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# Appeal Decision

Site visit made on 21 July 2023

**by D Hartley BA (Hons) MTP MBA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 August 2023**

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**Appeal Ref: APP/C3430/W/21/3282975**

**Squirrels Rest, Poplar Lane, Hatherton, Cannock, Staffordshire WS11 1RS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
  - The appeal is made by Mr Luke Lee against the decision of South Staffordshire Council.
  - The application Ref 20/00801/COU, dated 18 September 2020, was refused by notice dated 18 March 2021.
  - The development proposed is change of use of land to mixed use for the keeping of horses and as a residential gypsy caravan site for the stationing of three caravans, together with laying of hardstanding, erection of amenity building, stable and haybarn.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The appeal site falls within land designated as Green Belt. Therefore, the main issues are: -
  - whether the proposal would be inappropriate development in the Green Belt including its effect on openness and the purposes of the Green Belt,
  - the effect of the development on the landscape character of the area,
  - the effect of the proposal on the integrity of the Cannock Chase Special Area of Conservation,
  - the provision and need for Gypsy and Traveller sites,
  - the personal circumstances of the family including the best interests of the children, and,
  - if the development is inappropriate in the Green Belt, 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 development.

## Reasons

### *Site and proposal*

3. The appeal site is situated to the north side of Poplar Lane about 350 metres south-west of the built-up residential suburb of Cannock. Bridleway No. 4 runs alongside the western boundary of the site and separates it from the neighbouring and lawful Gypsy and Traveller site known as 'The Stables'. The

boundary of Cannock Chase Area of Outstanding Natural Beauty (along Sandy Lane) is about 400 metres to the north of the application site at its nearest point. There is a dwelling adjacent to the appeal site known as 'Squirrels Rest' which falls within blue edged land on the site location plan. This is occupied by the appellant and his family.

4. The appeal site is to the north of 'Squirrels Rest' and includes an existing manege. The existing vehicular access from Poplar Lane would be used for the purpose of reaching the appeal site. On one side of the site (i.e., the existing manege), the proposal would include two static caravans, one of which would be used by the appellant's daughter and her spouse for residential purposes and the other to be specifically used by the appellant's child in connection with educational and social development requirements. On this part of the site, there would also be a touring caravan and a horizontal timber boarded clad amenity building. On the eastern part of the site, it is proposed to erect a wooden stable building (i.e., two loose boxes and a store) and a corrugated metal sheet hay barn.
5. One-metre-high timber post and rail fencing would be erected on the eastern boundary of the appeal site and hedge and tree planting is proposed immediately to the east and north of the proposed static caravans, touring caravan and amenity building, thereby physically separating this area from the proposed barn and stable building.

#### *Whether inappropriate development in the Green Belt*

6. The appeal development falls within land designated as Green Belt. There is no dispute that the appeal site would be used by those that meet the definition of a Gypsy/Traveller in annex 1 of the Government's Planning Policy for Traveller Sites (PPTS).
7. It is noteworthy that that the above definition has recently been the subject of the Court of Appeal judgement of *Smith v SSLUHC & Ors (2022) EWCA (Smith judgment)*. The definition of Gypsies/Travellers was found to be discriminatory in that it made it harder for elderly and disabled ethnic Gypsies and Travellers to obtain planning permission in so far that it does not include persons of nomadic habitat of life who, on grounds of their own or family's dependants' educational or health needs or old age, have ceased to travel permanently. The above legal judgement is not determinative in terms of this appeal as the main parties agree that the occupiers of the appeal site would, in any event, meet the definition as contained within annex 1 of the PPTS. I have no reason to disagree with this finding.
8. The proposal is for a mixed use where one of the primary uses is a caravan site. Policy E of the PPTS states that '*Traveller sites (temporary or permanent) in the Green Belt are inappropriate development*'. I therefore find that the proposal would amount to inappropriate development in the Green Belt. This is also a common ground position reached by the main parties.
9. Paragraphs 147 and 148 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to any harm to it. For the reasons outlined above, the proposal would amount to inappropriate development in the Green Belt and, in this regard, it would not accord with policies GB1 and H6 of the South

Staffordshire Core Strategy Development Plan Document 2012 (CS), the Framework and the PPTS.

*Effect on the openness and purposes of the Green Belt*

10. The essential characteristics of Green Belts are their openness and their permanence. The Court of Appeal<sup>1</sup> has confirmed that the openness of the Green Belt can have both a spatial and a visual dimension.
11. The proposal would include three buildings, two static caravans, a touring caravan, fencing, parked vehicles and other likely associated domestic paraphernalia. Despite some existing and proposed landscaping, the development would be visible from the bridleway close to the site and, to a more limited degree, from longer distance views to the east (e.g., from Hatton Road). While I acknowledge that there is an established Gypsy and Traveller site adjacent to the appeal site, I find that in spatial terms the proposed development would cause harm to the openness of the Green Belt. Indeed, a substantial amount of development, including caravans, structures and vehicles, would be introduced on the site which is currently very open in character.
12. The proposed stable building would be positioned away from existing built form and considering its size and relatively remote location, I do not find that it would preserve the openness of the Green Belt. In reaching this view, I accept that it would be screened in part from some longer distance views due to intervening existing vegetation, but the building would nonetheless be conspicuous when seen from parts of bridleway No. 4 which runs immediately to the side of the appeal site. When the stable building is considered alongside the other proposed development, I find that there would be a noticeable loss of the openness of the Green Belt in spatial terms.
13. I accept that the existing appeal site includes a manege. That has some, albeit a limited, impact on the openness of the Green Belt. On my site visit, I noticed that a wooden cabin style building had been erected on the appeal site. It was to the north of the manege and alongside the fence associated with bridleway No. 4. I do not know if this is lawful as there is no reference to it in the respective statements of case. I have assumed that it is lawful for the purposes of assessing the impact of the proposed development on the openness of the Green Belt.
14. I acknowledge that views of the proposed development from the west would be limited given the intervening neighbouring Gypsy and Traveller site. Given this, coupled with the fact that part of the site includes an existing manege, I find that the proposed development as a whole would have a moderately adverse impact on the openness of the Green Belt in visual terms.
15. Paragraph 138 of the Framework states that the Green Belt serves five purposes. I am satisfied that the appeal proposal would not conflict with four of the Green Belt purposes, namely that it would not lead to the sprawl of a large built up area, would not lead to neighbouring towns merging into one another, would not cause any harm to the setting and special character of any historic town and, given the scale and nature of the appeal proposal, could not reasonably be said to directly prevent urban regeneration elsewhere.

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<sup>1</sup> *Turner v SSLG & East Dorset Council* [2016]

16. Nonetheless, there is no doubt that the development as a whole would have the effect of urbanising what is otherwise a predominantly open and undeveloped site in the countryside. Harm would be caused in this regard, from areas of hardstanding, the provision of caravans, vehicles, from the erection of buildings and the likely provision of associated domestic paraphernalia. I therefore find that when the proposal is considered as a whole, it would not safeguard the countryside from encroachment. Therefore, there would be conflict with one of the purposes of the Green Belt. This weighs against allowing the appeal and there would therefore be conflict with paragraph 138 of the Framework.

*Effect on the landscape character of the area*

17. The appeal site is located within an area which is described in the 2019 South Staffordshire Green Belt study as making a strong contribution towards the openness of the Green Belt and where protection against encroachment is particularly important. The study states that *'in South Staffordshire around 80% of the district is designated as Green Belt, which has broadly prevented the outward spread of the West Midlands conurbation to the northwest'*. The appeal site is in the *'Cannock Chase and Cank Wood'* national character area in the South Staffordshire Design Guide 2018 (Design Guide). This identifies that the area *'is characterised by rolling plateaux with scattered woodlands and a peaceful, strongly rural character in the northern part of the area'*.

18. As part of my site visit, I was able to experience that the landscape character of this part of the countryside is predominantly open and rural and that the land topography is gently undulating. The appeal site is quite close to the built-up edge of Cannock, but given the degree of separation from it, coupled with intervening landscaping, it is very much seen as being part of the countryside rather than being very closely aligned with the settlement edge.

19. While there is some sporadic development in this part of the countryside, including the Gypsy and Traveller site adjacent to Squirrels Rest, this is the exception rather than the norm in this environment. Overall, the area is experienced by passers-by, including walkers and horse riders, as one with narrow country lanes lined with trees and hedgerows as well as mainly open fields some of which include field boundary vegetation. These attributes add positively and distinctively to the landscape character of this part of the countryside, particularly when appreciated from the lanes, public rights of way and bridleway No. 4.

20. There is no doubt that the proposed development would have the effect of urbanising this part of the countryside. While the stables and hay storage building would be more rural in character and appearance than the proposed caravans and amenity building, they would nonetheless be positioned on land where there is a distinctive absence of built form. The caravans, amenity building, hardstanding areas and associated vehicular parking would be particularly urban in character. While I acknowledge that the stable and hay storage buildings, and proposed planting, would to some extent screen the more urban development, particularly from views from the east, even with planting the development would be conspicuous from more localised viewpoints such as bridleway No. 4.

21. From bridleway No. 4, I find that unacceptable harm would be caused to the landscape character of the area, and, in this regard, some harm would

therefore also be caused to the way that walkers and horse riders experienced the immediate countryside setting. The harm caused would essentially be localised, albeit that there would be recognisable encroachment into the countryside. I accept that the proposed development would be adjacent to an existing Gypsy and Traveller site. Owing to this, as well as to the intervening landscaping and the separation distances involved, I find that the proposal would not cause material harm to landscape character in terms of longer distance views. For these reasons, I also find that in setting terms, the proposal would conserve the landscape and scenic beauty of the nearby Cannock Chase Area of Outstanding Natural Beauty.

22. For the above reasons, I find that the proposal would cause moderate localised harm to the landscape character of the area. Therefore, I conclude that the development would not accord with the landscape character, countryside, and design requirements of policies EQ4, H6(8) and EQ11 of the CS, paragraphs 174(b) and 130(c) of the Framework and the Design Guide.

*Effect on the integrity of the Cannock Chase Special Area of Conservation*

23. Policy EQ2 of the CS safeguards the Cannock Chase Special Area of Conservation (SAC), which has been designated for its unique heathland habitat. The evidence is that adverse effects on the SAC would arise from an increase in recreation over the local plan period and comprise the creation of new paths, path widening, erosion and nutrient enrichment from visitor use and vehicle emissions.
24. The above is controlled in respect of the Council's 'Guidance to Mitigate the Impact of Residential Development' 2022 (SAC Guidance). The SAC Guidance states that evidence produced to inform the production of the development plan for the area, by consultants Footprint Ecology, together with that of partner Local Planning Authorities in the Cannock Chase SAC Partnership (Stafford Borough, Cannock Chase, Lichfield, East Staffordshire, Walsall Metropolitan Borough Council and Wolverhampton City Council), shows that the in combination impact of proposals involving a net increase of one or more dwellings within a 15 kilometre radius of the SAC would have an adverse effect on its integrity unless avoidance and mitigation measures are in place. The appeal site lies within the consultation zone of influence of the SAC.
25. The SAC Guidance requires mitigation to include a financial payment to be used towards the funding of specific projects as listed in table 1 at paragraph 3.1. The payment in the SAC Guidance is set for each net new home created through development within 15km of the Cannock Chase SAC.
26. In this case, and considering the information in the SAC Guidance, I find that the proposal would be likely to lead to recreational pressure in the SAC. I consider that the effects of the proposed residential development, both on its own and in combination with other development projects, is such that it would be likely to have significant effects on the European protected site. On the evidence that is before me, as part of my appropriate assessment, I find that the proposal would on its own and in combination with other projects adversely affect the integrity of the SAC.
27. As the competent authority, I must therefore consider whether measures could be put in place to avoid or mitigate the impacts of increased recreational pressure arising from the proposed development. The appellant has provided

me with a completed planning obligation dated 16 August 2023 which requires, within ten days of the grant of planning permission, the payment of £329.83 to be paid towards strategic access management and monitoring measures to mitigate against the adverse impacts of recreational activities on the integrity of the SAC. Natural England, who were consulted as part of this appeal, do not object to the proposal, as acceptable mitigation, subject to the said above payment being made in accordance with the SAC Guidance.

28. Given the completed planning obligation, I find that the proposal would not have an adverse effect on the integrity of the SAC. In this regard, I therefore conclude that the proposal would accord with the biodiversity requirements of policies EQ2 and H6(8) of the CS, paragraph 175 of the Framework and the Conservation of Habitats and Species Regulations 2017 (as amended). In reaching this conclusion, I am satisfied that the planning obligation meets the tests as laid out in paragraph 57 of the Framework.

*The provision and need for Gypsy and Traveller sites*

29. There is no dispute between the main parties that the local planning authority (LPA) cannot demonstrate a five-year supply of deliverable Gypsy and Traveller pitches and, in addition, that there are no available existing Gypsy and Traveller pitches in the area to meet the needs of the family, particularly the appellant's daughter, spouse and unborn child.
30. The LPA has started to review its local plan and it has reached Regulation 19 Publication Plan stage. Of relevance to this appeal, is the evidence base relating to Gypsy and Traveller need in the form of the Gypsy and Traveller Accommodation Assessment 2021 (GTAA) and Pitch Deliverability Study 2021. The GTAA, which has not been tested as part of a local plan examination, identifies a need for 121 pitches for the period 2021-2038 (plus additional provision for 'undetermined' and 'non-definition' need) and a five year need of 72 pitches.
31. There is common ground between the main parties that until a new local plan is adopted, and further land allocated for Gypsy and Traveller pitches, the LPA will not be able to meet required need or to demonstrate at least a five-year supply of deliverable pitches. The adoption of the new local plan is anticipated at the end of 2025 and the LPA claims that the delivery of pitches on newly allocated sites can be anticipated by the end of 2026.
32. The appellant has stressed that about 80% of the district is designated as Green Belt. He asserts that it is likely that new Gypsy and Traveller sites will therefore need to be found in the Green Belt. As a proportion of the district is not in Green Belt, it does not automatically follow that all sites that come forward as part of the review of the development plan will be in Green Belt or, in any event, that less harmful sites will not be allocated or come forward in the Green Belt as part of the development plan Examination process.
33. Notwithstanding the above, the unmet need for Gypsy and Traveller pitches and absence of any currently available pitches on authorised sites to accommodate the needs of the appellant's daughter (including unborn baby) and spouse are material considerations that weigh in favour of allowing the appeal.

*The personal circumstances of the family & best interests of the children*

34. Article 8 of the European Convention on Human Rights as incorporated into Human Rights Act 1998 (HRA) states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial.
35. I am also mindful that Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children.
36. Furthermore, in exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity. The Act recognises that race constitutes a relevant protected characteristic for the purposes of PSED. Romany Gypsies and Irish Travellers are ethnic minorities and thus have the protected characteristic of race. This appeal also involves the consideration of disability which is also a protected characteristic.
37. I acknowledge that the appellant's child, who currently lives in the dwellinghouse at 'Squirrels Rest' adjacent to the appeal site, has a particular disability that requires special educational and social support. I do not doubt that having a caravan on the appeal site for use by the appellant's child as a 'sensory room' would allow the child to receive tuition separately from the appellant's other children and in an environment which, in relative terms, is likely to be quieter. In this regard, the provision of a caravan on the appeal site for use as a 'sensory room' for the appellant's child would have some positive impacts.
38. Notwithstanding the above, the provision of a proposed 'sensory room' in a proposed caravan on the appeal site must be weighed against the fact that it would amount to inappropriate development in the Green Belt. While planning applications have previously been refused for the erection of a sensory building in connection with the property known as Squirrels Rest<sup>2</sup>, such proposals were in combination with other proposed development and partly outside the residential curtilage of Squirrels Rest.
39. I have read the associated reports and decisions relating to the above planning applications and considered the proposed drawings. The evidence does not indicate that it would not be possible, in principle, to provide a well-designed and proportionate extension to Squirrels Rest to provide a 'sensory room' in accordance with paragraph 149(c) of the Framework, while at the same time retaining the integral character and appearance of the dwellinghouse. Indeed, as part of this appeal, the LPA has commented that it *'would encourage an alternative application compliant with NPPF paragraph 149(c) that is proportionate, well-designed in relation to the existing building, and does not encroach beyond the approved domestic curtilage, and would treat such an application on its merits'*.
40. In other words, the evidence indicates that it may be possible to apply for a proportionate sensory room extension to Squirrels Rest that would not amount to inappropriate development in the Green Belt and hence meet the needs of the appellant's child without, in relative terms, causing the same degree of

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<sup>2</sup> Planning applications 16/00972/VAR and 18/00350/FUL

planning harm. In this regard, I therefore afford limited weight to the proposed provision of a sensory room/caravan on the appeal site as the evidence indicates that there is a real possibility of planning permission being granted for alternative development that would achieve a similar outcome, albeit without causing harm to the Green Belt.

41. Furthermore, and noting the best interests of the child, a refusal of planning permission would not, in any event, mean that the child in question could not continue to be home tutored, or that arrangements could not be made within the family to ensure an acceptable level of peace and quiet at particular times. Indeed, the evidence is that home tutoring takes place at times when some of the appellant's other children are away from the site at school. There is little evidence before me to indicate that distractions are very significant from family life within the home when tutoring takes place.
42. The evidence is that the appellant's daughter has recently married and hence would like her own independence and to live on her own site/in her own residential caravan with her spouse albeit near to her family. The evidence also indicates that the daughter is pregnant with the baby due to be born in December 2023. A home will therefore also be needed for the baby in the coming months. The appellant's daughter has a disability and the appellant states that she can require assistance at short notice. I do not doubt that the care of her parents, at times when her spouse is away, would both provide reassurance and direct support to her in the event of a health emergency.
43. While the evidence before me does not indicate how regularly the daughter requires the support of others or indeed the severity of her disability, I do not doubt that the proposal would be beneficial in so far that living adjacent to the wider family would ensure continuity of care for her, as well as support and assistance provided for the currently unborn baby.
44. The above matters need to be weighed against the evidence which indicates that a refusal of planning permission would not make the appellant's daughter (including unborn baby) or spouse homeless, or that they would have to move away from the site at Squirrels Rest. Indeed, I was able to see on my site visit that two large touring caravans were sited immediately adjacent to Squirrels Rest and within the associated yard area. The evidence is that one touring caravan belonged to the appellant and the other was in active use by the appellant's daughter and spouse. I was also able to see on my site visit that a portacabin had been positioned close to the touring caravans and was in use as an amenity block.
45. I do not know if use of the touring caravan and the portacabin outside of the red edged appeal site is lawful. However, there is no evidence to indicate that if planning permission were refused for the proposed development, it would mean that Squirrels Rest would not continue to be available for use by the whole of the family and hence mutual support (include health care) provided from one another from living on this land, whether that be from living in the dwellinghouse itself or from occupation of an adjacent caravan on an incidental residential basis.
46. Given that the appellant's children and recently married daughter currently reside on land at Squirrels Rest, I do not therefore agree with the appellant that a refusal of planning permission would necessarily mean that the children's social and educational development would be '*severely prejudiced by a*

*roadside existence*'. I accept that the appellant's daughter would prefer to live in a caravan and on a site that is adjacent to but separate from Squirrels Rest. However, I am not persuaded, based on the evidence before me, that it would not continue to be possible for the daughter, spouse and baby to live at Squirrels Rest, whether that be within the dwellinghouse itself or in respect of occupation of a caravan on land within its residential curtilage and on an incidental basis.

47. Overall, and for the reasons outlined above, I therefore afford the personal circumstances of the family, including the best interests of the children, moderate weight in the overall planning balance.

#### *Other benefits*

48. The proposal would bring some benefits to the construction industry although such benefits would be short lived. Use of the site for the keeping of horses would provide a healthy and active pastime for users of the site. However, the appeal site is within the countryside where there are other opportunities to walk and undertake horse riding. In this context, I afford only limited weight to this matter in the overall planning balance.

#### **Planning Balance**

49. Given the completed planning obligation, and hence mitigation, I have concluded that the proposed development would not cause harm to the integrity of the SAC. In this regard, the proposal would accord with the biodiversity requirements of policy EQ2 and H6(8) of the CS and paragraph 175 of the Framework. However, this is a matter of neutral consequence in the planning balance.
50. I have found that the development would amount to inappropriate development in the Green Belt. This is a matter to which I afford substantial adverse weight in decision making terms. Furthermore, moderate harm would be caused to the openness of the Green Belt and there would be conflict with one of the purposes of the Green Belt, namely safeguarding the countryside from encroachment. In addition, there would be moderate harm caused to the landscape character of the area. For these collective reasons, the proposal would conflict with policies EQ2, EQ4, EQ11, GB1 and H6 of the CS. Collectively, the I afford the above harms very substantial adverse weight in the planning balance.
51. In this case, the provision of a 'sensory room' in a caravan on the appeal site may, in relative terms, have some advantages in terms of supporting the education of the appellant's child who has a disability. However, this proposal would amount to inappropriate development in the Green Belt. Furthermore, the evidence is that despite planning application refusals for sensory room buildings at Squirrels Rest, the LPA would consider a proportionate and well-designed sensory room extension to the existing dwellinghouse in accordance with paragraph 149(c) of the Framework. Such an extension need not amount to inappropriate development in the Green Belt and there is nothing to suggest that it could not be designed in such a way as to give the child acceptable peace and quiet. In this regard, I afford limited weight to the need for the proposed 'sensory' room on the appeal site as the evidence is that, in principle, it would be capable of being provided in a different way in accordance with Green Belt policy in the development plan and Framework.

52. In addition, and, in any event, it is not the case that a refusal of planning permission would mean that the child would not continue to be able to be home tutored, or that the family could not make some arrangements to ensure improved peace and quiet during these times based on current arrangements. Furthermore, a refusal of planning permission would not mean that a roadside existence was an inevitable outcome. Indeed, the land at Squirrels Rest is currently occupied by the appellant and his family (including his daughter) and there is nothing to indicate that there is any immediate urgency in terms of changing this arrangement and prior to new pitches being allocated in a new development plan and coming forward for residential occupation.
53. I have considered whether a temporary planning permission would be justified. I have considered a period up to 31 December 2026 on the basis that I have no reason to doubt the claim made by the LPA that the new local plan will be '*adopted by the end of 2025*' and '*allowing a subsequent 12-month period for the preparation and determination of planning applications, allocated sites should be available on the ground by the end of 2026*'. The evidence is not certain in terms of whether the provision of new and policy compliant alternative sites, if close by, would suitably address the care needs of the appellant's daughter. However, and, in any event, the care needs of the appellant's daughter must be weighed against the substantial harm that would be caused by the proposal to the Green Belt.
54. I find that while the identified planning harms would be for a limited period arising from the grant of temporary planning permission, such harms would nonetheless still be collectively substantial. Furthermore, it is noteworthy that a refusal of planning permission would not make the appellant or any of his family homeless. Indeed, they all currently live on the adjacent site at Squirrels Rest. For these reasons, coupled with the overall very substantial planning harm that would be caused by the development, I do not find that a temporary planning permission would be appropriate or justified.
55. In favour of the appeal is the unmet need for Gypsy and Traveller pitches, the current lack of available alternative Gypsy and Traveller sites which may potentially provide a new home for the appellant's daughter and her spouse and unborn child, and the keeping of horses which would facilitate an active lifestyle for users of the site. Furthermore, the opportunity afforded to the appellant's daughter to live independently with her spouse (including unborn baby), albeit close to her parents to enable support in the event of a health emergency, are matters that weigh in favour of allowing the appeal. However, Policy E of the PPTS states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh the harm to the Green Belt and other harm so as to establish very special circumstances.
56. I conclude, on balance, that the harm caused to the Green Belt by reason of inappropriateness, and the other identified harm, would not be clearly outweighed by other considerations, including the best interests of the children, the personal circumstances of the family and unmet need, so as to amount to the very special circumstances necessary to justify either temporary or permanent planning permission.
57. In reaching the above conclusion, I have considered Article 8 of the European Convention on Human Rights, as incorporated into the HRA, which provides

that everyone has a right to respect private and family life, their home and correspondence. My decision would deny some members of the family the opportunity to live in a new home in the manner proposed. In this regard, my decision would lead to a significant interference of Article 8 rights. However, the collective planning harm that I have identified is of such weight that a refusal of planning permission is a proportionate, legitimate and necessary response that would not violate those persons rights under Article 8. I find that the protection of the public interest cannot therefore be achieved by means that are less interfering of the rights of members of the family. I have had also due regard to the PSED. In this case, the harm caused to the Green Belt, and the other identified planning harms, outweigh the benefits of the proposal from a disability point of view. I conclude that it is proportionate and necessary to therefore dismiss the appeal.

### **Conclusion**

58. For the reasons given above, I conclude that the development would not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

*D Hartley*

INSPECTOR