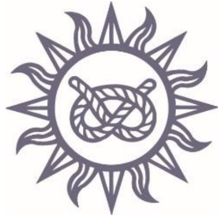

FURTHER INFORMATION

FROM

SOUTH STAFFORDSHIRE DISTRICT COUNCIL

INSPECTORATE REFERENCE:

APP/C3430/C/21/3283004
s174 Town & Country Planning Act 1990

South Staffordshire Council reference:
21/00259/UNDEV

APPEAL BY:

Mr. John Ireland Senior

SITE AT:

Land off Teddesley Road
Acton Trussell
ST19 5RH

CONTENTS

SECTIONS

Page

1. Further representations from the Council on material change in circumstances 1

2. Comments on specific issue(s) upon which the appeal decision was quashed 2

3. Method of appeal procedure requested by the Council with supporting reasons 3

1. <u>Further representations by South Staffordshire District Council on material change in circumstances.</u>

1.1 The first appeal decision dated 9 May 2023 (APP/C3430/C/21/3283004) was inconsistent with the Doveleys, Micklewood and most recently Squirrel's Rest appeal decisions (particularly with regard to the BIOC v Harm to the GB balance). These 3 decisions post-date the Councils Statement of Case for the first appeal for this site and the council requests that the Inspector takes these three decisions into consideration when determining this appeal (Land at Doveleys Farm – Appeal ref: APP/C3430/C/21/3274332- Appendix A, Land off Micklewood Lane, Appeal ref: APP/C34430/C/22/3303085- Appendix B and Squirrels Rest- Appeal ref: APP/C3430/C/21/3274332 ('Appeal A') - Appendix C). These three additional decisions all involving young children in comparable circumstances. The balance on best interests of the child taken in the 3 later appeal decisions (appendices A- C attached) are of note, particularly paragraphs 65, 70 and 71 of the Land at Doveleys Farm appeal decision, paragraphs 106 and 118 of the Land off Micklewood Lane appeal decision and paragraphs 55 and 56 of the Squirrels Rest decision. These appeal decisions are new relevant evidence which were not available to submit as part of the Council's original Statement of Case, and their consideration will maintain consistency in the decision making process.

1.2 The updated Development Plan position is as follows: The South Staffordshire Local Plan 2023 – 2041 will, when adopted, replace South Staffordshire Core Strategy 2012 and the accompanying Site Allocations Document (SAD) 2018 as the Local Plan for the District.

In response to ongoing national planning reforms, South Staffordshire Council issued a revised Local Development Scheme in September 2023. Consultation on a revised Regulation 19 Publication Plan will be undertaken in spring 2024. Submission of the Local Plan will then take place during the winter of 2024/25 with Examination in 2025 and Adoption being anticipated in winter 2025/26.

2. Comments on specific issue(s) upon which the appeal decision was quashed

2.1 Unlawful interpretation/application of the very special circumstances test contained in the NPPF.

Failure to have regard to a material consideration by not including harm caused by intentional unauthorised development in the planning reasons or failure to give sufficient reasons.

When applying paragraph 148 of the National Planning Policy Framework, which says,

> *When considering any planning application, 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.*

When conducting a holistic planning balance, having regard to all harms and benefits, it is the Council's view that the very special circumstances of the appellant do not outweigh the harm to the Green Belt.

2.2 Unlawful interpretation/ application of the NPPF policy regarding harm to openness.

The Court of Appeal has confirmed that openness of the Green Belt has spatial and visual aspects as outlined in paragraph 22 of the Inspector's decision (Appeal ref: APP/C3430/C/21/3283004). The hardstanding subject of this appeal impacts spatially on the Green Belt and is inappropriate development in the Green Belt which should be given substantial weight in line with the National Planning Policy Framework which attaches great importance to the Green Belt.

2.3 Failure to give sufficient weight to the identified less than substantial harm to the designated heritage assets. The Inspector treated the harm to the designated heritage asset (Grade II Listed canal bridge in the Staffordshire and Worcestershire Canal Conservation Area) as a neutral factor in the planning balance. The Council requests that the harm to the designated heritage asset, namely the Grade II Listed canal bridge in the Canal Conservation Area, is apportioned suitable weight in the planning balance.

3. Method of appeal procedure requested by the Council with supporting reasons

3.1 The council requests that the appeal is dealt with by means of written representations. It is the Council's view that there is no additional material that requires further round table discussions as all points were raised and discussed at the first appeal. The Council does not have any further points to raise that require further discussion.

APPENDIX A

The Planning Inspectorate

Appeal Decisions

Hearing Held on 31 August 2022

Site visits made on 30 and 31 August 2022

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 29 September 2022

Appeal Ref: APP/C3430/C/21/3274332 ('Appeal A')
Land at Doveleys Farm, Sandy Lane, Cannock

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Raymond Clee against an enforcement notice issued by South Staffordshire Council.
- The enforcement notice was issued on 6 April 2021.
- The breach of planning control as alleged in the notice is (i) the unauthorised material change of use of the Land from agriculture to a residential caravan site; and (ii) unauthorised operational development to create hardstanding and track, three wooden buildings, closeboard wooden fencing, breeze block building and associated concrete pad, underground septic tank and unauthorised earth bund.
- The requirements of the notice are (i) cease the unauthorised residential use and occupation of the Land as a gypsy traveller site; (ii) remove from the Land all caravans, unauthorised buildings and structures; (iii) remove from the Land the closeboard wooden fencing; (iv) remove all the imported hard core, kerb stones and associated materials from an area marked in dark blue on an attached plan; (v) remove from the Land the three wooden buildings; (vi) reinstate the land referred to in (iv) to agricultural land by re-turfing or re-seeding the Land; (vii) remove from the Land the unauthorised breezeblock building and associated concrete pad; (viii) remove from the Land the unauthorised septic tank; (ix) remove from the Land the unauthorised earth bund located on the land; and (x) remove from the Land all materials arising from compliance with previous requirements.
- The periods for compliance with the requirements are one month for steps (i), (ii), (iii) and (v); two months for (iv) and (ix); and three months for (vi), (vii) and (viii). No period for compliance is given for step (x).
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and variations.

Appeal Ref: APP/C3430/C/21/3274333 ('Appeal B')
Land at Doveleys Farm, Sandy Lane, Cannock

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Jamie Clee against an enforcement notice issued by South Staffordshire Council.
- The appeal is made against the same notice as Appeal A, and is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and variations.

Appeal Ref: APP/C3430/C/21/3274334 ('Appeal C')
Land at Doveleys Farm, Sandy Lane, Cannock

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Joseph Clee against an enforcement notice issued by South Staffordshire Council.
- The appeal is made against the same notice as Appeals A and B, and is proceeding on the same ground as Appeal B.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and variations.

Appeal Ref: APP/C3430/W/21/3287902 ('Appeal D')
Land north of the White House, Sandy Lane, Cannock WS11 1RW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Messrs Joseph and Jamie Clee against the decision of South Staffordshire Council.
- The application Ref 21/00255/FUL dated 14 March 2021, was refused by notice dated 3 November 2021.
- The development proposed is the change of use of land to mixed use for the keeping of horses and as a residential caravan site for 3 No. gypsy families, each with two caravans including no more than one static caravan/mobile home, together with laying of hardstanding, erection of 3 No. ancillary amenity buildings and construction of driveway.

Summary Decision: The appeal is dismissed.

Preliminary Matters

1. The location plan in Appeal D shows an area of land edged in red and a further area edged in blue. There is a small gap between the two areas. Together (and including the gap) they comprise the same area of land covered by the enforcement notice, now known as 'Sandy Acres'.

2. The development the subject of Appeal D was said to have been begun but not completed on the date of the application. It differs in substance from the development observed on the site, which contains no static caravans but larger amenity blocks than those applied for in Appeal D, and with other minor differences. The development presently on site is in turn somewhat different from that described in the notice, mainly resulting from the removal of a breezeblock building referred to in the notice but now replaced by a stable block as authorised by a previous permission.

3. I established at the hearing that, notwithstanding the differences between what is now on site and what was there when the notice was issued, the deemed application on Appeal A seeks permission for what is presently found on the site. In view of the planning history including a permission for the stable block, I am satisfied that such an outcome could be achieved by a combination of an amended notice and the imposition of planning conditions without prejudicing either party to the appeal.

4. I carried out an unaccompanied site visit the day before opening the hearing from which I observed the site from viewpoints on a public right of way to the south, as suggested to me by the parties. On the day of the hearing I carried

out an accompanied site visit following which I closed the hearing, subject to receiving an amended planning obligation and the Council's comments upon it by 14 September 2022.

The notice

5. The notice alleges the change of use to a residential caravan site, but it was agreed at the hearing that an earlier planning permission on the land for a material change of use to the stabling and keeping of horses had been begun, and that the land is now in a mixed use for that use and for the residential use alleged. I shall amend the allegation accordingly, with consequent changes to the requirements.

6. No compliance period was specified for the final requirement of the notice, but it was agreed at the hearing that the notice could be varied so as to stipulate a compliance period without causing injustice to either party. The requirement (no. 9) to remove the earth bund from the land also requires variation, because some of the material used in the bund has resulted from the unauthorised works, so will be required to restore the land if the notice is upheld. It was agreed that requirement no. 6 should be varied so as to require the restoration of the land to its former condition, omitting any reference to restoration as agricultural land in view of the permitted use for horse keeping.

Main Issues

7. The Council's reasons for refusing planning permission were couched somewhat differently from those given for issuing the notice. Reference is made in the notice to the site's location in the Green Belt, the Cannock Chase AONB, a zone of influence (within 8km) of the Cannock Chase Special Area of Conservation, and to the effects of the development on the character, appearance and amenity of the area. Additionally the planning refusal notice alleges detriment to public rights of way and bridleways, and asserts that the development amounts to intentional unauthorised development.

8. The main issues arising in Appeals A and D are therefore:

   (i) The effect of the development on the openness and the purposes of the Green Belt ('definitional harm' by reason of inappropriateness being agreed);

   (ii) Any other harm and/or policy conflicts arising, particularly the effects of the development on the landscape and on the character and appearance of the site and the area, including the effects on the interests of users of public footpaths and bridleways; on the integrity of protected species or habitats; and in relation to whether it has amounted to intentional unauthorised development; and

   (iii) Whether any harm to the Green Belt and any other harm is clearly outweighed by other considerations so as to amount to very special circumstances justifying the development. Such other considerations particularly include the need for and supply of traveller sites and the availability of alternative sites, and the personal circumstances of the appellants and their families, to include consideration of the best interests of the children and any human rights arising.

9. Appeals A – C also raise the question of the time required for compliance with the requirements of the enforcement notice, if permission is not otherwise granted.

10. Other matters raised in representations include the impacts of the development on the living conditions of neighbouring occupiers and whether allowing the development would give rise to inevitable pressure for further development or set an undesirable precedent.

Reasons

The Appeal A appeal on ground (a) and Appeal D

Green Belt

11. Although a number of policies are cited in the notice in support of the reasoning that the use is inappropriate development in the Green Belt, the applicable policies are Core Policy 1 and policies GB1 and H6 of the South Staffordshire Core Strategy DPD, adopted in December 2012. CP1 seeks to protect the Green Belt from inappropriate development. GB1 is, consistently with the National Planning Policy Framework ('the Framework') although using slightly different terminology, permissive of material changes of use and engineering or other operations where the openness of the Green Belt is not materially affected and no conflict with its purposes arises.

12. Criterion 8 of policy H6 is also relevant. The criterion itself relates to impacts on the character and landscape of the locality, but gives as an example resistance to development in the Green Belt where 'demonstrably harmful impact' to openness would arise.

13. The national Planning Policy for Traveller Site ('PPTS') sets out that traveller sites are inappropriate development in the Green Belt, and here there is no dispute between the parties that there is some impact on the openness of the Green Belt, and some conflict with the purpose of safeguarding the countryside from encroachment. Thus some conflict with both the Framework and policy GB1 is acknowledged.

14. The upshot of the policy position here is therefore that, as with any traveller site, the development will be inappropriate in the Green Belt by reason of the PPTS. It will be inappropriate under the Framework if it either fails to preserve openness or conflicts with any Green Belt purposes - as are both acknowledged here. It will conflict with local policy GB1 if openness is 'materially affected' or a conflict with Green Belt purposes arises – again, as is acknowledged. Achieving compliance with policy H6 however appears to set a slightly lower bar. The impact must not merely fail to preserve openness, but must be 'demonstrably harmful' to it, in order for a conflict with that policy to arise. Thus an analysis of the particular gradation of harm, if any, to openness is required. (The policy also allows for the possibility that development conflicting with Green Belt purposes but which is not demonstrably harmful to openness, or does not even affect openness, would nonetheless not offend policy H6, criterion 8 of which has its origins in landscape protection rather than in controlling urban sprawl *per se.* At the hearing the Council referred me to permissions granted for developments that are inappropriate in the Green Belt but which nonetheless are not contrary to policy H6.)

15. Previously an open field, permission was recently granted under reference 19/00701/FUL to change the use of the land for keeping horses, together with the construction of a stable block. The breezeblock building alleged in the notice has been removed and replaced with that permitted stable block. This introduction of this built development onto the site is consistent with Green Belt policy (as essential facilities for outdoor recreation) and with no corresponding effect on openness.

16. The site has however been further developed to facilitate the residential use. North east of the stable building, the northern field has been subdivided into three pitches, each containing (at the time of my visit) an amenity building of some 45 sqm floor area, and touring caravan. Some other structures were also observed, together with some commercial vehicles and the storage of some trade materials towards the front of the site. The amenity buildings that have been constructed on the site are made of (or clad in) similar materials to the stable building, which assists their integration into the landscape but this in itself does not disguise their residential appearance or use and evident inappropriateness in the Green Belt.

17. The previous permission also allowed the provision of some concrete hardstanding, and a horse exercise area beyond the stable building. The hardstanding that has been laid is considerably more extensive, with the track reaching almost to the boundary with Parkside Lane and hard bases for the caravans provided on each of the three pitches.

18. The proposal in the s78 appeal (Appeal D) would introduce slightly more development overall, with each existing amenity building replaced by both a mobile home of a similar size, although oriented against the field boundary, and additional smaller amenity buildings for each plot.

19. In either case the impact on openness, whether visual or spatial, is likely to vary to some extent according to whether the families are on site or away travelling. When the families are absent, there will be fewer caravans on the site and less observable paraphernalia. At the hearing I was informed that the present typical pattern of travel is to be away for up to four months of the year. The impacts on the visual openness of the site are somewhat limited, although the developed nature of the site is evident particularly from vantage points on the public right of way across the valley to the south west. The site is well screened from its immediate environs by hedgerows, although those screening effects will be diminished in the winter months. More planting is proposed, and I observed on site that some holly hedges surrounding each pitch are beginning to establish. The development is largely obscured from view from the adjoining road by the rear of the stable building. A considerable amount of hardstanding is however evident from the road, although some of this would also result from the stabling permission.

20. Nonetheless, when considering the development in the context of national policy which seeks to keep Green Belt land permanently open, the siting of the caravans and associated structures on land previously free of inappropriate development has adversely affected the openness of the Green Belt. Whilst accepting that the other element of the mixed use, namely the keeping of horses, plays a positive role in preserving openness, and whilst accepting too that the nature of caravans is to limit the impacts when compared with permanent structures, I nonetheless find that moderate harm to openness has

arisen from the residential development. I do not take into account the additional observed use for storing building materials because this is not alleged in the notice (or therefore the subject of either planning appeal) and the parties are agreed that a planning condition should prohibit this if permission is to be granted.

21. The principal differences between the proposals in Appeals A and D is that Appeal A seeks to retain amenity buildings that are larger than those proposed to replace them in Appeal D, whereas Appeal D seeks the introduction of an additional static caravan for each pitch. There are some other differences, but the proposals are essentially the same in that they seek to establish living accommodation on three pitches for each appellant's family. There is no significant difference in the impacts on the openness of the Green Belt of either proposal.

22. In either case I find that the development not only materially affects and fails to preserve openness, pursuant to policy GB1 and the Framework, but also that it has a demonstrably harmful impact on it, thus conflicting with that element of criterion 8 of policy H6.

23. Turning to the purposes of the Green Belt, the Council has referred to the South Staffordshire Green Belt study which finds that the land parcel of which the site forms part contains the urban edge of Cannock and so plays a strong role in preventing sprawl. Although the site lies only 120m away from the urban edge of Cannock, I agree with the appellants that it does not read as an extension to the built up area. Although an urbanising land use, it is of a different character from the urban area and is sufficiently separate to be seen in its surrounding agricultural or 'horsicultural' setting, albeit in the context of the urban fringe.

24. However it does conflict with the purpose of safeguarding the countryside from encroachment, as acknowledged by both parties.

25. I observed that Sandy Lane itself, as it runs between Church Lane and Hatton Road, is populated by dwellings and other buildings close to the road in a linear pattern as the road leaves the urban area towards Hatherton. Other than those buildings, the fields forming the approximate square of land between Sandy Lane, Church Road and Parkside Lane appear almost entirely undeveloped with the exception of the appeal site, which itself forms the central portion of the square taking up about a third of it (but with the residential element forming a narrower field across the middle of the square).

26. In longer distance views from the south west the site is seen on rising ground away from the valley floor along Sandy Lane. Further occasional properties are seen on the rising ground behind, lying below the woodland plateau. The structures at the appeal site are seen as intruding into this otherwise sizeable gap. Although the scale of the development itself is modest, its location and siting in the middle of otherwise undeveloped countryside has an obviously encroaching effect. This is somewhat tempered by the moveable nature of the structures on site and the design of the amenity buildings which, being of wooden construction, do not look significantly out of place although their domestic purpose is evident. Surrounding buildings on Sandy Lane and beyond Parkside Lane mean the site has some transitional characteristics, which limit

the harm by reason of encroachment. Nonetheless there is moderate harm to the purpose of safeguarding the countryside from encroachment.

27. The development is inappropriate by definition in the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt, whether definitional or otherwise. Here I have found there to be moderate harm to openness and also to the purpose of safeguarding against encroachment.

28. It is unnecessary to disaggregate the weight to be attributed to each element of harm to the Green Belt rather than to make an overall finding. Here I find that the overall harm to the Green Belt attracts slightly more than substantial weight against the development, whether as existing in the Appeal A appeal or as proposed in Appeal D.

Cannock Chase AONB and character and appearance

29. Core Policy 2 sets out that the Council will support developments where they protect, conserve and enhance the District's natural assets and are not contrary to the control of development within designated areas including the Cannock Chase AONB. Policy EQ4 provides that development within the AONB and its setting will be subject to special scrutiny in order to conserve and enhance the landscape, nature conservation and recreation interests of the area.

30. A Landscape Sensitivity Assessment of July 2019 had the purpose of providing an assessment of the extent to which the character and quality of the landscape abutting the West Midlands conurbation within the Black Country and South Staffordshire and also around settlements in South Staffordshire is, in principle, susceptible to change as a result of introducing built development. Thus the assessment does not consider the whole of the district, but is directed to considering land parcels around the settlement edges.

31. The appeal site falls within one such land parcel, SL72, which covers the 'square' previously referred to as well as the fields beyond Parkside Lane up to the common at Shoal Hill. The study found the parcel to be of the highest landscape sensitivity, described as being due to its natural and recreational character within the AONB and consideration of the impact of development on the special qualities of the landscape as part of a nationally designated area. Parcel SL71, containing the bridleway from which the appeal site can be viewed from the south west, is said to be of moderate landscape sensitivity.

32. Pasturing for horses appears typical on this urban fringe of the AONB. I observed that much of parcel SL71 visible from the bridleway was divided into smaller fields providing horse pasture, divided by post and wire fencing with associated buildings along Sandy Lane in the valley bottom. On the far side of Sandy Lane, in parcel SL72, the field pattern appears one of larger fields but nonetheless the impression is one of a horse-dominated landscape set against the framework of woodland on the higher ground beyond and against the urban area to the east. There was some consensus at the hearing that this edge of settlement landscape differs in character from the wider AONB, which does not in general repeat this pattern of smaller fields subdivided by hedging and post and wire fencing and put to use as horse paddocks and horse related development such as stables. The proximity of this part of the AONB to the

urban area makes it particularly vulnerable to such urbanising influences, but at the same time these 'horsicultural' developments are undoubtedly already part of the character of this part of the AONB.

33. As to whether this residential caravan site harms the objectives of the AONB designation or its particular landscape character, I bear firmly in mind that the PPTS does not counsel against the provision of gypsy or traveller sites within AONBs or other designated landscapes. New sites in open countryside that is away from existing settlements should be strictly limited; but although there is some separation from the edge of Cannock, I do not find that the site is sufficiently 'away from' the settlement so as to offend this requirement.

34. There is some propensity for improvement of the appearance of the site through additional planting and better management of existing hedgerows. The fence erected alongside Parkside Lane could potentially be removed, thus omitting that particularly discordant feature when the site is viewed from the bridleway. The provision of accommodation meeting the needs of a particularly vulnerable demographic is consistent with the designation of the AONB as a living landscape catering for its residents. Nonetheless overall I find there is considerable harm to the landscape of the AONB caused by the development. Whilst the amenity buildings have been constructed in generally sympathetic materials, the amount of development on the site is very different from that in the surrounding fields, introducing urban features detracting from the natural beauty of this landscape and compromising the integrity of the 'square' and the landscape parcel and thus the AONB as a whole. Thus I find the development, either in Appeal A or in Appeal D but more so the latter because of the increased number of caravans, to be contrary to criterion 8(b) of policy H6 and to policy EQ4.

35. The Framework advises that great weight should be given to conserving and enhancing landscape and scenic beauty in designated areas including AONBs, with the scale and extent of development within such areas to be limited. Whilst the development is of a relatively limited scale, I nonetheless find that it does not conserve or enhance the landscape and I accord this considerable adverse weight.

36. As to the users of public rights of way, their use is not directly interfered with by the development and the adverse impacts on the user experience do not attract additional weight to that I have attributed already. To do otherwise would be to 'double-count' the harm, as the use of public rights of way in and outside the AONB is already integral to the user's experience of the designated area. Nor do I consider that the Council's complaint of the development affecting the local character and appearance attracts any different considerations from those arising in relation to the AONB.

Cannock Chase SAC

37. Consistently with the Habitats Regulations, Policy EQ2 prohibits development unless it can be demonstrated that adverse effects on the integrity of the Cannock Chase Special Area of Conservation will not arise. The Council gives effect to this by requiring payments into a fund used to secure habitats offsetting or mitigation measures where residential development occurs within a 'zone of influence' of the SAC. The reasoning is that new residential occupiers are likely to give rise to increased visitor numbers to the SAC thus requiring

access management measures to avoid a cumulative significant effect on the SAC.

38. Here, the appellants have submitted unilateral undertakings to pay the requisite sums of money and thus the development is not likely to have any significant effect on the SAC. This is a neutral outcome in the planning balance.

Intentional Unauthorised Development

39. The appellants have previously engaged with the local planning authority, in seeking and obtaining permission for the change of use to stabling and keeping horses together with operational development. They are aware of the requirements for planning permission. It was conceded at the hearing that the works to facilitate the development were carried out as a result of their decision to make the site their home, with previous residential occupation in bricks and mortar housing not having been successful. The Council were quickly alerted and a temporary stop notice issued the same day as a team of 15 or 20 men were observed on the site driving plant and machinery or shovelling hardcore. By this time three touring caravans had been sited on the land, in which the appellants and their families have taken up occupation.

40. The enforcement notice, a stop notice and injunctive proceedings followed, all running in tandem. At the hearing I was informed of some 'minor' development in breach of the various notices, such as the levelling out of piles of hardcore on the site. There has however been no substantial additional development since the Council's first notice, although that was served, albeit without delay, at a time when the site had already rapidly been made habitable by the appellants.

41. The Ministerial Statement explains that the Government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases there is no opportunity to appropriately limit or mitigate the harm that has already taken place.

42. The appellants have not lived (save for periods when travelling away) on an authorised site for some 20 years, and moving onto this site was explained to me as a deliberate choice. The need for permission was acknowledged, and I find that the development was 'intentionally unauthorised'.

43. Nonetheless this consideration does not attract considerable adverse weight in these circumstances. The amenity buildings are not 'built in' and they and the hardcore are readily removable. The soil removed has been retained on the site and so altogether the development is readily reversible. The works were obviously planned and co-ordinated so as to take place over a very short period of time, but nonetheless there have been no significant breaches of the Council's notices and there is no intention by the Council to prosecute such minor breaches as may have arisen. The appellants have since sought to regularise the development by appealing the enforcement notice on ground (a) (Appeal A) and/or by seeking the planning permission that is now the subject of the s. 78 appeal (Appeal D). The works that have taken place do not go significantly beyond what was needed to create a habitable environment for the appellants and their families.

44. Thus in the context of the statutory regime that makes provision for retrospective applications, where unauthorised development is not in itself a criminal offence, and where the enforcement regime is designed to be remedial rather than punitive, I attribute moderate adverse weight to my finding that the development has been intentionally unauthorised.

Other matters

45. The existing injunction prohibits a grid connection from being made to serve the caravans, and as a consequence the appellants are presently running two generators, one of them particularly noisy and clearly audible from surrounding properties, in the field adjacent to the caravans. It appears to me that the use of the generators is likely to cease whatever the outcome of the appeals. If allowed, the relevant injunctive prohibition will be discharged, so enabling a grid connection to take place. If dismissed, the caravans will need to be removed from the site and thus the generators will not be required.

46. Other matters raised by local residents concern highway safety and other impacts on their own living conditions. I do not consider, other than the noise from the generators, the site to be unduly intrusive on neighbouring living conditions by reason of any overlooking or privacy considerations, although I acknowledge that there is some existing intervisibility and this will be augmented during the winter months.

47. As to highway safety, there is no objection to the development by the local highway authority. Sandy Lane is a single track road (with passing places) and the intervisibility when entering the road from Church Lane is poor. However this affects all traffic along the road. The actual access into and egress from 'Sandy Acres', as the appeal site is now known, has adequate visibility. I do not think this matter warrants dismissing the appeal, especially in the light of the local highway authority's view.

48. A further concern expressed by local residents is the apparent inevitability of further development nearby in future years, either because allowing these appeals would set a particular precedent or because the growing needs of the appellants' families would require an expanded site in the future. I acknowledge these concerns but where, as here, there is a presumption against any future development in the Green Belt and very special circumstances would have to be demonstrated in order to justify it, it is impossible to conclude that a precedent would be set. Any future development proposal would have to be considered in the particular circumstances of that case.

49. Nonetheless I do accept that to allow this development would potentially result in a different appraisal of the contribution of the adjacent fields, especially those lying closer to the urban area to the east, to both the openness and purposes of the Green Belt and to the landscape character of the AONB. Thus a permission here could have some impact on how any future development proposals nearby would come to be appraised. However, in the absence of any demonstrated realistic anticipation of other development proposals in the vicinity, I am not prepared to attribute any further adverse weight beyond the effects of the development proposal itself, in either Appeal A or Appeal D.

Other considerations

Need for and supply of sites

50. The Council's GTAA of August 2021 identifies a need for 121 pitches in the period to 2038, 72 of those by 2025. The need figure is considered by the appellants to be an underestimate for reasons including that the anticipated new households formed from those not meeting the planning definition (i.e. gypsies or travellers but perhaps no longer of nomadic habit) are assumed not to meet the planning definition themselves. The total need figure is for 154 pitches when including those who do not or are assumed not to meet the planning definition.

51. An existing Site Allocations Document ('SAD') of 2018 allocates 20 new pitches and a recent pitch deliverability study of 2021 identifies a total of 57 pitches that could be delivered in the period 2021 – 2025. The Council's preferred options consultation, informed by this study, identified suitable sites for 42 pitches, all in the Green Belt.

52. Ten additional pitches have been authorised since the SAD was adopted and I heard that 11 of the sites allocated in the SAD remain undeveloped (or unauthorised). Notwithstanding the scope for overlap between these figures, on any analysis there is a considerable shortfall in supply, and the Council acknowledge this to be the case and agree that they do not have a five-year supply of sites.

53. The PPTS sets out that where a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration when determining an application for a temporary planning permission, but not where the permission sought is in the Green Belt. The permission sought here is permanent. I give moderate weight to the unmet need for sites in favour of the proposals.

Alternatives

54. The Council also acknowledge that there is no realistic alternative site available to the appellants. A number of letters were supplied to me at the hearing from those in charge of existing sites in the vicinity, all with the general message that the sites are full and no vacant pitches are anticipated. These included correspondence from the appellants' extended family's sites in the area.

55. The appellants explained to me that their temporary stay in bricks and mortar accommodation was unsuccessful, and I agree that this would not be a reasonable alternative. There does not appear to be any reasonable alternative accommodation for the appellants and their families and I have given this significant weight.

Personal circumstances

56. The appellants all have young families, with a current total of six adults and seven children living on the site, the children ranging in age from infants to 11. The appellants explained their rationale for moving onto the site as being to create a settled base in order to allow for a better education for the children. It was explained that the children's schooling has suffered some considerable

disruption as a result of the appellants' previous residences on unauthorised sites and frequently being ordered to move on.

57. A letter was produced from an administrative assistant at a nearby primary school confirming that two of the families' children are on the roll. Another child was due to start in the Autumn Term 2022. The oldest child living on the site is now of secondary school age. At the date of the hearing no attempt had been made to enrol that child in a secondary school, although I was assured it would happen.

58. No attendance records have been supplied to me although I understand that the children's attendance at school has improved since the families moved onto the site. Some term time is spent travelling with their parents although arrangements can be made for remote schooling when that occurs. As the families have no alternative site it is likely that the children's school attendance would be more sporadic if the appeals are dismissed. The ability of the site to provide a settled base for the children to acquire an education is an important consideration, although the failure to enrol the eldest child in secondary school at less than a week before the start of the academic year tempers its significance. Nonetheless I attach significant weight to this factor.

59. All of the families are registered with local medical practices. No particular health needs, save for peri-natal care as the families may grow, and which is not identified as requiring proximity to any particular medical practice, were identified. Nonetheless I attach a small amount of weight to the generalised benefit to the families' health and well-being of a settled home base.

60. Although moving between sites, the appellants have lived and travelled together in their family group for many years. With longstanding local connections and as the owners of the appeal site, it is a convenient place for them to live. I attach moderate weight to the ability of the site to enable the families to live together, as the PPTS seeks to facilitate.

Whether the harm is clearly outweighed by other considerations

61. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations. Only then can a permission be justified.

62. The substantial harm caused by reason of inappropriateness and the harm to openness and the purpose of safeguarding against encroachment of the countryside carries slightly more than substantial weight against the proposal. The harm to the AONB character carries additional considerable weight against the proposal.

63. Although the development meets all the criteria of local policy H6 with the exception of criterion 8 on the two counts of harming the openness of the Green Belt and of harming the AONB, because of those exceptions it does not amount to sustainable development.

64. Nonetheless I give moderate weight to the compliance with the remainder of the relevant criteria-based policy. The unmet need for sites in the district and the Council's failure to meet the need carry moderate weight in favour of the proposals. The lack of any reasonable alternative also carries significant weight in favour of the development. By enabling the families to maintain their local

connections and to live together in a family group, and allowing the children to attend school on a regular basis, the development provides social and economic benefits. I attach weight to all these factors as set out above, particularly significantly to the educational benefits.

65. Nonetheless whilst the families' otherwise unmet personal needs and circumstances, and the general unmet need, are important factors, I do not find them to justify the permanent harm to the Green Belt and to the landscape character that have arisen. In this I am mindful of the best interests of the children involved, with no other factor in the case being inherently more important.

66. My attention is also drawn to human rights considerations arising from the European Convention requiring the protection of property (A1P1) and respect for the home and private life (article 8). To dismiss the appeals would be to interfere with these qualified rights. This is justifiable where there is a clear legal basis for the interference, which in this case would relate to the regulation of land use in the exercise of development control measures, and the interference is necessary in a democratic society. I consider below whether this is the case. It is also necessary not to deny the right to education (A2P1). I am also mindful of my duties to facilitate the way of life of gypsies and travellers, and to eliminate discrimination, promote equality of opportunity and foster good relations where relevant protected characteristics arising under the Equality Act 2010 are concerned. I am mindful of all these matters in reaching my conclusions.

67. The accommodation need in the area is due to be assessed through the local plan process. Although there has been slippage in the timetable, the present aim of the Council is to achieve an adopted Plan by the end of next year. Sites which best meet the need with least harm to the environment should come forward through that process. Whilst at present the site suitability study has failed to identify sufficient sites to meet the need identified by the latest GTAA (or the more extensive need identified by the appellants), the Council has identified the provision of sites in the past that have met the locally specific criteria of policy H6. Although the district is highly constrained, both by the Green Belt and by other factors such as designated landscapes and nature conservation interests, I am not persuaded that harm of such significance as that resulting from the development of the appeal site is necessary in order to provide adequate sites to meet the need.

68. Whilst the appeals seek permanent planning permissions, I have considered whether, particularly in view of the emerging Local Plan, a temporary permission should be forthcoming. This would not substitute for a permanent site but would give the families an opportunity to pursue a site through the DPD process. There is a moderate need for each family to remain in situ whilst there is no alternative accommodation available, particularly in the light of the children's educational needs and the benefit to the families of remaining together.

69. The harm occasioned by temporary development would necessarily be limited by reason of the time involved, and the parties agreed at the hearing that on cessation of any temporary or personal permission the operational development on the site (save for the stable block and limited hardstanding

associated with that) should be removed, so mirroring the requirements of the enforcement notice that would otherwise be upheld.

70. The lack of a five year supply of sites is said by the PPTS, in relation to sites in the Green Belt or an AONB, to be an exception to the requirement to treat that lack of supply as a significant material consideration when considering a temporary planning permission. The PPTS is silent as to what particular weight should be attributed to a shortfall in supply on determining a temporary permission in these circumstances; instead the general position is that personal circumstances and unmet need should not, subject to the best interests of children, be likely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

71. That being the case, I am unable to find that a temporary permission is justified here. Given the very substantial policy objections to the development that exist at this site, without realistic prospect of future change, I do not consider this a suitable case for allowing a temporary permission. It is still necessary to attribute substantial weight to any Green Belt harm, even if temporally limited, and I do not consider that this and the other identified harm is clearly outweighed by the remaining factors in favour of the development, and consider that the interference with the families' human rights and the interests of the children would still be a justified and proportionate response. Very special circumstances justifying a temporary grant of planning permission do not exist.

72. It follows that I do not find there to be very special circumstances justifying a permanent permission either.

The appeals on ground (g)

73. If permissions are not forthcoming then a period of 12 months to comply with the notice is sought in each of appeals A – C. Given that we are at the start of the academic year, I consider that a period of 12 months to vacate the site and comply with the additional requirements is a reasonable one, in order that the children may avoid changing schools (if that is the consequence of my decision) mid-year. Accordingly these appeals succeed to this extent and I shall vary the requirements of the notice accordingly.

Conclusions and Formal Decisions

Appeals A - C

74. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice with corrections and variations and refuse to grant planning permission on the deemed application.

75. It is directed that the enforcement notice be corrected and varied as follows:

- Delete the text at allegation 3(i) and replace with "The unauthorised change of use to a mixed use for residential and the stabling and keeping of horses"
- Delete the text at requirement 5(1) and replace with "cease the unauthorised mixed use"

- Delete the text at requirement 5(6) and replace with "restore the land to its former condition"
- To requirement 5(9) add "except insofar as its constituent materials are used to restore the land to its former condition pursuant to requirement (6) above"
- Omit all text concerning the Time for Compliance and replace with "12 months from the date this notice takes effect"

76. Subject to those corrections and variations, the appeals are dismissed and the enforcement notice upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal D

77. The appeal is dismissed.

Laura Renaudon

INSPECTOR

APPEARANCES: MAIN PARTIES

FOR THE APPELLANT:

Raymond Clee	Appellant
Joseph Clee	Appellant
Jamie Clee	Appellant
Philip Brown	Agent

FOR THE LOCAL PLANNING AUTHORITY:

Paul Turner MATP MRTPI	Planning Consultant
Catherine Gutteridge	Planning Enforcement Team Manager
Julia Banbury	Cannock Chase AONB

DOCUMENTS SUBMITTED AT THE HEARING:

1. Correspondence from other residential caravan sites	Appellants
2. Correspondence concerning education and the families	Appellants
3. Unilateral Undertaking	Appellants
4. Pitch Deliverability Assessment August 2021	LPA
5. GTAA August 2021	LPA

APPENDIX B

The Planning Inspectorate

Appeal Decisions

Hearing held on 24 November 2022

Site visit made on 24 November 2022

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2023

Appeal A Ref: APP/C3430/C/22/3303085
Land off Micklewood Lane, Penkridge, South Staffordshire ST19 5SD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Bryan Rogers against an enforcement notice issued by South Staffordshire District Council.
- The notice was issued on 14 June 2022.
- The breach of planning control as alleged in the notice is
  (i) Without planning permission, the material change of use of the Land to a mixed use comprising an agricultural use and the use of the Land for the stationing of caravans for residential purposes as a gypsy and traveller site and associated parking of vehicles.
  (ii) Without planning permission, the unauthorised siting of caravans on the Land for the purposes of human habitation.
  (iii) Without planning permission, the importation of materials on to the Land to form hardstanding in the location hatched blue on the Plan for the siting of caravans to facilitate the unauthorised use of the Land as a gypsy and traveller site.
- The requirements of the notice are to:
  (i) Cease the unauthorised use of the Land for the stationing of caravans for residential purposes as a gypsy and traveller site.
  (ii) Remove from the Land all unauthorised caravans.
  (iii) Remove from the Land all vehicles associated with the unauthorised material change of use of the Land.
  (iv) Remove from the Land the unauthorised hardstanding located in the position hatched blue on the attached plan which has been constructed to facilitate the unauthorised use referred to in (i) above.
  (v) Reinstate the Land to agricultural land by reseeding or returfing the land where the unauthorised hardstanding is located with a mixture of wild-flower mix or a 6-% to 40% mix of wildflower and grass seed.
  (vi) Remove from the Land all materials arising from compliance with (iii)–(v) above.
- The periods for compliance with the requirements are:
  Steps (i) – (iii) Two months
  Step (iv) Four months
  Step (v) Five months or the next available planting season, whichever is the soonest after compliance with step (iv) above.
  Step (vi) Five months
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Appeal B Ref: APP/C3430/W/22/3306032
Land north of Micklewood Lane, Hatherton, Penkridge ST19 5SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Bryan Rogers against the decision of South Staffordshire District Council.

- The application Ref 22/00473/FUL, dated 8 May 2022, was refused by notice dated 26 August 2022.
- The development proposed is change of use of land to use as residential caravan site for 4 gypsy families, including stationing of 6 caravans, laying of hardstanding and erection of communal amenity building.

Decisions

Appeal A

1. It is directed that the notice is corrected by:

    - The deletion of section 3(i) and its substitution with:

        Without planning permission, the material change of use of the Land to a mixed use comprising the use of the Land for the keeping of horses and the stationing of caravans for residential purposes as a gypsy and traveller site and associated parking of vehicles.

    - The deletion of section 3(ii) and renumbering of section 3(iii) as 3(ii)

    - The deletion of section 3(ii), as renumbered, and its substitution with:

        3 (ii) Without planning permission, the importation of materials on to the Land to form hardstanding in the location hatched blue on the Plan for the siting of caravans to facilitate the use of the Land for a mixed use comprising an agricultural use and the use of the Land for the stationing of caravans for residential purposes as a gypsy and traveller site and associated parking of vehicles.

    - The deletion of section 5(i) and its substitution with:

        5(i) Cease the use of the Land for a mixed use comprising the use of the Land for the keeping of horses and the stationing of caravans for residential purposes as a gypsy and traveller site and associated parking of vehicles.

    - The deletion of the word 'unauthorised' from sections 5(ii), 5(iii) and 5(iv).

    - The deletion of section 5(v) and its substitution with:

        5(v) Restore the Land to its condition before the breach took place.

2. It is also directed that the notice is varied by the deletion of the time periods of compliance set out in section 5 and the substitution of 12 months after the notice takes effect as the time period for compliance with requirements (i) to (vi).

3. Subject to the corrections and variations, Appeal A dismissed, and the enforcement notice is upheld.

Appeal B

4. Appeal B is dismissed.

Preliminary Matters

Appeal A

5. The appellant introduced an appeal under ground (d) at the Hearing. This was on the basis of information which had been submitted by the appellant shortly before the Hearing opened. The information was in the form of statutory declarations (SDs) from the previous owner of the land and his accountant and letters from local residents. The authors of the SDs were not present at the Hearing.

6. Having taken account of the late introduction of the ground (d) arguments, which had not been submitted formally in accordance with the timetable and in advance of the Hearing, I considered that the Council would be prejudiced were I to include ground (d) as an item on the agenda for the Hearing. The nature of the submissions was such that it would not be necessary to take evidence under oath, which in any case is not possible as part of a Hearing.

7. Taking all of these matters into account I decided that the most appropriate way forward, which would also make effective use of the Hearing, was to deal with Appeal B and ground (g) of Appeal A at the Hearing, and to invite written representations from the parties on ground (d) of Appeal A.

Appeal B

8. Appeal B relates to an application for planning permission and the appeal site is smaller than that which is the subject of the enforcement notice. The use of the land is confined to use as a residential caravan site for 4 gypsy families i.e. the application does not relate to a mixed use. This use has commenced, but the site is not laid out as shown on the plan submitted with the planning application. The area of new hardstanding is a different shape, and the dayroom has not been constructed. Neither the erection of post and rail fencing separating the caravan site from other land in the appellants ownership, nor the hedge/tree planting have commenced.

9. I observed during my site visit that there are a number of caravans and vehicles on the site. There was also an unused caravan and stable buildings which the appellant indicated had been left by the previous owner and a small w.c building. The appellant also said that he had installed a water treatment device and pointed to ground work which had been carried out to link the toilet to it.

10. The appellant said that he had constructed a fence around his land and this feature was present. It is not the post and rail fence shown on the submitted plans. The new fence is constructed of timber and in some areas it is topped by green netting. It is set against the roadside planting made up of trees and hedges. There was also a gate at the entrance to the site off Micklewood Lane. None of these boundary features are shown on the submitted plans. Therefore, they are not before me for consideration as part of the appeal and the extent to which they constitute development for which planning permission is required is a matter for the Council.

11. There is no dispute between the parties that the use has commenced and that this has implications for the determination of the appeal including the detailed wording of planning conditions and Unilateral Undertaking if relevant.

12. In response to my requests the Council provided more information about the Cannock Chase Special Area of Conservation (SAC) and the appellant also submitted a Unilateral Undertaking in respect of mitigation measures in relation to the SAC before the Hearing was closed in writing on 2 February 2023.

The Plans (Appeal B)

13. The plans submitted with the planning application included two layout plans. One of these plans is the proposed layout plan and I have re-labelled that plan to distinguish it from the other layout plan and determined Appeal B on the basis of the proposed layout.

The Notice (Appeal A)

14. In its response to the appellant's submissions on ground (d) the Council states that 'the established primary use of the appeal site is for the keeping of horses'. The breach as described in the notice refers to agricultural use which is not the same as a use for the keeping of horses. I have asked the Council for its views on correcting the notice to address this point and the Council has confirmed that it has no objections.

15. I shall therefore correct the notice to describe the allegation set out in 3(i) as follows:

    Without planning permission, the material change of use of the Land to a mixed use comprising the use of the Land for the keeping of horses and the stationing of caravans for residential purposes as a gypsy and traveller site and associated parking of vehicles.

16. The importation of materials to form a hardstanding is set out as a separate breach and it does not require correction.

17. The allegation is in three parts and in effect part (ii) replicates part of part (i) because both parts refer to the stationing/siting of caravans on the land. This repetition is unnecessary, and I sought comments from the parties regarding the deletion of part (ii). Neither of the parties had any objections to this correction and it would not lead to injustice.

18. The allegation relates to a mixed use of the land, however in terms of the works to set out in part 3(iii) of the notice, reference is only made to use as a gypsy and traveller site. I raised this matter at the Hearing and neither party had any concerns about the correction of the notice so that the works relate to the mixed use. There would be no injustice to either party and I shall correct the notice accordingly.

19. The requirements of the notice must flow logically from the allegation. In this case the allegations, as amended, relate to a mixed use but requirement 5(i) refers to the use of the Land as a gypsy and traveller site only. I can correct requirement 5(i) to refer to the mixed use without causing injustice to the parties.

20. Requirement (v) specifies the use of wildflower mix or a combination of wildflower and grass seed in relation to the restoration of the site. However, there is no evidence before me to demonstrate that the land sustained such plants. For that reason, requirement (v) is excessive and a straightforward requirement to return the land to its condition prior to the breach taking place

is more appropriate. Injustice would not be caused to either party if requirement (v) is varied accordingly.

21. The notice includes several instances of the word 'unauthorised' which is unnecessary and shall remove these words.

Appeal A – ground (d)

22. An appeal on ground (d) is on the basis that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. This is a legal ground of appeal, and the onus of proof lies with the appellant. The evidence must be sufficiently precise and unambiguous, and the standard of proof is the balance of probabilities.

23. In order to achieve success under ground (d) the appellant must show that the MCU occurred on or before 14 June 2012 and has continued without interruption since that point in time.

24. The appellant has submitted what he has described as a statutory declaration (SD) by the previous owner of the site (Witness A). The veracity of the SD is limited because it does not make reference to the provisions of the Statutory Declarations Act 1835 (the SDA) or contain any sanctions for failure to tell the truth. Furthermore, the person completing the SD has also signed as a witness to his signature. As such the document cannot be classed as a SD and I have regarded its status as a signed statement which attracts limited weight.

25. However, Witness A does provide information about how the site has been used including over the time period between 14 June 2012 and when the notice was served.

26. Witness A says that he brought a caravan onto the land in 1994 and another caravan in 2000. He says that the second caravan provided all the facilities necessary for day to day living. Witness A says that he occupied a caravan on the land for residential purposes continuously for the past 30 years. However, this does not correlate with the date when he said that he brought the first caravan on, which would equate to 28 years use at the time when he wrote his statement.

27. Nevertheless, Witness A says that, whilst the site was not his sole residence, he slept in the caravan several nights a week, most weeks of the year and for more than 10 years. He says that he used to keep, breed and train horses on the land and that it was convenient for him to live close to the horses to look after them.

28. A second document which is described as a SD has been provided from the accountant and friend of the previous owner (Witness B). Again, the SD does not refer to the SDA and contains no sanctions. In this case the SD contains a witness signature, but the date of the signature by the witness is not compatible with the date of the declaration. As above, this document cannot be classed as a SD and the weight afforded to it is limited.

29. Witness B refers to Witness A keeping horses on the land and often staying overnight and at weekends in the mobile home. However, he does not say that he visited Witness A at the site and as such he does not provide first hand evidence of residential occupation.

30. A local resident stated in writing that there has been a caravan on the site for 33 years and a static home for 26 years and that Witness A spent most of his life there. Another local resident also wrote in to say that he had seen people living on the land, on and off, over the last 10-15 years in a caravan.

31. The observations by Witness B and local residents provide support for Witness A's and the appellant's description of the use of the site prior to the notice being served. Drawing these points together I find that there is evidence of some residential use taking place on the site alongside the keeping of horses. However, the evidence before me regarding a continuous occupation of the caravans is very limited at best and in the light of the limited weight which can be attached to it, is not convincing.

32. The Council argues that the primary use of the land has been for the keeping of horses/agriculture and that the use of the caravans was ancillary to this use and not a primary use of the land. The Council also says that the ancillary use could only reasonably be considered to relate to the limited footprint of the caravan and not the wider site used for the keeping of animals.

33. The residential use of a caravan is not a use which is ordinarily incidental to a primary use for either agriculture or the keeping of horses. Furthermore, even if the residential use were an ancillary element of the primary use it would not be restricted in terms of its location on the site where the development concerns a single planning unit as is the case here. In these regards the Council's position is unsound.

34. Notwithstanding the limitations of the Council's arguments, the onus of proof lies with the appellant and the evidence which he provides must be sufficiently precise and unambiguous. In this case the appellant is reliant principally on the evidence provided by Witness A because the role of Witness B and the local residents is to support what Witness A says about his occupation of the site.

35. Witness A does not provide any evidence in support of his written statement. He says that he lived on the site several nights a week most weeks of the year, but this description implies an intermittent level of occupation. In that respect evidence of an ongoing and continuous use of the caravans either since 2000 or for the ten year period prior to the notice being issued is both imprecise and ambiguous.

36. The appellant says that it is clear from Witness A's evidence that the caravan contained all of the facilities required for day-to-day living. However, there is no evidence of this beyond Witness A's statements and the appellant does not provide any first hand evidence himself of how the site was being used when he bought it. To that extent the evidence is limited. Furthermore, the appellant argues that the caravan was available for occupation. That is not the same as being occupied on a permanent basis and as I have found above Witness A refers to intermittent occupation.

37. The occupation of the caravan could have been suspended for several weeks of the year without conflicting with Witness A's evidence of occupation 'most weeks of the year'. There is no evidence to demonstrate that such periods would not have been significant breaks in what the appellant needs to establish as a continuous residential use of the caravan. At those times when Witness A was not living in the caravan it is reasonable to assume that the Council could

not have taken enforcement action against the residential use of the caravan, because it was not being used for that purpose.

38. Whilst the evidence before me shows that there has been some residential use taking place on the site alongside the keeping of horses, it has not been demonstrated on the basis of the evidence and the balance of probabilities that such a use has become immune from enforcement action by virtue of the passage of time.

39. For the reasons set out above the appeal under ground (d) fails.

Appeal B

Main Issues

40. The main issues are:

- Whether the change of use to a gypsy and traveller site is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.
- The effect of the proposal on the openness of the Green Belt.
- The effect of the proposal on the character and appearance of the site and the surrounding area and Mansty Wood which is an ancient woodland.
- Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

41. In making my decision I must have regard to the rights of the appellant and his family under Article 8 of the European Convention on Human Rights as incorporated into the Human Rights Act 1998. Article 8 affords the right to respect for private and family life and home, including the ability of Romany Gypsies to enjoy the particular lifestyle which is shared by their ethnic group. However, this is a qualified right which involves balancing the fundamental rights of individuals against the legitimate interests of others and the wider public interest. The concept of proportionality is crucial because a disproportionate or unjustified interference can result in the violation or breach of the appellant and his family's rights.

42. As required by the public sector equality duty (PSED) under the Equality Act 2010, I will also have due regard to the three aims identified in the Act – to eliminate discrimination, advance equality of opportunity and foster good relations. The families are Romany Gypsies which is an ethnic minority, and they have the protected characteristic of race under section 149(7) of the 2010 Act. I am also aware from the evidence that there are persons on the site with the protected characteristics of age. Therefore, the PSED is engaged in these appeals and the decisions must be proportionate to achieving legitimate planning aims.

Reasons

Inappropriate development in the Green Belt?

43. There is no dispute between the parties that the occupiers of the site are gypsies and that under Policy E of the Planning Policy for Travellers Sites (PPTS) the development is inappropriate development in the Green Belt.

44. The Statement of Common Ground (SOCG) sets out and the Council confirmed in the Hearing that the most relevant policies in the Development Plan, in respect of the Green Belt, are Core Policy 2, Policy GB1 and Policy H6 of the South Staffordshire Local Plan Core Strategy DPD (2012) (the Local Plan). These policies address the protection of and development within the Green Belt and Policy H6 in particular addresses development to meet the needs of gypsies, travellers and travelling showpeople in the Green Belt. The relevant policies are broadly in accordance with the National Planning Policy Framework (the Framework).

45. On the basis of the PPTS and in the light of the Framework and relevant development plan policies I conclude that the use of the site constitutes inappropriate development in the Green Belt. As such it is development which is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Effect on openness

46. The Council explained that 80% of its area is Green Belt and that Policy H6 allows a selective approach to be adopted in relation to the harmful effects of gypsy and traveller sites in the Green Belt in terms of openness.

47. The appropriate starting point for the consideration of the effect of a development on openness, is the appearance of the site before the subject development took place and what features could be on the site in accordance with its lawful use.

48. There is no dispute between the parties that there was a building on the land before the appellant bought it and brought his family on in their caravans. Whether this building has been used as stabling for horses or not, it is part of the baseline condition of the land in terms of the assessment of openness.

49. There were also two caravans on the land before the appellant began to use it. My conclusion on the ground (d) appeal (Appeal A) is that the use of the land as a whole for a mixed residential caravan site and agricultural use has not been conclusively established. Consequently, the appellants argument that such a lawful use of the land could result in an unlimited number of residential caravans falls away and the assessment of the effect on openness has to be made on the basis of the existing two caravans only.

50. The presence of caravans on the site and the works which have been carried out to facilitate the use of the land in the form of the hardstanding and the toilet building give an indication of the effect of the proposed layout and works on openness.

51. The hardstanding which is shown on the 'existing site layout' plan is limited to a track and turning area directly adjacent to the mobile home and stable building. By contrast the hardstanding which has been laid already is more

expansive and the 'proposed layout' plan shows this extending even further across the site. The use of the hardstanding for siting caravans and parking vehicles inevitably leads to a significant loss of openness.

52. The proposed site layout includes an area of tree planting within the site. Whilst this may ensure the protection of this undeveloped part of the site, given its small size the contribution towards the retention of openness would be limited.

53. The proposed dayroom occupies roughly the same position close to the end of the access track as the existing unused caravan on the site and in this respect, there would be a neutral effect on openness.

54. The appellant owns land to either side of the proposed caravan site, but this land is not included in the application site and its future use is not shown on the plans nor has it been stated by the appellant. Therefore, it's continued contribution to openness is unknown.

55. The current use of part of the wider site for the stationing of caravans demonstrates that the introduction of caravans already has a significant visual impact on the site in comparison with its prior largely open appearance. The expansion of the hardstanding and the introduction of four larger static caravans will have a greater visual impact on openness than the current arrangements and the previous condition of the land.

56. Drawing all of these points together I find that the development would have a significantly harmful effect on the openness of the Green Belt.

Character and appearance

57. Policy H6 of the Local Plan requires that gypsy and traveller sites be sited and landscaped to ensure that any impact on the character and landscape of the locality is minimised. The Council confirmed that this is a relevant policy for the consideration of character and appearance, along with, in its view, Core Policy 2 and Policies EQ4, EQ11 and EQ12.

58. Core Policy 2 concerns the protection and enhancement of the natural environment, Policy EQ4 deals with the landscape, EQ11 refers to local character and distinctiveness and EQ12 addresses landscaping.

59. The appellant considered that conflict with general policies such as Core Policy 2 should not be used to frustrate consideration of specific policies such as Policy H6. However, the development needs to be assessed against all relevant policies in the development plan which are those identified by the Council and in any event the 'general' policies allow for the flexibility required by the PPTS in relation to the development of gypsy and traveller sites in sensitive locations.

60. Mansty Wood is a dominant feature in the area comprising a densely treed space with roadside and field edge boundaries. It is an area of ancient woodland which is referenced in Policy EQ1 and EQ4 and this designation is also recognised as being of importance by the Framework.

61. The area around the site is rural in character with sporadic development which appears to be associated with its countryside location such as agricultural buildings and stables. There is some residential development associated with

these uses, but this is limited, and it does not detract from the natural environment. Although within the Green Belt, the site and the area around it does not fall under any landscape designation.

62. The appellant owns a triangular area of land at the junction of Micklewood Lane with Cannock Road and the site occupies the middle section of his land. It is accessed via a track which runs along the boundary with Mansty Wood.

63. Micklewood Lane is a meandering country road, in contrast to Cannock Road which has a straight alignment and carries more traffic. Neither Micklewood Lane nor Cannock Road have pavements or street lighting and neither highway would be an attractive walking route. The site is largely screened from view by the trees and hedges on the roadsides, which are particularly dense alongside Cannock Road. The clearest view of the site is from the access onto Micklewood Lane and most likely from passing cars.

64. Both parties are in agreement that there are gaps in the screen planting which afford views of the site and that the caravans and other features would be more visible when there are no leaves on the trees and hedges. The Council confirmed at the Hearing that its concern was in respect of views within and from the site edges as opposed to longer views from the surrounding area. From my observations during the site visit, particularly the characteristic flat landscape, I concur with the Council's view that the site is not readily visible within the countryside around it.

65. The previous development on the site, comprising the stables and two caravans, was positioned alongside the boundary with Mansty Wood and the stable in particular would have blended in with its densely treed backdrop. The restricted amount of hardstanding would have prevented any vehicles or caravans from occupying those parts of the site clear of the boundary with the wood and to that extent would have contained the views of development from Micklewood Lane. There is no evidence before me to demonstrate that the other parts of the site would have been other than open grassland consistent with the character and appearance of the wider area.

66. The existing caravans on the site are clearly visible from the access on Micklewood Lane. Their appearance is at odds with the otherwise green and natural characteristics of the site and surrounding land. As a consequence of their position on the site and finish, the caravans and associated vehicles are in stark contrast to Mansty Wood and do not merge with the natural backdrop of densely packed trees.

67. The proposed layout would lead to a further incursion into the site and would position caravans and vehicles at a significant distance from the edge of Mansty Wood. As such the development would dominate the site and the characteristic relationship between the wood and the field edge would be significantly undermined.

68. The proposed post and rail fencing and hedge planting which would differentiate the site from the adjacent land would be consistent with boundary treatment in the surrounding area.

69. Proposed tree planting is shown on the layout plan. However, there are no details regarding the size or species of trees, nor any evidence to demonstrate that the tree screen would soften views of the caravans. Thus, it has not been

shown that the development has been sited and landscaped so as to ensure that any impact on the character and landscape of the locality is minimised.

70. Even if this were to be shown it is reasonable to assume that the use of the site would give rise to frequent comings and goings of residents along the access and necessary domestic paraphernalia such as letter-boxes and refuse bins. These activities and facilities would fall outside the tree screen and would form part of the change in character of the site which would be at odds with the rural nature of the surrounding area.

71. I conclude that the change of use of land to use as a residential caravan site would have a significantly harmful effect on the character and appearance of the site and the surrounding area. The development is therefore contrary to Core Policy 2 and Policies H6, EQ4, EQ11 and EQ12 of the Local Plan which seek to protect the natural environment, landscape and local distinctiveness.

Mansty Wood

72. Mansty Wood is an ancient woodland. Although the site is not within the wood itself it shares a boundary with it and the proposed dayroom would be within the 15 metre buffer zone recommended by government guidance.[1]

73. Policies EQ1 and EQ4 of the Local Plan require that ancient woodland is protected from damage and that new development will not cause significant harm to natural assets including ancient woodlands. The Framework also states that the loss or deterioration of irreplaceable habitats such as ancient woodland should be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists.

74. The Council's concerns relate to both the effect of the proposals on the ancient woodland as part of the character of the area, which I have addressed above, and the potential for direct effects on it arising from the construction of the dayroom and connections to services.

75. The appellant argues that works have already been carried out within the buffer zone in the form of hardstanding and the concrete base for the mobile home and that they have not affected the woodland. However, there is no comparative information to show how those works relate to the proposed works necessary to provide the dayroom. On that basis it has not been demonstrated that the further works to form foundations for the dayroom and connections to services would not have an adverse effect on the woodland.

76. Furthermore, although a service run has been laid to join the toilet building to the treatment plant which has been installed on site, it has not been shown that these works would provide sufficient capacity for the day room.

77. There is potential for the woodland to be affected by the works. However, the dayroom has not yet been constructed and the Council has agreed that the means of its construction and connection to services could be the subject of a planning condition. Such a condition could be drafted so as to meet the tests for conditions set out in Planning Practice Guidance and I am satisfied that it would address the potential harm to the ancient woodland in this case.

[1] Natural England and Forestry Commission Ancient woodland, ancient trees and veteran trees: advice for making planning decisions January 2022

78. I conclude that subject to the imposition of a planning condition, the change of use of land to use as a residential caravan site would not have a harmful effect on Mansty Wood. The development is therefore in accordance with Core Policy 2 and Policies EQ1 and EQ4 which seek to protect the natural environment including ancient woodlands and with the Framework.

Other considerations

Local Plan Policy H6 – other criteria

79. I have found that the development would not accord with Policy H6 of the Local Plan. However, this is in respect of criterion 8 only. The Council has confirmed that in this case the use as a gypsy and traveller site would accord with the other criteria in Policy H6. To that extent the location could be said to be a good one for a gypsy and traveller site.

80. The appellant submitted two appeal decisions, one of which he subsequently confirmed was not relevant to this case. The second decision related to appeals at Shadowbrook Lane, Hampton in Arden[2] in which the Inspector assigned substantial weight to her assessment that when read against the relevant criteria based policy the development performed reasonably well. The approach which I have adopted in respect of the other criteria in Policy H6 concurs with this Inspector's approach.

Intentional Unauthorised Development

81. There is no dispute between the parties that the change of use of the land and some of the operational development which is the subject of the appeal was carried out in advance of planning permission being granted.

82. At the Hearing it was established that the appellant thought he could bring his caravans on because there had previously been caravans on the site. However, he did take advice and a site visit with his agent was carried out before any caravans were stationed or other works commenced. As a consequence of the advice he received, the appellant submitted a planning application which was dated 8 May 2022. The caravans were brought onto the site by 14 June 2022 when the enforcement notice was served. This was before the planning application had been determined, therefore the use and associated works which have been carried out amount to Intentional Unauthorised Development (IUD).

83. A Written Ministerial Statement (WMS) dating from August 2015 establishes that IUD is a material consideration to be weighed in the determination of planning applications and appeals. The WMS relates to all forms of development not just that relating to gypsy and traveller sites and places particular emphasis on IUD in the Green Belt.

84. The appellant was clearly aware of the need for planning permission as he had submitted a planning application. However, he says that he had no alternative site available to him and he wanted to keep his family together. The appellant has not constructed the day room and the facilities available to him and his family on the site are the minimum necessary to provide for a habitable environment for its residents.

[2] Appeal Refs: APP/Q4625/C/13/2209742 and APP/Q4625/C/13/2209777

85. Bringing all of these points together I find that IUD has occurred but the weight which I attach to this is reduced by the fact that the appellant had no alternative site and that he has limited the amount of development which he has carried out. Consequently, IUD attracts moderate weight against the appellant's case that planning permission should be granted.

The need for and supply of gypsy and traveller sites

86. The Council is not disputing that there is a need for gypsy and traveller sites in the district. Policy H6 of the Local Plan sets out a need for 85 pitches based on the Gypsy and Traveller Accommodation Assessment (GTAA) 2004 for the period 2007 to 2028. At the Hearing the Council confirmed that the GTAA 2021 sets out a need for 121 pitches and that there is a need for 72 pitches in the current 5 year period. The appellant's figure was slightly higher for the five year period 2022 to 2027 at 76 pitches. Notwithstanding the precise figure there is an agreement that there is a significant need for new pitches.

87. Since the appeal was submitted the Lisa Smith judgement[3] has been published which relates to the interpretation of the PPTS and the application of that policy to gypsies and travellers who have ceased to pursue nomadic lifestyles. The GTAA 2021 sets out the need for households meeting the definition set out in the PPTS and also needs generated by undetermined households and those which do not meet the definition. Taking these additional households into account increases the need to a total of 154 pitches over the period 2021 to 2038.

88. In terms of the supply of pitches the Council produced a Site Allocations Document (SAD) in September 2018 which identified sites for 20 new gypsy and traveller pitches. The Council says that additional provision will come through its Local Plan Review DPD. However, it is unlikely that any sites will be brought forward as part of the review until 2025 at the earliest if the Council's anticipated programme is achieved.

89. The Council also points to its approach of using the most up to date information it has on the need for sites when it determines planning applications against the criteria in Policy H6. It also identifies 11 permanent pitches which have been granted in the Green Belt since the adoption of the SAD. This is an indication that the Council has not adopted an overly restrictive approach to supply.

90. Taking all of these points together, it has been shown that there is a need for gypsy and traveller sites in the Council's area and that the Council cannot currently identify a 5 year supply of deliverable sites. These factors, taken separately, weigh significantly in favour of the development.

Availability (or lack) of alternative accommodation

91. The appellant says that there are no suitable, affordable and acceptable sites available to him as an alternative to the appeal site. He has submitted letters from gypsy and travellers sites in the area which state that there are no vacant pitches available. His only option if he and his family were not able to stay on the site, would be to occupy an unauthorised, roadside site. The Council does not dispute the information provided by the appellant and is not aware of any sites which may provide alternative accommodation.

[3] Lisa Smith v SSLUHC [2022] EWCA Civ 1391

92. On this basis there is no evidence of any alternative accommodation being available which weighs significantly in favour of the development.

Personal circumstances of the appellant and his family

93. The development allows for a family to live together enabling them to provide support for each other, which is acknowledged as of importance to the gypsy and traveller community. The site also provides a stable base from which the residents can access essential services such as education and healthcare.

94. There are eight adults and eight children who would be residents of the site. Two of the oldest children are being home-schooled and the County Council has confirmed that they are receiving a suitable and effective education. Three of the children attend a local primary school where an advisory teacher says they have settled and integrated well and are making good progress. It is hoped that one of the two youngest children will start school in January 2023 and the youngest is a baby. Two of the children have access to a speech therapist for support.

95. The appellant says that all residents of the site are registered with the doctor, and this is corroborated by the County Council. Three adult residents have health conditions which require regular treatment. In general terms it would be beneficial for all of the residents to be able to access healthcare from a settled base.

96. On the basis of the lack of any identified available, alternative accommodation there is at least a possibility that the family would have to resort to life on the road in the event that it was unable to stay on the site. Such an existence in itself presents challenges in terms of maintaining a good standard of health and wellbeing and is not in the best interests of the children.

97. The Council did not have any comments to make on the personal circumstances of the appellant and his family.

98. Taking account of all of these factors, the personal circumstances of the appellant and his family, including the best interests of children, weigh significantly in favour of the development.

Other appeal decisions

99. The Council referred to three appeal decisions at New Acre Stables[4], 122 Streets Lane[5] and Doveleys Farm[6] which were issued in 2014, 2019 and 2022. The decisions all relate to sites within the South Staffordshire district and also within the Green Belt. I do not have the same detailed information before me as was before the other Inspectors and it is essential that each decision is made on its own merit. I can also see from the appeal decisions that there are differences in terms of the personal circumstances of the appellants. For these reasons the appeal decisions submitted by the Council are not determinative and have a neutral effect on the balance in favour of the appeal scheme.

[4] Appeal Ref: APP/C3430/A/13/2210160
[5] Appeal Ref: APP/C3430/W/18/3201530
[6] Appeal Refs: APP/C3430/C/21/3274332, APP/C3430/C/21/3274333, APP/C3430/C/21/3274334 and APP/C3430/W/21/3287902

The Local Plan review

100. The Council provided an update at the Hearing in respect of its Local Plan Review DPD (the DPD) which has reached the Regulation 19 consultation stage. Given that this document has not been examined or found sound, the policies which it contains currently carry no weight. I have had regard to the GTAA 2021 which is a background document to the DPD. I have already assigned weight to the issues of need and supply of gypsy and traveller sites and the lack of availability of alternative sites. Therefore, the lack of progress on the DPD which contributes to these circumstances attracts neutral weight so as to avoid any double-counting.

Green Belt balance

101. I have found significant harm to the Green Belt in relation to openness and that the development would have a significantly harmful effect on the character and appearance of the site and the surrounding area, contrary to Core Policy 2 and Policies H6, EQ4, EQ11 and EQ12 of the Local Plan. I am mindful that, by virtue of paragraph 148 of the Framework substantial weight should be given to any harm to the Green Belt.

102. In accordance with the WMS, I have also found that intentional unauthorised development (IUD) has taken place and I have concluded that in this case the IUD factor attracts moderate weight against allowing the appeal.

103. In favour of allowing the appeal, I attach significant weight individually to the need for gypsy and traveller sites, the lack of supply of sites particularly given the timescale of the DPD, the lack of available alternative accommodation for the appellant and his family and the personal circumstances of the appellant and his family.

104. The best interests of the children are a primary consideration, and no other consideration is inherently more important, however, they are not a determinative factor. In this case the best interests of the children who reside on the site weigh significantly in favour of allowing the appeal.

105. My conclusion that, subject to the imposition of a planning condition, the development would not have a harmful effect on Mansty Wood and my findings in relation to the other appeal decisions which were brought to my attention by the Council are neutral the Green Belt balance.

106. The Framework establishes that substantial weight should be given to any harm to the Green Belt and that inappropriate development, such as the appeal scheme, is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Policy E of the PPTS states that, subject to the best interests of the child, unmet need and personal circumstances, are unlikely to clearly outweigh harm to the Green Belt and any other harm.

107. The Framework makes it clear that the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the development must be clearly outweighed by other considerations for planning permission to be granted. In this case I find that although there are some matters which weigh in favour of the appellant, the cumulative weight of these other considerations does not clearly outweigh the substantial harm arising to the Green Belt in combination with the harm to the character and appearance of the surrounding area and the IUD.

108. Consequently, my initial conclusion is that the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist in this case. Accordingly, the development is contrary to Core Policy 2 and Policies GB1, H6, EQ4, EQ11 and EQ12 of the Local Plan and to the Framework.

Planning permission on a temporary/personal basis

109. The appellant is clear that he is seeking planning permission on a permanent basis, however it is necessary for me to consider whether a grant of temporary and/or personal permission is justified.

110. The substantial weight attached to any harm to the Green Belt is the same for a temporary as for a permanent permission. In this case the effect on openness and the harm to the character and appearance of the surrounding area would be moderated if the permission was of a limited duration.

111. The Council requested that if planning permission was granted it should be subject to a condition limiting the duration of consent until 31 March 2025. At the Hearing it confirmed that this timescale reflects the programme for its expected adoption of the DPD.

112. There is no certainty that the DPD will be delivered in accordance with the Council's ambitions and even if it were in place by that time there is no information before me regarding the likelihood that there will be an available site for the appellants in that timescale. On that basis it cannot be said that there is a reasonable expectation of a change in planning circumstances within a two year period and throughout that period and potentially beyond the harm which I have identified would endure.

113. There is no appeal under ground (a) in relation to the enforcement appeal (Appeal A) and the upshot of dismissing Appeal B is that the appellant and his family would have no alternative but to comply with the enforcement notice and leave the site. In the absence of any evidence to suggest otherwise they would end up on the roadside.

114. A temporary consent would enable the appellant and his family to remain on the site for a longer period. However, the positive outcome for the appellant and his family of such action is outweighed by the harm to the Green Belt and to the character and appearance of the site and the surrounding area in this case.

115. Similarly, a personal consent based on the occupation of the site by the appellant and his dependents would result in a continuation of the harm to the Green Belt and the character and appearance of the site and the surrounding area. In this case such an impact even of limited duration outweighs the benefits to the appellant and his family.

116. I conclude that granting permission on a temporary and/or personal basis does not change the Green Belt balance such that planning permission should be granted on either or both of these bases.

Human Rights including the Best Interests of the Children

117. There is at least a possibility that dismissing the appeal would result in the appellant and his family becoming homeless given that I have concluded that

there is no suitable alternative site for them to move to. This would amount to significant interference with their rights under Article 8.

118. I have taken into account all of the matters raised by the appellant including the lack of availability of alternative accommodation and the personal circumstances of himself and his family. I have also given particular consideration to the best interests of the children on the site who would benefit from a settled base from which to access education and therapeutic support. The potential of a roadside existence would have significant implications for family life and could lead to separation of parts of the family from one another.

119. However, the interference with the rights of the appellant and his family would be a proportionate response in pursuance of the well-established and legitimate aim of the protection of the Green Belt.

120. Turning to the PSED, I am not aware of any local residents raising concerns about the development and letters have been submitted by local people in support of the appellant's appeal under ground (d). To that extent the relationship between the family and the settled population is a positive one. Further evidence of this is that the children have settled well at the local school. Enabling the family to remain on the site, with the benefit of planning permission to establish a lawful use of the land has the potential to continue to foster good relations between the family and other people in the local community and to eliminate discrimination.

121. Allowing the appeal and granting planning permission would also advance equality of opportunity by taking steps to meet the particular needs of the family both in terms of their ethnicity and the shared protected characteristic of age. It would also provide a settled base for the children to access education, which is in their best interest.

122. I have had due regard to the PSED and found that the development would provide the opportunity to advance its aims, however set against the well-established and legitimate aim of the protection of the Green Belt dismissing the appeals is a proportionate response in this case.

Other Matters

Cannock Chase Special Area of Conservation

123. There is no dispute between the parties that the site lies within the zone of influence of Cannock Chase Special Area of Conservation (SAC) which falls within the definition of a European Site. The appellant has provided a unilateral undertaking (UU), in a form which the Council find to be acceptable. The UU secures the payment of a financial contribution towards Strategic Access Management and Monitoring Measures to mitigate the adverse effect of recreational activities on the integrity of the SAC.

124. Cannock Chase is designated as a SAC because of the extent of European Dry Heath habitat. The evidence base document provided by the Council[7] sets out that the SAC contains important vegetation communities, supports populations of several scarce invertebrates and is an important breeding site for the European Nightjar.

[7] Evidence Base relating to Cannock Chase SAC and the Appropriate Assessment of the Local Authorities Core Strategies by Footprint Ecology 2009

125. The Conservation of Habitats and Species Regulations 2017 requires that where any proposal is likely to have a significant effect on a European site either alone or in combination with other plans or projects, an appropriate assessment must be made in view of that site's conservation objectives. However, as I am dismissing for other reasons it is not necessary for me to consider this matter further as it could not change the outcome of this appeal.

Conclusion

126. The development does not accord with the development plan and there are no other considerations to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed. This action would not unacceptably violate the family's human rights and the protection of the public interest cannot be achieved by means that are less interfering of their rights.

Appeal A – ground (g)

127. Ground (g) is that the period specified for compliance with the notice falls short of what should reasonably be allowed. The issue of proportionality is also of relevance in this case given the consideration of human rights.

128. The notice as served the Council sets out a stepped approach to compliance with the requirements of the notice. These include a compliance period of two months for the cessation of the use and removal from the land of all caravans and vehicles. The appellant considers that the compliance periods are too short because compliance with the notice would result in homelessness and place a disproportionate burden on the appellant's family and children. He suggests a compliance period of 12 months for all of the requirements of the notice.

129. During the Hearing the Council indicated that it would be content for the compliance period to be extended to 12 months in accordance with the request of the appellant. This has been confirmed in writing.

130. It will be seen from the foregoing that I have accepted that there is a current lack of supply of gypsy and traveller sites in the district and a lack of any alternative sites being available to the appellant and his family. In this context a compliance period of two months to cease the use and remove the caravans is impractical and unreasonable. It is also a disproportionate response in terms of the appellant's human rights.

131. In the light of my finding that the development has a harmful effect on the Green Belt and given the emphasis placed in the Framework on such harm I find that extending the compliance period to 12 months would be reasonable. This would allow the school age children to complete the current academic year which would be less disruptive to them and is a proportionate response in terms of the appellants' human rights.

132. For the reasons given above, I conclude that the periods for compliance with the notice falls short of what is reasonable and proportionate. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

Sarah Dyer

Inspector

APPEARANCES

For the appellant:

Philip Brown

Brian Rogers (appellant)

Carl Woollaston (local resident)

Peter Jones (local resident)

Simon Fowler (local resident)

For the Council:

Catherine Gutteridge

Paul Turner

APPENDIX C

The Planning Inspectorate

Appeal Decision

Site visit made on 21 July 2023

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2023

Appeal Ref: APP/C3430/W/21/3282975
Squirrels Rest, Poplar Lane, Hatherton, Cannock, Staffordshire WS11 1RS

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

Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site falls within land designated as Green Belt. Therefore, the main issues are: -

    - whether the proposal would be inappropriate development in the Green Belt including its effect on openness and the purposes of the Green Belt,
    - the effect of the development on the landscape character of the area,
    - the effect of the proposal on the integrity of the Cannock Chase Special Area of Conservation,
    - the provision and need for Gypsy and Traveller sites,
    - the personal circumstances of the family including the best interests of the children, and,
    - if the development is inappropriate in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify development.

Reasons

Site and proposal

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

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

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

5. One-metre-high timber post and rail fencing would be erected on the eastern boundary of the appeal site and hedge and tree planting is proposed immediately to the east and north of the proposed static caravans, touring caravan and amenity building, thereby physically separating this area from the proposed barn and stable building.

Whether inappropriate development in the Green Belt

6. The appeal development falls within land designated as Green Belt. There is no dispute that the appeal site would be used by those that meet the definition of a Gypsy/Traveller in annex 1 of the Government's Planning Policy for Traveller Sites (PPTS).

7. It is noteworthy that that the above definition has recently been the subject of the Court of Appeal judgement of Smith v SSLUHC & Ors (2022) EWCA (Smith judgment). The definition of Gypsies/Travellers was found to be discriminatory in that it made it harder for elderly and disabled ethnic Gypsies and Travellers to obtain planning permission in so far that it does not include persons of nomadic habitat of life who, on grounds of their own or family's dependants' educational or health needs or old age, have ceased to travel permanently. The above legal judgement is not determinative in terms of this appeal as the main parties agree that the occupiers of the appeal site would, in any event, meet the definition as contained within annex 1 of the PPTS. I have no reason to disagree with this finding.

8. The proposal is for a mixed use where one of the primary uses is a caravan site. Policy E of the PPTS states that *'Traveller sites (temporary or permanent) in the Green Belt are inappropriate development'.* I therefore find that the proposal would amount to inappropriate development in the Green Belt. This is also a common ground position reached by the main parties.

9. Paragraphs 147 and 148 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to any harm to it. For the reasons outlined above, the proposal would amount to inappropriate development in the Green Belt and, in this regard, it would not accord with policies GB1 and H6 of the South

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

Effect on the openness and purposes of the Green Belt

10. The essential characteristics of Green Belts are their openness and their permanence. The Court of Appeal[1] has confirmed that the openness of the Green Belt can have both a spatial and a visual dimension.

11. The proposal would include three buildings, two static caravans, a touring caravan, fencing, parked vehicles and other likely associated domestic paraphernalia. Despite some existing and proposed landscaping, the development would be visible from the bridleway close to the site and, to a more limited degree, from longer distance views to the east (e.g., from Hatton Road). While I acknowledge that there is an established Gypsy and Traveller site adjacent to the appeal site, I find that in spatial terms the proposed development would cause harm the openness of the Green Belt. Indeed, a substantial amount of development, including caravans, structures and vehicles, would be introduced on the site which is currently very open in character.

12. The proposed stable building would be positioned away from existing built form and considering its size and relatively remote location, I do not find that it would preserve the openness of the Green Belt. In reaching this view, I accept that it would be screened in part from some longer distance views due to intervening existing vegetation, but the building would nonetheless be conspicuous when seen from parts of bridleway No. 4 which runs immediately to the side of the appeal site. When the stable building is considered alongside the other proposed development, I find that there would be a noticeable loss of the openness of the Green Belt in spatial terms.

13. I accept that the existing appeal site includes a manege. That has some, albeit a limited, impact on the openness of the Green Belt. On my site visit, I noticed that a wooden cabin style building had been erected on the appeal site. It was to the north of the manege and alongside the fence associated with bridleway No. 4. I do not know if this is lawful as there is no reference to it in the respective statements of case. I have assumed that it is lawful for the purposes of assessing the impact of the proposed development on the openness of the Green Belt.

14. I acknowledge that views of the proposed development from the west would be limited given the intervening neighbouring Gypsy and Traveller site. Given this, coupled with the fact that part of the site includes an existing manege, I find that the proposed development as a whole would have a moderately adverse impact on the openness of the Green Belt in visual terms.

15. Paragraph 138 of the Framework states that the Green Belt serves five purposes. I am satisfied that the appeal proposal would not conflict with four of the Green Belt purposes, namely that it would not lead to the sprawl of a large built up area, would not lead to neighbouring towns merging into one another, would not cause any harm to the setting and special character of any historic town and, given the scale and nature of the appeal proposal, could not reasonably be said to directly prevent urban regeneration elsewhere.

[1] *Turner v SSLG & East Dorset Council [2016]*

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

Effect on the landscape character of the area

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

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

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

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

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

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

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

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

23. Policy EQ2 of the CS safeguards the Cannock Chase Special Area of Conservation (SAC), which has been designated for its unique heathland habitat. The evidence is that adverse effects on the SAC would arise from an increase in recreation over the local plan period and comprise the creation of new paths, path widening, erosion and nutrient enrichment from visitor use and vehicle emissions.

24. The above is controlled in respect of the Council's 'Guidance to Mitigate the Impact of Residential Development' 2022 (SAC Guidance). The SAC Guidance states that evidence produced to inform the production of the development plan for the area, by consultants Footprint Ecology, together with that of partner Local Planning Authorities in the Cannock Chase SAC Partnership (Stafford Borough, Cannock Chase, Lichfield, East Staffordshire, Walsall Metropolitan Borough Council and Wolverhampton City Council), shows that the in combination impact of proposals involving a net increase of one or more dwellings within a 15 kilometre radius of the SAC would have an adverse effect on its integrity unless avoidance and mitigation measures are in place. The appeal site lies within the consultation zone of influence of the SAC.

25. The SAC Guidance requires mitigation to include a financial payment to be used towards the funding of specific projects as listed in table 1 at paragraph 3.1. The payment in the SAC Guidance is set for each net new home created through development within 15km of the Cannock Chase SAC.

26. In this case, and considering the information in the SAC Guidance, I find that the proposal would be likely to lead to recreational pressure in the SAC. I consider that the effects of the proposed residential development, both on its own and in combination with other development projects, is such that it would be likely to have significant effects on the European protected site. On the evidence that is before me, as part of my appropriate assessment, I find that the proposal would on its own and in combination with other projects adversely affect the integrity of the SAC.

27. As the competent authority, I must therefore consider whether measures could be put in place to avoid or mitigate the impacts of increased recreational pressure arising from the proposed development. The appellant has provided

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

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

The provision and need for Gypsy and Traveller sites

29. There is no dispute between the main parties that the local planning authority (LPA) cannot demonstrate a five-year supply of deliverable Gypsy and Traveller pitches and, in addition, that there are no available existing Gypsy and Traveller pitches in the area to meet the needs of the family, particularly the appellant's daughter, spouse and unborn child.

30. The LPA has started to review its local plan and it has reached Regulation 19 Publication Plan stage. Of relevance to this appeal, is the evidence base relating to Gypsy and Traveller need in the form of the Gypsy and Traveller Accommodation Assessment 2021 (GTAA) and Pitch Deliverability Study 2021. The GTAA, which has not been tested as part of a local plan examination, identifies a need for 121 pitches for the period 2021-2038 (plus additional provision for 'undetermined' and 'non-definition' need) and a five year need of 72 pitches.

31. There is common ground between the main parties that until a new local plan is adopted, and further land allocated for Gypsy and Traveller pitches, the LPA will not be able to meet required need or to demonstrate at least a five-year supply of deliverable pitches. The adoption of the new local plan is anticipated at the end of 2025 and the LPA claims that the delivery of pitches on newly allocated sites can be anticipated by the end of 2026.

32. The appellant has stressed that about 80% of the district is designated as Green Belt. He asserts that it is likely that new Gypsy and Traveller sites will therefore need to be found in the Green Belt. As a proportion of the district is not in Green Belt, it does not automatically follow that all sites that come forward as part of the review of the development plan will be in Green Belt or, in any event, that less harmful sites will not be allocated or come forward in the Green Belt as part of the development plan Examination process.

33. Notwithstanding the above, the unmet need for Gypsy and Traveller pitches and absence of any currently available pitches on authorised sites to accommodate the needs of the appellant's daughter (including unborn baby) and spouse are material considerations that weigh in favour of allowing the appeal.

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

34. Article 8 of the European Convention on Human Rights as incorporated into Human Rights Act 1998 (HRA) states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial.

35. I am also mindful that Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children.

36. Furthermore, in exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity. The Act recognises that race constitutes a relevant protected characteristic for the purposes of PSED. Romany Gypsies and Irish Travellers are ethnic minorities and thus have the protected characteristic of race. This appeal also involves the consideration of disability which is also a protected characteristic.

37. I acknowledge that the appellant's child, who currently lives in the dwellinghouse at 'Squirrels Rest' adjacent to the appeal site, has a particular disability that requires special educational and social support. I do not doubt that having a caravan on the appeal site for use by the appellant's child as a 'sensory room' would allow the child to receive tuition separately from the appellant's other children and in an environment which, in relative terms, is likely to be quieter. In this regard, the provision of a caravan on the appeal site for use as a 'sensory room' for the appellant's child would have some positive impacts.

38. Notwithstanding the above, the provision of a proposed 'sensory room' in a proposed caravan on the appeal site must be weighed against the fact that it would amount to inappropriate development in the Green Belt. While planning applications have previously been refused for the erection of a sensory building in connection with the property known as Squirrels Rest[2], such proposals were in combination with other proposed development and partly outside the residential curtilage of Squirrels Rest.

39. I have read the associated reports and decisions relating to the above planning applications and considered the proposed drawings. The evidence does not indicate that it would not be possible, in principle, to provide a well-designed and proportionate extension to Squirrels Rest to provide a 'sensory room' in accordance with paragraph 149(c) of the Framework, while at the same time retaining the integral character and appearance of the dwellinghouse. Indeed, as part of this appeal, the LPA has commented that it *'would encourage an alternative application compliant with NPPF paragraph 149(c) that is proportionate, well-designed in relation to the existing building, and does not encroach beyond the approved domestic curtilage, and would treat such an application on its merits'.*

40. In other words, the evidence indicates that it may be possible to apply for a proportionate sensory room extension to Squirrels Rest that would not amount to inappropriate development in the Green Belt and hence meet the needs of the appellant's child without, in relative terms, causing the same degree of

[2] Planning applications 16/00972/VAR and 18/00350/FUL

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

41. Furthermore, and noting the best interests of the child, a refusal of planning permission would not, in any event, mean that the child in question could not continue to be home tutored, or that arrangements could not be made within the family to ensure an acceptable level of peace and quiet at particular times. Indeed, the evidence is that home tutoring takes place at times when some of the appellant's other children are away from the site at school. There is little evidence before me to indicate that distractions are very significant from family life within the home when tutoring takes place.

42. The evidence is that the appellant's daughter has recently married and hence would like her own independence and to live on her own site/in her own residential caravan with her spouse albeit near to her family. The evidence also indicates that the daughter is pregnant with the baby due to be born in December 2023. A home will therefore also be needed for the baby in the coming months. The appellant's daughter has a disability and the appellant states that she can require assistance at short notice. I do not doubt that the care of her parents, at times when her spouse is away, would both provide reassurance and direct support to her in the event of a health emergency.

43. While the evidence before me does not indicate how regularly the daughter requires the support of others or indeed the severity of her disability, I do not doubt that the proposal would be beneficial in so far that living adjacent to the wider family would ensure continuity of care for her, as well as support and assistance provided for the currently unborn baby.

44. The above matters need to be weighed against the evidence which indicates that a refusal of planning permission would not make the appellant's daughter (including unborn baby) or spouse homeless, or that they would have to move away from the site at Squirrels Rest. Indeed, I was able to see on my site visit that two large touring caravans were sited immediately adjacent to Squirrels Rest and within the associated yard area. The evidence is that one touring caravan belonged to the appellant and the other was in active use by the appellant's daughter and spouse. I was also able to see on my site visit that a portacabin had been positioned close to the touring caravans and was in use as an amenity block.

45. I do not know if use of the touring caravan and the portacabin outside of the red edged appeal site is lawful. However, there is no evidence to indicate that if planning permission were refused for the proposed development, it would mean that Squirrels Rest would not continue to be available for use by the whole of the family and hence mutual support (include health care) provided from one another from living on this land, whether that be from living in the dwellinghouse itself or from occupation of an adjacent caravan on an incidental residential basis.

46. Given that the appellant's children and recently married daughter currently reside on land at Squirrels Rest, I do not therefore agree with the appellant that a refusal of planning permission would necessarily mean that the children's social and educational development would be *'severely prejudiced by a*

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

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

Other benefits

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

Planning Balance

49. Given the completed planning obligation, and hence mitigation, I have concluded that the proposed development would not cause harm to the integrity of the SAC. In this regard, the proposal would accord with the biodiversity requirements of policy EQ2 and H6(8) of the CS and paragraph 175 of the Framework. However, this is a matter of neutral consequence in the planning balance.

50. I have found that the development would amount to inappropriate development in the Green Belt. This is a matter to which I afford substantial adverse weight in decision making terms. Furthermore, moderate harm would be caused to the openness of the Green Belt and there would be conflict with one of the purposes of the Green Belt, namely safeguarding the countryside from encroachment. In addition, there would be moderate harm caused to the landscape character of the area. For these collective reasons, the proposal would conflict with policies EQ2, EQ4, EQ11, GB1 and H6 of the CS. Collectively, the I afford the above harms very substantial adverse weight in the planning balance.

51. In this case, the provision of a 'sensory room' in a caravan on the appeal site may, in relative terms, have some advantages in terms of supporting the education of the appellant's child who has a disability. However, this proposal would amount to inappropriate development in the Green Belt. Furthermore, the evidence is that despite planning application refusals for sensory room buildings at Squirrels Rest, the LPA would consider a proportionate and well-designed sensory room extension to the existing dwellinghouse in accordance with paragraph 149(c) of the Framework. Such an extension need not amount to inappropriate development in the Green Belt and there is nothing to suggest that it could not be designed in such a way as to give the child acceptable peace and quiet. In this regard, I afford limited weight to the need for the proposed 'sensory' room on the appeal site as the evidence is that, in principle, it would be capable of being provided in a different way in accordance with Green Belt policy in the development plan and Framework.

52. In addition, and, in any event, it is not the case that a refusal of planning permission would mean that the child would not continue to be able to be home tutored, or that the family could not make some arrangements to ensure improved peace and quiet during these times based on current arrangements. Furthermore, a refusal of planning permission would not mean that a roadside existence was an inevitable outcome. Indeed, the land at Squirrels Rest is currently occupied by the appellant and his family (including his daughter) and there is nothing to indicate that there is any immediate urgency in terms of changing this arrangement and prior to new pitches being allocated in a new development plan and coming forward for residential occupation.

53. I have considered whether a temporary planning permission would be justified. I have considered a period up to 31 December 2026 on the basis that I have no reason to doubt the claim made by the LPA that the new local plan will be *'adopted by the end of 2025'* and *'allowing a subsequent 12-month period for the preparation and determination of planning applications, allocated sites should be available on the ground by the end of 2026'*. The evidence is not certain in terms of whether the provision of new and policy compliant alternative sites, if close by, would suitably address the care needs of the appellant's daughter. However, and, in any event, the care needs of the appellant's daughter must be weighed against the substantial harm that would be caused by the proposal to the Green Belt.

54. I find that while the identified planning harms would be for a limited period arising from the grant of temporary planning permission, such harms would nonetheless still be collectively substantial. Furthermore, it is noteworthy that a refusal of planning permission would not make the appellant or any of his family homeless. Indeed, they all currently live on the adjacent site at Squirrels Rest. For these reasons, coupled with the overall very substantial planning harm that would be caused by the development, I do not find that a temporary planning permission would be appropriate or justified.

55. In favour of the appeal is the unmet need for Gypsy and Traveller pitches, the current lack of available alternative Gypsy and Traveller sites which may potentially provide a new home for the appellant's daughter and her spouse and unborn child, and the keeping of horses which would facilitate an active lifestyle for users of the site. Furthermore, the opportunity afforded to the appellant's daughter to live independently with her spouse (including unborn baby), albeit close to her parents to enable support in the event of a health emergency, are matters that weigh in favour of allowing the appeal. However, Policy E of the PPTS states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh the harm to the Green Belt and other harm so as to establish very special circumstances.

56. I conclude, on balance, that the harm caused to the Green Belt by reason of inappropriateness, and the other identified harm, would not be clearly outweighed by other considerations, including the best interests of the children, the personal circumstances of the family and unmet need, so as to amount to the very special circumstances necessary to justify either temporary or permanent planning permission.

57. In reaching the above conclusion, I have considered Article 8 of the European Convention on Human Rights, as incorporated into the HRA, which provides

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

Conclusion

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

D Hartley

INSPECTOR