

Comments on Appeal reference 6011907

Dear Planning Inspector

I am a resident of Fifield, the village on the edge of which the development the subject of this appeal is located. I request that you dismiss this appeal; or adjourn the appeal hearing and convert it to an inquiry and allow time for me and my fellow village objectors to obtain Rule 6 status on the following bases.

In summary, I respectfully submit:

1. The National Planning Policy Framework 2026 (NPPF 2026) applies to this development
2. The fact that an unauthorised development was intentional should be given substantial weight in considering whether to grant planning permission
3. The unauthorised development was intentional
4. Traveller site applications remain subject to the same policies on environmental impacts, flooding, transport and environmental quality as other forms of development
5. The site is not a sustainable location in terms of highway safety
6. The site does not ensure the development is safe from flooding
7. Court decisions, such as 'Cidermill Hatch' [2025] EWHC 2127 (Admin), are to be read in light of the NPPF 2026
8. Not all of the requirements of NPPF 2026 HO12: Traveller sites are met at this location.
9. National decision-making policy S5: Principle of development outside settlements is not met at this location
10. Human rights considerations involve a balancing exercise, and the child's best interests do not of themselves have the status of the paramount consideration
11. If the issues cannot adequately be addressed by way of a hearing, please arrange for an inquiry to be held instead
12. If an inquiry is to be held, please allow time for me and my fellow village objectors to obtain Rule 6 status.

Submissions

1. The National Planning Policy Framework 2026 (NPPF 2026) applies to this development

- 1.1 Please see 'Creating a clear, rules-based planning system', Published 17 August 2026: <https://www.gov.uk/government/publications/creating-a-clear-rules-based-planning-system/creating-a-clear-rules-based-planning-system> [accessed 29082026]).
- 1.2 The same place states 'To ensure that the decision-making policies in the Framework have an immediate impact, they will come into effect from today.' It is submitted this means 17 August 2026.

2. The fact that an unauthorised development was intentional should be given substantial weight in considering whether to grant planning permission

- 2.1 Please see the following decision-making policy in **NPPF 2026, DM8: Unauthorised development and enforcement**, which at paragraph 2 states:
- 'In cases of unauthorised development where consideration is being given to an application for retrospective planning permission (or through an enforcement appeal, whether to grant planning permission in respect of a breach of planning control), if it is concluded based on evidence that the unauthorised development was intentional, that fact should be given substantial weight in considering whether to grant planning permission.'
- 2.2 The previous NPPF 2024 stated '60. Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.' See National Archives <https://webarchive.nationalarchives.gov.uk/ukgwa/20250225172715/https://www.gov.uk/government/publications/national-planning-policy-framework--2> [accessed 29082026].
- 2.3 Please see 'Reports claiming planning reforms make it easier to approve unauthorised Traveller sites are wrong': <https://mhclgmedia.blog.gov.uk/2026/08/18/reports-claiming-planning-reforms-make-it-easier-to-approve-unauthorised-traveller-sites-are-wrong/> [accessed 29082026].

29082026]). In this blog post, the Ministry of Housing, Communities and Local Government states 'Put simply, the reforms do **not** make it easier to secure permission for unauthorised development. In fact, they make the planning framework clearer and stronger by giving greater weight to intentional breaches of planning rules.'

- 2.4 It is submitted that the difference between NPPF 2026, DM8, and paragraph 60 in the 2024 version, amounts to a material change in Government planning policy regarding intentional unauthorised development. It is submitted that the Government now expects permission to be refused in a case such as this. Please see paragraph 7 in the NPPF 2026, which states: 'The national decision-making policies should also be read as a whole (including relevant footnotes and annexes). Some of these policies indicate how much weight the government would expect a particular consideration to be given, including cases where it is appropriate to give substantial weight to certain benefits, **and the limited circumstances in which it is expected that permission would be refused.**' [emphasis added].

3. The unauthorised development was intentional

- 3.1 It is submitted that the following matters of court record are evidence of intentional unauthorised development at the site whether by the Applicant in this appeal (believed to be Martin Cawley, see: <https://appeal-planning-decision.service.gov.uk/comment-planning-appeal/appeals/6011907> [accessed 29082026]) or others. Please see the High Court interim judgment [2026] EWHC 521 (KB) <https://www.iclr.co.uk/ic/2026001689> [accessed 29082026]. For example, paragraphs: 1 to 7; 9; 11 (on the issue of others than the Applicant – who appears to be referred to as the first defendant); 17; and 31

- 3.2 Particular attention is invited to paragraph 31 of this interim judgment:

'31. The defendants did not seek to argue that the making of the interim injunction had been other than proportionate or necessary, and they did not submit that the interim order should not continue at least until the first defendant's belated application for planning permission had been determined. Indeed, the solicitor for the defendants had been in extensive correspondence with the Council to agree a revision to the terms of the injunction, so that the order could continue. It follows that the defendants accept that the Court is entitled to conclude, by reference to the evidence provided, that there have been flagrant breaches of planning control, that other means of enforcement would be insufficient, and therefore that injunctive relief remains necessary and proportionate.'

(There is also a related Court Order Claim No. KB-2026-000181 https://ogafcap.co.uk/PAGES/PLANNING/Planning_update_35.htm [accessed 29082026]).

4. Traveller site applications remain subject to the same policies on environmental impacts, flooding, transport and environmental quality as other forms of development

- 4.1 Please see 'Reports claiming planning reforms make it easier to approve unauthorised Traveller sites are wrong': <https://mhclgmedia.blog.gov.uk/2026/08/18/reports-claiming-planning-reforms-make-it-easier-to-approve-unauthorised-traveller-sites-are-wrong/> [accessed 29082026]]. In this blog post, the Ministry of Housing, Communities and Local Government states 'Traveller site applications remain subject to the same policies on environmental impacts, flooding, transport and environmental quality as other forms of development.'

5. The site is not a sustainable location in terms of highway safety

- 5.1 Taking account of the previous section, it is submitted that NPPF 2026 GB7: Development which is not inappropriate in the Green Belt, should be read subject to DM8 (i.e. the fact that an unauthorised development was intentional should be given substantial weight in considering whether to grant planning permission). Further, under paragraph 7 in the NPPF 2026, this case falls within the limited circumstances in which it is expected that permission would be refused.
- 5.2 For the same reasons, NPPF 2026 GB7, g. iii. and footnote 42 (i.e. particular reference should instead be made to policy HO12 [Traveller sites]), cannot simply mean this is a development which is not inappropriate in the Green Belt. Unmet need for Traveller sites cannot simply be met by an intentional unauthorised development. In this case of intentional unauthorised development, National decision-making policy TR3 cannot simply be ignored because of footnote 42.
- 5.3 It is submitted that evidence on highway safety surrounding the site be scrutinised with the assistance of a site visit under Rule 12 of The Town and Country Planning (Hearings Procedure) (England) Rules 2000 <https://www.legislation.gov.uk/ukxi/2000/1626/contents/made> [accessed 29082026].
- 5.4 It is further submitted that the Planning Inspectorate Appeal Decision, Appeal Ref: APP/T0355/W/24/3354960, with reference to The Drift Road, to which Fifield Lane is connected, be taken account of – including on a site visit. Within this decision, there is paragraph 27:

‘27. On the evidence before me, including my observations on site, there can be considerable traffic on Drift Road, travelling at speeds up to 60mph. There is no footway or dedicated cycleway along this stretch of the road, which is unlit, and there are deep roadside ditches. Walking or cycling to and from the site would therefore be dangerous for all pedestrians and all but the most experienced cyclist. It would be particularly hazardous for children and other vulnerable road users. This would in turn limit access to bus-stops, which are in any event some considerable distance away. The nearest public footpath is not directly opposite the site as suggested and anyway would not give direct access to local shops. This local context means access to employment, shopping, leisure and other destinations by modes other than the private car would not be realistic for most future occupants of the development, notwithstanding an absence of comment from the HA.’

6. The site does not ensure the development is safe from flooding

6.1 I rely on 26_00290_FULL-LLFA_COMMENT-3300360, dated 21st August 2026 in which the Sustainable Drainage Officer recommends this appeal be refused. The flood risk assessment and SuDS report provided as part of the statement of case have been reviewed. The numbered comments are: ‘

1. We note that the proposed strategy includes infiltration via unlined permeable paving based on a conservative infiltration rate of $1 \times 10^{-7} \text{m/s}$. Infiltration rates that are less than $1 \times 10^{-6} \text{m/s}$ are not permissible according to guidance provided in the SuDS Manual. Furthermore, given that the SuDS report states that there is low potential for infiltration SuDS across the site we would require infiltration testing to clarify whether infiltration is suitable for the site. If infiltration is not found to be suitable the drainage strategy would need to change and no alternative strategy has been proposed.

2. We also note that a Drainage Layout showing the location of the proposed components and the connectivity of the system including invert levels, cover levels, pipe numbers, gradients, and pipe sizes, and storage volumes of all SuDS components has not been provided.’

7. Court decisions, such as ‘Cidermill Hatch’ [2025] EWHC 2127 (Admin), are to be read in light of the NPPF 2026

7.1 It is accepted that it is imperative not to treat guidance contained in the NPPF as if it were a statute (Paragraph 40 of the judgment https://www.iclr.co.uk/document/2025036213/2025ewhc2127admin_TNA/html [accessed 29082026]). However, at paragraph 41 of the same judgment the Learned Judge cites R (Tesco Stores Ltd) v Stockport MBC [2025] EWCA Civ 610, quoting Lindblom LJ including:

‘37. The court should respect the policy-maker’s choice of words in formulating the policy as it stands. As a general rule, the temptation to infer terms the policy-maker has not actually used should be resisted. The court will sometimes be able to conclude that the words of the policy mean exactly what they say, nothing more and nothing less. It should not hesitate to do this if it can.’

7.2 It is submitted that the limited circumstances in NPPF 2026 DM8 are those in which it is expected that permission would be refused.

7.3 Moreover, part of ‘Cidermill Hatch’ was concerned with the pre-NPPF 2026 case law on specified development that is not “inappropriate” in the Green Belt, that was not to be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt. Under NPPF 2026, the circumstances in DM8 (i.e. intentional unauthorised development) are to be given substantial weight. Whereas, the categories of development that are not inappropriate in the Green Belt, and therefore should not be regarded as harmful to the Green Belt or be required to demonstrate very special circumstances found in NPPF 2026 GB7 - g. - are not given substantial weight.

7.4 Therefore, it is submitted that the impact of ripping out rural hedgerow (see also Planning Enforcement details 25/50207/ENF <https://publicaccess.rbwm.gov.uk/online-applications/enforcementDetails.do?previousCaseType=Application&keyVal=T1NC0DNI0G100&previousCaseNumber=26%2F00290%2FFULL&activeTab=summary&previousKeyVal=T9TNS0NIFP600> [accessed 29082026]); purporting to replace it with completely different plants such as leylandii and or laurel; the caravans; mobile homes; structures; hardstanding; and or fencing would have significant negative impact on the openness of the Green Belt.

8. Not all of the requirements of NPPF 2026 HO12: Traveller sites are met at this location

8.1 NPPF 2026 HO12: Traveller sites, includes:

‘1. Development proposals for traveller sites should be located so that they:

- a. Provide a settled base while recognising the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability...

8.2 For the reasons submitted in section 5 above, this purported traveller site is not sustainable.

9. If the site is determined to be outside Fifield, National decision-making policy S5: Principle of development outside settlements is not met at this location

9.1 According to NPPF 2026 S5: Principle of development outside settlements:

‘1. Only certain forms of development should be approved outside settlements, as set out in the following list. These should be approved, unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in this Framework...’

9.2 According to the Planning Officer’s Report paragraph 2.3 ‘The site is within the Green Belt and outside of any identified settlement...’

<https://publicaccess.rbwm.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=T9TNS0NIFP600> [accessed 30082026].

9.3 It is submitted the intentional unauthorised development of this site substantially outweighs any purported benefits of this development. For the reasons given at section 2 above, it is submitted that this is a finding expected by the Government.

10. Human rights considerations involve a balancing exercise, and the child's best interests do not of themselves have the status of the paramount consideration

10.1 It is respectfully submitted that the case of Chapman v UK (2001)

<https://www.bailii.org/eu/cases/ECHR/2001/43.html> [accessed 29082026] is not authority for the Article 8 rights of the Applicant and their associates to override those of others, such as Fifield residents like me. Paragraph 102 of the judgment states:

‘102. Where a dwelling has been established without the planning permission which is needed under the national law, there is a conflict of interest between the right of the individual under Article 8 of the Convention to respect for his or her home and the right of others in the community to environmental protection (see paragraph 81 above). When considering whether a requirement that the individual leave his or her home is proportionate to the legitimate aim pursued, it is highly relevant whether or not the home was established unlawfully. If the home was lawfully established, this factor would self-evidently be something which would weigh against the legitimacy of requiring the individual to move. Conversely, if the establishment of the home in a particular place was unlawful, the position of the individual objecting to an order to move is less strong. The

Court will be slow to grant protection to those who, in conscious defiance of the prohibitions of the law, establish a home on an environmentally protected site. For the Court to do otherwise would be to encourage illegal action to the detriment of the protection of the environmental rights of other people in the community.'

10.2 The case of *Zoumbas* [2013] UKSC 74

<https://www.supremecourt.uk/cases/uksc-2013-0100> [accessed 29082026] is cited in the High Court interim judgment (2026) referred to above, with regard to the protection of the welfare of children. It is respectfully stressed that *Zoumbas* (2013) was concerned with the question whether the interference with the family life of Mr *Zoumbas*' family unit by removal to the Republic of Congo was proportionate to the legitimate public end which the Secretary of State sought to achieve, namely maintaining effective immigration control. The citation includes the quoting of paragraph 10 in *Zoumbas* (2013), which includes:

'10. In their written case counsel for Mr *Zoumbas* set out legal principles which were relevant in this case and which they derived from three decisions of this court, namely *ZH (Tanzania)* (above), *H v Lord Advocate* 2012 SC (UKSC) 308 and *H(H) v Deputy Prosecutor of the Italian Republic* [2013] 1 AC 338. Those principles are not in doubt and Ms Drummond on behalf of the Secretary of State did not challenge them... (1) The best interests of a child are an integral part of the proportionality assessment under article 8 ECHR; (2) In making that assessment, the best interests of a child must be a primary consideration, although not always the only primary consideration; and the child's best interests do not of themselves have the status of the paramount consideration; (3) Although the best interests of a child can be outweighed by the cumulative effect of other considerations, no other consideration can be treated as inherently more significant...'

10.3 *ZH* concerned deportation. *H* concerned extradition. *HH* concerned extradition. It is respectfully submitted this Appeal, reference 6011907, is neither a deportation nor an extradition case.

11. **If the issues cannot adequately be addressed by way of a hearing, please hold an inquiry instead**

11.1 It is recognised that you may conclude the issues above, and in the case as a whole, cannot adequately be addressed by way of a hearing. In such circumstances, you are invited under Rule 8 of The Town and Country Planning (Hearings Procedure) (England) Rules 2000

<https://www.legislation.gov.uk/ukxi/2000/1626/contents/made> [accessed 29082026], to close the hearing and arrange for an inquiry to be held instead.

12. If an inquiry is to be held, please allow time for me and my fellow village objectors to obtain Rule 6 status

- 12.1 If an inquiry is to be held under The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 <https://www.legislation.gov.uk/ukSI/2000/1625/article/6/made> [accessed 29082026], due to the interest we have and the contribution we can make in this matter, please allow time for me and my fellow village objectors to obtain Rule 6 status.

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