

SECTION '2' – Applications meriting special consideration

Application No : 13/01151/FULL3

Ward:
Darwin

Address : Land At Junction With Sheepbarn Lane
And Layhams Road Keston

OS Grid Ref: E: 539721 N: 161137

Applicant : Mr N And L Reid

Objections : YES

Description of Development:

Use of land for stationing of caravans including boundary fencing and landscaping (to provide two Showmens family Plots)

Key designations:

Areas of Archaeological Significance
Biggin Hill Safeguarding Birds
Biggin Hill Safeguarding Area
Gas HP Pipelines
Gas HP Zones Gas HP Zones:
Gas Pipelines
Green Belt
London City Airport Safeguarding
Local Distributor Roads
Sites of Interest for Nat. Conservation

Proposal

This application seeks permission for the use of land for stationing of caravans to provide two Showmens' family plots. The site is bounded by Layhams Road and Sheepbarn Lane on two sides, and open land and the existing Showmen's site to the other. Access to the site would be gained from the previously used access to Layhams Road

The application has been submitted with supporting information to justify the proposal, including information regarding the search for suitable sites for the applicants and information regarding personal circumstances.

The supporting documentation argues that there is an identified need for the site, there is a lack of any suitable or available alternative sites within the area of search and that the applicants have strong working ties to this area. It is suggested that there is no reason why the recent permission further along Layhams Road should have been granted and this site not. Changes since the previous appeal decision

are set out including updated national policy, the Council's proposals for traveller policy including needs assessment, and the personal circumstances of the families of the applicants.

The case regarding the landscape and buffer value of the site explains that the site can be suitably landscaped and suggests that the Council should not rely on the site as a buffer for the other showmens plots beyond.

Comments from Local Residents

One letter of objection has been received which raises concerns about more caravans being located in this area.

Comments from Consultees

The Environmental Health Officer and Thames Water have no objections to the proposal.

Highways have no objections in light of the previous appeal decision.

The Environment Agency refer to standing advice for this site and Drainage comments suggest conditions.

From a Planning Policy aspect, comments are as follows: Since the previous appeal on this site there have been a number of policy changes notably The London Plan (2011) and the PPTS which both emphasise the need for boroughs to set their own targets and the importance of cross borough working (PPTS para 8, London Plan Policy 3.8). The PPTS goes further to advise that Boroughs need to identify a 5 year supply of deliverable sites. The targets, 5 year supply and cross borough co-operation are currently being considered through the local plan process.

The Planning Policy for Traveller Sites (PPTS) reflects that of previous Green Belt guidance, advising that traveller sites (which includes travelling showmens plots) are inappropriate development in the and such development should only be approved in exceptional circumstances. Additionally the PPTS (para 15) advises that "exceptional limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset within the Green Belt) to meet a specific, identified need for a traveller site, it should do so only through the plan-making process and not in response to a planning application".

The Council is currently considering how to address the need for pitches (Gypsies and Travellers) and plots (Travelling Showpeople) through the development of its Local Plan. To this end it has produced a needs assessment for "Gypsies and Travellers and Travelling Showpeople" of which relevant extracts are set out below:

The PPTS advises that evidence should be assembled through co-operation with travellers and their representative groups. With regard to Travelling Showmen, the assessment was produced on the basis of discussions with, and representations

from the Guild in relation to another extension to the Showmans Site which was granted permission in 2009 and an application on this site which was refused and then dismissed on appeal in 2011. The assessment (produced March 2013) suggests that there is no need for a full additional plot within the 5 year period, indicating a need for 0.4 Travelling Showmens plots within the 5 year period and a further 6 plots to 2030.

The Council has consulted on its Local Plan "Options and Preferred Strategy" to address the assessed needs. The preferred options include the designation of Traveller Sites within the Green Belt (consistent with the guidance in PPTS para 15) which advises that "exceptional limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset within the Green Belt) to meet a specific, identified need for a traveller site, it should do so only through the plan-making process and not in response to a planning application".

Detailed representations have been made on behalf of the applicant to both this application and the "Options and Preferred Strategy" consultation indicating that there is outstanding need for the Levi Families and that the position of the Showmens Guild is that the current Showmens Site is no longer sufficient to meet need. These representations will be considered through the Local Plan process. Should this consideration indicate need the Council will need to demonstrate that it is meeting a 5 year supply for plots.

Planning Considerations

The proposal falls to be considered with regard to Policies H6 (Gypsies and Travelling Showpeople), T18 (Road Safety), BE1 (Design of New Development), NE12 (Landscape Quality and Character) and G1 (Green Belt).

London Plan Policy 3.8 which requires that the accommodation requirements of gypsies and travellers (including travelling show people) are identified and addressed in line with national policy, in co-ordination with neighbouring boroughs and districts as appropriate.

Planning Policy for Traveller Sites - March 2012 (PPTS).

The National Planning Policy Framework (NPPF) are also relevant.

A Gypsy and Traveller Needs Assessment (GTAA) was published in March 2008 by Fordham Research, and this has fed into the London Plan housing targets for the Borough in due course, although these have not yet been published. This reveals a need for Showmen's Plots within Bromley. It defines Travelling Showpeople as follows: "Travelling Showpeople is a term used to describe those who organise and run fairgrounds.

They live on sites (or 'yards') in static caravans or mobile homes, along with smaller caravans used for travelling, with their equipment (including rides, kiosks and stalls) kept on the same plot. The site is traditionally used as 'winter quarters' from which Showpeople travel during the summer months, although older family members and children may live on the site all year round. Pressure for land in London means Showpeople sites have closed in recent years, while the declining

popularity of fairgrounds means employment opportunities are more limited. Showpeople do not constitute an ethnic group, but are recognised as occupational travellers with a long tradition and history."

There is relevant planning history for this site which is exclusively related to the use of the land for stationing of gypsy caravans, and dates back to the early 1990s, the most recent being in 2001. All applications were either refused or withdrawn, and those appealed were dismissed at appeal. A recent application 08/02802 by the same applicants was withdrawn.

Application reference 01/00502 was for the use of land for stationing of 4 caravans with two washroom buildings, hardstanding areas and access road. This was dismissed at appeal. In consideration of this appeal the Inspector made the following comments:

"The previous appeal decisions have clearly shown that the site is prominent, next to a busy crossroads and readily visible in an area of acknowledged character. Any development there would be easily seen through the roadside trees and would appear obtrusive in this contravening one of the purposes of including land in the Green Belt, as defined in PPG2. As a result there would be clear harm to the visual amenity of the Green Belt [...] thereby breaching both the extant and emerging UDPs."

He continued: "The showmens' land is set further back from the more open southern frontage of the appeal site and in my opinion the appeal proposal would be significantly more intrusive and would harm the openness of the Green Belt, which PPG2 says is its most important attribute; the fundamental aim of the Green Belt policy is to keep land within them permanently open. In my opinion the presence of the showmens' quarters does not justify the significant harm which the proposal would cause to the openness and visual amenity of the Green Belt. It rather reinforces the need to avoid visually damaging development close to the roadside."

In a 1992 appeal the Inspector came to a similar conclusion, stating that "the appeal development causes considerable harm to this particular site.... the severe disadvantages of a gypsy site at this location are too substantial to be outweighed by the evidence of special circumstances put forward at the Inquiry."

In 2009 an application identical to this proposal was refused by the Council for the following reasons:

1. The site is located in the Green Belt wherein there is a general presumption against inappropriate development. No very special circumstances have been demonstrated to justify making an exception to Policy G1 of the Unitary Development Plan and Planning Policy Guidance Note 2 'Green Belts'.
2. The proposal constitutes an undesirable form of urbanised development on a prominent site within the Green Belt, harmful to the open character and visual amenities of the area, and which will undermine the screening the site

currently offers to the non-conforming Showpeoples' site beyond, thereby contrary to Policies G1 and NE12 of the Unitary Development Plan and PPG2 - Green Belts.

- 3 This proposed site for travelling showpeople lies within the Green Belt within an area of constraint and is therefore contrary to Policy H6 of the Unitary Development Plan.
- 4 The proposed use of the land will undermine the Council's proposed strategy to accommodate any additional identified need for Travelling Showmen within the Borough by virtue of its inappropriate location and character, therefore contrary to guidance in Circular 04/2007 and Policy H6 of the Unitary Development Plan.
- 5 In the absence of information to demonstrate otherwise, the proposal may give rise to unsafe conditions within the highway, therefore contrary to Policy T18 of the Unitary Development Plan.

A subsequent appeal was dismissed in January 2011. The Inspector concluded that the proposal would constitute inappropriate development within the Green Belt which would harm the character and appearance of the area, injuring the visual amenities of the Green Belt and reducing its openness. Although he considered that the need of the appellants attracted significant weight, overall he decided that the totality of harm would be considerable, and that harm and the harm by reason of inappropriateness would not be outweighed by the reasons put forward by the appellants. The Inspector also considered that a temporary permission would not be appropriate as there was no expectation that any other sites would come forward at the end of any temporary period, nor that planning circumstances would change.

In 2010 an application was submitted to expand the existing Showpeople site at Keston. This was based on the expansion of families at the existing site and provided detailed information for each family and its needs. This actually proposed plots for 7 families. The application was permitted on the basis that it met the identified needs of local showpeople and was able to be effectively screened, and that therefore the harm caused was outweighed by very special circumstances. This permission was granted on the basis that it would satisfy the local need up to at least 2017.

Conclusions

The main issues in this case are the appropriateness of the proposal in the Green Belt, the impact on the character and appearance of the area, the need for sites for Showpeople and the particular circumstances put forward in this case.

The applicants in this case are accepted to be Travelling Showpeople as defined in the PPTS.

The requirement for Showpeople's sites must be identified as for housing and employment land, however such designations and any specific planning

permissions for such land / development have regard to existing land designations and would rarely be considered within the Green Belt as they would be inappropriate development, harmful by definition. Only where it can be demonstrated that other policy considerations can be overcome or addressed would such highly valued land as Green Belt be proposed to meet a need and only then if it was considered that very special circumstances existed. In this case the consideration by Inspector's and the Council (as set out below) draws what is considered to be a firm conclusion regarding the suitability of this land for occupation or development.

There is considerable history of refusals and dismissed appeals for this land, including most recently in 2011 for a similar proposal. The site is within the Green Belt and it is clear that this use would impact upon the openness of the Green Belt, also being an inappropriate use and therefore would be harmful by definition. It is necessary to balance these considerations against the merits of this case including the very special circumstances suggested in the supporting information.

It is acknowledged that the applicants have experienced difficulties in finding suitable accommodation as set out in the supporting information and also that they are experiencing health issues. However, these points alone are not considered to be suitably compelling to warrant the setting aside of established Green Belt policy, and this view is supported by previous decisions for this site

The site is of considerable visual importance as a buffer to the Showmens' site beyond on this prominent junction. The applicants argue that there will be suitable screening along the boundary, however this is not considered to be the case and there will clearly be views into the site from a number of directions. The hardsurfacing which was previously laid on the site is now barely visible and for all intents and purposes the site is viewed as a green and pleasant landscape buffer protecting the openness and visual amenities of the Green Belt and the area from the Showmens' site beyond. Although landscaping is proposed, it is clear that this cannot mitigate against harm to the openness of the Green Belt and could never be entirely effective in screening a use which involves the parking of numerous vehicles for much of the year and movements in and out of the site. This is a view strongly echoed by the Inspector in the 2011 appeal.

Policy E of the PPTS sets out at paragraphs 14 and 15: "Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. 15.

Green Belt boundaries should be altered only in exceptional circumstances. If a local planning authority wishes to make an exceptional limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset within the Green Belt) to meet a specific, identified need for a traveller site, it should do so only through the plan-making process and not in response to a planning application. If land is removed from the Green Belt in this way, it should be specifically allocated in the development plan as a traveller site only." It is understood that the applicants are hoping that the site may be allocated in the future as a traveller site, however this is not currently the case and this policy

makes clear that such decisions should not be made via a planning application decision.

Policy H of the PPTS sets out the approach that Local Planning Authorities should take to determining applications for such traveller sites. It sets out that applications must be considered in accordance with the development plan and also the presumption in favour of sustainable development. It continues at paragraph 22 to set out specific issues which ought to be considered in determining applications, which are set out below with comments:

a) the existing level of local provision and need for sites:

The existing Showmens' site on Layhams Road was granted planning permission on appeal in 2001 and therefore the Borough has accommodated considerable need in the last decade for families, many of whom have previously resided outside of the Borough and potentially had no particular need or reason to live within Bromley specifically. The GTAA does provide Borough breakdowns, however it is emphasized that these are not targets for individual Boroughs, which will be decided in subsequent policy discussions (presumably by the GLA and Boroughs). This breakdown does show that 8.6% of Showmen in Greater London reside in Bromley, and that only Hillingdon and Hounslow have a greater population. On the basis of the existing need met within Bromley, and the recently identified additional need which has been accommodated on land to the north of the existing Showmen's site, this application is premature and not suitably support or justified with regard to need.

b) the availability (or lack) of alternative accommodation for the applicants:

Although it is acknowledged that the applicants have experienced difficulties in relation to accommodation, it does appear that they have been able to find places to stay in recent years. It is understood that these circumstances may not be ideal for the families, and this is a matter which weighs in favour of the application proposal.

c) other personal circumstances of the applicant

The applicants put forward a case of personal circumstances (which can be examined within the application file) primarily relating to health issues affecting several family members including children, which it is suggested would be assisted by securing permanent accommodation in this location. This is a consideration that is also in favour of the application proposal.

d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites:

This is an unallocated site and therefore must be considered with regard to saved Policy H6 of the Unitary Development Plan requires that sites for use by travelling showpeople be situated outside of any areas of constraint. This proposal does not comply with this criteria being within the Green Belt.

e) that they should determine applications for sites from any travellers and not just those with local connections.

This is acknowledged, although the applicants connections with the area appear to be slight, as set out by the Inspector in 2011 at paragraph 22.

Consideration must be given to whether the changes since the last decision at the site. These are suggested by the applicant's agent in the supporting statement as follows, with comments:

1. Circular 04/2007 has been replaced with PPTS and the previous policy was considered flawed.
This application is considered under the current policy, and the conclusions reflect the guidance in the PPTS.
2. The existing showpeople site is now screened by a high conifer hedge and no longer relies on this site to provide a visual buffer.
It is beneficial that the existing site is well screened by the conifers along its boundary, however it remains the case that the space and vegetation on this site perform an important function in retaining a rural feel to this location, which if the site was occupied would be lost.
3. The Council are proposing to remove the sites from the Green Belt to ensure sufficient land is provided for travellers in Bromley.
There are proposals at an early stage to remove the existing traveller sites from the Green Belt at Layhams Road in order to allocate these specifically for travellers. This is to ensure that the current provision is retained. This doesn't make the current proposal acceptable and is not yet policy.
4. The London Plan 2011 failed to allocate provision between London authorities.
This is correct, however with the recently granted permission to extend the site for 7 additional family plots at Layhams Road to the north which was to meet need up to at least 2017, it is considered that Bromley has met a significant need for Showpeople and there is no current additional need identified.
5. The 2013 Bromley Need Assessment notes that the Showmens Guild would now support this site (having previously not supported the proposal) and accept that there is an unmet need for more yards that was not met by the 2010 permission at Layhams Road.
The document referred to is the Evidence Based Paper which notes that the Guild suggest that there is a greater unmet need than previously identified. The accommodation allowed by permission 10/00281 was clearly set out to meet the identified local need. The arguments put forward in this case in terms of the need for accommodation, although clearly raising difficult issues for the applicants, are not currently identified in the needs assessment.

6. The families have 6 children and are worried that they will require greater attendance and need to be more settled. At present the children are only at school during the winter months and home educated for the rest of the year. The families would not consider enrolling them in schools where fairs are held due to prejudice of settled children towards travellers in general:
The personal circumstances of the families are taken into account in the overall assessment as part of the very special circumstances case, however combined with the other points put forward these are not considered to outweigh the harm caused.

The proposal is considered to be inappropriate development in the Green Belt which will also cause actual harm to openness and character. It is therefore necessary to consider whether the harm caused is outweighed by the circumstances put forward. For the reasons discussed above, the very special circumstances claimed in this case would be clearly outweighed by the harm which would be caused to the openness of the Green Belt and the character of the area. Whilst the existing Showmens' site is fairly well screened and contained, it is not clear that such an effective degree of visual protection could be achieved in this instance without subsequent harm to the character of the area and the Green Belt, thereby contrary to Policy NE12 of the Unitary Development Plan.

On balance, there are not considered to be very special circumstances in this case to warrant the setting aside of normal Green Belt Policy considerations, and the need for additional plots will be assessed through the Local Plan process and, as advised in the NPPF, any Green Belt boundary changes should only be made in this way and not in response to a planning application, therefore refusal is recommended accordingly.

Background papers referred to during production of this report comprise all correspondence on files refs. 91/01391, 92/01582, 94/02129, 94/02739, 99/02264, 01/00502, 08/02802, 09/03165 and 13/01151, excluding exempt information.

Consideration has been given to the Human Rights Act 1998 and the appropriate Convention Rights. Officers are satisfied that these rights will not be breached or alternatively any breach is justified under the doctrine of proportionality

RECOMMENDATION: PERMISSION BE REFUSED

The reasons for refusal are:

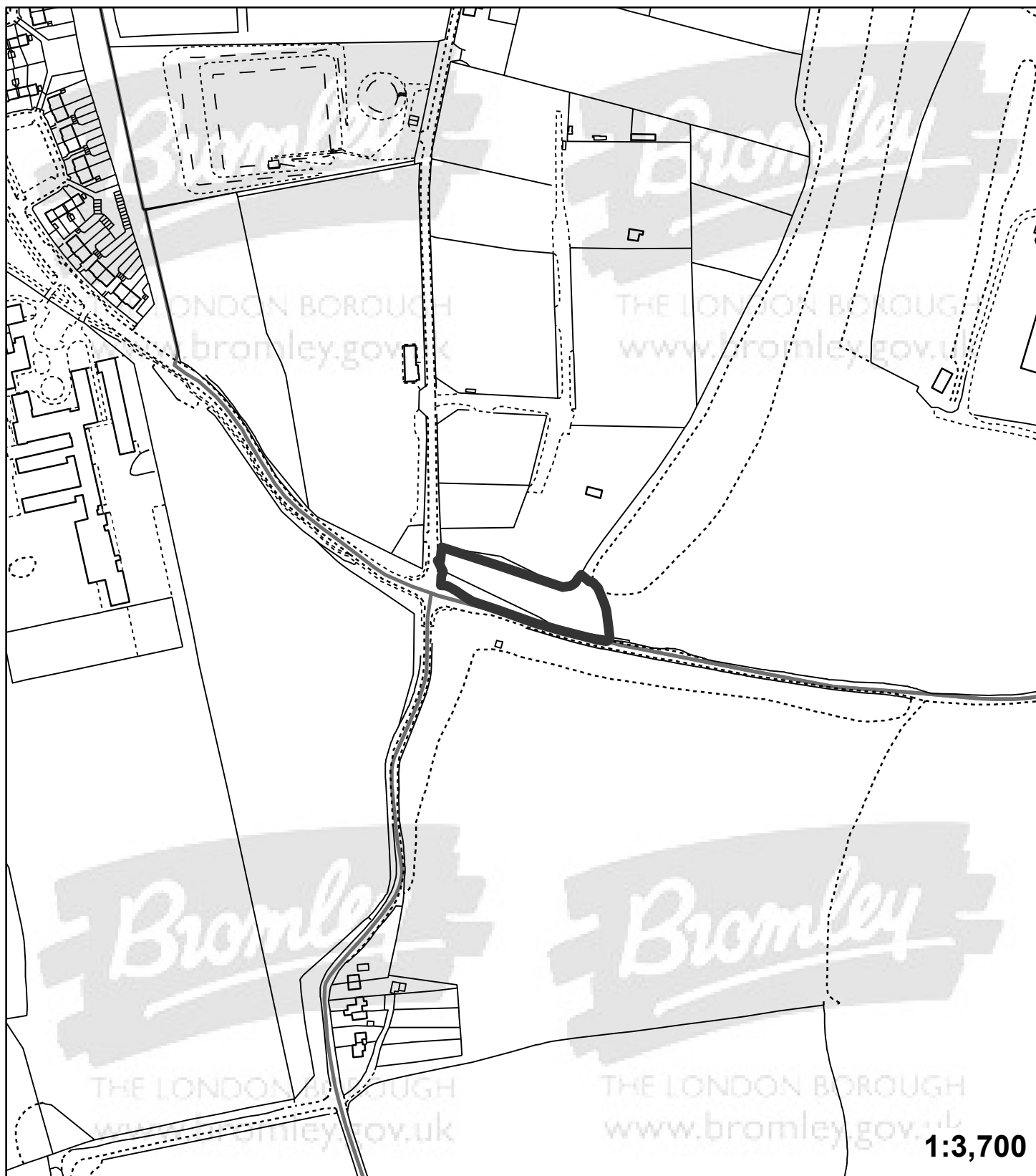
- 1 The site is located in the Green Belt wherein there is a general presumption against inappropriate development. No very special circumstances have been demonstrated to justify making an exception to Policies G1 and H6 of the Unitary Development Plan, Planning Policy for Traveller Sites and the National Planning Policy Framework 2012.
- 2 The proposal constitutes an undesirable form of urbanised development on a prominent site within the Green Belt, harmful to the open character and visual amenities of the area, and which will undermine the screening the site currently offers to the Showpeoples' site beyond, thereby contrary to

Policies G1 and NE12 of the Unitary Development Plan and the National Planning Policy Framework 2012.

Application:13/01151/FULL3

Address: Land At Junction With Sheepbarn Lane And Layhams Road
Keston

Proposal: Use of land for stationing of caravans including boundary fencing and landscaping (to provide two Showmens family Plots)



"This plan is provided to identify the location of the site and should not be used to identify the extent of the application site"

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