family, three years ago. Previously they had left a Council owned site in Osbaldwick, in the York City Council area, which the appellant's agent stated was due to a family feud at the site. The appellant told me that there was arguing and fighting on the site, and the police regularly visited. He had been there since he married some 23 years ago, but as his children were getting older he did not want them to be involved in, or influenced by what was going on within the site. The appellant made it clear during the hearing that he needs to provide a stable and safe base for himself and his family although he continues to travel for work, taking his family with him on occasions.
39. It transpired at the hearing that the appellant's father-in-law and mother-in-law are also living at the appeal site. The appellant and his extended family remain part of the gypsy and travelling community. The family comprises Mr

Jobie Tyers and Mrs Coralina Tyers, aged 42 and 41 respectively; their children, Ms Coralina Tyers, 21; Joby Tyers junior, 20, and Lennox Tyers, 16; and the appellant's father-in-law and mother-in-law, Mr David Farrow, 70 and Mrs Ruth Farrow, aged approximately 60.

40. The appellant's father in law and mother in law occupy the daughter's caravan and the daughter shares the two bed mobile home with her parents, whilst the brothers share occupation of the second van. It also transpired, although not initially volunteered by the appellant or his agent that the father-in-law has a serious illness which has been diagnosed as a terminal condition. He attends his GP regularly at Tang Hall surgery close to Osbaldwick, and receives treatment at York District Hospital. The Council's welfare officer had noted in 2016 that there was a strong possibility of the applicant's father in law moving onto the site as he was in hospital and might require care when discharged.
41. Characteristically as part of gypsy culture, the appellant intends that his father-in-law should be cared for within the family and as a result the impacts of his illness are keenly felt within the extended family as a whole. Although it is unnecessary to have a fixed address to access health care or hospital appointments, it is more difficult to be treated for illness without an address to where, for example, appointment letters would be sent, or to manage health problems, with an itinerate lifestyle. The surgery and hospital are about half the distance from the appeal site as they are from the pitches at Tara Park.
42. My reading of the GTAA is that places to rent are clearly preferred by most people surveyed. That said, gypsies and travellers, like most members of the settled community, may wish to live on their own private family site. PPTS aims to promote more private gypsy and traveller sites, recognising that there will always be those who cannot provide their own sites and prefer to rent.
43. The appellant has not sought alternative accommodation from the Council and states that the most likely outcome of the appeal being dismissed would be that the family would be on the roadside. He had previously attempted living in a house, but his wife could not cope with the enclosed space. He mentioned that he would see whether he could regain a pitch at Osbaldwick, although he was vague in this assertion, perhaps understandably in light of his experiences.
44. I have had the benefit of listening to and questioning Mr Tyers. In my opinion he is sincere in his belief that, if not allowed to live on his land, he will be forced to find an unauthorised site in preference to having recourse to Tara Park or any other Council owned site in the wider area. He is profoundly averse to moving to a site which he fears could undermine the well-being, safety and security of his family.
45. PPTS at Paragraph 11 states that where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. Criteria based policies should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community.
46. In identifying requirements for sites, LPS Policy SP5 takes account of whether they would provide: access to local services and facilities; space for safe parking and vehicular access to the highway; good quality facilities, service and amenity space; accommodation with no overcrowding or unnecessary sprawl;

- and a site in scale to the nearest settled community with no unacceptable impacts on or from neighbouring land uses.
47. The three dimensions of sustainability should be considered as a whole. The appeal site does not score well in terms of access to local services, Gate Helmsley being limited to a church, public house, farmshop and café. There are bus stops on the A166 at Gate Helmsley close to the junction of The Lane, although more than half its length, from the appeal site to the stops, does not have a footway. However the scale of the development is limited and it can be expected that in rural locations of this nature, heavier reliance is placed on the use of the private car to access daily facilities. The environmental impacts are not disproportionately adverse given the modest size of the development.
 48. Further, the limited harm to the environment is more than offset in my view by the contribution the appellant and his family can make in maintaining the vitality of the local rural community from a social and economic perspective. The appellant has a tree surgery and landscape gardening business, and the appeal site is used as a base for his operations with assistance being given part-time by both sons. Equipment is stored in the existing well-constructed timber shed, in front of which are stationed the appellant's own vehicle and trailer, in the livery of his business. The appellant works for customers in the area as well travelling further afield, including the north-east of the country.
 49. The economic benefits of his enterprise should be assessed in the context of the development applied for which is a residential use. Nevertheless PPTS at Paragraph 18 advises that consideration be given to including, wherever possible, traveller sites suitable for mixed residential and business uses, having regard to the safety and amenity of the occupants and neighbouring residents. The small scale ancillary use within the appeal site as a base for the landscaping business is in my view a sustainable use of the land, and provides an economic benefit in the form of a local service in the rural community. It brings into use the previously vacant buildings on the appeal site and allows for the effective grazing of the rear section of the site.
 50. The appellant also points out that the development has improved the appearance of the site which was previously neglected, by clearing up pallets, erecting post and rail fences, widening the entrance to enable a passing point adjacent to the relatively narrow road that fronts the development, and planting trees.
 51. There are no objections from the local highway authority to the access and parking arrangements. PPTS advises that weight should be given to the effective use of untidy or derelict land, and to how soft landscaping may enhance the environment. Although the improvements to the site do not themselves warrant permission being granted, they add weight to my view that the development does not unacceptably harm the rural character of the area.
 52. Several letters in support of the development are submitted, mostly from residents in Gate Helmsley. I have no reason to doubt that as is implied from the correspondence, the way in which the site is being used facilitates social cohesion with the settled community. An objector expressed concern as to the sound of the generator on the site, however he later wrote to acknowledge that the appellant has taken effective steps to reduce the noise from the equipment and no longer maintains his objection. The Council has no concerns related to the impacts on or from neighbouring land uses and the environmental health

officer has no objection. The site is tidy and well managed and would meet requirements under the Caravans and Control of Development Act 1960 if permission is granted. If the generator results in noise creating a statutory nuisance, the Council agrees that action could be taken via other legislation.

53. In overall terms therefore the proposal would comply with LPS Policy SP5.

Green Belt balance and conclusion

54. PPTS at Paragraph 16 indicates that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. It does not follow that personal circumstances and/or unmet need would only carry 'limited weight' in the balance; weight should be based on the evidence in the case that will then inform the balancing exercise.
55. The proposal would cause harm in that it would be inappropriate development in the Green Belt. There would also be harm caused by loss of openness of a significant part of the appeal site. The Framework indicates that substantial weight should be given to any harm identified to the Green Belt. Conflict also arises consequentially, with LPS Policies SP1 and SP2, subject to considering Policy SP5 relating to the gypsy and travelling community.
56. I give considerable weight to the personal circumstances of the appellant and his family to stay at the appeal site to provide a stable base for the father-in-law from which he can readily access the medical treatment he requires, and receive ongoing care within his family. I also give moderate weight to the consideration that whilst a private site may restrict occupancy to close family or friends, here it would provide for emerging needs given the ages of the children.
57. I also attach moderate weight to the contribution that would be made in accordance with PPTS at Paragraph 18 by utilising the appeal site in an efficient and economically viable way for a residential use that includes a productive small scale ancillary business operation, compatible with the safety and amenity of its occupants and neighbouring residents.
58. Subject to a landscaping condition the development would not have any unacceptably adverse effects on the character and appearance of the rural area, it being positioned within a site that is well enclosed and not dominating the adjoining settlement. The appellant has improved the neglected condition of the appeal site, and widened the access so as not to compromise highway safety. Subject to appropriate conditions the site could provide a satisfactory layout with a good standard of amenity space without any undesirable impacts from overcrowding or on neighbouring land uses. There are drawbacks in terms of proximity of the site to services and facilities but overall the development of the appeal site is a sustainable use of the land that would comply with LPS Policy SP5.
59. I have had regard throughout the appeal to the Public Sector Equality Duty (PSED) in the Equality Act 2010, which seeks amongst other things to eliminate discrimination, harassment and to advance equality for opportunity and good relations between persons who share a relevant protected characteristic and those who do not. Travellers have a protected characteristic for the purposes of the PSED. Dismissal of the appeal would deprive the appellant the

opportunity to live together on this site which is in closer proximity to the medical services used by his father-in-law than Tara Park, and which would facilitate the appellant's lifestyle and cultural aspirations more fully than the smaller concrete pitches at the Council owned site. The site would also in my opinion provide a positive opportunity to foster good relations with the settled community not readily identifiable elsewhere.

60. However these benefits need to be set against the identified harm caused to the Green Belt. On balance I find that the harm to the Green Belt by reason of inappropriate development and loss of openness is not clearly outweighed by other considerations sufficient to constitute very special circumstances necessary to justify a permanent planning permission.
61. I should therefore consider whether very special circumstances exist to justify the grant of a temporary planning permission. A temporary permission for three years would limit the harms to the Green Belt. The personal circumstances of the appellant's father-in-law and in particular his need to readily access medical facilities where he has been treated previously, remains a significant consideration in favour of the development. During this time the family will be able to live together in one place, so that daily care can be provided within the family as part of their established lifestyle. This factor, combined with the weight I give to the other considerations described above amount to very special circumstances that justify a temporary grant of permission that outweigh the more limited harm to the Green Belt by reason of inappropriateness together with the other harm identified, including conflict with LPS Policies SP1 and SP2, and the Framework. Accordingly I will grant a temporary permission for three years.
62. Representations were made to the effect that dismissal of the appeal would violate the rights of the appellant and his family under the European Convention on Human Rights, in particular the rights to respect for private and family life, home and the peaceful enjoyment of possessions included in Article 8 and Article 1 of the First Protocol. My decision to allow the appeal and grant planning permission on a limited basis is within the wide margin of appreciation afforded to national authorities when taking account of the factors described above that are inherent in the choice and implementation of planning policies, and would not lead to any violation of protected rights.

Conditions

63. The Council was invited to consider conditions that might be appropriate in the event permission was granted but offered none. Nevertheless, a personal condition is appropriate and a condition restricting occupation of the site by gypsies and travellers, because of the identity of the occupiers and their specific needs.
64. A condition specifying the maximum number of caravans is necessary to limit the scale of the development, as is the restriction of parking of vehicles over 3.5 tonnes.
65. A site layout and landscaping scheme should be submitted to the Council for approval to protect the character of the area and, in the interests of the occupants' living conditions and pollution prevention, details of measures to drain the site and dispose of foul sewage should also be submitted to the Council for approval. In addition when the use has ceased, the site should be

restored to its condition before the development took place and details of the restoration scheme be submitted for approval.

66. As the development has begun the condition requiring the submission of details requires strict time limits for compliance so as to ensure that, if there is non-compliance the development becomes unauthorised and can be enforced against. A usual and reasonable period within which to require submission of such details is three months.

Conclusion on Appeal B

67. For the reasons given above I conclude that the appeal should be allowed. The requirements of the upheld notice will cease to have effect so far as inconsistent with the permission which I will grant by virtue of s180 of the Act.

Formal Decisions

Appeal A

68. It is directed that the enforcement notice be corrected by deleting the allegation of breach of control and substituting:
- "the material change of use of the land from equestrian use to a mixed use for equestrian and residential use by the siting of a mobile home, two caravans and shed and the construction of hardstanding to facilitate that change of use."
69. It is further directed the notice be varied by deleting Requirements 3 and 4 and substituting:
- "3. Restore the Land to its former condition through the removal of the additional hardstanding and cultivate and seed the Land."
70. Subject to these corrections and variation the enforcement notice is upheld.

Appeal B

71. The appeal is allowed and planning permission is granted for the residential use of the land for siting of mobile home, 2no touring caravans, timber shed and area of hardstanding, at Croft Farm, The Lane, Gate Helmsley, North Yorkshire YO41 1JT in accordance with the terms of the application Ref 16/01599/FUL, dated 30 September 2016, subject to the following conditions:
- 1) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Mr Jobie Tyers and Mrs Coralina Tyers; Ms Coralina Tyers; Joby Tyers junior and Lennox Tyers; and Mr David Farrow and Mrs Ruth Farrow.
 - 2) 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 (Department for Communities and Local Government, August 2015) or any replacement guidance.
 - 3) On the expiration of the period of three years from the date of the permission hereby granted, or when the land ceases to be occupied by those named in Condition 1), whichever is the earlier, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, or works undertaken to it in connection with the use, shall

be removed and the land shall be restored to its condition before the development took place in accordance with the restoration scheme approved in Condition 6).

4) There shall be no more than 1 pitch on the site, and on the pitch hereby approved no more than 3 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) shall be stationed at any time, of which only 1 caravan shall be a static caravan.

5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

6) 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 within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

i. within 3 months of the date of this decision, details of: a) any external lighting on the boundary of and within the site; b) the internal layout of the site, including the siting of caravans, hardstanding, parking and amenity areas; c) any means of enclosure; d) tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities; e) existing hedgerow to be retained; and f) a scheme to restore the site to its condition before the development took place at such a time when the land ceases to be occupied by those named in Condition 1) shall have been submitted for the written approval of the local planning authority and the said schemes shall include timetables for implementation.

ii. within 11 months of the date of this decision, the details and schemes submitted in pursuance of (i) above shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

iv. the approved schemes shall have been carried out and completed in accordance with the approved timetable.

Grahame Kean

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr David M. G. Cross	Architectural & Surveying Services
Mr Jobie Tyers	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Gary Housden MRTPI	Head of Planning, Ryedale District Council
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INTERESTED PERSONS:

Councillor Caroline Goodrick	Ryedale South West Ward
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ADDITIONAL DOCUMENTS SUBMITTED AT THE HEARING:

1. Proposals Map, Local Plan 2002
2. Needs Assessment, Final Report December 2016
3. Email concerning vacancies at Tyers Park gypsy and travellers site
4. Letter from Secretary of State regarding saved policies
5. Extract from Local Land Charges Rules 1977
6. Extract from Planning Register