

## The Planning Inspectorate

### ENFORCEMENT NOTICE APPEAL FORM (Online Version)

**WARNING:** The appeal **must** be received by the Inspectorate **before** the effective date of the local planning authority's enforcement notice.

**Appeal Reference: APP/C3430/C/22/3303424**

#### A. APPELLANT DETAILS

Name

Address

Preferred contact method  Email  Post

#### A(i). ADDITIONAL APPELLANTS

Do you want to use this form to submit appeals by more than one person (e.g. Mr and Mrs Smith), with the same address, against the same Enforcement notice?  Yes  No

#### B. AGENT DETAILS

Do you have an Agent acting on your behalf?  Yes  No

Name

Address

Phone number

Email

Your reference

Preferred contact method  Email  Post

#### C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority

Date of issue of enforcement notice

22/06/2022

Effective date of enforcement notice

20/07/2022

#### D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address?

Yes  No

Does the appeal relate to an existing property?

Yes  No

Address

Land southwest of Saredon Road  
Hospital Lane  
Cheslyn Hay  
Staffordshire  
Grid Ref Easting: 396750  
Grid Ref Northing: 307087

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site?

Yes  No

What is your/the appellant's interest in the land/building?

Owner

Tenant

Mortgagee

None of the above

#### E. GROUNDS AND FACTS

Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal?

Yes  No

(a) That planning permission should be granted for what is alleged in the notice.

The facts are set out in

see '[Appeal Documents](#)' section

(b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.

(c) That there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").

(d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.

(e) The notice was not properly served on everyone with an interest in the land.

(f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.

The facts are set out in

the box below

The site has been partially hardsurfaced for more than 20 years and, a requirement to re-instate the land to agricultural land goes beyond what is necessary to remedy the breach.

(g) The time given to comply with the notice is too short. Please state what you consider to be a reasonable compliance period, and why.

The facts are set out in

the box below

The site is home to 5 households, 3 of which contain children. Their eviction from the land without an alternative lawful site to go to is disproportionate to the harm caused and, would cause undue hardship to the families involved. A period of at least 12 months is required in order to facilitate a search for an alternative home and, avoid these families becoming homeless.

## F. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations

2. Hearing

You must give detailed reasons below or in a separate document why you think a hearing is necessary. The reasons are set out in

the box below

The site is home to 5 households and this appeal raises issues of need, the availability of alternative sites for these families, personal circumstances and needs of the children. These are issues which can only be properly considered by means of an oral hearing.

Is there any further information relevant to the hearing which you need to tell us about?

Yes

No

3. Inquiry

## G. FEE FOR THE DEEMED PLANNING APPLICATION

1. Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice?

Yes

No

2. Are there any planning reasons why a fee should not be paid for this appeal?

Yes

No

If no, and you have pleaded ground (a) to have the deemed planning application considered as part of your appeal, you must pay the fee shown in the explanatory note accompanying your Enforcement Notice.

## H. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided?

Yes

No

## I. SUPPORTING DOCUMENTS

01. Enforcement Notice:

see '[Appeal Documents](#)' section

## J. CHECK SIGN AND DATE

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full grounds of appeal) to the LPA today.

**Signature**

Mr Philip Brown

**Date**

19/07/2022 14:47:36

**Name**

Mr Philip Brown

**On behalf of**

Mr Billy Rogers

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018.

The Planning Inspectorate takes its data protection responsibilities for the information you provide us with very seriously. To find out more about how we use and manage your personal data, please go to our [privacy notice](#).

## **K. NOW SEND**

### **Send a copy to the LPA**

Send a copy of the completed appeal form and any supporting documents (including the full grounds of the appeal) to the LPA.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:  
<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>
- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the enforcement notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

**You may wish to keep a copy of the completed form for your records.**

## L. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. If forwarding the documents by email, please send to **appeals@planninginspectorate.gov.uk**. If posting, please enclose the section of the form that lists the supporting documents and send it to Initial Appeals, Temple Quay House, 2 The Square, Temple Quay, BRISTOL, BS1 6PN.

**You will not be sent any further reminders.**

Please ensure that anything you do send by post or email is clearly marked with the reference number.

### The documents listed below were uploaded with this form:

**Relates to Section:** GROUNDS AND FACTS  
**Document Description:** Facts to support that planning permission should be granted for what is alleged in the notice.  
**File name:** GROUNDS OF APPEAL - HOSPITAL LANE - CHESLYN HAY.docx

**Relates to Section:** SUPPORTING DOCUMENTS  
**Document Description:** 01. The Enforcement Notice.  
**File name:** HOSPITAL LANE - ENFORCEMENT NOTICE.pdf

**Completed by** MR PHILIP BROWN

**Date** 19/07/2022 14:47:36

## GROUNDS OF APPEAL

### APPEAL UNDER GROUND (a)

The appeal site lies within the Green Belt, which the NPPF makes clear will be protected from inappropriate development. There is no dispute that gypsy sites constitute inappropriate development in the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt. In deciding whether to approve such development, substantial weight must be attributed to the harm to the Green Belt.

Notwithstanding the above, the NPPF allows for the approval of inappropriate development in the Green Belt where very special circumstances can be demonstrated. It is accepted that it is for the appellant to demonstrate that very special circumstances exist to justify approval. Very special circumstances will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The Courts have clarified the meaning of “very special circumstances”. In Regina v. Secretary of State and Temple, Justice Sullivan made the following ruling:

***“In planning, as in ordinary life, a number of ordinary factors may when combined together result in something very special. Whether any particular combination amounts to very special circumstances for the purposes of PPG2 [now section 13 of the NPPF] is a matter for the planning judgement of the decision-taker.”***

The upshot of this decision is that material considerations which weigh in favour of allowing inappropriate development do not have to be very special, or even special, in themselves. In my experience, very special circumstances rarely comprise of a single factor and, although *Planning policy for traveller sites* states that it is “*unlikely*” that unmet need and personal circumstances will outweigh harm to the Green Belt and any other harm, this is not to say that unmet need and/or personal circumstances cannot ever outweigh harm to the Green Belt, or that there will not be other factors which tip the balance in

favour of granting planning permission (*Doncaster MBC v. Secretary of State for Communities and Local Government and AB* [2016] EWHC 2876 Admin.).

PPTS specifically mentions that the needs of the children must be treated as a primary consideration, and cannot be regarded as being intrinsically of less weight than any other consideration: including, for example, harm to the Green Belt by reason of inappropriateness.

### **1. Harm to the Green Belt**

It is accepted that the appeal proposals constitute inappropriate development in the Green Belt and, that substantial weight must be attributed to this harm to the Green Belt. However, bearing in mind that the definitional harm arising from inappropriate development relates to the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open, the additional weight to be attributed to the actual loss of openness will vary according to: the scale of development; its visibility; and its permanence. In *Turner v. SSCLG & East Dorset Council* ([2016] EWCA Civ 466) the Court of Appeal confirmed that the openness of the Green Belt has a visual dimension. As such, where a development in the Green Belt has limited or no visual impact it follows that the impact on openness is reduced from that of a more visible development. Further, the Court decided that it was not irrational for an Inspector to determine that the impact on openness of moveable development, such as caravans and mobile homes, is less than the impact of an equivalent permanent structure.

The site is not undeveloped, greenfield land. It has accommodated stables and hardstanding for more than 20 years and, constitutes previously developed, derelict and untidy land. The quantum of development, comprising up to 9 caravans would clearly result in additional loss of openness but, no greater than the losses resulting from development of sites allocated in the Local Plan.

The degree of harm to openness is tempered in this case by the previously developed nature of the site and, degree of screening from public vantage points by existing boundary hedgerows. More than half of the appellant's land holding would remain undeveloped and, available for additional hedgerow and tree planting along the north-western

and southern boundaries of the proposed caravan site. As such, the visual impact of the proposed development is reduced from that of a more visible site.

It is accepted that the proposed development would encroach into the countryside and, therefore, cause harm to one of the 5 reasons for including land within the Green Belt. However, the site is located within a tract of land which makes no contribution to checking urban sprawl or, preventing towns from merging. Development of the appeal site would have no effect upon the setting of a historic town and, would not make urban regeneration any less likely. As a result, the proposed development would not prejudice 4 of the 5 purposes of including land within Green Belts.

## **2. Any Other Harm**

The in-principle acceptability of gypsy sites in rural and semi-rural locations, set out in PPTS, has a number of inevitable consequences. Typically, traveller sites have a number of characteristic features which, depending on the particular setting, can be atypical in the countryside, such as: caravans, hardstandings, utility buildings, residential paraphernalia and lighting. As a result, some degree of visual impact must be accepted and, if an adequate supply of gypsy sites is to be provided, some degree of visual harm must be acceptable.

The test for countryside harm must be whether the development causes unacceptable harm which cannot be made acceptable with additional landscaping. In this regard, paragraph 26 of Policy H makes clear that soft landscaping can positively enhance the environment, whereas sites should not be enclosed with so much hard landscaping that the impression is given that the site and its occupants are deliberately isolated from the rest of the community. This infers that, firstly, sites do not have to be adequately screened from the outset; secondly, that gypsy sites do not have to be hidden from view; thirdly, that sites can be assimilated into their surroundings to a sufficient degree using indigenous species; and fourthly, that it is to be expected that gypsy sites will be more visible in the winter months, when the leaves are off deciduous trees and shrubs.

In this case, the proposed development is remote from public vantage points, apart from a little used public footpath. The site would be reasonably well



screened from the public footpath by the existing roadside hedgerow. Notwithstanding this, it is not unusual to see gypsy sites in the countryside, there is already a lawful gypsy site nearby along Hospital Lane and, in my opinion, subject to appropriate landscaping, the proposed development would be unlikely to cause unacceptable harm to the character and appearance of this rural area.

### **3. Other Material Considerations**

Other relevant matters for local planning authorities when considering planning applications for traveller sites are set out in paragraph 24 of PPTS as comprising:

- a) the existing level of local provision and need for sites;
- b) the availability (or lack) of alternative accommodation for the applicants;
- c) other personal circumstances of the applicant;
- d) 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, used to assess applications that may come forward on unallocated sites; and,
- e) determining applications for sites from any travellers and not just those with local connections.

#### **Provision and Need for Sites**

There are no public gypsy sites in South Staffordshire and existing private sites largely comprise small sites accommodating extended family groups. All existing private sites, so far as I am aware, are full, including the sites with pitches for rent at Featherstone and Kingswood Colliery.

The Council has accepted that the provision of new gypsy sites will have to take place within the Green Belt and, that unmet need and lack of alternative sites provide the exceptional circumstances necessary to justify the allocation of land for gypsy sites in the Green Belt.

However, South Staffordshire's Site Allocations Document (SAD) only identifies enough land to satisfy gypsy and traveller accommodation need identified in an old Gypsy and Traveller Accommodation Assessment (GTAA) (20 pitches in the period 2018-2028).

The latest GTAA, published in June 2020, identifies a need for 103 additional residential pitches for travellers that meet the planning definition and, 21 for households whose gypsy status is currently unknown, 2020-2037. More than half of this provision needs to be made in the first 5 years which, bearing in mind the Local Plan Review is unlikely to be adopted before 2024, will be a very tall order. There is a considerable shortfall of gypsy sites which should carry considerable weight in favour of this proposal.

### **Alternative Sites**

It is axiomatic that, in a district where there are no public sites and where existing private sites are full, there are no alternative sites available to which the appellant's family can relocate.

The likelihood that any new gypsy sites will be in the Green Belt is a further material consideration in favour of the appellant's case. About 80% of the District is designated as Green Belt and land is unlikely to come forward for gypsy sites outside of the Green Belt. However, this does not release the Council from their pitch allocation responsibilities.

The unmet need, lack of a five-year supply of deliverable land for gypsy sites and, the failure of the Development Plan to meet the full identified need in a timely manner, are all matters which weigh separately in favour of the proposed development.

### **Locally Specific Criteria**

Policy H6 sets out 10 criteria against which proposals for new gypsy sites are to be assessed. Of these, criteria 4 and 5 relate to transit and Travelling Showpersons' sites, respectively, and are not relevant to this application. Of the other criteria: the application site is already connected to mains water and electricity (criterion 2); the site would provide a satisfactory living environment and, its use to provide a small traveller site would not adversely affect the amenities of any neighbouring residential property (criterion 3); the site has

safe access from Hospital Lane and, would contain adequate on-site vehicle parking and turning facilities (criterion 6); the provision of 4 pitches would not put an unacceptable strain on local infrastructure or over-dominate the nearest settled community (criterion 7); and the appeal site is not located within an area at high risk from flooding (criterion 10).

The appeal site is already well screened and, capable of being further landscaped. from the north-east and south-east by the roadside hedgerows. It would not, in my opinion, unacceptably harm the character or appearance of this area of countryside (criterion 8). It is unlikely that any other sites will be found in South Staffordshire which have less impact on the openness of the Green Belt (criterion 9) and, provided that occupation of the proposed pitches is limited by condition to “gypsies” as defined in Annex 1 of PPTS (criterion 1), the proposed development would substantially comply with Policy H6.

### **Personal Circumstances**

The proposed caravan site will accommodate an extended Romany Gypsy family comprising of the following households:

1. Julie Rafferty;
2. Thomas and Scarlet Rogers, together with their 3 children aged 7 - 14;
3. Terry and Kate Smith, together with their 2 children aged 10 and 13;
4. Simon and Kate Lee, together with 4 children aged 1 – 5; and,
5. Steve and Kate Lee.

Scarlet Rogers and Kate Smith are daughters of Julie Rafferty and, Simon Lee is her son. They are an extended gypsy family, living and travelling together for mutual help and support. They are related by marriage to the Rogers family who occupy the existing (lawful) gypsy site along Hospital Lane.

It is consistent with caselaw in *Stevens v. SSCLG [2013] EWHC 792 (Admin)* that the best interests of children should be a primary consideration in this application, although not necessarily the determinative factor. Their best interests would be for the site to be developed as proposed. It would give

them the best opportunity for a stable and secure family life, for access to regular schooling and health care, and with opportunities for play and personal development.

#### **4. Very Special Circumstances**

On balance, the unmet need for sites; the Rafferty family's personal accommodation needs and personal circumstances; the absence of alternative sites; the failure of the development plan to bring forward sufficient suitable land for traveller sites in a timely manner; the likelihood that any new pitch provision will be made in the Green Belt; compliance with the Council's locally specific criteria for the location of traveller sites; and the needs of the children, clearly outweigh harm to the Green Belt and any other harm. Very special circumstances therefore exist to justify the granting of planning permission.