

London Borough of Barnet

Proof of Evidence on behalf of Local Planning Authority

Stephen Volley (MA) – Deputy Planning Manager

Appeal By: Mr Patrick Casey

Proposed Development: "A material change of use for stationing of caravans for residential use with hardstanding and dayrooms ancillary to that use".

Appeal Site: Land On The North West Side Of Mays Lane, Arkley,
Barnet. EN5 2AH

Appeal Reference: APP/N5090/W/23/3330577

LPA Reference: 23/3816/FUL

Public Inquiry: 21 January 2025

Appeal under Section 78 of the Town and Country Planning Act (As Amended) 1990

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1.0 INTRODUCTION

- 1.1. I am Stephen Volley, Deputy Planning Manager for the London Borough of Barnet. I hold a Master's degree in urban design and Regional Planning from Oxford Brookes University and have over twenty years of post-qualification experience as a Town Planner in Development Management.
- 1.2. Since 2021, I have been involved in assessing a wide range of development proposals and pre-application schemes across the borough of Barnet.
- 1.3. I was the case officer responsible for determining this application. I confirm that the opinions expressed in my evidence are based on my professional expertise and are my true and honest assessment.

2.0 SCOPE OF EVIDENCE

- 2.1 Sections 3 and 4 of this proof outline the application description, site context, and a summary of the proposed development. Section 5 summarises key planning policies and guidance, while Section 6 considers the main planning issues in light of the Development Plan and other material considerations.
- 2.2 My proof assesses whether the proposal constitutes inappropriate development in the Green Belt, resulting in material harm to its openness and other non-Green Belt harm, with a focus on the impact on the character and appearance of the area. The Appellant's claim of very special circumstances, including the need for a site and personal circumstances, is fully assessed, as is the request for a five-year temporary consent and human rights considerations.
- 2.3 The overall planning balance is considered in Section 7. It is concluded that planning permission should be refused as the proposal would be contrary to the Development Plan and is not outweighed by other material considerations.

3.0 APPLICATION SITE AND SURROUNDING CONTEXT

- 3.1 The application subject of this appeal was validated by the Local Planning Authority (LPA) on 6th September 2023, and relates to Land on The North West Side Of Mays Lane, Arkley (the Site), which is located within the Underhill Ward some 200 metres south west of Shelford Road, which defines the main settlement boundary of Arkley with Ducks Island and Dollis Valley.
- 3.2 Measuring approximately 0.81 hectares it is a parcel of undeveloped agricultural land currently in use for the keeping and grazing of horses. The site is located within the Metropolitan Green Belt, with a Flood Zone 1 designation. The proximity to the nearest flood zone 2 is within 200 metres. Whitings Hill open space is located directly to the north. There are numerous TPO oak trees on the site boundaries, particularly along the north and eastern boundaries. A total of seven ponds are located within 500m of the site including one adjacent to the site that is connected to the site by suitable terrestrial habitats for great crested newts (GCN). The Site is not located within a conservation area and no listed buildings are located within or in close proximity to the Site.
- 3.3 The Site boundaries are defined by mature trees, bramble, and hedging with open countryside including Whitings Hill open space to the north. This open space covers an area of approximately 2.05 hectares. The grassy hill dominates the space giving views over the surrounding area. To the east of the application site is Brethren's Meeting Room Place of Public Religious Worship, including a large car park to the rear. A livery yard known as Chesterfield is located to the west. This comprises a cluster of buildings and manège for the keeping, training and grazing of horses. Further equestrian uses are noted opposite the Site at Vale Farm Livery stables and Greengates Stables. Duck Island provides the nearest facilities to the Site including Whitings Hill Primary School and Quinta Convenience Store.
- 3.4 The Site is accessed via a gated entrance on Mays Lane, which is primarily used by agricultural vehicles. This east-west road connects High Barnet and Barnet Gate. No designated footpaths exist on this section of Mays Lane. Whitings Hill

open space features a network of public footpaths, including one running parallel to the Site's northern boundary. This footpath extends into Whitings Hill Wood and connects to Mays Lane at two points.

- 3.5 The Site has a poor Public Transport Accessibility Level (PTAL) rating of 1b. The nearest bus stop, located outside Whitings Hill Primary School, is approximately a 9-minute walk from the site entrance. This bus stop is served by the 384 and 184 bus routes, providing access to Edgware to the south and High Barnet Underground station (Northern line) to the east, with services running every 10-15 minutes.

Planning History

- 3.6 None relevant to the Site.
- 3.7 The neighbouring site to the east of the Site known as 'The Brethren's Meeting Room' 310 Mays Lane Barnet EN5 2AH secured planning permission on 20th November 2024 for a 'Single storey side extension. Single storey front extension plus porch/canopy. New porch/canopy to side elevation. Alterations to roof including raising the height of the eaves with associated cycle parking and landscaping' (24/2557/FUL). The modification to the existing community facility will provide additional space to accommodate private separate areas for men and women, community programs, as well as both intrafaith and interfaith activities. The existing volume of the site is 5,645m³ and the proposed volume is 1132m³, totalling to a volume of 6,777m³, which is a 16% increase in volume.
- 3.8 No more than a maximum of 250 persons shall be present on site in connection with the use and its ancillary activities at any one time, except for the occasion of Ramadan, no more than a maximum of 350 persons shall be present on site and once a year during the occasion of Muharram, the centre will have a 10 consecutive day programme with a peak attendance of 800 people.

4.0 APPEAL PROPOSAL

4.1 Planning permission is sought for the material change of use of the land for the stationing of caravans for residential use, including hardstanding and dayrooms ancillary to that use. The application is supported by a proposed block plan depicting 2no. pitches comprising 2no. mobile homes, 2no. touring caravans and 2no. utility / day rooms located in the north east corner of the Site. Built under a clay tile roof the utility timber structures proposed measure 22.1sqm.

4.2 It is envisaged that the Site will be occupied by two Irish travelling families defined by the Government's Planning Policy for Traveller Sites (2024) as 'gypsies and travellers'. For the purposes of this appeal it is accepted that the proposed caravans conform to the definition within Section 29(1) of the Caravan Sites and Control of Development Act 1960 and Section 13(1) of the Caravan Sites Act 1968.

4.3 The personal circumstances of the future occupiers have been submitted, with the Applicant advocating that they constitute 'very special circumstances' to outweigh the inappropriateness of the development in the green belt, and any other harm resulting from the proposal.

4.4 Proposed Site Plan (003 PO3 - Proposed site plan)



4.11 An enclosed bin storage area providing space for the stationing of 4 x wheelie bins is located at the proposed entrance to the Site off Mays Lane.

4.12 **Revisions and additional information (Application and Appeal stage)**

4.13 In the course of the assessment of the planning application, the site plan was amended to depict tree protection measures and the location and storage of bins. Proposed site plan 003 PO3 refers. At the request of the LPA, the Appellant submitted a confidential personal circumstances letter dated September 2023. The application was determined accordingly. This letter, together with the LPA's confidential response was forwarded to the main parties on 13/11/2024.

4.14 The following documents were submitted at appeal (not previously seen by the LPA) to overcome reasons for refusal relating to ecology, arboriculture, flooding and highway matters. These matters are dealt with by the appropriate witness for the LPA.

Ecology

- Great crested Newt EDNA Report – June 2024
- Precautionary Method Statement – November 2024

Trees

- Arboricultural Survey dated 30/04/2024

Flooding

- FloodSmart, Flood Risk Assessment, GeoSmart Information, April 2024, Ref. 81841R1
- SuDSmart Plus, Sustainable Drainage Assessment, GeoSmart Information, April 2024, Ref. 81841.01R1

Highways

- JPH statement D1 dated June 2024
- JPH Statement dated June 2024 – D1 Appendices 240302

- 23_1285 000 P07 - Drawing Issue Sheet
- 23_1285 003 P07 – Proposed Site Plan
- 23_1285 JPH1 PO1 - Vehicle Swept Paths
- 23_1285 JPH2 PO1 - Left-turn Entrance - Vehicle Swept Path
- 23_1285 JPH3 PO1 - Right-turn Entrance - Vehicle Swept Path
- 23_1285 JPH4 PO1 - Left-turn Exit- Vehicle Swept Path
- 23_1285 JPH5 PO1 - Right-turn Exit- Vehicle Swept Path

5.0 PLANNING FRAMEWORK

Introduction

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that development proposals be determined in accordance with the development plan unless material considerations indicate otherwise. There is therefore a statutory presumption in favour of the development plan.
- 5.2 In this case, the Development Plan comprises The London Plan 2021, Barnet Local Plan Core Strategy and Barnet Local Plan Development Management Policies, adopted in 2012.
- 5.3 Relevant policies of the Development Plan are included as Core Documents and listed in the Statement of Common Ground and the Council’s Statement of Case. A summary of the most relevant policies and guidance, having regards to the reasons for refusal are given below.

National Planning Policy Framework (NPPF) (Dec 2024) [CD 4.1]

- 5.4 The current NPPF dated December 2024, sets out the Government’s planning policies for England and how these should be applied. It provides a framework

within which locally-prepared plans for housing and other development can be produced and for decision making. It states the purpose of the planning system is to contribute to the achievement of sustainable development, which is comprised of three overarching objectives: economic, social and environmental. The relevant sections of the NPPF have been highlighted in the Council's statement of case.

- 5.5 The NPPF at paragraph 11 sets out a presumption in favour of sustainable development while Section 9 promotes sustainable transport. Paragraphs 142 to 160 of the NPPF refers to Green Belts. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is outweighed by other considerations. Paragraph 154 of the current NPPF provides some material changes of use of land which are not inappropriate development provided they preserve its openness and do not conflict with the purposes of including land within it. For the development of homes, commercial and other development in the Green Belt, Paragraph 155 states that the following should not be regarded as inappropriate where:
- a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
 - b. There is a demonstrable unmet need for the type of development proposed
 - c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework. The footnote (57) states that 'In the case of development involving the provision of traveller sites, particular reference should be made to Planning Policy for Traveller Sites paragraph 13'.
 - d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 below.
- 5.6 The footnote to criteria (b) states that 'in the case of traveller sites means the lack of a five year supply of deliverable traveller sites assessed in line with

Planning Policy for Traveller sites'. The footnote to criteria (c) states that 'In the case of development involving the provision of traveller sites, particular reference should be made to Planning Policy for Traveller Sites paragraph 13'. This advice is also provided within Paragraph 4, which states that the Framework should be read in conjunction with the Government's Planning Policy for Traveller Sites. When preparing plans or making decisions on applications for these types of development, regard should also be had to the policies in this Framework, where relevant.

- 5.7 In the Council's view none of these exceptions have any material bearing on this appeal. The land is not previously developed land and there is nothing in the emerging local plan (including evidence based documents) that would suggest that the Site or its environs is 'grey belt land'. Indeed, the 'London Borough of Barnet Green Belt and Metropolitan Open Land Study (2018)' and the 'final changes to the policies map (may 2024) rate the green belt status for this site as 'relatively strong' to 'strong' (this status is explored in more detail in the emerging local plan section below). As fully evidenced in the needs assessment to this proof, there is no 'failure of policy' or lack of 5 year supply of sites or unmet need for gypsy and traveller sites in the Borough and thus the proposal continues to constitute inappropriate development in the Green Belt, notwithstanding the changes to the NPPF.

London Plan 2021 [CD 4.2 – 4.10]

- 5.8 The London Plan was published on the 3rd of March 2021 and sets out the Mayor's overarching strategic planning framework. This London Plan period runs from 2019 to 2041. The London Plan is legally part of each of London's Local Planning Authorities' Development Plan and must be taken into account when planning decisions are taken in any part of Greater London. Planning applications should be determined in accordance with it, unless there are sound planning reasons (other material considerations) which indicate otherwise.
- 5.9 The policies relevant to the scope of my evidence principally are detailed below.

Policy GG1 - Building strong and inclusive communities

Policy D1 - London's form, character and capacity for growth
Policy D2 - Infrastructure requirements for sustainable densities
Policy D3 - Optimising site capacity through the design-led approach
Policy D4 - Delivering good design
Policy D5 - Inclusive design
Policy D6 - Housing quality and standards
Policy D14 - Noise
Policy H1 - Increasing housing supply
Policy H2 - Small site
Policy H14 - Gypsy and traveller accommodation
Policy S1 - Developing London's social infrastructure
Policy S2 - Health and social care facilities
Policy S3 - Education and childcare facilities
Policy S4 - Play and informal recreation
Policy G1 - Green infrastructure
Policy G2 - London's Green Belt
Policy G5 - Urban greening
Policy SI 1 - Improving air quality
Policy SI 2 - Minimising greenhouse gas emissions
Policy SI 12 - Flood risk management
Policy SI 13 - Sustainable drainage
Policy T1 - Strategic approach to transport
Policy T6 - Car parking
Policy T6.1 - Residential parking

London Plan 2021 seeks to protect the Green Belt from inappropriate development in Policy G2. Policies D1, D4 and D5 of the London Plan (2021) seek the delivery of high quality inclusive design that respects the character and appearance of the application site and the immediate and wider area. Policies T4, T5, T6 and T6.1 promote safe and sustainable transport modes. Policies G6, G7, SI 12 and SI 13 seek to protect the natural environment from harmful development, including trees, ecology and flood risk.

Barnet Local Plan (2012) [CD 4.18 – 4.22]

The Adopted Local Plan 2012 remains the statutory development plan for Barnet. The policies relevant to the scope of my evidence principally are detailed below:

Policy DM01- Protecting Barnet's character and amenity

Policy DM15 - Green Belt and open spaces

Policy DM16 – Biodiversity

Policy DM17 - Travel impact and parking standards

The Core Strategy (September 2012) [CD 4.11 – 4.17]

5.10 The purpose of the Core Strategy is to guide the growth identified in the borough to ensure that the qualities that make Barnet an attractive place to live are maintained and enhanced. Three Strands Approach provides the spatial vision that underpins the Core Strategy and the Local Plan. The three strands are: Protection, Enhancement and Consolidated Growth. (Paragraph 2.2.1)

5.11 The Core Strategy sets out the major areas across the borough where development and regeneration is expected and the policies developed for them. In regard to the appeal the following policies are relevant.

5.12 The policies relevant to the scope of my evidence principally are detailed below.

Policy CS NPPF - National Planning Policy Framework – Presumption in favour of sustainable development

Policy CS4 - Providing quality homes and housing choice in Barnet

Policy CS5 - Protecting and enhancing Barnet's character to create high quality places

Policy CS7 - Enhancing and protecting Barnet's open spaces

Policy CS9 - Providing safe, effective and efficient travel

Policy CS13 - Ensuring the efficient use of natural resources

Policy CS NPPF of Barnet's core strategy local plan (2012), provides a presumption in favour of sustainable development. Policy CS1 states that in order to promote sustainable development, Barnet's place shaping strategy is to concentrate and consolidate housing and economic growth in well located areas that provide opportunities for development, creating a quality environment.

Policy CS4 of the Core strategy relates specifically to proposals for sites for Gypsies and Travellers and Travelling Showpeople. This states that provision will be made for sites for gypsies and travellers through a Site Allocation Development Plan document in accordance with any identified need and taking into account the existing authorised provision within the Borough. Within the Site Allocations DPD the Council will seek to identify land to meet the long term needs of Gypsies and Travellers and Travelling Showpeople based on an evidence base of the range of pitches/plots required in Barnet. The policy does not include any sites for gypsy and travellers. It should be noted that a separate Site Allocation DPD has not been produced by the Council to date.

Other provisions of Policy CS4 of the Core Strategy are relevant to the determination of applications for gypsy and traveller sites, including regard to the following criteria:

- close proximity to a main road and safe access to the site with adequate space on site to allow for the manoeuvring of vehicles
- reasonable access to local shops and other community facilities in particular, schools and health care
- the scale of the site is in keeping with local context and character
- appropriate landscaping and planting to address impact on amenity and enable integration of the site with the surrounding environment
- any use on the site does not have any unacceptable adverse impacts on neighbouring residents
- appropriate facilities must be provided on-site including water and waste disposal.

However, when occupiers or intended occupiers of gypsy and traveller sites that are subject to planning applications do not meet the planning definition of a traveller in the PPTS, Policy CS4 of the Core Strategy will not be relevant to determination of those applications. Such applications will have to be determined based on other relevant development plan policies, including Green Belt, countryside protection and sustainable development policies.

Core strategy policy CS5 states that the Council will ensure that development in Barnet respects local context and distinctive local character creating places and buildings of high quality design. Development Management Policy DM01 protects Barnet's character and amenity by ensuring that all development proposals are based on an understanding of local characteristics. Proposals should preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets. Proposals should also be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers and users.

Making Barnet a safer place is a key aim of policy CS13. Development management Policy DM08 seeks to ensure that a variety of sizes of new homes to meet housing need is provided within the Borough.

Core strategy Policy CS7 seeks to enhance and protect Barnet's open spaces, including Green Belt and Metropolitan Open Land. Development management Policy DM15 seeks to protect Green Belt and open spaces while policy DM04 provides the Environmental considerations for development. Policy DM16 seeks the retention and enhancement, or the creation of biodiversity.

Core strategy Policy CS9 provides for safe, effective and efficient travel. It seeks to promote the delivery of appropriate transport infrastructure in order to support growth, relieve pressure on Barnet's transport network and reduce the impact of travel whilst maintaining freedom and ability to move at will. Travel impact mitigation measures and parking standards are set out in Development management Policy DM17.

Emerging Policy [CD 5.1 – 5.15]

- 5.13 Since the planning application was refused in December 2023 and the LPA's statement of case was submitted in September 2024, the Council received the Planning Inspector's report on the Barnet Local Plan 2021-2036 on 6 November 2024. The current position is as follows:
- 5.14 Barnet's Draft Local Plan – Regulation 25
- 5.15 The Council has now received the Planning Inspector's report on Barnet's Draft Local Plan dated 6 November 2024. The Inspector's report concludes that the duty to cooperate has been met, and that subject to the recommended Main Modifications, the Barnet Local Plan 2021 to 2036 **is legally compliant, sound, and in general conformity with the London Plan. Adoption is anticipated in February 2025.** [CD 5.4 – 5.5]
- 5.16 The main relevant emerging policy referred to in the decision notice dated 21 December 2023 is Policy HOU07, which provides the framework for determining applications for gypsy and traveller sites. Subsequently, as part of the MMs process approved by cabinet in March 2024, certain policy numbers have been reordered with Policy HOU07 now referred to as Policy HOU06. Prior to public consultation, the policy and its supporting text was made more robust to ensure a sustainable, safe and acceptable potential living environment for future occupiers of a site. Following public consultation there has been no objections received. The inspectors report on this policy is referred to in more detail in the needs assessment below.
- 5.17 Within the emerging Barnet Local Plan, Policy GSS01 sets out the presumption in favour of delivering sustainable growth. Policies CDH01 and CDH02 promote high quality, sustainable and inclusive design objectives. Policies ECC02A (Water Management), ECC06 (Biodiversity), and CHW02 (Promoting Health and Wellbeing) provide the environmental policy framework. Policy ECC05 sets out similar provisions to development management Policy DM17 in providing detailed policies with respect to development in the Green Belt.

5.18 To inform the 'changes to the (Reg 19) policies map arising from proposed main modifications to the local plan (April 2024) [CD 5.7], LUC was commissioned to undertake an assessment of the Green Belt and Metropolitan Open Land (MOL) within the London Borough of Barnet. The final report dated November 2018 is attached as [CD 5.6], with the Site shown in context attached as **APPENDIX 1**. Figures 3.1 – 3.6 provide a rating for each purpose of including land within the Green Belt with land in and abutting the Site rated as 'relatively strong' to 'strong' for all purposes except for preventing neighbouring towns from merging into one another. None of the Green Belt land within or abutting the Site boundaries is to be modified or deleted.

5.19 While the 2012 Local Plan remains the statutory development plan for Barnet, the Draft Local Plan is a relevant material consideration in the Council's decision making on planning applications. Decision-makers should take into account the policies and site proposals in the emerging Local Plan accordingly, and the advanced stage it has reached.

Other Material Considerations

5.20 The evidence base for the emerging Local Plan includes the 'West London Alliance Gypsy, Traveller and Travelling Showpeople Accommodation Assessment' (final report October 2018) [CD 7.4] and a subsequent 'Update on Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA) (2018)' dated July 2021 [CD 7.5]. The GTAA has been prepared in the context provided by the PPTS (2015) and the planning definition of gypsy and traveller that it contains. In this regard, a key change made by the PPTS was to remove from the definition of traveller "persons who have ceased to travel permanently" meaning that the needs of this group are not now assessed in the GTAA.

5.21 For the purposes of making decisions on planning applications, the GTAA is a material consideration because it contains the most up-to-date assessment of gypsy and traveller needs in the Borough and has been prepared in the context of the PPTS (2015) and the London Plan. The Council considers that the 2018 GTAA and Update provides a credible evidence base to support policies in the

Local Plan and the provision of new Gypsy and Traveller pitches and Travelling Showpeople (PPTS). The outcomes of this study (commissioned by external specialist consultants (ORS) identified no objectively assessed need for pitches and plots for Gypsies and Travellers and Travelling Showpeople households within the Borough and thus none have been allocated through the site allocations process.

- 5.22 The planning definition of "gypsies and travellers" has changed in an updated Planning Policy for Traveller Sites (PPTS) 2024 in light of the new NPPF. Annex 1 Glossary now states 1. 'For the purposes of this planning 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 or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such'.

6.0 MAIN PLANNING ISSUES

Inappropriate Development in the Green Belt (Reason for Refusal 1)

- 6.1 National policy in the NPPF (2024), Core strategy Policy CS7 and Development Management Policy DM15 seek to resist inappropriate development in the Green Belt and protect openness. Policy E of the PPTS provides that traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Paragraph 153 of the NPPF states that 'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'. Both Paragraphs 154 and 155 of the NPPF provide exceptions to Green Belt development. However, these exceptions are not applicable to this proposal. The purposes of the Green Belt designation for this Site are considered to be of 'relatively strong' to 'strong' importance, and there is no evidence of a 'failure of policy' or a lack of a five-year supply of sites or unmet need for Gypsy and Traveller sites in the Borough.
- 6.2 The change of use of this open and undeveloped site to provide 2no gypsy/traveller pitches with associated hard standing and utility / day rooms

would be an inappropriate form of development within the Green Belt contrary to the National Planning Policy Framework (2023), Policy G2 of London Plan (2021), Policy CS7 of Barnet's Adopted Core Strategy (2012), and Policy DM15 of the Local Plan Development Management Policies DPD (2012).

6.3 The Appellant's assertion that 'impact on openness is directly related to the 'quantum of development and not to the visibility of the site', does not capture the fundamental aim of national and local plan green belt policy to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The Site is undeveloped and the development beyond the Site is farming and leisure activities rather than urban. The Site thus marks a transition between the settlement and the more rural types of development beyond. Developing the Site would result in urban sprawl and encroachment into the countryside, conflicting with that Green Belt purpose. The harm to both these purposes would not be modest, as the Appellant suggests. The Council's position is that it would be moderate to substantial. The development is not just caravans and mobile homes which might be argued to have a transient effect but also involves substantial buildings including two utility day rooms under a clay tile roof plus hardstanding and a soakaway and treatment plant. Furthermore, the proposed use of the Site would be significantly more intense than the existing use for grazing and equestrian activity. Taken collectively with the buildings, the comings and goings of the activity and the vehicles, the Council's position is that the impact on openness would be moderate to substantial. This position is reinforced by the conclusions of the *London Borough of Barnet Green Belt and Metropolitan Open Land Study 2018*, that rates the land within and abutting the Site as 'relatively strong' for the purposes of preventing urban sprawl and encroachment into the countryside.

6.4 Both the NPPF and development plan policy provide that development proposals involving inappropriate development in the Green Belt will only be permitted where very special circumstances exist, to the extent that other considerations clearly outweigh any potential harm to the Green Belt by reason of inappropriateness and any other harm.

Definition of gypsies and travellers - Annex 1: Glossary of the Planning Policy for Traveller Sites August, 2015 (Reason for Refusal 2)

- 6.5 The LPA determined at the application stage that it could not conclude with any certainty that the either household has gypsy/traveller status to meet the definition of gypsy and traveller in Annex 1: Glossary to the PPTS (2015). Having reviewed the position in light of further contact with the agent, the Council accepts that it is not in a position positively to challenge the assertions put forward that the families are of a nomadic habit of life and therefore is prepared to proceed on the basis for the purposes of this appeal (subject to any further information coming to light) that they meet the Annex 1 definition. On this basis, Reason for Refusal 2 is withdrawn as confirmed in the statement of common ground. This decision is also made in response to the planning definition of "gypsies and travellers" in the updated Planning Policy for Traveller Sites (PPTS- 2024), in light of the new NPPF.

Other non-Green Belt Harms

- 6.6 Any other potential harm associated with this proposal are determined within the context of the NPPF and development plan, including policies D1, D4, D5, G6, G7 SI 12 and SI 13 of London Plan (2021), policies CS4, CS5, CS7, CS9 and CS13 of the Core strategy (2012), policies, DM01, DM16, and DM17 of the Local Plan Development Management Policies DPD (2012) policies and emerging local plan policy HOU06 (HOU07), which together seek all development proposals within the Borough (including for Gypsies, Travellers and Travelling Showpeople), to accord with the fundamental principles for achieving high quality sustainable development.

Impact on Character and Appearance (Reason for Refusal 3)

- 6.7 Paragraph 131 of the *NPPF states that 'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of*

sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this'.

- 6.8 Policies D1, D4 and D5 of the London Plan (2021) seek the delivery of high quality inclusive design that respects the character and appearance of the application site and the immediate and wider area. Policy CS5 of Barnet's Core Strategy DPD (2012) provides that development in Barnet respects local context and distinctive local character creating places and buildings of high-quality design. Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document (2012) states that: "Development proposals should be based on an understanding of local characteristics. Proposals should preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets."
- 6.9 Policy CS4 of Barnet's Core Strategy DPD (2012) and emerging development management local plan policy HOU06 are criteria-based policies. Both require the scale of the site to be in keeping with local context and character with appropriate landscaping and planting to address impact on amenity and enable integration of the site with the surrounding environment. Emerging Policy HOU06 specifically refers to the 'Effective use of previously developed land' for such purposes.
- 6.10 The Appellant readily accepts that 'there will be public viewpoints from Mays Lane and Whitting Hill Open Space Park'. It is also accepted by the Appellant that 'There are designated public rights of way immediately to the north of the site within the Whitting Hill Open Space Park that could provide some views into the site'. The Appellant also appears to accept to some degree that views of the Site can be achieved from walkers and cyclists on Mays Lane, suggesting that 'these would be screened by intervening hedgerows and heavy landscaping'.
- 6.11 The case for the Appellant relies on the fact that existing development surrounds the proposal to the East, South and West borders of the Site, and that existing and proposed landscaping could mitigate against any visual harm

to the character and appearance of the locality. It should be noted that nothing is said about how the proposed development seeks to assimilate and respond to its immediate neighbours in terms of scale and design.

- 6.12 The Site is located in the Underhill ward on the north side of Mays Lane being some 200 metres south west of Shelford Road, which defines the main settlement boundary of Arkley with Ducks Island and Dollis Valley; housing characterised in the main by post war two storey family dwellings. Measuring approximately 0.81 hectares it is a parcel of undeveloped agricultural land currently in use for the keeping and grazing of horses. The site boundaries are defined by mature trees, bramble, and hedging with open countryside including Whitings Hill open space to the north. The Site has a gated frontage onto Mays Lane providing access for agricultural vehicles only. To the east of the Site is Brethren's Meeting Room Place of Public Religious Worship, including a large car park to the rear. A livery yard known as Chesterfield is located to the west. This comprises a cluster of buildings and manège for the keeping, training and grazing of horses. Further equestrian uses are noted opposite the application site at Vale Farm Livery stables and Greengates Stables. Duck Island provides the nearest facilities to the Site including Whitings Hill Primary School and Quinta Convenience Store. Mature oak trees located sporadically located along the Site boundaries are protected by tree preservation orders due to their vigour and high visual amenity value. Whitings Hill open space to the north of the application site covers an area of approximately 2.05 hectares. The grassy hill dominates the space giving views over the surrounding area.
- 6.13 While the Site is partially screened by mature trees and hedges, and additional planting is proposed around the pitches and hard surfaces, it would not completely obscure views of the Site. The network of public footpaths on Whitings Hill open space, including one running parallel to the Site's northern boundary (shown in plan below), would allow glimpses of the Site, particularly during the autumn and winter months. Photographs taken on November 26, 2024, with their respective locations, are attached for reference **APPENDIX 2**.



Although the Brethren's Meeting Room Place of Public Religious Worship car park is bounded by an evergreen hedge along its western boundary the rooftops of the utility day rooms will be seen. Although the built up area of the Site will not be readily apparent from Mays Lane or from the neighbouring livery yard known as Chesterfield, almost the full extent of the access track to be formed from loose bound hardstanding will be clearly apparent, including the comings and goings of vehicles and caravans.

- 6.14 The proposal will result in an increase in built form and hard standing on a Site that has not been previously developed and will result in a use of greater intensity. Moreover, it would effectively interrupt the sporadic form of existing development surrounding the application site on both sides of Mays Lane. The structures proposed to facilitate the use and the use itself is completely at odds with the prevailing characteristics of the immediate and wider area and would result in visual harm to the prevailing character and appearance of the area. The proposal does include some additional planting surrounding the built up area of the Site but this will not completely obscure the development from public views. There will thus be moderate to significant harm to the character and appearance of the Site contrary to the policies set out in Reason for Refusal 3.

Ecology - disturbance of great crested newts (Reason for Refusal 4)

6.15 These matters are dealt with by the LPA's senior Ecologist in his own proof of evidence, with the conclusion being that the Appellant still has not provided adequate survey information to demonstrate that the proposed development would mitigate against the disturbance of GCN and their foraging/sheltering habitats within 500 metres of the Site. The Appellant has also failed to provide an adequate mitigation strategy based on a worst-case scenario as promised at the CMC. At a very late stage, the Appellant submitted on 9th December 2024, a 'Precautionary Method of Working (Ecology)' document. Following NE response dated 17th December, the LPA holds that we cannot accept the precautionary mitigation measures as being appropriate considering the stated moderate risk of causing an offence under the Conservation of Habitats and Species Regulation 2017 including likely disturbance of GCN and the loss of suitable terrestrial habitat. NE have previously stated that the eDNA survey effort was insufficient to grant a license and in following the submission of the Precautionary Method of Works in lieu of further surveys to support an European Protected Species license have deemed the proposed works under precautionary mitigation measure not to be lawfully acceptable. In the absence of adequate survey information to inform appropriate mitigation strategy, the proposal is contrary to the National Planning Policy Framework (2023), Policy G6 of the London Plan (2021), Policies DM01 and DM16 of the Local Plan Development Management Policies DPD (2012) and emerging local plan policy HOU06, which seeks to resist proposals for gypsies, travellers and travelling showpeople that have an 'unduly adverse impact on the local environment'.

Impact on Trees (Reason for Refusal 5)

6.16 Following the provision of further information from the Appellant, the LPA now considers that the impact on trees can be adequately mitigated by suitably worded planning conditions listed in the statement of common ground.

Potential flooding (Reason for Refusal 6)

6.17 These matters are dealt with by the LPA's Flood Officer in his own proof of evidence, with the conclusion being that this is a highly vulnerable form of development that needs to be protected from potential sources including but not limited to surface water, groundwater, sewer, and artificial sources. In the absence of appropriate technical evidence and mitigation measures the development thus conflicts with the objectives of the National Planning Policy Framework (2024), Policies SI 12 and SI 13 of the London Plan (2021), Policy CS13 of Barnet's Adopted Core Strategy (2012), Policy DM01 of the Local Plan Development Management Policies DPD (2012) and emerging local plan policy HOU06, which seeks which seeks to resist proposals for gypsies, travellers and travelling showpeople that are located in an area at high risk of flooding, including functional floodplains. I concur with the reasons given by the flooding witness as to why, from a practical perspective, a condition is not appropriate, leaving details to be provided after planning permission is granted. There is a real risk that a suitable strategy could not be achieved and the consequences of either not complying with the condition and / or commencing occupation without an adequate flood risk strategy would be extremely serious i.e. loss of life.

6.18 I also note that the PPG at para 006 Ref ID: 21a-006-20140306 states that it is important that the local planning authority limits the use of conditions requiring their approval of further matters after permission has been granted. Such conditions should be discussed with the Applicant to ensure that unreasonable burdens are not being imposed. In my view, unreasonable burdens would be imposed, because the information required goes to the heart of the acceptability of the development (not just details of implementation) and thus could mean that the LPA would be in a position of having to say 'no' to the entire delivery of the scheme after demolition. This would affect the developer's ability to bring the development into use and allow it to be occupied and otherwise impact on the proper implementation of the planning permission. Such conditions should not be used, as the PPG says. All of the necessary information could, and should, have been provided by the Appellant during the application or, at the very least, during the appeal stage. It is not fair on either party to leave over such fundamental matters to the approval of conditions and

the development, were it to go ahead without such matters being resolved, would be so unsafe as to potentially result in the loss of life.

Highway Safety Implications (Reason for Refusal 7)

6.19 Following the provision of further information from the Appellant, the LPA now considers that the impact on highway safety and the free flow of traffic along Mays Lane can be adequately mitigated by suitably worded planning conditions listed in the statement of common ground.

6.20 Conclusions on Other non-Green Belt Harms

6.21 To conclude, the proposal will have a **moderate to significant impact** on the openness of the Green Belt and on the character and appearance of the area. While it is accepted that planning conditions can be imposed to overcome the Aboricultural and Highway reasons for refusal, matters relating to ecology, and potential for flooding have not been overcome. The proposal does not accord with the fundamental principles for achieving high quality sustainable development and must be refused planning permission.

Alleged Very Special Circumstances

6.22 National policy in the NPPF, Core strategy Policy CS7 and Development Management Policy DM15 seek to resist inappropriate development in the Green Belt and protect openness. Policy E of the PPTS provides that traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Both the NPPF and development plan policy provide that development proposals involving inappropriate development in the Green Belt will only be permitted where very special circumstances exist, to the extent that other considerations clearly outweigh any potential harm to the Green Belt by reason of inappropriateness and any other harm.

6.23 The Appellant argues that there is a current need for Gypsy, Traveller, and Travelling Showpeople accommodation within the Borough. They further contend that their personal circumstances and those of their family constitute very special circumstances that clearly outweigh any potential harm to the Green Belt by reason of inappropriateness and any other harm.

6.24 **Need (Reason for Refusal 1)**

6.25 The Council's primary position on the needs assessment for gypsy and travellers in Barnet is set out in the Policy Statement (August 2024) accompanying our statement of case. The following assessment seeks to reinforce our policy position by providing an update on the local plan process and to respond to the Appellant's Assessment on need for Gypsy and Traveller Pitches in Barnet produced by Green Planning Studio Ltd in June 2024. These matters can be summarised as follows:

- Summary of the concerns raised by the Appellant
- Barnet Council's comments on the existing GTTA (2018) and the update (2021)
- Barnet Council's comments on the upcoming/emerging Gypsy Traveller Accommodation Needs Assessment (to be produced on behalf of the Greater London Authority)
- Provide an update on the current status of Barnet Council's emerging Local Plan.
- Additional information on Policy HOU06 Gypsies, Travellers and Travelling Showpeople following the Planning Inspectorate recent and final report on the Council's draft Local Plan.

Summary of Appellant's concerns

6.26 The Appellant's concerns appear to primarily relate to the existing 2018 Gypsy Traveller Accommodation Assessment and its use as evidence base to inform the Council's emerging policy HOU06 Gypsies, Travellers and Travelling Showpeople of the draft Local Plan due to be adopted in February 2025 (*previously HOU07 in the Barnet draft Local Plan Reg 19 Document*). The matters raised can be summarised as follows

- The evidence base and methodologies applied in the 2018 document to determine the needs for Gypsy Traveller Accommodation Assessment may be out of date as it is based on the 2015 PPTS definition.

- The GTAA identified no gypsy and traveller households in Barnet and as such the GTAA identifies no need for the Council to address.
- It is also unclear over what period of time the fieldwork was conducted and whether this was a sufficient period of time.
- The GTAA does not distinguish between hidden need/doubling-up/concealed/and overcrowded households.
- The published Update on Gypsy, Traveller and Travelling Showpeople Assessment dated July 2021. The GTAA Update does not state that further surveys were carried out and investigations made with the public.
- Barnet Council should demonstrate a five-year supply in relation to their Gypsy, Travellers and Travelling show people pitches, in accordance with the NPPF.
- Negotiated Stopping agreements - If a negotiated stopping agreement is in place in excess of an agreed and limited time period, this could be indicative of a need for a pitch which ought to have been considered in the GTAA. The Council are requested to confirm if there were any negotiated stopping agreements in place as at the base date or during the fieldwork, and if so the agreed timescales.

Barnet Councils' comments on the existing GTAA (2018) and update to the document (2021)

6.27 The matters raised by the Appellant relates primarily to the document (GTAA) which Barnet Council did not produce. The key aim of the GTAA is to determine needs, whilst the Greater London Authority (GLA) and the London Borough of Barnet consider policy responses to this information, Barnet Council, and all other London Boroughs who are in the process to progressing their new draft Local Plans at this time must rely on the existing information available as accurate, and there is no evidence to support the Appellants contention that the methodology applied to the existing GTAA is flawed. Conversely, the production of the existing GTANA involved extensive fieldwork with Gypsies and Travellers across London. The main objective of the London-wide

assessment was to provide a robust and reliable evidence base for use in policy development in housing and planning.

- 6.28 The existing London-wide GTAA is a fundamental piece of evidence that informs local and strategic policy development in housing and planning, including Local Plan development and cross-borough Planning Frameworks. It provides boroughs with consistent evidence on Gypsy and Traveller accommodation, including by accommodation type. This informs Local Plan making across London.
- 6.29 It is worth noting that the Council did not receive any representations during the examination in public of the Local Plan or at the Main Modification stage regarding the validity of the 2018 GTAA used as evidence base to draft policy HOU06 of the emerging Local Plan. Indeed, the Planning Inspectorate has considered the evidence based to be robust to ensure policy HOU06 is sound as discussed below.

Barnet Council's comments on the upcoming emerging new Gypsy Traveller Accommodation Needs Assessment

- 6.30 The GLA are expected to publish the new Gypsy Traveller Accommodation Needs Assessment in "early 2025". It is not clear whether this will be in January or February. The Council interprets early to mean the first quarter of 2025 (before 31st March). As such, the appeal inquiry in late January may well take place before the new GTANA is adopted for consideration.
- 6.31 The GLA appreciate that London Boroughs are progressing their Local Plans at the same time that the new GTANA is being produced. However, the GTANA is a standalone, evidence document and how its findings should be used are for the GLA and boroughs to consider.
- 6.32 The London GTANA has been commissioned by the Greater London Authority (GLA), in line with a commitment in the London Plan to carry out a new London wide Gypsy and Traveller Accommodation Needs Assessment. In September 2024, the GLA provided an update to their website which advised that: *"completing the GTANA report is taking longer than had been anticipated, - due to the government publishing a revised Planning Policy for Traveller Sites in*

December 2023. An integral part of the GTANA work is liaising with stakeholders, including boroughs and representatives from Gypsy, Traveller, Travelling Showpeople and Roma communities at key stages throughout the GTANA process. This ensures their knowledge, expertise and insights informs the GTANA. It is important that adequate time is given for this process”.

- 6.33 Once published, the GTANA can, and would be expected to, be used to inform future policy and plan-making by both the GLA and London Boroughs, including Barnet. On that basis, the new GTANA will help inform the early-stage review of the Barnet’s Local Plan, and specifically, to plan to meet the accommodation needs of the Traveller community. The new GTANA supports Borough actions that help to meet any demonstrable need for an increased number of pitches across London. Borough housing teams may also use the up-to-date figures on Gypsies and Travellers housing needs in their housing strategies.
- 6.34 The upcoming GTANA is due to produce borough-specific accommodation needs figures for Barnet, and a summary of the methodology used for the GTANA Accommodation needs will be calculated over two five-year periods:
- 2022/23-2026/27: 1 April 2022 to 31 March 2027
 - 2027/28-2031/32: 1 April 2027 to 31 March 2032

Assessing need in the first five-year period, 2022/23 to 2026/27

- 6.35 The accommodation needs relating to the first five-year period - i.e., 2022/23-2026/27 - are based on the results of household surveys undertaken in each borough. Survey responses determine the number of households from each cohort surveyed who need to move due to, for example, overcrowding, or to accommodate newly forming households. Survey findings from households in bricks and mortar are extrapolated to the whole population to determine their accommodation needs. This type of extrapolation is not needed for the findings of surveys of households living on sites or yards, because of the high response rate.

Assessing need in the second five-year period, 2027/28 to 2031/32

- 6.36 Accommodation needs relating to the second five-year period - i.e., 2027/28-2031/32 - are based on population projections derived from an understanding of the whole GRTTS population across London as a whole. This is because, in some boroughs, the small size of the GRTTS population means that it is not possible to accurately predict population growth at local level.
- 6.37 Accommodation needs for the second five-year period are calculated by applying a population growth figure, based on analysis of factors derived from the household surveys conducted for the 2023 GTANA. These factors include current population numbers, the Basing population growth figures on survey responses leads to a robust and reliable population projection for the second five-year period.
- 6.38 The GTANA calculates accommodation needs for the second five-year period by applying a population growth figure, which is based on analysis of factors derived from the household surveys conducted for the 2023 GTANA. These factors include current population numbers, the average number of children per household, and household formation rates. Basing population growth figures on survey responses leads to a robust and reliable population projection for the second five-year period.

Future need for pitches for Gypsies and Travellers in Barnet

- 6.39 The Council has been advised that need for residential pitches has been assessed, based on the model suggested in DCLG (2007) guidance and using data derived from surveys of Gypsies and Travellers living on pitches and in bricks and mortar. The needs assessment will provide two accommodation needs figures: first, based on cultural identity ('cultural' column); and second, based on PPTS 2023 ('PPTS' column).
- 6.40 The upcoming GTANA will determine households residing on pitches are overcrowded by:
- Identifying that there are not enough bedroom spaces to accommodate all household members;

- Overcrowding can occur if more caravans are situated on a pitch than it is designed to accommodate. 'Doubled-up' households - i.e., multiple households sharing a single pitch that is typically designed for one household – are determined using the household survey.

Methodology applied in producing the upcoming GTANA

- 6.41 The GLA Consultants, drafting the upcoming GTANA, has informed Barnet Council that the accommodation needs figures are based on responses to household surveys undertaken for the 2023 GTANA. To undertake surveys, RRR Consultancy and community members visited Gypsies and Travellers living on sites (in boroughs where there is a site or sites) and Travelling Showpeople living on yards (in boroughs where there is a yard or yards).
- 6.42 RRR Consultancy, the GLA, and the Steering Group for the project agreed minimum target response rates (responses as a proportion of the estimated number of households in that group resident in the borough), for each borough as well as across London. Target and actual rates, including for the borough of Barnet, are shown in the table below: **[CD 7.2]**

Table 1: Target and actual response rates for household surveys

Group	Agreed target response rate	Response rate London	Response rate Barnet
Gypsies and Travellers on sites	80%	96%	NA
Travelling Showpeople on yards	80%	94%	NA
Gypsies and Travellers in bricks and mortar	10%	23%	17% (9 / 52)
Roma	10%	10%	7% (20 / 299)

Source: London GTANA 2023

- 6.43 It is understood that calculations are based on a model suggested in DCLG (2007) guidance. The basic premise of the model is that, by comparing current and projected accommodation provision with gross current and projected accommodation need, it is possible to calculate net current and projected accommodation need.
- 6.44 The number of steps involved in calculating accommodation need vary according to the cohort within the Traveller community. This is because some

factors (steps) are relevant to some cohorts and not others. For example, cultural preference is a factor considered when calculating the accommodation needs of Gypsy and Traveller households living in bricks and mortar accommodation, but not when assessing the accommodation needs of the other cohorts.

- 6.45 As stated in the Policy Statement (August 2024), a review of the London Plan is underway with a draft London Plan expected to be published in late 2025. Current expectations are that the examination in public will take place in 2026-2027 with adoption of new London Plan in 2027.

Update on the current status of Barnet Council's emerging Local Plan.

- 6.46 The Council's Policy Statement (dated August 2024) advised the Planning Inspectorate was considering the consultation responses following the 6 week public consultation on the Main Modifications to the draft Local Plan.
- 6.47 The Council has subsequently received the Planning Inspector's report on the Barnet Local Plan 2021 to 2036. The Inspectorate has concluded that the Plan meets the duty to cooperate and, subject to the recommended Main Modifications set out in the report, is legally compliant, sound, and in general conformity with the London Plan.
- 6.48 The Planning Inspector's report confirms that, subject to the recommended Main Modifications, the Barnet Local Plan 2021 to 2036 is sound and legally compliant. The Council is now set to proceed with adopting the Local Plan.
- 6.49 In accordance with Paragraph 49 of the NPPF (2024), considering the emerging Local Plan has been found "sound" by the Planning Inspectorate with no unresolved objections, it is consistent with the NPPF, and is close to adoption. The emerging policies, including policies HOU06 (*Gypsies, Travellers and Travelling Showpeople*) and ECC05 (*Green Belt and Metropolitan Open Land*) can carry significant weight in planning decisions. Decision-makers should give proper consideration of the emerging policies as they are a material consideration.

6.50 The Council is progressing towards the adoption of the Barnet Local Plan 2021 to 2036, with the anticipated adoption set for February 2025. Decision-makers are advised to consider the emerging policies as material considerations with significant weight in planning decisions, given the Inspector's findings on compliance and soundness.

6.51 As noted in the Council's Policy Statement (August 2024) the Council is committed to an early-stage review. This will reflect changes to national policy and London Plan policy, including the GTANA when it is published.

Policy HOU06 Gypsies, Travellers and Travelling Showpeople. Additional information following receipt of the Planning Inspectorate recent and final report on the draft Local Plan.

6.52 The Planning Inspectorate made clear that main modifications were required *policy HOU06 (previously HOU07) Gypsies, Travellers and Travelling Showpeople* to take account of the GTANA once published, the next Local Plan review will also provide an opportunity to reflect any subsequent revisions made to the PPTS. The Inspector identified 'no objectively assessed need' for provision of pitches and plots for Gypsies and Travellers, and Travelling Showpeople households. Revisions to the supporting text were made to the policy to align more closely with national policy in Planning Policy for Traveller Sites (PPTS). Importantly, there will be a commitment that the preparation and publication of findings of a London-wide Gypsy and Traveller accommodation needs assessment, taking account of the 2021 Census, will inform the committed early review of the Plan.

6.53 The Planning Inspectorate report on the Main Modifications has provided further clarification on Policy HOU06. The policy is informed by evidence in the West London Alliance Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (EB_H_06) published in October 2018. In that regard, no existing sites and yards with pitches for Gypsies, Travellers or plots for Travelling Showpeople have been identified in Barnet. Furthermore, the evidence identified no current or future need for additional pitches or plots for those falling within the Planning Policy for Traveller Sites [PPTS] planning

definition and other households that have ceased to travel or are living in bricks and mortar.

- 6.54 The Update on Gypsy, Traveller and Travelling Showpeople Accommodation Assessment - July 2021 addressed perceived deficiencies in the survey approach to assessing needs for Barnet in the absence of interviews with Gypsies, Travellers and Travelling Showpeople residing in the Borough. The evidence identified that there had been unauthorised encampments in Barnet in 2018, 2019 and 2020. Furthermore, the Council typically negotiates stopping agreements to address unauthorised encampments.
- 6.55 In the existing circumstances, Policy HOU06 does not seek to restrict the provision of pitches for Gypsies and Travellers and plots for Travelling Showpeople. Should additional households come forward that are currently unknown, concealed or arise from household growth then they would be provided for under the terms of the policy. As such, in principle the criteria-based approach of Policy HOU06 would be the most suitable and effective manner to respond to any demand in the short-term.

Policy HOU 06 07 Gypsies, Travellers and Travelling Showpeople

The Council ~~have identified~~ ~~can demonstrate that there is~~ no objectively assessed need for pitches and plots for Gypsies and Travellers and Travelling Showpeople households.

~~Any in the event that~~ proposals for such accommodation that do come forward ~~will be considered~~ the Council will consider planning applications on the basis of and attach weight to ensuring:

A. Effective use of previously developed land including close proximity to a main road and safe access to the site with adequate space on site to allow for the manoeuvring of vehicles;

B. Reasonable access to local shops and other community facilities, in particular schools and health care;

~~Scale of the site is in keeping with local context and character.~~

~~Appropriate landscaping and planting to address impact on amenity and enable integration of the site with the surrounding environment.~~

~~Any use on the site does not have any unacceptable adverse impacts on neighbouring residents.~~

~~Appropriate facilities must be provided on site, including water and waste disposal.~~

~~That flood risk and the impacts of climate change are taken into account when assessing the suitability of sites to ensure that residents on these sites are not highly vulnerable to flooding.~~

C. The site does not have an unduly adverse impact on the local environment, the character of the area and the amenities of both local residents and the future occupiers of the site, including the potential for noise, traffic movements and other activities likely to be taking place within or in the vicinity of the site;

D. The layout of the site, associated facilities and landscaping, including pitches, hard-standings, amenity blocks, parking, turning areas, playspaces and boundary treatments, are well planned to ensure the amenity and healthy lifestyles of site residents as well as adjoining occupiers, and facilitate the integration of the site in such a way as to positively enhance the environment and increase its openness;

E. The site has, or will have, a supply of essential services, such as mains gas and electricity, water, sewerage, drainage and waste disposal; and

F. The site is not located in an area at high risk of flooding, including functional floodplains.

- 6.56 The Council is working with the Mayor of London on the production of a London-wide Gypsy and Traveller Accommodation Needs Assessment (commissioned in 2022) which will provide more up-to-date evidence for Barnet including demographic data from the 2021 Census on Gypsy, Irish Traveller and Roma households in the Borough. However, at this stage, it is reasonable that any implications arising from the publication of that more up-to-date evidence would be taken into account and inform the early review of the Plan. It is the most appropriate approach to avoid a considerable delay to the adoption of this Plan which would undermine the necessity of getting an up-to-date plan in place to address other housing issues and wider development priorities in Barnet. Moreover, as modified, the criteria set out in Policy HOU06 provide a fair and reasonable basis for consideration of any proposals that may come forward for Gypsy, Traveller and Travelling Showpeople accommodation in advance of any review activity pursuant to the London-wide work.
- 6.57 The Main Modifications introduced have provided the required changes to the supporting text to ensure that it is positively prepared by providing certainty of the early review that is otherwise committed to in the Plan. It also necessarily makes clear that the Council will seek to provide culturally appropriate accommodation for households that do not meet the planning definition of Gypsy, Traveller or Travelling Showpeople.
- 6.58 Policy HOU06 is a strategic policy and an early review will be required. The Inspectorate has made clear that a further review of the Local Plan will be required, which will consider the publication of the GTANA.
- 6.59 In summary, the Inspectorate concluded that the most up to date policy HOU06 of the draft Local Plan is sound and in general conformity with the London Plan insofar as its approach to housing needed for the Traveller community. For the reasons set out in this proof of evidence and those identified by the LPA's flood and Ecological officers, this proposal does not comply with the aims and objectives of this criteria based policy. Whilst it is accepted that the Site is in close proximity to a main road with safe access to allow for vehicular movement (subject to conditions), has reasonable access to local shops and community

facilities and would provide the necessary facilities for day to day living without compromising the amenity of neighbouring occupiers, the Site has not been previously developed (being used solely for the grazing of horses) and would have a harmful impact on the character and appearance of the area whilst reducing the openness of the Green belt. Additionally, potential flood risks and ecological impacts would further compromise the local environment.

5 year Housing Supply

- 6.60 The Council has no identified need for Gypsy and Traveller sites, therefore it does not need to demonstrate a 5 year supply of sites for such purposes. The Council has also demonstrated at examination that it has a five year supply of housing sites. Based on current consents and the projected delivery of allocated sites (including small sites), the Council can demonstrate a deliverable supply of 5.09 years as set out in the final Barnet Position on Housing Supply in April 2024.

Conclusion on Need

- 6.61 The plan process is therefore up-to-date and robust. There is no 'failure of policy' or lack of 5 year supply of sites or unmet need as suggested by the Appellant. It should be noted that, historically, the Council has never before received a planning application for this type of development in the Borough. This application has been assessed on its own merits but this is not a situation of a Council facing a repeated demand for pitches in the Borough which is going unmet. The proposal does not comply with the aims and objectives of policy HOU06. There are other locations within the Borough where the criteria based approach in policy would result in a more appropriate development of this type, outside the Green Belt.

Alleged Very Special Circumstances

Personal (reasons for Refusal 1)

- 6.62 The case of very special circumstances made out at the application stage relates to the personal circumstances of the two families, including their educational and health needs. These sensitive matters are addressed in detail in separate confidential documents (both from the Appellant and Council) made available to the Inquiry as hard copies. The conclusion initially was that the Council cannot conclude with any certainty that either household has gypsy/traveller status to meet the definition of gypsy and traveller in Annex 1: Glossary to the PPTS. Having reviewed the position in light of further contact with the agent, the Council accepts that it is not in a position positively to challenge the assertions put forward that the families are of a nomadic habit of life and therefore is prepared to proceed on the basis for the purposes of this appeal (subject to any further information coming to light) that they meet the Annex 1 definition. Reason for Refusal 2 is therefore withdrawn.
- 6.63 On the basis that gypsy/traveller status is agreed (since the Council has no evidence of its own to contradict the Appellant's assertions that they meet the definition), the need for a site with good connections to local services can be met elsewhere without resorting to roadside encampments or causing unnecessary harm to the Green Belt. The established sites within the neighbouring administrative boundaries of Harrow, Brent and Hertsmere (being the closest neighbouring authorities to the Site), can potentially provide the necessary provisions for the two families. These are well-established sites located at Watling Farm Close, Stanmore (Harrow), Lynton Close, Brent Park (Brent), Brookes Place, Potters Bar (Herts), and Bignells Corner, South Mimms (Herts), which provide both permanent and transit pitches. Each site offers good access to local schools and hospitals, including the Royal Free Hospital, Barnet Hospital, and Whiting's Hill School, which the Appellant states are essential for the family's needs. They also provide the necessary services and utilities required for day to day living. There is no evidence that the Appellant's families have ever been on a waiting list for a pitch elsewhere.
- 6.64 The location of these alternative sites within the neighbouring boroughs and the travel time required by car and public transport to the essential services referred to by the Appellant are attached as **APPENDIX 3**. It should be noted that none of the connections exceed 35 minutes travel time by car. Although

travel times by public transport vary, a daily trip to Whittings Hill primary school from the nearest site in Herts is 39 minutes. Travel time by car would be 8 minutes. It is evident from the drawings submitted to overcome the highway refusal reasons (particularly the site plan numbered 003 Rev PO7) that the Appellant is a car owner, such that the daily travel times noted above are not excessive.

- 6.65 Notwithstanding the above, the school-age children referred to by the Appellants are unknown to the Council's Admissions Teams Manager and School Place officer on the latest school census (May 2024) **APPENDIX 4**. The Council does not see how the occupation of the Site in this location is necessary in the best interests of the children. Accordingly, it is the view of the Council that the need for a site and the educational and health requirements of the two families can be met elsewhere without resorting to roadside encampments or causing unnecessary harm to the Green Belt.

Very Special Circumstances Balance

- 6.66 When considering any planning application in the Green belt, the NPPF states at paragraph 153 that 'local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. *'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations'*.
- 6.67 The Council's position is that there is no unmet need and no failure of policy and the personal circumstances are insufficient in this case to amount to very special circumstances sufficient to outweigh the agreed harm to openness to this part of the Metropolitan Green Belt and other harm.

Temporary Consent

- 6.68 Should the inspector be minded to refuse permanent planning permission the Appellant seeks an alternative five year temporary consent based on the expectation that planning circumstances will change in a particular way at the end of that period. It is suggested that this would be when *'alternative sites become available'*.

- 6.69 The Site is located within the Green Belt. The planning policy for traveller sites (the PPTS) sets out at paragraph 16 that: "Traveller sites (temporary or permanent) in the Green Belt are inappropriate development." Whether or not permanent or temporary consent is determined this proposal constitutes inappropriate development in the Green Belt.
- 6.70 The PPTS para 27 provides that *"If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The exception is where the proposal is on land designated as Green Belt."* In this case, not only is the Green Belt purposes for this site ranked as 'relatively strong' to 'strong', the Council also is not in the position of not having a 5 year supply of deliverable sites for the reasons set out above (i.e. no assessed need for pitches in the Borough).
- 6.71 The emerging local plan is now at an advanced stage with the Inspectorate confirming that the most up to date policy HOU06 of the draft Local Plan is sound and in general conformity with the London Plan insofar as its approach to housing needed for the Traveller community. This is a criteria based policy only that seeks to determine each application on its own merits. Therefore, there is no policy basis for allowing a temporary consent on the grounds of needing to give an opportunity for allocated sites to come forward.
- 6.72 There is also no persuasive personal basis put forward. The Appellant may well have a 'desire' to live on the site, but that does not equate to a 'need'. Limited information has been provided about historical ties to the Borough and where the families have been living up until now. As set out above, the school-aged children do not appear to be enrolled in local schools. No basis has been given for why a 5 year period would be appropriate in any event. Should the Inspector disagree, any temporary consent, if granted, should be conditioned to these particular occupants.

7.0 PLANNING BENEFITS AND BALANCE

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that *“where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise”*. Therefore, the appeal is to be determined in accordance with the Development Plan, with development that accords with its policies and which constitutes sustainable development to be approved without delay, and those that conflict with it to be refused unless other material considerations indicate otherwise.
- 7.2 Sustainable development is achieved through the economic, social and environmental objectives of the NPPF. These are interdependent and need to be pursued in mutually supportive ways. The economic objective is to help build a strong, responsive and competitive economy. The social objective is to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being. The environmental objective seeks to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change.
- 7.3 While the site would be occupied by two Irish Traveller families meeting the definition of Gypsy and Traveller in the NPPF, contributing to the area's cultural well-being and potentially contributing to the local economy and community functions, the social and economic benefits arising from this proposal are limited in the context of achieving sustainable development.
- 7.4 The proposal is in direct conflict with the environmental objectives as it constitutes inappropriate development in the Green Belt, causing a moderate to significant impact to its openness, character, and to the natural environment

in terms of potential flooding and wildlife species. No very special circumstances or indeed any benefits arising from the proposal have been demonstrated to outweigh this harm. The need for a site with good connections to local services can be met through alternative means without resorting to roadside encampments or harming the Green Belt. There is no policy basis for allowing a temporary consent.

- 7.5 The three objectives of the National Planning Policy Framework (NPPF) are interdependent. Given this, the proposed development and its associated benefits do not contribute to sustainable development. Furthermore, the proposal conflicts with the adopted and emerging Development Plan, particularly with the aims and objectives of emerging policy HOU06, as fully explored throughout this proof.
- 7.6 It is respectfully submitted that planning permission should not be granted. The Council and the Appellant will seek to agree a list of proposed conditions for discussion at the Inquiry, in the event that planning permission is granted.

8.0 HUMAN RIGHTS IMPLICATIONS AND DECLARATION

- 8.1 The evidence I have prepared and provided for this appeal is true and has been prepared in accordance with the guidance of the appropriate professional institutions. I confirm that the opinions expressed are my true and professional opinions.
- 8.2 I am conscious that in recommending that this appeal be dismissed there would be interference with the Appellant's rights under Article 8 of the European Convention on Human Rights, as it would deny the appellant and his family the opportunity to establish a home on the Site. However, such rights are qualified, and interference may be permissible when the rights of the individual are balanced against those of the community. In this instance such interference would be proportionate given the public aim of safeguarding the Green Belt, as well as protecting the countryside from harm. In exercising my function on behalf of a local public authority I am also mindful that the need for a site with good connections to local services can be met through alternative means without resorting to roadside encampments or harming the Green Belt.

8.3 I am also aware of my duties under the European Convention on Human Rights as applied by the Human Rights Act 1998 along with the Council's requirement to act in accordance with the Equality Act 2010. In terms of Equalities legislation, Gypsies and Travellers have a protected status that must be considered in all decisions made by Public Authorities. The Council needs to be consistent in its application of the PPTS, as described above, which itself has been subject to Equality Impact Assessment (EqIA) by the Government. Specifically, the Council in the exercise of its statutory functions (in this case the determination of planning applications) has a clear duty to have due regard to particular needs and lifestyles when making decisions. The Public Sector Equality Duty is set out at Section 149 of the Equality Act 2010. It imposes a duty on all public authorities that they must, in the exercise of their functions, have due regard to the need to: -eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; -foster good relations between persons who share a relevant protected characteristic and persons who do not share it. This is a duty that applies to Local Planning Authorities, the Planning Inspectorate and the Secretary of State. The key point is that whilst the duty is not a lone justification to grant planning permission or to not take enforcement action, decision makers must have regard to it when considering Traveller cases. For example, it is necessary for consideration to be given as to whether refusing planning permission (which could potentially mean that the applicants would have to resort to roadside encampments) would be an action which would "foster good relations" between the settled community and Travellers (where such status has been evidenced). This is a matter to which the decision maker must give due regard to in the consideration of this case, and one that the Planning Inspectorate will have regard to in determining any subsequent appeal lodged in the event that planning permission is refused and enforcement action commenced.

8.4 For the reasons above, I have considered this application in strict accordance with the Barnet's emerging Local Plan, which is considered legally compliant, sound, and in general conformity with the London Plan with adoption

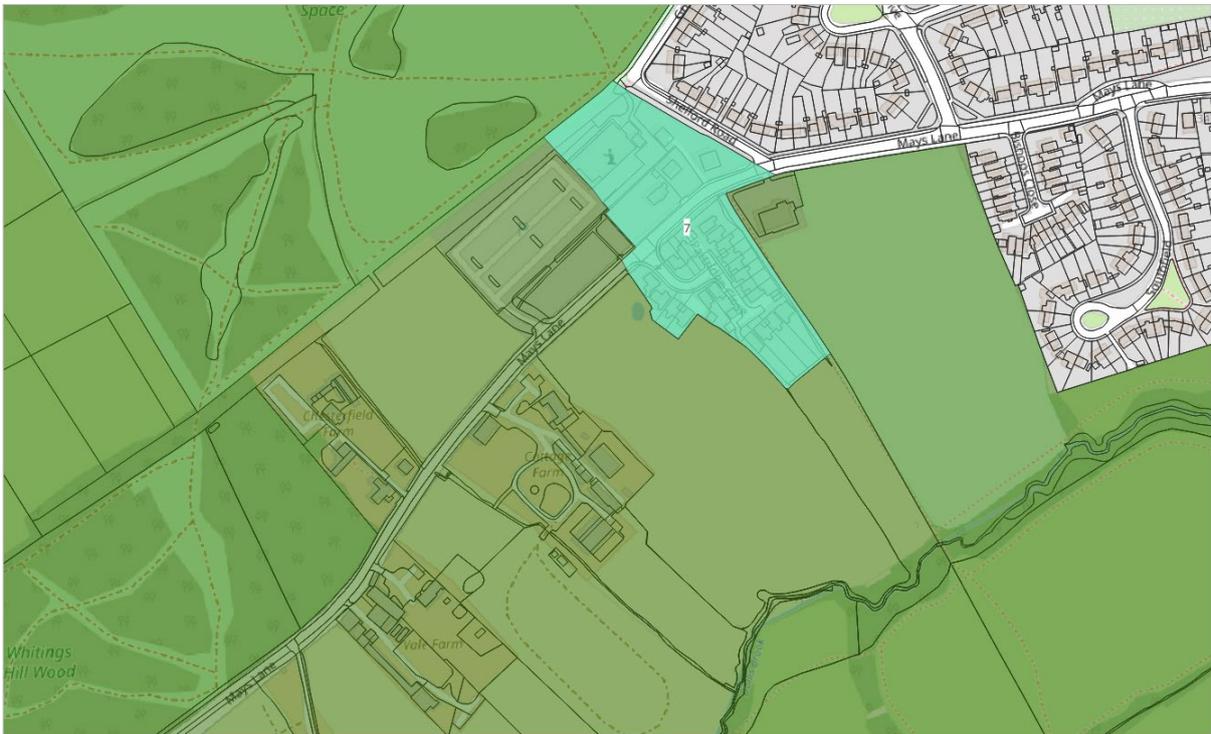
anticipated in February 2025. The Plan and the policies therein have been subject to an Equalities Impact Assessment (EqIA). The Local Plan EqIA assessed the equalities impact of Policy HOU07 - Gypsies, Travellers and Travelling Showpeople and concluded that although it is considered that there is no identified need for gypsy and traveller accommodation in Barnet, this policy makes provision for this group, and that Policy HOU07 had a neutral impact on gypsies, travellers and travelling showpeople. The application was determined in accordance with these key principles.

- 8.5 Moving forward, and as noted in my needs assessment, the London GTANA has been commissioned by the Greater London Authority (GLA), in line with a commitment in the London Plan to carry out a new London wide Gypsy and Traveller Accommodation Needs Assessment. Although this is subject to delay, once published, the GTANA can, and would be expected to, be used to inform future policy and plan-making by both the GLA and London Boroughs, including Barnet. On that basis, the new GTANA will help inform the early-stage review of the Barnet's Local Plan, and specifically, to plan to meet the accommodation needs of the Traveller community. The Public Sector Equality Duty as set out at Section 149 of the Equality Act 2010 is therefore engaged now and for the future.

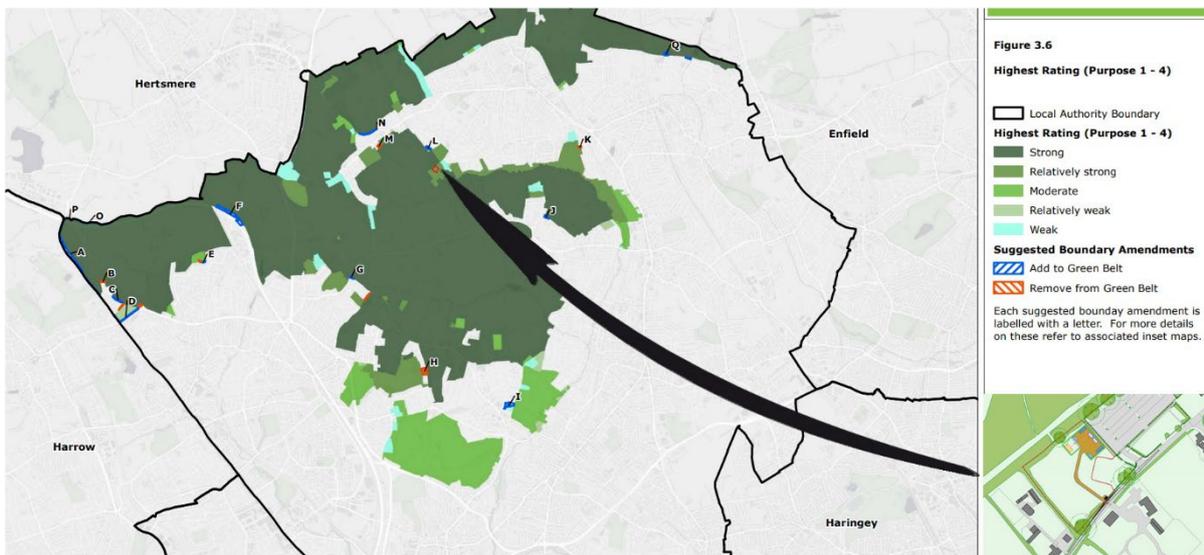
APPENDIX 1

Green Belt rating for appeal site and surrounds.

Site 7 rated as 'weak' green belt.



Appeal site (land north west of Mays lane) rated as 'relatively strong'



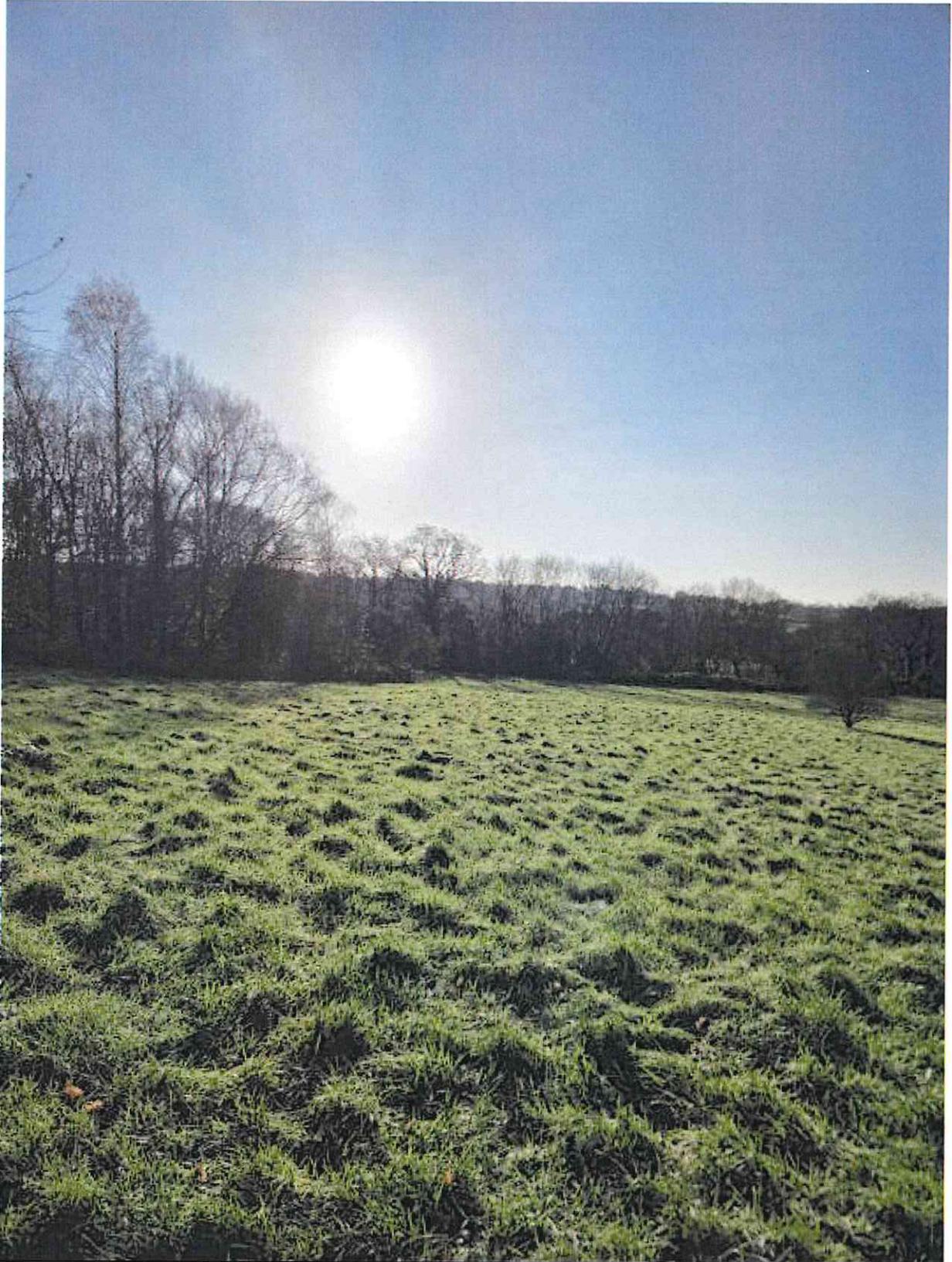
Sources:

[final_changes_to_the_policies_map_-_may_2024.docx](#) page 15 to 28

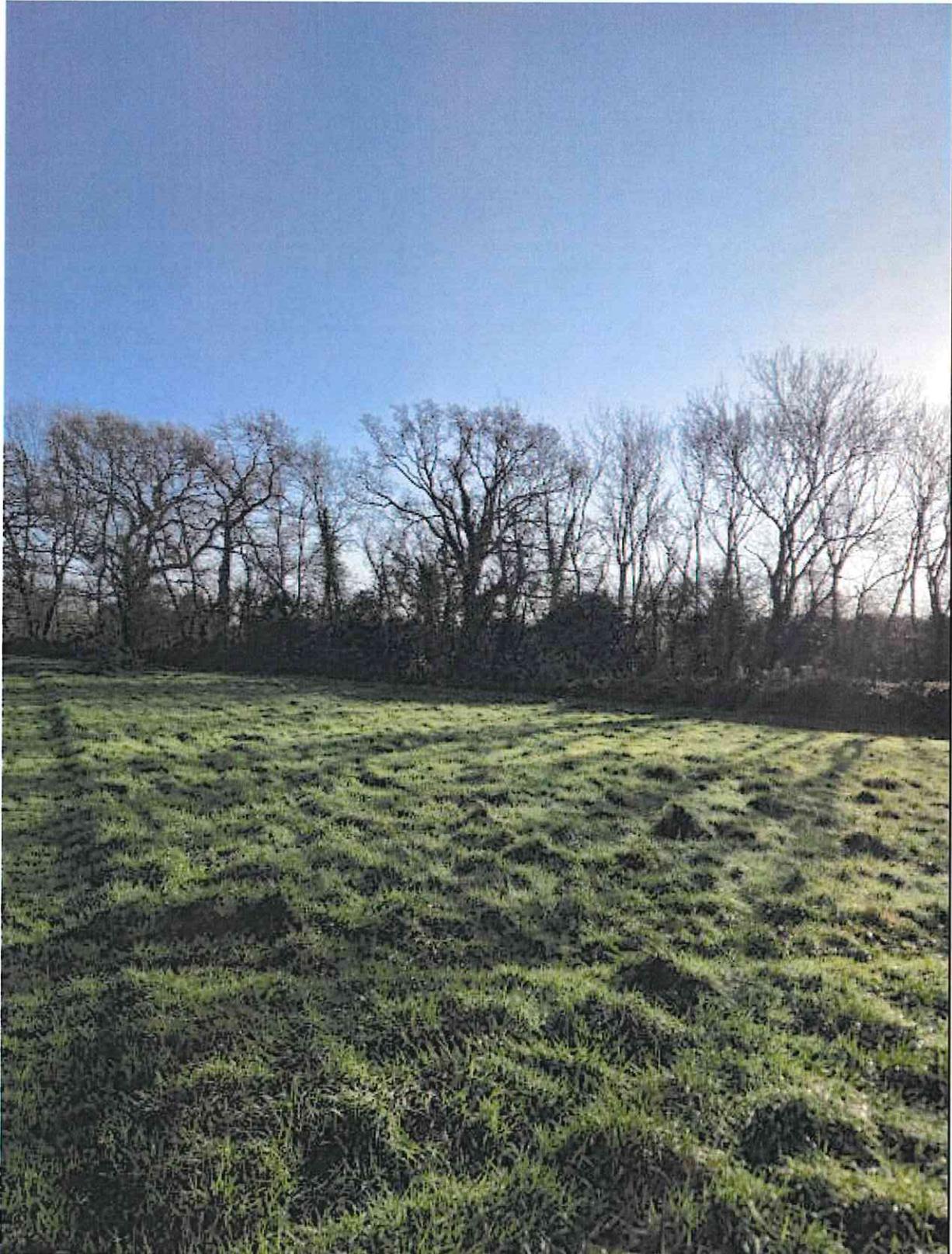
[London Borough of Barnet Green Belt and Metropolitan Open Land Study](#) (2018 study) page 27



1



2



3



4

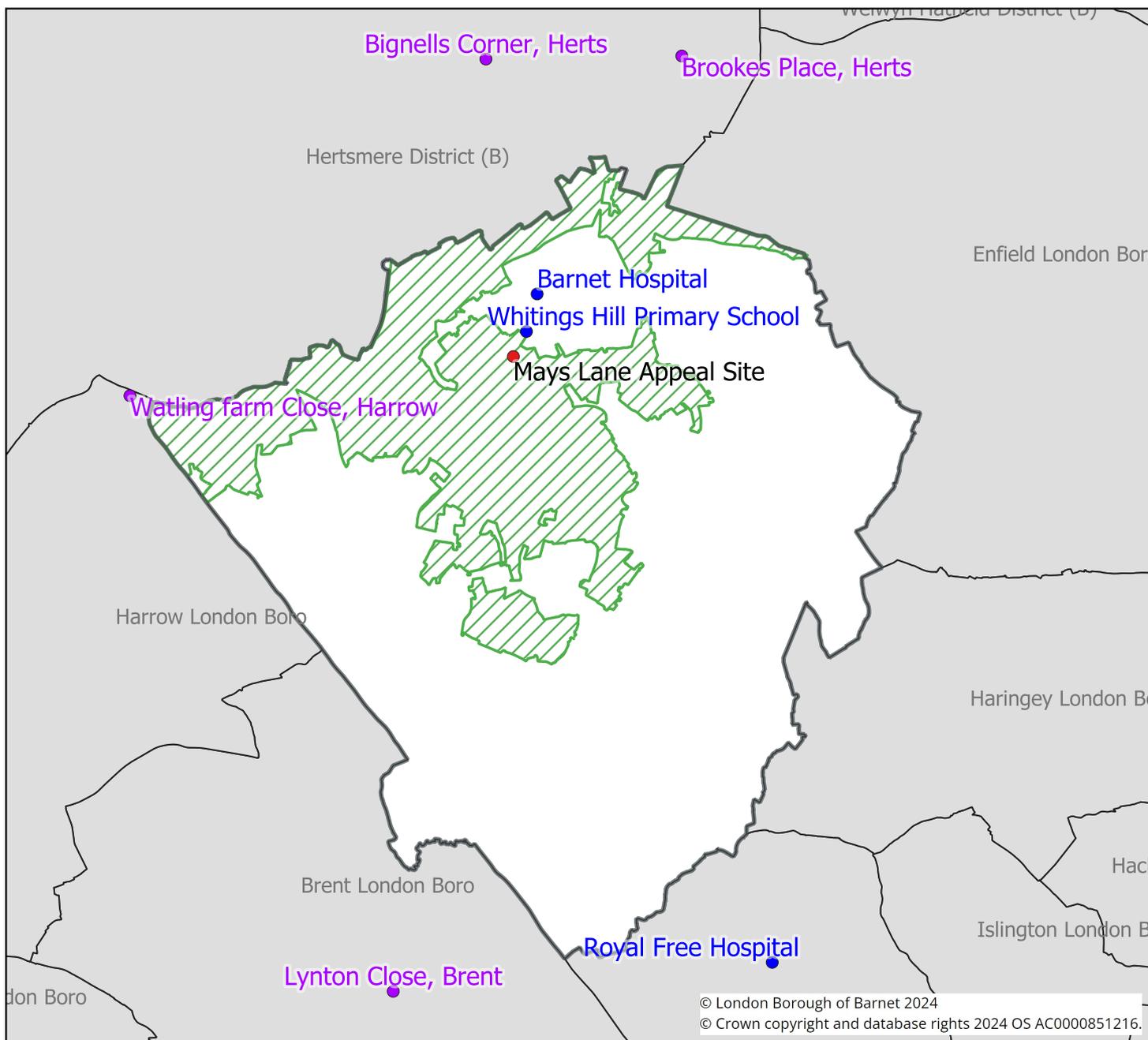


5



APPENDIX 3

Distances of neighbouring sites to public services



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Map Key

- Appeal site
- Public Services
- Neighbouring Sites
- Green Belt
- Barnet Council
- Neighbouring LAs

Estimated travel times

SITES	Royal Free Hospital	Barnet Hospital	Whiting's Hill School
Watling Farm Close (Harrow)	Car 30mins, PT 56 mins (bus 107)	Car 15mins, PT 49mins (bus 107)	Car 14mins, PT 54mins (bus 107)
Lynton Close (Brent)	Car 25mins, PT 48 mins (bus 224, Bakerloo / overground)	Car 30min, PT 1hr 19mims (bus 112 / 263)	Car 28mins, PT 1hr 6mins (bus 112/113/384)
Brookes Place, (Herts)	Car 35mins, PT 1hr 10 mins (bus 313, Northern line trains)	Car 30min, PT 1hr 19mims (bus 112 / 263)	Car 10mins, PT 39mins (bus 84B)
Bignells Corner (Herts)	Car 30mins, PT 1hr 28mins (bus 614, Northern line)	Car 8mins, PT 35mins (bus 614)	Car 8 mins, PT 40mins (bus 614)

APPENDIX 4

From: [REDACTED] <[REDACTED]@barnet.gov.uk>
Sent on: Tuesday, August 27, 2024 1:36:30 PM
To: [REDACTED] (LBB) <[REDACTED]@Barnet.gov.uk>
Subject: RE: 23/3816/FUL - Land On The North West Side Of Mays Lane Arkley Barnet EN5 2AH (public Inquiry)
Attachments: message.rpmsg (322.37 KB)

H [REDACTED]

As discussed, we have no record of these children on our school admissions database. Three of the children are nursery-aged and we do not co-ordinate admissions for early years establishments.

I have checked the latest school census (May 2024), and none of the four children appear on Whitings Hill school roll.

Please let me know if there is anything else need from me.

[REDACTED]

Admissions Team Manager & School Place Planner
Admissions Team
Barnet Education and Learning Service
2 Bristol Avenue, Colindale, NW9 4EW
Tel: [REDACTED] | Mobile: | Web: www.barnet.gov.uk

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