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The Planning Inspectorate

Appeal Decision

Inquiry held on 16 November 2016 and 31 January 2017
Site visit made on 31 January 2017.

by Stephen Brown MA(Cantab) DipArch RIBA

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

Decision date: 06 November 2017

Appeal Ref: APP/E2205/C/15/3137477
Cherry Tree Paddock, Bromley Green Road, Ruckinge, Ashford TN26 2EG

- 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 by Richard Wood against an enforcement notice issued by Ashford Borough Council.
- The Council's reference is EN/14/00209.
- The notice was issued on 25 September 2015.
- The breach of planning control alleged in the notice is without planning permission the change of use of the land from a use for forestry to a use for the stationing of a caravan (mobile home) in residential use; the siting of a portable cabin used in connection with the residential use of the caravan (mobile home); and facilitating operational development comprising the laying of an additional area of hard surfacing and the installation of a septic tank and associated pipework.
- The requirements of the notice are to:
  - (i) Cease permanently the use of the land for the stationing of a caravan (mobile home) in residential use.
  - (ii) Remove permanently from the land the caravan (mobile home) (shown located in the approximate position marked on plan 'B' attached to the notice).
  - (iii) Cease permanently the use of the land for the siting of a portable cabin used in connection with the residential use of the caravan (mobile home).
  - (iv) Remove permanently from the land the portable cabin (shown located in the approximate position marked on plan 'B' attached to the notice).
  - (v) Excavate and remove permanently from the land the additional area of hard surfacing (shown located in the approximate position marked on plan 'B' attached to the notice).
  - (vi) Excavate and remove permanently from the land the septic tank and associated pipework (shown located in the approximate position marked on plan 'B' attached to the notice).
  - (vii) Remove permanently from the land all materials, waste and debris resulting from compliance with steps (i)-(vi) above.
  - (viii) Following compliance with steps 5(v)-5(vi) above, restore the surface of the land to its condition immediately prior to the laying of the additional area of hard surfacing and the installation of the septic tank and associated pipework.
- The periods for compliance with the requirements are six months for steps (i), (ii), (iii) and (iv), seven months for steps (v) and (vi), and eight months for steps (vii) and (viii).
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. The prescribed fees have been paid within the specified period, and the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.

Summary of decision: the appeal is dismissed except to a limited extent on ground (g), and the enforcement notice is upheld with variations.

Background matters

1. Bromley Green lies within the countryside for planning purposes, and is about 5 kilometres to the north-west of Ruckinge and 5 kilometres to the north of Hamstreet. It comprises almost continuous development of detached houses extending for about 2.5 kilometres along both sides of Bromley Green Road.

2. The appeal site is set back by about 70 metres from the northern side of the road, behind a residential plot and a pumping station. Access is along a private unmade track shared with another property further to the north. The site is about 0.5 of a hectare in area. It lies within an area of woodland protected under a Tree Preservation Order[1], and forms part of the Bishops/Forty Acre Wood Ancient Woodland.

3. To the westward side of the site is the appellant's mobile home, close to the northern boundary, with an area of hardstanding to the front consisting of compacted road planings. To the east of the mobile home, close to the access gate is an open barn-like building in which there was a touring caravan. There was also a horse kept there. To the south of the access is a dilapidated shed. There is a recently constructed close-boarded timber fence along part of the western and northern site boundaries, and rustic post and rail fences along the eastern boundary, and across the site from east to west, dividing the site roughly in halves.

4. The hardstanding extends virtually the full width of the site. However, the part to the east - to the front of the open barn - was there before Mr Wood's occupation of the site, and clearly provided access to the barn. The part of the hardstanding to the west is an extension of this area, constructed by Mr Wood. It is this latter area that is subject of the enforcement notice.

5. It is generally accepted that before the appellant's ownership there had been quantities of rubbish deposited on the site – as is still the case for the adjacent sites to the north and west. However, in the Council's view the planning use had been for agricultural/forestry purposes.

6. The Council issued a stop notice on 25 September 2015 – the same day as issue of the enforcement notice. This sought to prevent any further stationing of mobile homes, caravans, or portable cabins used in connection with the residential use of the mobile home already on the site. It also sought to prevent any further facilitating operational development comprising the laying of hard surfacing, and engineering operations comprising installation of any further septic tanks and associated pipework.

7. I note that a planning application for the change of use of the appeal site to use as a residential caravan site for one gypsy family with two caravans, including the retention of hardstanding and erection of a utility building was refused in November 2015[2].

The appellant's gypsy status

8. Richard Wood lives on the appeal site with his partner Amy Hodges, and their 2-year old son. Mr Wood is an ethnic gypsy, and claims that he leads a traditional nomadic way of life, travelling and working at various activities

[1] The Ashford Borough Tree Preservation Oder No. 13, confirmed on 2 August 1991.
[2] Decision notice ref. 15/01273/AS, dated 19 November 2015.

including landscape gardening, trading in vehicles, and building maintenance. He intends to continue living part-time as a traveller, and to bring up his son in the traditional gypsy way of life. Ms Hodges is not an ethnic gypsy.

9. The appellant claims that his case should be considered in the light of his gypsy status and the relevant planning policy that comes into play as a result. Although the Council accept that Mr Wood is a Romany Gypsy, and comes from a gypsy background, they dispute his claim of gypsy status in the terms set out in the Glossary to the government *document 'Planning Policy for Traveller Sites'* (PPTS) of August 2015. This says that for the purposes of that policy 'gypsies and travellers' means:

   Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

10. I understand Mr Wood had grown up in Bromley Green Road, at first on a plot now called 'Yew Tree House'. There was originally a shack on the plot, but his grandfather had built a house, which was completed by his father, and Mr Wood had lived there as a child. He and his parents had then moved to Park Farm for 5 months, before returning to Bromley Green Road where they lived on another plot, now called 'The Ranch' where there was another shack. Mr Wood, who was born in 1987, was 12 or 13 years old at that time, and lived in a touring caravan to the front of the shack. He said in cross-examination that he had moved to Kingsthorne Farm when his father bought it in about 2002. However, in a request for information from the Council, dated 21 September 2015, he stated that he had lived there in a touring caravan for eight years previously before moving to the appeal site.

11. Mr Wood says that he travelled away in caravans with his father and grandfather during his childhood, visiting traditional horse fairs, and that he was himself dealing in horses when he was 18 or 19 years old - in 2005/06. He then began working with his cousin doing landscape work and external building maintenance such as guttering, roofing and driveways around south-eastern England. He continues to operate his landscaping and exterior home maintenance business, which is styled 'UK Landscape and Exterior Homecare'.

12. As to the extent and nature of his travels and work, Mr Wood said that in summer he sought work mainly in areas along the south coast – Southampton, Chichester and Selsey were mentioned – where he seeks work such as landscaping or building by distributing leaflets, or employing others to distribute them. He says that he travels in a camper van or touring caravan, whichever he has available. He also goes to horse fairs in various places, including Ballinsloe in Ireland, where he deals in horses and caravans. In winter months he says that he travels around farms – as far away as Wales - looking to buy commercial vehicles and agricultural plant/machinery suitable for export to Africa, where there is a need for older vehicles (mainly pre-1997) that do not rely upon electronic control systems. These are transported to Tilbury docks from where they are exported. He also continues to visit horse fairs, where he deals in horses and caravans,

13. A Council enforcement officer had visited Kingsthorne Farm in April 2014, to investigate the stationing of a caravan belonging to Mr Wood's sister and her

family. Her note records that the appellant was at the visit, and when asked whether he lived on the site, he indicated that he did, and pointed to a building next to the house, called the 'Annex'. During that visit Mr Wood Snr. had said that the Annex was occupied, but he did not say by whom. I saw on my visit that the Annex has domestic doors and windows, giving it the external appearance of a residential building. However, I was unable to see inside. There is no note in the officer's record of there being a touring caravan on the site, although there is reference to the mobile home occupied by the appellant's sister and her family.

14. I saw that Kingsthorne Farm consists of a substantial group of buildings, mainly arranged around a courtyard. The appellant's parents' house is on the eastern side of this, and the single storey Annex forms the western side, with another range in between. At the Inquiry, Mr Wood said that he had lived in his touring caravan at Kingsthorne Farm, but used the Annex only as a washroom/utility room. Photographs were put in that show a touring caravan in the background, standing within the courtyard. Mr Wood dated these as being from April 2010 and March 2015. An aerial photograph shows a touring caravan positioned at the north-eastern end of the long barn, and was dated as being from 2003/04.

15. The Council dispute Mr Wood's gypsy status, and say the case should be seen simply as an application for a dwelling in the countryside that is contrary to development plan policy, with no material considerations to indicate otherwise. Even if he is considered to be a gypsy, the appeal should still be dismissed on the basis that the development is unsustainable, and causes harm to an area of Ancient Woodland.

16. Regarding evidence of Mr Wood's nomadic habit of life, in the case of the landscaping/building work I concur with the Council that there would very likely be quotations, invoices or receipts relating to work undertaken. Furthermore, I would expect submission of examples of the leaflets Mr Wood distributes. In the case of vehicle trading there would very likely be records of such things as change of ownership, or receipts. Furthermore, given that the vehicles were to be exported to Africa, it could be expected there would be evidence of such things as transport to, and storage at Tilbury Docks, and Bills of Lading. Even though Mr Wood says he uses an intermediary to handle the export process, I would expect to see at least some evidence of his dealings with that intermediary. Overall, I concur with the Council's view that it could reasonably be expected there would be some records available of either of these occupations.

17. I also consider Mr Wood's account of his travelling was remarkably vague, amounting to little more than his seeking work in south coast towns and as far as north Wales, with little reference to periods spent away from his base, or where he set up his caravan when away. Given that Mr Wood claims to have operated on this basis for some 10 or more years, I consider the lack of evidence about the nature of his work and extent of travelling to be telling matters that count against the likelihood of his leading a nomadic existence. While neither of these occupations would be inconsistent with leading a nomadic habit of life, they could equally well be carried out from a fixed base, with short trips away.

18. While there was clearly a touring caravan located at Kingsthorne Farm on various occasions, there is little to demonstrate that it was occupied by Mr Wood. Indeed the record of the enforcement officer's visit indicates otherwise. Overall, I do not consider Mr Wood demonstrated that he occupied the touring caravan at Kingsthorne Farm rather than the Annex. While it is possible that Mr Wood travels in the touring caravan - or as he also claims, in a camper-van – I am not satisfied that that this demonstrates a nomadic habit of life, but is more akin to travelling for work, in much the same way as a builder might travel to carry out contracts. Furthermore, it appears likely that he has occupied conventional bricks and mortar accommodation for significant periods of his life, both during childhood in Bromley Green Road, and as an older child/adult at Kingsthorne Farm. I do not consider he has properly substantiated that he has abided by his claimed cultural aversion to living in conventional housing.

19. On the balance of probabilities I conclude that the appellant has not been able to show that he leads a nomadic habit of life for economic purposes, nor can he be regarded as being in the category of those who have ceased to travel temporarily. He should not be regarded as having gypsy status in the terms set out in the Glossary to the PPTS, and in the light of this cannot rely upon policy set out in that document.

20. As a result the ground (a) appeal and deemed planning application fall to be assessed in the context of housing policy, including the use of caravans as dwellings, and including general controls over housing in the countryside.

The appeal on ground (a)

21. This ground is that planning permission should be granted for the matters alleged in the enforcement notice.

22. From my inspection of the appeal site and its surroundings, and from the representations made at the Inquiry and in writing I consider the main issue in this appeal to be:

    Whether the development enforced against can be regarded as sustainable, and any harm caused would be outweighed by any benefits of allowing the appeal, bearing in mind the countryside location of the site, and its designation as an area of Ancient Woodland that is protected under a Tree Preservation Order.

23. Development plan policy is from the Tenterden and Rural Sites Development Plan Document (DPD) of 2010, the Ashford Local Development Framework Core Strategy (CS) of 2008, and the Ashford Borough Local Plan of 2000. Core Strategy Policy CS1 sets out guiding principles for sustainable development, including aims to protect the countryside and landscape from adverse impacts of growth. Policy CS11 seeks to protect biodiversity interests and where practicable to restore suitable semi-natural habitats. Local Plan Policy GP12 provides for protection of the countryside for its own sake, and Policy EN32 to prevent grant of planning permission for proposals that would result in damage to or loss of important trees or woodland. I consider these policies are consistent with those of the National Planning Policy Framework (NPPF).

24. DPD Policy TRS 2 seeks to limit new residential development - outside the built-up confines of Tenterden and a number of defined villages - to agricultural

dwellings; re-use or adaptation of existing rural buildings of historic or architectural interest; replacement dwellings, or to 'local needs' schemes on exception sites. Bromley Green Road is not one of the defined villages. Although the LDF pre-dates the NPPF I consider this policy to be consistent with policy regarding housing development within the countryside - notably paragraph 55, and its first three bullet points.

25. DPD Policy TRS 18 includes aims to protect and where possible enhance ancient woodland. Again, I consider this is consistent with NPPF policy – notably the fifth bullet point of paragraph 118, which says that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland, unless the need for, and benefits of the development in that location clearly outweigh the loss.

26. The Council accept that they can only demonstrate a 4.1 year housing land supply, and cannot therefore identify five years' worth of housing against their housing requirements. As a result, relevant policies for the supply of housing should not be considered as up-to-date, as advised by NPPF paragraph 49. The appellant argues that the fourth bullet point of NPPF paragraph 14 is therefore brought into play – this advises that where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

> 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; or,
>
> Where specific policies in this Framework indicate development should be restricted.

27. However, the Council say that the second indent to that bullet point applies in this case – this excepts the grant of planning permission where specific policies in the Framework indicate that development should be restricted. This is on the basis that NPPF paragraph 118 restricts development within areas of ancient woodland. In my view this comes within the ambit of the examples of restrictive policy given in footnote 9 to the second indent. Although that footnote does not explicitly mention ancient woodland, the types of site listed are given as examples and do not constitute an exhaustive list.

28. I note in this regard that the recently published government White Paper *'Fixing our broken housing market'* of February 2017 includes a proposal to amend the Framework by addition of Ancient Woodland and aged or veteran trees to the list of policies which the Government regards as providing reasons to restrict development currently set out in footnote 9, so that this becomes a definitive list rather than a list of examples. While this document is at an early stage of consultation it indicates a clear government intention to except Ancient Woodland from the provisions relating to objectively assessed need for housing, and situations where development plan policies are out-of-date.

29. I understand that before the development took place the appeal site had been used as a dumping ground for quantities of rubbish and abandoned vehicles, and was part of a larger area used in this way to the north and west. The appellant has cleared the site of the deposited material, and I understand he removed two 20-tonne lorry loads. There is no record of the condition of the site before clearance, but I was told it was similar to the adjacent land, and this was not disputed.

30. On my visit I saw that the adjacent land is strewn with piles of rubbish, pallets, abandoned vehicles, a Nissen hut, and generally dilapidated items such as water or oil tanks. I am satisfied that the appearance of the appeal site has been significantly improved by removal the rubbish. Furthermore, the appellant has renovated an open barn that had become dilapidated, and this is by no means an incongruous functional feature of the site, given the likely previous forestry use.

31. Natural England and the Forestry Commission's standing advice document *'Ancient woodland and veteran trees: protecting them from development'*, states that trees and woodland classed as 'ancient' are irreplaceable. Ancient woodland takes hundreds of years to establish and is considered important for its wildlife, soils, recreation, cultural value, history and contribution to landscapes. Potential threats to Ancient Woodland include damage by visitors, creation of new gardens, and introduction of domestic animals. Impacts to consider include disturbance to birds, woodland flora and soil, and garden encroachment.

32. I accept that the appeal site is virtually unseen from the highway, and the development causes virtually no visual harm from public vantage points. However, the introduction of the substantial mobile home and domestic paraphernalia, extension of the hardstanding, planting of a laurel hedge, and clearance of undergrowth give the site a distinctly domestic character and appearance, quite at odds with the wooded and rural character of the surroundings. Furthermore, I consider the common laurel hedge along the eastern boundary to be an alien and domesticating garden feature, quite out of place in the context of the oak trees that are a predominant feature of the site. Although the area may have been unsightly in its previous condition, this does not justify a development that itself changes the character of the land in such an incongruous manner.

33. I consider the development causes significant harm to the character and appearance of the appeal site, and effectively removes a small area of the countryside. In this regard the development fails to recognise the intrinsic character and beauty of the countryside – one of the core land-use planning principles set out in the fifth bullet point of NPPF paragraph 17 - and does not accord with DPD Policy TRS 2, and Core Strategy Policy CS1.

34. Regarding the designation as Ancient Woodland, and taking account of the trees protected under the TPO, the trees are relatively sparsely distributed on the part of the site to the north of the dividing fence. I accept that the appellant may not have removed any trees from the site, and has done little more than prune and remove dead wood with the Council's approval. Nevertheless, the formation of the additional hardstanding and the setting of the mobile home on its base will inevitably have compacted the soil beneath. The construction of the septic tank and associated pipework may well have severed tree roots, and the excavation and back-filling will have caused soil loss as well as compaction. These operations will have effectively prevented regeneration of understorey plants, and probably the emergence of new trees on this part of the site. Furthermore, soil loss will have reduced the value of the seed-bank.

35. It appears that prior to its residential use there was occasional dumping of rubbish and that this may have occurred over many years. However, there is

no evidence of any other activity on the site. The soil would have remained generally undisturbed, and given the relative isolation and peacefulness of the site, biodiversity would have tended to increase and even become enriched. The use as a rubbish dump does not necessarily mean the value of the land in ecological terms is reduced. The residential use inevitably results in more vehicle movements, more intensive day-to-day use by occupants and visitors, and possibly use for keeping horses and/or domestic pets. All of these are likely to prevent or significantly reduce the ability of the land, trees, and eco-systems they support, to thrive. Although there are at present no vehicular movements on the southern part of the site, there is nothing to prevent these occurring in future, and in any case it is likely that there is increased foot traffic on that part.

36. If planning permission were granted the increase in use would continue more or less indefinitely. Even though the appellant has proposed to reduce the area of hardstanding to the western side of the site, that would not help to reduce the number of vehicle movements, and in any case soil has already been lost in that area. Other mitigating measures were put forward such as the adoption of a landscape management plan, and acceptance of a condition to prevent the keeping of horses on the site. However, neither of these would reduce other activities, and the harm would continue permanently.

37. Nevertheless, it must be considered whether the need for and benefits of the development in that location would clearly outweigh the loss. In that regard, the principal benefit would be the provision of residential accommodation for the family, particularly in the best interests of their young son – a primary consideration - and the appellant argues that this would be a sustainable form of development.

38. In terms of the economic dimension of sustainability, nothing is put forward to suggest this is an area where employment or business activities are promoted. Although the appellant owns the site and it is at no cost to the Council, there has been no increase in economic activity in the area, since the appellant and his partner previously had settled bases in the locality from which they earned their livings. There is no need for them to set up on this particular site in order to continue such activity.

39. As to its location, it is the case that the site has good accessibility to primary roads in the area. However, that would be true for the great majority of sites given the quality of the road network in the vicinity of Ashford, which means that virtually no site would be remote from a major road. Nevertheless, local services are some distance away, most journeys would need to be by private vehicle, and this is not one of the settlements where the Council are seeking to concentrate development. I do not see accessibility as being a particular benefit.

40. Regarding the social dimension, it is clearly an advantage to the appellant, his partner and young child, to stay on this site, since they have always lived in the vicinity, but I concur with the Council's view that the development does not make a significant contribution to the social and cultural well-being of the community, nor does it contribute to creating a high quality built environment.

41. In environmental terms, I have come to the view that there would be significant harm to countryside interests, as well as to this area of ancient

woodland. The development cannot be regarded as environmentally sustainable.

42. On balance I do not find the advantages in terms of housing provision, and the personal advantages to the appellant and his family are sufficient to clearly outweigh the harm I have found to countryside interests and to the area of ancient woodland. I do not consider this to be a sustainable form of development for which planning permission should be granted. In those respects the development does not accord with the development plan, in particular CS Policies CS1 and CS11, DPD Policies TRS 2 and TRS 18, and Local Plan Policies GP12 and EN32.

43. If permanent planning permission were not to be granted the appellant seeks a temporary permission for a period of at least 3 years, which could be achieved by imposition of planning condition. The section of the government's Planning Practice Guidance 'Use of Planning Conditions'[3] advises that the circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area, or where it is expected that the planning circumstances will change in a particular way at the end of that period. A temporary permission may also be appropriate on vacant land to enable use for a temporary period prior to any longer term regeneration plans coming forward.

44. In this instance I have already come to the view that there is significant harm to countryside and Ancient Woodland interests. This harm would only continue if a temporary permission were granted. Furthermore, there is no indication that planning circumstances are likely to change, or that some longer term regeneration plan for the area may emerge. In the light of these factors I do not consider the grant of temporary permission would be appropriate.

45. For the reasons given above I conclude that the appeal on ground (a) should not succeed, and I shall refuse to grant planning permission on the deemed application.

The appeal on ground (g)

46. This ground is that the compliance periods stated in the notice are too short. It was argued that a period of 18 months should be allowed to comply with all requirements of the notice. This was on the basis that it would be difficult to find other land in the area suitable for residential accommodation. The appellant put forward the problems that would be encountered with returning to Kingsthorne Farm, or living with Ms Hodges' parents. However, no evidence was submitted to show whether there had been any other search for an alternative site.

47. Nevertheless, I appreciate the difficulties that there might be in finding another site, moving to that site, and then carrying out the required works to the appeal site. In my opinion it would be reasonable to allow a period of 12 months for cessation of the uses and removal of the mobile home and portable cabin (requirements (i) to (iv)). This would allow a longer and more realistic period for finding, and moving to, another site. A further 1 month should then be allowed to comply with requirements (v) and (vi), running concurrently with

[3] Paragraph: 014 Reference ID: 21a-014-20140306. Revision date: 06 03 2014.

a period of 2 months to comply with requirements (vii) and (viii). This would amount to a period of 14 months in all after the notice takes effect.

48. I therefore allow the appeal to the limited extent on ground (g), and will vary the enforcement notice accordingly.

Human rights

49. I appreciate that as a Romany Gypsy Mr Wood is entitled to respect for the traditional way of life, and that this engages Article 8 of the Convention to the Human Rights Act 1988 – the right to respect for private and family life, home and correspondence. Dismissing this appeal and upholding the enforcement notice would result in the loss of the appellant's home, which would be a serious interference with those rights.

50. As to alternative accommodation, Mr Wood has said that there has been conflict with his father, preventing return to Kingsthorne Farm – although this appears to have been resolved to a great extent. Furthermore, Ms Hodge's parents have indicated that it would not be viable for the family to live with them. Also, I understand that Mr Wood had a disagreement with residents of a gypsy site at Chillington, which led to serious violence against him, and it would not be possible for him to live there.

51. However, there is virtually no evidence that the appellant has taken steps to investigate other means of accommodation by looking for a suitable alternative caravan site. He has expressed a cultural aversion to living in 'bricks and mortar' accommodation, but as I have found above the evidence suggests he has lived in conventional housing for significant periods of his life. There has been no attempt to look for conventional housing. Mr Wood is clearly a resourceful person, who would be able to find an alternative site.

52. Mr Wood has previously had a settled base, and never needed to resort to roadside camping, or other unauthorised encampments. I cannot see that he would need to resort to doing so now, as was suggested. This is particularly so in the light of the family history, where both his father and grandfather have apparently been quite flexible as to their choice of living accommodation, including shacks, touring caravans, and conventional houses. It does not appear that Mr Wood has led the traditional gypsy way of life as was claimed.

53. With respect to Amy Hodges, she is not an ethnic gypsy, has previously always lived in bricks and mortar housing, and her family live nearby. She too is unlikely to need to resort to roadside camping, and in my view would be unlikely to tolerate such a situation. There can be little doubt that both parents would find suitable accommodation that would ensure their young son could lead a settled life. No child health problems were reported, and the family are registered with a GP nearby. At present there are no formal educational needs, but there will be schools available in this well populated area when such needs arise. In my opinion the son's best interests would be properly catered for if the appeal is refused.

54. Overall, I have found that the development of the appeal site causes significant harm to both countryside and Ancient Woodland interests, and cannot be regarded as sustainable development. These are matters of considerable importance in the general public interest, and I am satisfied that their protection can only reasonably be achieved by upholding the notice and refusal

of planning permission. Furthermore, I have extended the period for compliance with the notice, and consider 12 months would give adequate time for alternative accommodation to be found. On balance, I consider the action taken by the Council has been proportionate and necessary in these circumstances, and that there would be no violation of Mr Wood's rights, or those of his family.

Conclusions

55. For the reasons given above and having regard to all other matters raised, I consider the appeal should not succeed, except to the limited extent on ground (g) and I intend to uphold the notice with variations.

Formal Decision

56. The appeal is allowed to the limited extent on ground (g), and the enforcement notice is varied by:

DELETION of the words '*six months after the notice takes effect*' for compliance with requirements (i), (ii), (iii) and (iv) in paragraph 5 of the enforcement notice; and,

SUBSTITUTION of the period of '*twelve months after the notice takes effect*' for compliance with those requirements.

DELETION of the words '*seven months after the notice takes effect*' for compliance with requirements (v) & (vi) in paragraph 5 of the enforcement notice; and,

SUBSTITUTION of the words '*thirteen months after the notice takes effect*' for compliance with those requirements.

DELETION of the words '*eight months after the notice takes effect*' for compliance with requirements (vii) and (viii) in paragraph 5 of the enforcement notice; and,

SUBSTITUTION of the words '*fourteen months after the notice takes effect*' for compliance with those requirements.

57. Subject to these variations the enforcement notice is upheld, and planning permission is refused on the deemed application.

Stephen Brown

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Marc Willers	Queen's Counsel, instructed by, Philip Brown.
He called:	
Richard Wood	Appellant.
Philip Brown BA(Hons) MRTPI	Chartered Town Planner Managing Director, Philip Brown Associates Ltd.

FOR THE LOCAL PLANNING AUTHORITY:

Giles Atkinson	of Counsel, instructed by The Head of Law Ashford Borough Council.
He called:	
David Stewart BSc(Hons) PGDipTP MRTPI	Chartered Town Planner, Partner of Lee Evans Partnership LLP.

DOCUMENTS

1 Attendance lists (2 documents).
2 The Council's letter of notification of the appeal, dated 7 October 2016.
3 Documents relating to planning permission ref. 14/00769/AS dated 14 August 2014 relating to land at Kingsthorne Farm, Magpie Hall Road, Kingsnorth, Ashford TN26 1HG (4 documents).
4 Appendices to Mr Brown's proof of evidence.
5 Appendices to Mr Stewart's proof of evidence.
6 Schedule of planning permissions granted for gypsy & traveller sites in the Borough 2011-2016.
7 Letter from Theresa Hodges, dated 15 November 2016.
8 The Ashford Borough No. 13 Tree Preservation Order of 1991.
9 Proposed planning conditions.
10 Transcript of High Court case *Forest of Dean District Council v SoS for Communities and Local Government & anor.* [2016] EWHC 421 (Admin).

PHOTOGRAPHS

1-5 Aerial photographs of Kingsthorne Farm.
6 & 7 Photographs of events at Kingsthorne Farm.