STATEMENT OF CASE

OF

SOUTH STAFFORDSHIRE DISTRICT COUNCIL

S174 APPEAL

PLANNING INSPECTORATE REFERENCE

APP/C3430/C/24/3337033

APPEAL BY: MR JOHN WARD

APPEAL SITE: LAND SOUTH OF NEW ACRE STABLES
WOLVERHAMPTON ROAD
PENKRIDGE
STAFFORDSHIRE
ST19 5PA

LOCAL AUTHORITY REFERENCE: 22/00239/UNCOU

CONTENTS

SECTIONS

APPENDICES

Appendix 1	Enforcement Notice
Appendix 2	Land Registry Title Register and Title Plan References SF280148 & SF280140
Appendix 3	Site Visit Photographs x 4 dated 14th October 2022
Appendix 4	Decision Notice Application Reference 23/00066/FUL
Appendix 5	PCN's dated 29th September 2023
Appendix 6	PCN's dated 26th October 2023
Appendix 7	2011 SoS Call- In Appeal Decision
Appendix 8	William Lee Appeal Decision APP/C3430/A/13/2210160
Appendix 9	Jamie Jones Appeal Decision APP/C3430/W/15/3081132
Appendix 10	Martin Ward Appeal Decision Variation of named residents APP/C3430/W/18/3214818
Appendix 11	Rose Meadow Appeal Decision APP/C3430/C/20/3262819
Appendix 12	Written Ministerial Statement I.U.D.
Appendix 13	Streets Lane Appeal Decision APP/C3430/W/18/3201530
Appendix 14	Doveleys Farm Appeal Decision APP/C3430/ C/21/3274332
Appendix 15	Micklewood Lane Appeal Decision APP/C3430/C/22/3303085
Appendix 16	Sykes High Court Decision
Appendix 17	GTAA's
Appendix 18	Policies

1. INTRODUCTION

1.1 This appeal is brought against the decision by South Staffordshire District Council to serve an Enforcement Notice, ("the Notice") in respect of land, ("the Land") south of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA.

1.2 The alleged breach of planning control is:

Without planning permission, the material change of use of land to a use for the stationing of a caravan for residential purposes on the Land.

1.3 A copy of the Enforcement Notice has previously been sent to the Planning Inspectorate. (Appendix 1).

1.4 The Land is shown under Land Registry Title references SF280148 and SF280140. The Title Registers and Title Plans are produced at Appendix 2, and Appendix 3 respectively.

2. SITE DESCRIPTION AND REASONS FOR ISSUING THE NOTICE

2.1 It appears to the Council that the breach of planning control on the Land has occurred within the last ten years, and therefore is not immune from enforcement action.

2.2 The Land is located to the south of an existing gypsy traveller site and forms an extension to the existing site.

2.3 In June 2022 the Council received a complaint relating to an unauthorised use of the Land taking place for the stationing of a caravan for residential purposes.

2.4 On 14th October 2022, Council officers visited the Land and found a large static mobile home ("the Caravan") stationed upon it. The Caravan had been erected upon a concrete base and surmounted on a 7 course brick plinth and entrance wing walls. Photographs are produced at Appendix 3.

2.5 On 26th January 2023, a retrospective planning application was received for a change of use of the Land for the stationing of caravans for residential purposes, (application reference 23/00066/FUL), including the caravan subject of this notice.

2.6 On 25th August 2023 the retrospective planning application was refused for the following reasons:

1. The proposal represents inappropriate development in the Green Belt, contrary to Policies GB1 and H6 (criterion 7 and 8) of the adopted South Staffordshire Core Strategy and Central Government Policy and Guidance given in the National Planning Policy Framework (Protecting Green Belt Land) and Planning Policy for Traveller Sites. The circumstances put forward do not

justify overriding the presumption against inappropriate development in the Green Belt in this case.

2. The proposal would cause demonstrable harm to the openness and permanence of the Green Belt, detrimentally impacting upon its essential characteristic; and would also introduce increased built form which would cause additional encroachment; contrary to policies GB1 and H6 of the adopted Core Strategy, Planning Policy for Traveller Sites and the National Planning Policy Framework.

3. The proposal, in the absence of necessary mitigation measures, is contrary to Policy EQ2 'Cannock Chase Special Area of Conservation' of the adopted Core Strategy being within a 15 kilometre radius of the SAC and having potentially adverse effects on its integrity.

The decision notice for application 23/00066/FUL is produced at Appendix 4. No appeal was made against this refusal.

2.7 This enforcement notice relates to the use of one caravan on the Land the residential use of which is continuing and the Caravan remains in situ. For the reasons outlined within the decision notice shown at 1-3 above, the development is contrary to Guidance given in the National Planning Policy Framework (Protecting Green Belt Land), and Policies GB1, H6 and EQ2 of the South Staffordshire Core Strategy adopted 2012.

2.8 **National Planning Policy Framework**

13 – Protecting Green Belt Land

2.9 **Adopted Core Strategy**

<u>Core Policy 1: The Spatial Strategy</u>
Policy GB1 – Development in the Green Belt

<u>Core Policy 2: Protecting and Enhancing the Natural and Historic Environment</u>
EQ2: Cannock Chase Special Area of Conservation

<u>Core Policy 6: Housing Delivery</u>
H6: Gypsies, Travellers and Travelling Showpeople

<u>Core Policy 13: Community Safety</u>

<u>CS1: Designing out Crime</u>

<u>Other Policy Considerations</u>
Planning Policy for Traveller Sites
Designing Gypsy and Traveller Sites - A Good Practice Guide Communities and Local Government (historic context)
Gypsy and Traveller Accommodation Assessments (GTAA's)
South Staffordshire Design Guide 2018

3. PLANNING HISTORY

1990, 5 enforcement notices (A-E) served requiring the removal of hardstanding (notice A), and the use of the land for the stationing of caravans for residential purposes to cease (notice E). Notices B-D related to the individual plots for the stationing of caravans. The Inspector noted in his decision (para 29) that the site 'might accommodate up to 20 or more caravans' 1990, change of use of land to private gypsy site with 11 pitches, refused and appeal dismissed (90/00062)

2011, change of use of land for 9 gypsy and traveller pitches comprising 23 caravans, 2 amenity buildings and associated access improvements, refused. Appeal allowed for 7 pitches for a temporary period to 31st December 2014, personal to the named applicants (09/00809/FUL).

2011, new gateway entrance, approved (11/00885/FUL).

2013, Change of use land (northern portion of the 2011 appeal site) to use as a residential caravan site for an extended gypsy family with 6 caravans, refused (13/00191/FUL). Appeal dismissed.

2013, vary condition 11 of permission 09/00809/FUL to substitute the names of site occupants, refused (13/00139/VAR).

2013, vary condition 11 of permission 09/00809/FUL to substitute the names of site occupants, refused (13/00290/VAR).

2013, use of land for permanent stationing of residential caravans (2 mobile homes and a touring caravan), Plot 2, applicant John McCarthy, refused (13/00347/COU).

2015, Change of use of land to Traveller site for 5 plots (6 pitches) with associated hard standing, access, fencing, utility blocks and cesspools-retrospective, refused (15/00001/FUL). Granted 3 year temporary/personal planning permission (expiring 12.04.2020) at Appeal (Ref. APP/C3430/W/15/3033377).

2015, Change of use of land to use as residential caravan site for one Gypsy family for up to 4 caravans, laying of hardstanding, erection of utility building and formation of new access, refused (15/00008/FUL). Appeal Dismissed.

2015, New gated access, approved, (15/00547/FUL).

2017, Variation of condition 4 of 15/00001/FUL) - to substitute name in personal condition, refused (17/00435/VAR). Appeal allowed on a personal and temporary basis for the duration of the term of the host appeal permission (12.04.2020).

2020, Variation of 15/00001/FUL appeal decision. Conditions 1 (time limit), 4 (personal condition), 9 (number of caravans). Approved subject to conditions, including personal and temporary consent until 12.04.2025 (20/00243/VAR).

2023, Use of land for the stationing of caravans for residential purposes. Refused (23/00066/FUL).

2024, Change of use land for use as a Gypsy and Traveller family site to provide 7 pitches and utility blocks, with associated hard standing, access onto Wolverhampton Road, fencing and septic tanks - Part retrospective. Pending determination at time of Statement drafting (24/00060/FUL).

3.1 Assessment Summary of Planning History.

3.1.1 The site previously comprised of paddock and general grazing land with the exception of a short period in 1990 when travellers moved onto the site. A planning application was submitted and subsequently refused in 1990, to retain 11 traveller caravans on the site on the grounds that it represented inappropriate development in the Green Belt, which would harm openness. Following the refusal of the application, the Council, was successful at appeal in 1991, where enforcement notices requiring the removal of the gypsies from the site were upheld.

3.1.2 In 2009, planning permission was refused for, the change of use of the wider site to provide 9 gypsy pitches and associated works (09/00809). The occupants of the site appealed the decision. The appeal was called in by the then Secretary of State who, in January 2011 allowed the appeal on a temporary basis until 31st December 2014, for a reduced number of 7 pitches, personal to the named occupants (appeal reference APP/C3430/A/10/2127110 Appendix 7).

In the Secretary of State's view the factors which weighed in favour of a grant of permanent permission did not outweigh the identified harm to the Green Belt. However, he concluded that a temporary permission was justified on the basis that the harm to the Green Belt was reduced due to the time limited nature of the permission, planning circumstances were likely to change at the end of the temporary period (i.e. at that time it was anticipated that the Site Allocations D.P.D. would be delivering sites at the end of 2013 - allowing for some slippage of the time table by 2014), and the factors which weighed in favour of the development (unmet need, lack of alternative sites, accommodation needs of the proposed occupants and their personal circumstances) represented "Very Special Circumstances" which justified a grant of temporary permission on a personal basis.

In reaching his decision the SoS made the following statements which are salient to the determination of this appeal:

"…… the proposal constitutes inappropriate development in the Green Belt" and he attached "substantial weight" to this harm.

He also apportioned “significant harm” to the openness of the Green Belt and “moderate harm” caused by conflict with one of the purposes of including land in the Green Belt (encroachment), plus “limited harm” to landscape character.

At Para. 23 the S.o.S. states that “significant weight” must be apportioned to the failure of the Development Plan to meet identified need in favour of the appellants. He also concluded that the personal needs of the then proposed occupants and the lack of available alternative sites to them weighed “significantly” in their favour (Para. 24).

At para. 25 of his decision the S.o.S. considered the education and health needs of the then proposed occupants as amounting to “moderate” weight in favour of the appellants in the balancing exercise, except in respect of the health needs of the Lee family to which he attached “significant” weight. The Lee family no longer reside at the site.

In summing up, the SoS concluded that the combined harm caused by permanent development was not outweighed by the combined factors weighing in favour of the development the subject of the 2011 appeal. However, in relation to the granting of a temporary permission the harm caused was outweighed such that very special circumstances existed to justify the development on a temporary basis until 31 December 2014. This temporary term allowed for the likely timeframe for the adoption of an emerging Gypsy and Traveller Site Allocations D.P.D. and sites becoming available through the Development Management (planning applications) process, based on the consideration of the relative merits of sites throughout the District at a strategic level by the Development Plan Allocation process, the preferred method of delivery under national policy (PPTS Policy B).

3.1.3 A planning application for the change of use of land to use as a permanent residential caravan site for an extended gypsy family with 6 caravans (13/00191/FUL related to land to the north of the existing traveller site) was refused at Regulatory Committee in September 2013 on the grounds that the overall increased number of pitches and harm of a permanent consent in the context of inappropriate development in the Green Belt was not outweighed by circumstances put forward by the applicant. The applicant appealed the decision and a Hearing was held in 2014. The appeal was dismissed on Green Belt harm grounds (appeal reference APP/C3430/A/13/2210160 Appendix 8).

3.1.4 3 subsequent applications were submitted to and refused by the LA in 2013 related to variation of the named authorised residents, and making 2 of the personal/temporary appeal consented pitches permanent, on the grounds of lack of V.S.C. to justify approval in the planning balance at the time (13/00139/VAR, 13/00290/VAR and 13/00347/COU respectively).

3..1.5 In 2017 temporary planning permission was granted at appeal under appeal reference APP/C3430/W/15/3033377 following the refusal of planning application reference 15/00001/FUL, effectively being the ‘mother’ permission for the existing traveller development, excluding the unauthored extension subject to the Enforcement Notice appeal site.

3.1.6 In 2015 planning permission was refused (application reference 15/0008/FUL) and a subsequent appeal dismissed for 2 additional pitches on land to the immediate south of the 2017 temporary/personal appeal consented site. This application included the current Enforcement appeal site for 1 pitch. The appeal was dismissed on the grounds of unacceptable Green Belt impacts (appeal reference APP/C3430/W/15/3081132 at Appendix 9).

3.1.7 In 2017 permission was granted at appeal to vary the named authorised residents of the temporary planning permission under appeal decision APP/C3430/W/18/3214818 (Appendix 10). The appointed Inspector's reasoning being that the appellants cited personal circumstances amounted to V.S.C. warranting a substitution of named residents as part of the host ongoing temporary permission.

3.1.8 In July 2021 an application for 1 additional static residential caravan (meeting a newly formed household need of the Ward family), and extending the period of temporary consent until 02.04.2025, under a variation of conditions application, was approved by the LA (reference 20/00243/VAR).

3.1.9 In 2023 planning permission was refused for 3 additional pitches, 2 to the north and 1 to the south (the current Enforcement appeal site) of the extant temporary permission site, on the grounds of unacceptable Green Belt harms (application reference 23/00066/FUL).

3.1.10 An application for 2 additional pitches to the north of the extant temporary permission site, is pending at the time of the drafting of this Statement . The combined development proposed would amount to 10 residential caravans in total when accounting for one double pitch which forms part of the development permitted under 15/00001/FUL and APP/C3430/W/15/3033377, and the additional residential caravan permitted under application 20/00243/VAR. (pending application reference 24/0006/FUL).

4. GROUNDS OF APPEAL

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

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

Ground (g) - The time given to comply with the notice is too short.

5. LPA RESPONSE TO GROUNDS FOR APPEAL – GROUND E

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

5.1 The Appellant states that other persons named on planning permission 20/00243/VAR were served a copy of the Notice, however that permission does

not extend to the Land covered by the Notice. The people served were served, because they were named on the Land Registry and retrospective planning application 23/00066/FUL, which was subsequently refused. Donna Ward was not named on the refused application. It is incorrect to say the LPA should have served Donna Ward because she was name on application 20/00243/VAR because that application does not extend to the appeal site.

5.2 In addition, prior to the service of the Notice, Planning Contravention Notice's (PCN's) (dated 29th September and 26th October 2023), were served on two of the Landowners, (Fred Smith and John McCarthy registered on the Land Registry), to ascertain if anyone else who had an interest in the Land.

5.3 The PCN's dated 29th September 2023 were both returned in respect of Fred Smith and John McCarthy as not shown at the address. The PCN's of this date together with the certificate of service are produced at Appendix 5.

5.4 The PCN's dated 26th October 2023 resulted in telephone conversations with both John McCarthy's son, (John Joeseph McCarty also resident on the site), and John Ward. The PCN's of this date together with the certificate of service are produced at Appendix 6.

5.5 John Joseph McCarty confirmed he was the joint owner of the access track as shown on the Land Registry, together with his father John McCarthy and Barney McCarthy). Given the information offered by John Joseph McCarty the LPA agreed that he was not required to complete the PCN.

5.6 John Ward stated that he was the sole owner of the Land as Fred Smith was now deceased and the land has nothing to do with anyone else including the McCarthy's as he is the only owner the land and access roads. As such, he stated that the Notice should be served on him only.

5.7 Aside from the fact that the LPA made reasonable enquiries to establish all persons who had an interest in the Land, in order for a Ground E appeal to succeed, s176(5) of the Act requires the Appellant to show that no substantial prejudice has been caused to the Appellant and the person not served with the Notice. As the Appellant has made it clear that the appeal has been made on behalf of Donna Ward, and the appeal was made within the required time frame, (subsequently validated by the Planning Inspectorate), no prejudice has occurred, and the Ground E appeal must fail.

6. LPA RESPONSE TO GROUNDS FOR APPEAL – GROUND A

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

6.1 The case for the Local Authority is straightforward. It is that the development subject to the appeal is unauthorised and that the development has multiple unacceptable harmful impacts upon the Green Belt, that outweigh factors in favour of the development in the planning balance.

Such a conclusion is consistent with previous appeal decisions relating to the New Acre Stables traveller site (details at para.6.7.11 below and Appendices 8 and 9 of this Statement); and recent planning appeal decisions related to traveller development in the South Staffordshire Green Belt at Streets Lane, Great Wyrley in 2019 (Appendix 13 here) Doveleys Farm, Hatherton in 2022 (Appendix 14 here); and Micklewood Lane, Penkridge in 2023 (Appendix 15 here). Summary details of the Doveleys Farm and Micklewood Lane decisions are given at para 6.7.12 below.

In all of these cases Inspectors came to a consistent, considered conclusion that identified Green Belt harms were not outweighed by acknowledged factors in favour of development including a significant shortfall in supply, a lack of available sites, personal circumstances (including the Best Interests of the Child) and PSED. These decisions were made in similar circumstances and were considered in the context of the 2021 GTAA identified need figures (included at Appendix 17 here) over the Plan Period and related to the 5 year need position.

The recent appeal Decision, related to Rose Meadow Farm at Prestwood (Appendix 11), in the light of an acknowledged unmet need, lack of available alternative sites, and personal/very special circumstances including the Best Interests of Children and PSED Duty; where unacceptable Green Belt harms are identified.

The recent appeals history in the Local Authority's area demonstrate that the Green Belt policy tests are a high hurdle to cross and substantial material considerations are necessary to outweigh harm to the Green Belt.

6.2 Harm 1 – Inappropriate development by definition within the Green Belt.

6.2.1 The proposed development is, by definition, inappropriate within the Green Belt and such harm is automatically afforded substantial weight in the planning balance of the decision-making process. The development, whether on a permanent or temporary basis, causes substantial, demonstrable harm to the Green Belt by reason of it's inappropriateness.

Para. 152 of the NPPF states:

"Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances".

Para. 153 of the NPPF continues that:

"local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations".

6.3 **Harm 2 - Harm caused by loss of Openness to the Green Belt.**

6.3.1 In addition to the acknowledged harm to the Green Belt by inappropriateness, there is also significant adverse impact upon openness. The fundamental aim of Green Belt policy is to keep land permanently open. The essential characteristics of Green Belts are their openness and their permanence (para. 142 NPPF).

6.3.2 The siting of an additional residential home plus the inevitable domestic paraphernalia associated with residential use, would inevitably have a significant adverse impact on Green Belt openness. The current circa. 10m x 3.5m footprint structure, associated domestic appurtenances, parking areas, screen fencing etc., extending beyond the permitted site would have a significant and materially detrimental impact on the openness of the Green Belt, contrary to the NPPF and PPTS related to Green Belt Policy aims and Policies GB1 and H6 of the adopted Core Strategy. The existing unauthorised development proposed under ground a) of this appeal results in a significant reduction in openness. Policy H6 8a) requires development proposals to not cause "demonstrable harm to openness". The appeal proposal causes significant material harm to openness.

6.4 **Harm 3 – Harm by Encroachment of development within the Green Belt.**

6.4.1 Additional Green Belt harm is caused by encroachment. To assist in safeguarding the countryside from encroachment is one of the 5 cornerstone purposes of designating land as Green Belt (para. 143 (c) NPPF). The appeal site projects significantly to the south of the temporary approved site, extending residential use and development, materially increasing harm by encroachment.

6.5 **Harm 4 – Harm by intentional unauthorised development within the Green Belt.**

6.5.1 Written Ministerial Statement – HLWS404 ‘Green Belt Protection and Intentional Unauthorised Development’ (Appendix 12) sets out changes to national planning policy to make intentional unauthorised development a material consideration in planning decision-making, and also to provide stronger protection for Green Belts. It is concerned with harm that is caused where the development of land has been undertaken in advance of obtaining planning permission that can involve Local Planning Authorities having to take Enforcement Action in the acknowledged public interest of protecting the Green Belt.

6.5.2 The unauthorised development extension of this temporary approved site, well beyond its approved boundaries, demonstrates disregard for the planning system that undermines public confidence, particularly in respect of the long-standing and acknowledged need to protect the Green Belt.

6.6 The development does not meet with the qualifying criteria of Policy H6 (8) of the adopted South Staffordshire Core Strategy due to its unacceptable negative impact on the openness of the Green Belt.

6.6.1 C.S Policy H6 sets out a series of criteria against which planning applications and the future allocation of sites through the Development Plan process for new/extensions to existing gypsy sites should be assessed. The appeal proposal is contrary to criterion 8a) of C.S. Policy H6 which states that:

"Proposals shall be sited and landscaped to ensure that any impact on the character and landscape of the locality is minimised, including impacts on biodiversity and nature conservation. In areas of nationally, sub-nationally or locally recognised designations planning permission will only be granted where the objectives of designation would not be compromised by the development – examples will include: 8a) The Green Belt - where demonstrably harmful impact on the 'openness' of the Green Belt will be resisted". (emphasis added).

6.6.2 The appeal proposes a significant increase in the amount of development and spread of buildings/infrastructure beyond the limits of the extant site. The quantum of development proposed, including a substantial mobile home and large areas of hardstanding for vehicle parking and manoeuvring, and the erection of screen fencing, would have a significant negative impact on the openness of the Green Belt contrary to NPPF Green Belt Policy and Policies GB1 and H6 of the adopted Core Strategy. The combined quantum of development proposed would result in a significant reduction in openness. Policy H6 8a) requires development proposals to not cause "demonstrable harm to openness". The appeal proposal causes significant material harm to openness.

6.7 **Further Material Considerations**

Provision and Availability of Gypsy and Traveller Pitches

6.7.1 It is acknowledged that there is presently a shortfall in the provision of gypsy and traveller pitches against 5-year supply as set out in the Development Plan and GTAA evidence base. However, this does not justify unauthorised and inappropriate development in the Green Belt that causes significant harms by definition, loss of openness and encroachment. PPTS 2015 gives clear, relevant advice in this regard.

6.7.2 This position is confirmed in relevant appeal decisions at the New Acre Stables itself (Appendices 8 and 9); at Streets Lane, Great Wyrley (Appendix 13), Dovelys Farm (Appendix 14) and Micklewood Lane (Appendix 15), all within South Staffordshire Green Belt; and the recent High Court Decision in Sykes v SoS for H.C.L.G and Runnymede Borough Council (included at Appendix 16).

6.7.3 **The Local Development Plan position is that:**

The 2012 adopted Core Strategy contains Policy, H6: Gypsies, Travellers and Travelling Show people sets out criteria for the determination of applications for

gypsy and traveller sites and pitch requirements up to 2028. The 2018 Site Allocations Document (SAD) delivers the residual pitch requirements from Policy H6, with the allocations to meet these requirements set out in Policy SAD4 and is based on the 2008 GTAA evidence of need.

The SAD allocates pitches to ensure that the pitch requirements identified in the Core Strategy were met. New provision for gypsies and travellers has therefore come through the Plan Led system. Additional provision will come through the Local Plan Review to enable sites to be located in the most suitable locations and where relative Green Belt and landscape and other environmental impacts have been strategically assessed, and where the need is the greatest. New provision for Gypsy and Traveller pitches should come through this plan-making process, considered in a sustainable, strategic manner, to minimise the impact of sites (inter alia) on the Green Belt and landscape of South Staffordshire, with contained settlements, which is a key distinctive characteristic of the District.

An updated GTAA was carried out in 2017 with neighbouring Local Authorities – the Black Country and South Staffordshire Gypsy, Traveller and Travelling Showpeople Accommodation Assessment, updating needs evidence. This GTTSAA 2017, undertaken as part of the 2017 SHMA with the Black Country authorities, identifies a need for 87 additional pitches over the 2016-2036 period; and a need of 48 pitches over the 2016-2021 period. A further update to the GTAA was undertaken in 2021. The 2021 update indicates a current 5 year supply requirement for 70 pitches (recently reduced from 72 pitches with the appeal consent at Rose Meadow Farm providing 2 permanent pitches - Appendix 11 here), and a current unmet need for 40 pitches.

Neither the 2017 or 2021 needs assessments (included at Appendix 17 of this Statement) have been subject to Examination and remain untested.

A further updated needs assessment, following changes to Government advice to Local Authorities in undertaking needs assessments, will be used in the on-going review of the Local Plan. This process will include Duty to Cooperate discussions with neighbouring Authorities as to how the identified needs can be collectively best met to meet the aims of sustainable development and NPPF objectives, including the national, regional and local importance attached to the protection of Green Belts.

The adopted SAD assists in meeting needs in the short term and the new Local Plan/Duty to Cooperate agreements will focus on meeting strategic needs in the medium to long term.

The needs/issues of the Gypsy and Traveller community will be further consulted on in the revised (in the light of ongoing National Planning Reforms) Regulation 19 Publication Plan, 6 week consultation which is due to commence on 15th April 2024. A 2024 GTAA update will be used as the evidence base to inform Development Plan Allocations and criteria-based policy for Traveller pitch provision in relation to need over the new Plan Period. An updated Local Development Scheme was published by the LA in September 2023. Following consultations on the Revised Regulation Publication Plan, including the

consideration of options for the delivery of traveller pitches in relation to identified need, it is anticipated that the Plan will be submitted to the SoS in winter 2024/25 for Examination in 2025. Adoption is then expected in winter 2025/26.

6.7.4 There is therefore an expectation that sites will come forward through the submission of planning applications in 2027 allowing a further period of 12 months for the preparation, submission and determination of planning applications to deliver on the identified revised need for pitches. This process will provide for the planned location of Gypsy and Traveller sites/pitches based on the support of adopted policy as the preferred method of delivery advocated by the N.P.P.F. and Planning Policy for Traveller Sites (P.P.T.S.) and supported by adopted Core Strategy Policy H6.

6.7.5 Whilst it is acknowledged that 'failure of the development plan' to meet identified and acknowledged need is a material factor weighing in favour of the appellant, consideration should be given in mitigation to the unforeseen reasons for the delay in the development plan process (Covid 19) and ongoing national planning reforms that need to be strategically accounted for in the Local Plan Review to ensure compliance with evolving national policy. Substantial progress has been made towards the delivery of Gypsy and Traveller Sites in accordance with Development Plan criteria based Policy C.S. H6 policy in South Staffordshire, with 13 permanent pitches being granted planning permission in the Green Belt since the adoption of the Site Allocations Document in 2018, namely:

- Hordern Park, Ball Lane 20/00601/COU and 22/00082/COU, 3 additional permanent pitches November 2020 and March 2023.
- Anvil Park (20/00613/FUL), 2 permanent pitches, October 2020.
- The Bungalow, Essington (18/00606/VAR), 2 permanent pitches October 2018.
- Brickyard Cottage, Essington (18/00789/COU) 2 permanent pitches March 2020.
- Fair Haven, Coven (22/00670/VAR) – 4 permanent pitches. April 2023.

This demonstrates the Local Authority's pro-active and positive approach to the delivery of gypsy and traveller pitches within an area that is predominantly Green Belt.

It is also a material consideration that of the 15 pitches allocated in the adopted 2018 SAD yet to receive planning permission, 11 relate to existing unauthorised pitches where applications have not been submitted. These 11 existing unauthorised pitches were considered to meet the Policy requirements of the adopted Core Strategy Policy H6, in the consideration of sites in the 2018 Site Allocations process and should be considered as contributing to supply.

6.7.6 In such circumstances it is not considered that 'failure of the development plan process' does not justify the grant of planning permission on either a permanent or a temporary basis for inappropriate development within the Green Belt which

causes significant harms by definition, reduction of openness and increased encroachment.

6.7.7 Planning Policy for Traveller Sites (31st August 2015) sets out the Government's planning policy for traveller sites, to be read in conjunction with the National Planning Policy Framework.

Core Strategy Policy H6 (7) is consistent with this aim.

Policy E: Traveller sites in Green Belt at para. 16 re-affirms the Government commitment to the protection of the Green Belt stating that:

"Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances".

Para. 27 states that:

"If a local planning authority cannot demonstrate an up–to-date 5-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The exception is where the proposal is on land designated as (inter alia) Green Belt".

South Staffordshire Council acknowledges that it cannot currently demonstrate a 5-year supply of Gypsy and Traveller pitches in relation to identified need. However, the current relevant PPTS advice is that identified Green Belt harm is not reduced by a lack of 5-year supply.

The LA is actively, positively and progressively working towards the delivery of sites through Local Plan Review Site Allocations to meet identified need. This will include the strategic consideration of Gypsy and Traveller site/pitch provision related to identified needs across the District, including relative assessment of sites in terms of Green Belt and landscape impacts. Areas in which this Site has a significant detrimental impact. This strategic approach is especially important within a District that is 80% Green Belt designated, with scant brownfield site opportunities.

6.7.8 An existing shortfall is acknowledged, all existing sites in South Staffordshire are privately owned, and it is also acknowledged that there may be no available alternative sites. However, the P.P.T.S. states that pitch provision should be Plan Led. The LA will meet its objectively assessed pitch requirements through the Local Plan Review which will include the strategic allocation of Gypsy and Traveller pitches/sites, following consultations with neighbouring Authorities, and an equivalent to the adopted C.S. Policy H6 criterion based Policy will be carried forward in the ongoing Local Plan Review for the determination of planning applications that come forward. The LA has approved 13 planning

permanent pitches related to non-allocated sites within the Green Belt in circumstances of considered compliance with criteria based Policy C.S. H6, including impact on openness, since the SAD 2018 adoption.

Personal Circumstances

6.7.9 The appellant seeks planning permission for settled site accommodation that would provide suitable safe and permanent accommodation (static & trailer caravan) for Ms Donna Ward and her children aged 5 years, 3 years, and 7 months old. The appellant states that it would be in the best interests of the children and the families well-being. In respect of personal circumstances, whilst the appellant's supporting documentation references children's needs, no details are provided for consideration and as such limited weight can be attached.

6.7.10 The appellants rights are acknowledged under the Human Rights Act 1998 and Equality Act 2010, as are the best interests of the appellants children (UN Convention on the Rights of the Child). In this case, however scant information is provided in respect of the specific educational and health requirements of the children.

As set in Stevens v Secretary of State for Communities and Local Government [2013] EWHC 792 (Admin);

"while the interest of the child should be a primary consideration it should not be determinative of the planning issue and nor should it necessarily carry greater weight than any other consideration. Those interests have to be viewed in a wider planning context which can include the availability of other sites and the level of unmet need in the borough".

6.7.11 In addition, when applying the concept of proportionality to human rights in respect of development proposals that would be demonstrably harmful to the interests of protecting the Green Belt, the LA concur with the balancing of issues and conclusions of the Inspector in the dismissal appeal decision related to the northern portion of the New Acre Stables site, Penkridge (appeal decision APP/C3430/A/13/2210160 dated 12 January 2016 – Appendix 8), as set out in para. 53 of the decision:

"However, these are qualified rights and interference may be justified where in the public interest. The concept of proportionality is crucial. These interferences would be in accordance with the law and in pursuit of a well established and legitimate aim, that is, the protection of the Green Belt. The harm that would be caused by the development in terms of the Green Belt would be substantial. In the context of this case it outweighs the human rights of the families and the best interests of the children. Despite the need for pitches, the lack of a five-year supply, the lack of an affordable, available and suitable alternative site and the other matters weighing in the appellant's favour, I have concluded that the granting of a temporary or permanent planning permission would not be appropriate. I am satisfied that the legitimate aim of the protection of the Green Belt cannot be achieved by any means which are less interfering with the

appellant's and the families rights. They are proportionate and necessary in the circumstances".

To the south of the extant New Acre Stables site an appeal related to a proposal for 4 traveller caravans on land including the current Enforcement Appeal site (Appendix 9), was dismissed in 2017 with the appointed Inspector, in the face of an acknowledged lack of supply and alternative available sites, and VSC including Best interests of Children, concluding that:

"However, I have found that the proposal would cause substantial harm to the Green Belt and am satisfied that the well-established and legitimate aim of granting planning permission in accordance with the development plan and planning policies which seek to protect Green Belts in the wider public interest, can only be adequately safeguarded by the refusal of permission in this instance. Whilst bearing in mind the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing the scheme on the appellant and his family are necessary and proportionate. (para. 44), and that:

"Bringing matters together, the other considerations in this case, even taking into account the family's Article 8 rights and the PSED considerations, do not clearly outweigh the totality of the harm identified. As such, the very special circumstances necessary to justify the development, either on a permanent or a temporary basis, do not exist". (Para 45).

6.7.12 Elsewhere within the South Staffordshire Green Belt, the Inspector in a 2019 appeal determination at Streets Lane, Great Wyrley, concluded that:

"However, these are qualified rights and interference may be justified where in the public interest. I turn to the matter of proportionality. The harm that would be caused by the development to the Green Belt would be substantial. In this case it outweighs the human rights of the families and the best interests of the children. Despite the need for pitches, the lack of a five-year supply, the lack of alternative sites and other matters weighing in the appellant's favour, I have concluded that the granting of a temporary or permanent planning permission would not be appropriate. Therefore, the legitimate aim of the protection of the Green Belt cannot be achieved by any means which are less interfering with the appellant's and family's rights". (para. 28 of APP/C3430/W/18/3201530 attached here at Appendix 13).

In September 2022, the appeal determination related to Doveleys Farm, Hatherton (Appendix 14) was consistent with the above case Inspectors planning balance and justification rationale. The appointed Inspector concluded that:

"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". (para.53).

At para. 63 it is concluded that the proposed development cannot be considered sustainable under the terms of the NPPF due to the identified environmental harms caused:

"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".

At para. 65 she continues:

"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".

"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" (para.66).

At para. 70 she continues:

"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".

And at para. 71 concludes:

"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". (Decision attached at Appendix 14 of this Statement).

The appointed Inspector, in relation to the 2023 appeal decision related to a 4 pitch traveller Green Belt case at nearby Micklewood (1 km to the north east of Penkridge – Appendix 15), followed the same reasoning and concluded that:

"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". (para. 104).

Para. 107 of the determination adds that:

"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".

Para, 118 adds:

"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".

Para. 119 concludes:

"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".

In respect of PSED, including the consideration of 8 resident children, the Inspector concluded at para. 122 that:

"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".

The Inspector's overall conclusion at para. 126 was that:

"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".

Similar material issues, policies and principles apply to the current appeal consideration.

Social Cohesion.

6.7.13 There have been multiple police reported incidents of unrest at the site, primarily arising from conflicts between multiple families resident at the site. These include 7 incidents during 2023. Staffordshire Police and South Staffordshire Council are concerned to ensure compliance with Core Policy 13: 'Community Safety' and CS1: 'Designing out Crime' of the adopted Core Strategy. To this end it is desirable that the number of pitches/families present be limited.

Cannock Chase SAC

6.7.14 Adopted Core Strategy Policy EQ2 'Cannock Chase Special Area of Conservation Development, states that development:

"will only be permitted where it can be demonstrated that it will not be likely to lead directly or indirectly to an adverse effect upon the integrity of the Cannock Chase Special Area of Conservation (SAC)".

Criterion 8 b) & c) of C.S. H6 are also relevant:

"b) Cannock Chase Area of Outstanding Natural Beauty (AONB) – where proposals that will harm the setting, function and integrity of Cannock Chase will be resisted;

c) Sites of Special Scientific Interest (SSSI), including Kinver Edge, Conservation Areas, Special Areas of Conservation (SAC), including Mottey Meadows near Wheaton Aston, Local Nature Reserves (LNR), including Shoal Hill Common, or any other protected sites - where proposals that will harm the setting, function and integrity of these areas will be resisted; ……".

The site lies within the 8km Zone of Influence of Cannock Chase SAC, and the development has a direct adverse effect on the integrity of this Nationally designated area.

No mitigation measures have been put forward to address the significant harmful impact of the proposed development on the special character of this designated landscape. Such mitigation would normally take the form of a Unilateral Undertaking provided by an applicant or appellant, making a commensurate payment contribution to the maintenance of the SAC. No such undertaking has been provided at the time of this Statement and therefore the appeal proposal is in conflict with this adopted Policy.

7. Conclusions on the Ground a) Deemed Application Planning Balance

7.1 It is the Local Authorities case that none of the issues in favour of the development put forward, whether individually or when combined, override the strong established and re-affirmed (August 2015 revised PPTS and NPPF 2023) national and local planning policy presumption against inappropriate development within the Green Belt.

7.2 Harm caused by the inappropriateness of the development in the Green Belt is significant and substantial. Significant harm would also be caused by loss of openness, the most important attribute of Green Belts, due to the quantum of development proposed. Additional significant harm would also be caused by encroachment. Additional harm also results from intentional unauthorised development.

7.3 Without prejudice to the LA case, in the circumstances of the progression of the Local Plan Review including Gypsy and Traveller Site Allocations, as the means of addressing the acknowledged current shortfall in pitch provision against 5-year supply, should the Inspector find in favour of temporary permission, the LA would wish such a temporary period (allowing for the adoption of the Local Plan Review Site Allocations and subsequent processing of planning applications to deliver available sites on the ground), to not extend beyond 31 December 2027. However, for clarity, the LA does not believe that a temporary permission is appropriate in this case if the Inspector does not grant a permanent permission.

8. LPA RESPONSE TO GROUNDS FOR APPEAL – GROUND G

Ground (g) - The time given to comply with the notice is too short.

8.1 The LPA is entitled to require compliance within a reasonable time frame to remedy the ongoing harm caused by the breach in planning control. The consequences of carrying out development in the absence of planning permission will have been understood but in any event, the LPA considers six months to be a reasonable time frame to enable the occupiers living on the site to find alternative accommodation.

9. CONDITIONS

Without prejudice to the LA case, should the Inspector be minded to allow this appeal, the LA would wish the following conditions to be imposed:

1. The use hereby permitted shall be for a limited period being the period from the date of this decision until 31st December 2027. At the end of this period the use hereby permitted shall cease, all materials and equipment brought on to the land in connection with the use shall be removed, and the land restored to its former condition in accordance with a scheme previously submitted to and approved in writing by the local planning authority.

2. The site shall not be occupied by any persons other than gypsies and travellers as defined in the National Planning Policy for Traveller Sites.

3. No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans hereby permitted, and it shall not exceed 3.5 tonnes in weight.

4. No commercial activities shall take place on the land, including the external storage of materials.

5. No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be static caravan or mobile home) shall be stationed on the site at any time.

6. Within 1 month of permission being granted, details of a landscape scheme shall be submitted to the LPA for agreement in writing and the approved scheme shall be completed and maintained to the satisfaction of the LPA.

7. The occupation of the site hereby permitted shall be carried on only by the following and their resident dependents:

   i) Donna Ward.

8. When the land ceases to be occupied by those named in condition 7 above, the use hereby permitted shall cease and all caravans, structures, materials, and equipment brought on to or erected on the land, or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.

APPENDIX 1

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

(As amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE

Change of Use

ISSUED BY: South Staffordshire District Council

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the Land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. THE LAND TO WHICH THIS NOTICE RELATES

Land South of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA ("the Land") outlined in red on the plan attached to this notice ("the Plan").

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without planning permission, the material change of use of land to a use for the stationing of a caravan for residential purposes on the Land.

4. REASONS FOR ISSUING THIS NOTICE

It appears to the Council that the breach of planning control on the Land has occurred within the last ten years, and therefore is not immune from enforcement action.

The Land is located to the south of an existing gypsy traveller site and forms an extension to the existing site.

In June 2022 the Council received a complaint relating to an unauthorised use of the Land taking place for the stationing of a caravan for residential purposes.

On 14th October 2022, Council officers visited the Land and found a large static mobile home ("the Caravan") stationed upon it. The Caravan had been erected upon a concrete base surrounded by brick infill and a brick wall entrance.

On 26th January 2023, a retrospective planning application was received for a change of use of the Land for the stationing of caravans for residential purposes, (application reference 23/00066/FUL), including the caravan subject of this notice.

On 25th August 2023 the retrospective planning application was refused for the following reasons:

1. The proposal represents inappropriate development in the Green Belt, contrary to Policies GB1 and H6 (criterion 7 and 8) of the adopted South Staffordshire Core Strategy and Central Government Policy and Guidance given in the National Planning Policy Framework (Protecting Green Belt Land) and Planning Policy for Traveller Sites. The circumstances put forward do not justify overriding the presumption against inappropriate development in the Green Belt in this case.

2. The proposal would cause demonstrable harm to the openness and permanence of the Green Belt, detrimentally impacting upon its essential characteristic; and would also introduce increased built form which would cause additional encroachment; contrary to policies GB1 and H6 of the adopted Core Strategy, Planning Policy for Traveller Sites and the National Planning Policy Framework.

3. The proposal, in the absence of necessary mitigation measures, is contrary to Policy EQ2 'Cannock Chase Special Area of Conservation' of the adopted Core Strategy being within a 15 kilometre radius of the SAC and having potentially adverse effects on its integrity.

This notice relates to the use of one caravan on the Land the residential use of which is continuing and the Caravan remains in situ. For the reasons outlined within the decision notice shown at 1-3 above, the development is contrary to Guidance given in the National Planning Policy Framework (Protecting Green Belt Land), and Policies GB1 H6 and EQ2 of the South Staffordshire Core Strategy adopted 2012.

5. WHAT YOU ARE REQUIRED TO DO

You Must

i) Permanently cease the use of the Land for the stationing and residential occupation of caravans.

ii) Permanently remove the Caravan, concrete base, brick infill and a brick wall entrance to the Caravan from the Land.

iii) Restore the Land back to its former condition before the change of use commenced.

6. TIME FOR COMPLIANCE

Six months from the date the notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 18th January 2024 unless an appeal is made against it beforehand.

Dated: 15th December 2023

Signed:

Annette Roberts

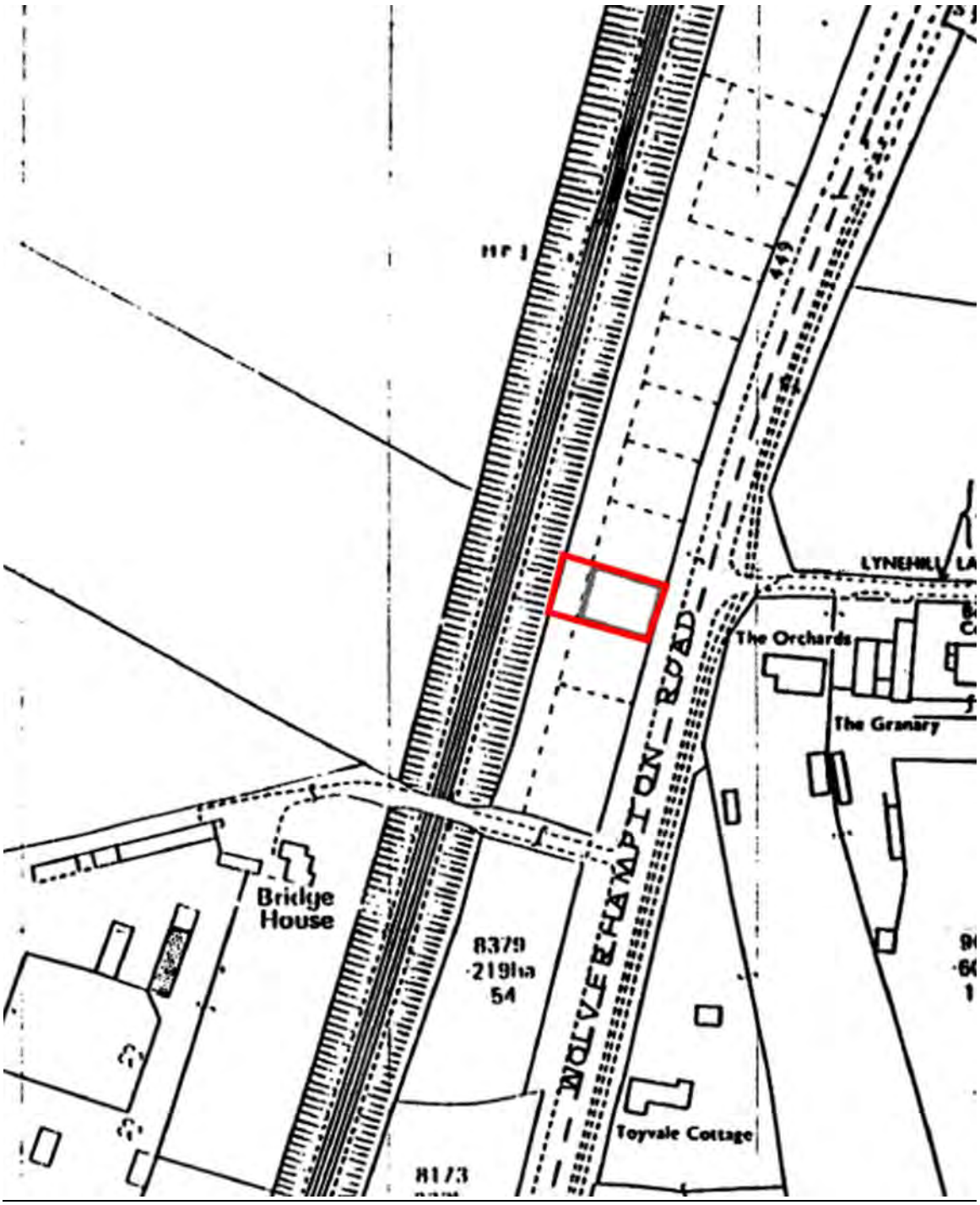
Corporate Director Infrastructure & Business Growth, South Staffordshire District Council, Council Offices, Wolverhampton Road, Codsall, South Staffordshire WV8 1PX

Nominated Officer:

Mark Bray, Planning Enforcement Team, South Staffordshire District Council, Council Offices, Wolverhampton Road, Codsall, South Staffordshire WV8 1PX

RED LINE PLAN TO ACCOMPANY ENFORCEMENT NOTICE

Land South Of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA



IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990 (as amended)

Enforcement Notice relating to land and premises Land South Of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA.

This local planning authority, South Staffordshire Council, has issued an enforcement notice relating to the above land and you are served with a copy of that notice as you have an interest in the Land. Copies of the notice are also being served on the parties listed on the Notice who, it is understood, also have an interest in the Land.

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the notice. Unless an appeal is made, as described below, the notice will take effect on 18th January 2024 and you must ensure that the required steps, are taken within the period(s) specified in the notice.

Please see the enclosed information sheet from The Planning Inspectorate which tells you how to make an appeal.

If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before 18th January 2024.

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds: -

(a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;

(b) that those matters have not occurred;

(c) that those matters (if they occurred) do not constitute a breach of planning control;

(d) 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;

(e) that copies of the enforcement notice were not served as required by Section 172;

(f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

(g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £924.00. This amount is double the usual Planning Application fee. You should pay this fee to South Staffordshire Council (made payable to South Staffordshire Council). Joint appellants need only pay one set of fees. If you do not wish to proceed under Ground (a) then no fee is payable.

If you decide to appeal, when you submit your appeal, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

A copy of the appeal form and a copy of the Enforcement Notice together with a cheque for £924.00 if appealing Ground a) made payable to South Staffordshire Council should be sent to the Council addressed to:-

Corporate Director Planning & Infrastructure
South Staffordshire District Council
Planning Department
Council Offices
Wolverhampton Road,
Codsall,
WV8 1PX

If you do not appeal against this enforcement notice, it will take effect on the 18th January 2024 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the periods specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

Planning Enforcement Contact Officer:

Mark Bray
Planning Enforcement Consultant

South Staffordshire District Council
Planning Department
Council Offices
Wolverhampton Road
Codsall,
South Staffordshire,
WV8 1PX
Tel: 01902 696900

E-mail: m.bray@sstaffs.gov.uk

PERSONS SERVED WITH A COPY OF THIS ENFORCEMENT NOTICE

1. JOHN WARD
   New Acre Stables,
   Wolverhampton Road,
   Penkridge,
   Staffordshire
   ST19 5PA

2. JOHN JOSEPH MCCARTY
   New Acre Stables,
   Wolverhampton Road,
   Penkridge,
   Staffordshire
   ST19 5PA

3. JOHN MCCARTHY
   102 Stubby Lane,
   Wolverhampton
   WV11 3NJ

   And

   C/O Green Planning Studio Ltd
   Unit D – Lunesdale
   Upton Magna Business Park
   Upton Magna
   Shrewsbury
   SY4 4TT

4. BARNEY MCCARTHY
   102 Stubby Lane,
   Wolverhampton
   WV11 3NJ

   And

   C/O Green Planning Studio Ltd
   Unit D – Lunesdale
   Upton Magna Business Park
   Upton Magna
   Shrewsbury
   SY4 4TT

ANNEX

YOUR RIGHT OF APPEAL.

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Planning Inspectorate acting on behalf of the Secretary of State before the date specified in paragraph 7 of the notice. The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period[s] specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

Relevant Extracts from the Town & Country Planning Act 1990

[171A. — Expressions used in connection with enforcement.

(1) For the purposes of this Act—

(a) Carrying out development without the required planning permission;

or,

(b) Failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control.

(2) For the purposes of this Act—

(a) The issue of an enforcement notice (defined in section 172); or

(b) The service of a breach of condition notice (defined in section 187A), constitutes taking enforcement action.

(3) In this Part "planning permission" includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act.] [1]

Notes

1 Added by Planning and Compensation Act 1991 c. 34 Pt I s.4(1) (January 2, 1992 except as it relates to breach of condition notices and subject to transitional provision specified in SI 1991/2905; July 27, 1992 otherwise subject to transitional provisions in SI 1992/1630 art.3)

Extent

Pt VII s. 171A(1)-(3): England, Wales

[171B. — Time limits.

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

(4) The preceding subsections do not prevent—

(a) The service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or

(b) Taking further enforcement action in respect of any breach of planning control, if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach."] [1]

Notes

1 Added by Planning and Compensation Act 1991 c. 34 Pt I s.4(1) (January 2, 1992 except as it relates to breach of condition notices and subject to transitional provision specified in SI 1991/2905; July 27, 1992 otherwise subject to transitional provisions in SI 1992/1630 art.3)

Extent

Pt VII s. 171B: England, Wales

[171BA Time limits in cases involving concealment

(1) Where it appears to the local planning authority that there may have been a breach of planning control in respect of any land in England, the authority may apply to a magistrates' court for an order under this subsection (a "planning enforcement order") in relation to that apparent breach of planning control.

(2) If a magistrates' court makes a planning enforcement order in relation to an apparent breach of planning control, the local planning authority may take enforcement action in respect of—

(a) The apparent breach, or

(b) Any of the matters constituting the apparent breach, at any time in the enforcement year.

(3) "The enforcement year" for a planning enforcement order is the year that begins at the end of 22 days beginning with the day on which the court's decision to make the order is given, but this is subject to subsection (4).

(4) If an application under section 111(1) of the Magistrates' Courts Act 1980 (statement of case for opinion of High Court) is made in respect of a planning enforcement order, the enforcement year for the order is the year beginning with the day on which the proceedings arising from that application are finally determined or withdrawn.

(5) Subsection (2)—

(a) Applies whether or not the time limits under section 171B have expired, and

(b) Does not prevent the taking of enforcement action after the end of the enforcement year but within those time limits.] [1]

Notes

1 Added by Localism Act 2011 c. 20 Pt 6 c.5 s.124(1) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)

Extent

Pt VII s. 171BA(1)-(5)(b): England, Wales

[171BB Planning enforcement orders: procedure

(1) An application for a planning enforcement order in relation to an apparent breach of planning control may be made within the 6 months beginning with the date on which evidence of the apparent breach of planning control sufficient in the opinion of the local planning authority to justify the application came to the authority's knowledge.

(2) For the purposes of subsection (1), a certificate—

(a) Signed on behalf of the local planning authority, and

(b) Stating the date on which evidence, sufficient in the authority's opinion to justify the application came to the authority's knowledge, is conclusive evidence of that fact.

(3) A certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved.

(4) Where the local planning authority apply to a magistrates' court for a planning enforcement order in relation to an apparent breach of planning control in respect of any land, the authority must serve a copy of the application—

(a) On the owner and on the occupier of the land, and

(b) On any other person having an interest in the land that is an interest which, in the opinion of the authority, would be materially affected by the taking of enforcement action in respect of the apparent breach.

(5) The persons entitled to appear before, and be heard by, the court hearing an application for a planning enforcement order in relation to an apparent breach of planning control in respect of any land include—

(a) The applicant,

(b) Any person on whom a copy of the application was served under subsection (4), and

(c) Any other person having an interest in the land that is an interest which, in the opinion of the court, would be materially affected by the taking of enforcement action in respect of the apparent breach.

(6) In this section "planning enforcement order" means an order under section 171BA(1).] [1]

Notes

1 Added by Localism Act 2011 c. 20 Pt 6 c.5 s.124(1) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)

Extent

Pt VII s. 171BB(1)-(6): England, Wales

[171BC Making a planning enforcement order

(1) A magistrates' court may make a planning enforcement order in relation to an apparent breach of planning control only if—

(a) The court is satisfied, on the balance of probabilities, that the apparent breach, or any of the matters constituting the apparent breach, has (to any extent) been deliberately concealed by any person or persons, and

(b) The court considers it just to make the order having regard to all the circumstances.

(2) A planning enforcement order must—

(a) Identify the apparent breach of planning control to which it relates, and

(b) State the date on which the court's decision to make the order was given.

(3) In this section "planning enforcement order" means an order under section 171BA(1).] [1]

Notes

1 Added by Localism Act 2011 c. 20 Pt 6 c.5 s.124(1) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)

Extent

Pt VII s. 171BC(1)-(3): England, Wales

[Planning contravention notices] 1

[172. — Issue of enforcement notice.

(1) The local planning authority may issue a notice (in this Act referred to as an "enforcement notice") where it appears to them—

(a) That there has been a breach of planning control; and

(b) That it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

(2) A copy of an enforcement notice shall be served—

(a) On the owner and on the occupier of the land to which it relates; and

(b) On any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

(3) The service of the notice shall take place—

(a) Not more than twenty-eight days after its date of issue; and

(b) Not less than twenty-eight days before the date specified in it as the date on which it is to take effect.] [1]

Notes

1 Substituted by Planning and Compensation Act 1991 c. 34 Pt I s.5(1) (November 25, 1991 for certain purposes specified in SI 1991/2728 art.2; January 2, 1992 otherwise subject to transitional provisions specified in SI 1991/2905)

Commencement

Pt VII s. 172: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Extent

Pt VII s. 172(1)-(8): England, Wales

[172A Assurance as regards prosecution for person served with notice

(1) When, or at any time after, an enforcement notice is served on a person, the local planning authority may give the person a letter—

(a) Explaining that, once the enforcement notice had been issued, the authority was required to serve the notice on the person,

(b) Giving the person one of the following assurances—

i. That, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the enforcement notice, or

ii. That, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the matters relating to the enforcement notice that are specified in the letter,

(c) Explaining, where the person is given the assurance under paragraph (b)(ii), the respects in which the person is at risk of being prosecuted under section 179 in connection with the enforcement notice, and

(d) stating that, if the authority subsequently wishes to withdraw the assurance in full or part, the authority will first give the person a letter specifying a future time for the withdrawal that will allow

the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

(2) At any time after a person has under subsection (1) been given a letter containing an assurance, the local planning authority may give the person a letter withdrawing the assurance (so far as not previously withdrawn) in full or part from a time specified in the letter.

(3) The time specified in a letter given under subsection (2) to a person must be such as will give the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

(4) Withdrawal under subsection (2) of an assurance given under subsection (1) does not withdraw the assurance so far as relating to prosecution on account of there being a time before the withdrawal when steps had not been taken or an activity had not ceased.

(5) An assurance given under subsection (1) (so far as not withdrawn under subsection (2)) is binding on any person with power to prosecute an offence under section 179.][1]

Notes

1 Added by Localism Act 2011 c. 20 Pt 6 c.5 s.125 (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)

Extent

Pt VII s. 172A(1)-(5): England, Wales

[173. — Contents and effect of notice.

(1) An enforcement notice shall state—

(a) The matters which appear to the local planning authority to constitute the breach of planning control; and

(b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.

(2) A notice complies with subsection (1) (a) if it enables any person on whom a copy of it is served to know what those matters are.

(3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.

(4) Those purposes are—

(a) Remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or

(b) Remedying any injury to amenity which has been caused by the breach.

(5) An enforcement notice may, for example, require—

(a) The alteration or removal of any buildings or works;

(b) The carrying out of any building or other operations;

(c) Any activity on the land not to be carried on except to the extent specified in the notice;

Or

(d) The contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.

(6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a "replacement building") which, subject to subsection (7), is as similar as possible to the demolished building.

(7) A replacement building—

(a) Must comply with any requirement imposed by any enactment applicable to the construction of buildings;

(b) May differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;

(c) Must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).

(8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.

(9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.

(10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.

(11) Where—

(a) An enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and

(b) All the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(12) Where—

(a) An enforcement notice requires the construction of a replacement building; and

(b) All the requirements of the notice with respect to that construction have been complied with, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.][1]

Notes

1 Substituted by Planning and Compensation Act 1991 c. 34 Pt I s.5(1) (November 25, 1991 for certain purposes specified in SI 1991/2728 part.2; January 2, 1992 otherwise subject to transitional provisions specified in SI 1991/2905)

Commencement

Pt VII s. 173: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Extent

Pt VII s. 173(1)-(12)(b): England, Wales

[173A. — Variation and withdrawal of enforcement notices.

(1) The local planning authority may—

(a) Withdraw an enforcement notice issued by them; or

(b) Waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

(4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.][1]

Notes

1 Added by Planning and Compensation Act 1991 c. 34 Pt I s.5(1) (November 25, 1991 for certain purposes specified in SI 1991/27 28 art.2; January 2, 1992 otherwise subject to transitional provisions specified in SI 1991/2905)

Extent

Pt VII s. 173A(2)-(4): England, Wales

174. — Appeal against enforcement notice.

(1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

(2) **[**An appeal may be brought on any of the following grounds—

(a) That, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;

(b) That those matters have not occurred;

(c) That those matters (if they occurred) do not constitute a breach of planning control;

(d) 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;

(e) That copies of the enforcement notice were not served as required by section 172;

(f) That the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by

those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

(g) That any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

(2A) An appeal may not be brought on the ground specified in subsection (2)(a) if—

(a) The land to which the enforcement notice relates is in England, and

(b) the enforcement notice was issued at a time—

i. After the making of a related application for planning permission, but

ii. Before the end of the period applicable under section 78(2) in the case of that application.

(2B) An application for planning permission for the development of any land is, for the purposes of subsection (2A), related to an enforcement notice if granting planning permission for the development would involve granting planning permission in respect of the matters specified in the enforcement notice as constituting a breach of planning control.][2]

(3) An appeal under this section shall be made [...][3] —

(a) By giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or

(b) By sending such notice to him in a property addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date [; or][3]

(c) [By sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.][3]][1]

(4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—

(a) Specifying the grounds on which he is appealing against the enforcement notice; and

(b) Giving such further information as may be prescribed.

(5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.

(6) In this section "relevant occupier" means a person who—

(a) On the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence [...][4] ; and

(b) Continues so to occupy the land when the appeal is brought.

Notes

1 Substituted by Planning and Compensation Act 1991 c. 34 Pt I s.6(1) (January 2, 1992 subject to transitional provisions specified in SI 1991/2905)

2 Added by Localism Act 2011 c. 20 Pt 6 c.5 s.123(4) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)

3 S.174(3)(c) inserted in relation to Wales by Town and Country Planning (Electronic Communications) (Wales) (No. 1) Order 2004/3156 art.3 (January 1, 2005)

4 Words omitted by Planning and Compensation Act 1991 c. 34 Sch.7 para.22 (January 2, 1992)

Commencement

Pt VII s. 174: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Extent

Pt VII s. 174(1)-(6)(b): England, Wales

P Partially In Force

175. — Appeals: supplementary provisions.

(1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—

(a) Require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;

(b) Specify the matters to be included in such a statement;

(c) Require the authority or the appellant to give such notice of such an appeal as may be prescribed;

(d) Require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.

(2) The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.

(3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

[(3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.][1]

(4) Where an appeal is brought under section 174 the enforcement notice shall [subject to any order under section 289(4A)][2] be of no effect pending the final determination or the withdrawal of the appeal.

(5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

(7) [...][3]

Notes

1 Added by Planning Act 2008 c. 29 Sch.10 para.5 (April 6, 2009 in relation to England and Wales for purposes specified in SI 2009/400 art.3(j); not yet in force otherwise)

2 Words added by Planning and Compensation Act 1991 c. 34 Pt I s.6(2) (January 2, 1992 subject to transitional provisions specified in SI 1991/2905)

3 Repealed by Planning (Consequential Provisions) Act 1990 c. 11 Sch.4 para.3 (January 2, 1992: repeal has effect on January 2, 1992 for purposes specified in SI 1991/2698 art.3 subject to transitional provisions specified in SI 1991/2698 art.4 and on April 6, 2009 in relation to England only, for purposes specified in SI 2009/849 art.2(2)-(3) subject to transitional provisions specified in SI 2009/849 art.3; not yet in force otherwise)

Commencement

Pt VII s. 175: August 24, 1990 except for the provision specified in 1990 c.11 Sch.4 para.7; January 2, 1992 for purposes specified in SI 1991/2698 art 3; not yet in force otherwise (1990 c. 8 Pt XV s. 337(2); 1990 c. 11 Sch. 4 para. 7; SI 1991/2698 art. 3)

Extent

Pt VII s. 175(1)-(7): England, Wales

P Partially In Force

176. — General provisions relating to determination of appeals.

(1) [On an appeal under section 174 the Secretary of State may—

(a) Correct any defect, error or misdescription in the enforcement notice; or

(b) Vary the terms of the enforcement notice, if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

(2) Where the Secretary of State determines to allow the appeal, he may quash the notice.

(2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.][1]

(3) The Secretary of State—

(a) May dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and

(b) May allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or

(c) Of section 175(1) within the prescribed period.

(4) If [section 175(3) would otherwise apply and] 2 the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) [of this section] 3 or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section175(3).

(5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

Notes

1 S.176(1)-(2A) substituted for s.176(1)-(2) by Planning and Compensation Act 1991 c. 34 Sch.7 para.23 (January 2, 1992)

2 Words inserted by Planning Act 2008 c. 29 Sch.10 para.6(a) (April 6, 2009 in relation to England and Wales for purposes specified in SI 2009/400 art.3(j); not yet in force otherwise)

3 Words inserted by Planning Act 2008 c. 29 Sch.10 para.6(b) (April 6, 2009 in relation to England and Wales for purposes specified in SI 2009/400 art.3(j); not yet in force otherwise)

Commencement

Pt VII s. 176: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Extent

Pt VII s. 176(1)-(5): England, Wales

177. — Grant or modification of planning permission on appeals against enforcement notices.

(1) On the determination of an appeal under section 174, the Secretary of State may—

(a) [Grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;][1]

(b) Discharge any condition or limitation subject to which planning permission was granted;

(c) [Determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 19.][2]

[(1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—

(a) Any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and

(b) References to the local planning authority were references to the Secretary of State.

(1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194.][2]

[(1C) If the land to which the enforcement notice relates is in England, subsection (1)(a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a).][3]

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

(3) [The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.][4]

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(5) [Where an appeal against an enforcement notice is brought under section 174 and—

(a) The land to which the enforcement notice relates is in Wales, or

(b) That land is in England and the statement under section 174(4) specifies the ground mentioned in section 174(2)(a), the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control.][5]

[(5A) Where—

(a) The statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;

(b) Any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and

(c) The Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid, then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.][6]

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

Notes

1 Substituted by Planning and Compensation Act 1991 c. 34 Sch.7 para.24(1)(a) (January 2, 1992)

2 S.77(1)(c), (1A) and (1B) substituted for s.77(1)(c) by Planning and Compensation Act 1991 c. 34 Sch.7 para.24(1)(b) (July 27, 1992 subject to transitional provisions specified in SI 1992/1630 art.3)

3 Added by Localism Act 2011 c. 20 Pt 6 c.5 s.123(5) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)

4 Substituted by Planning and Compensation Act 1991 c. 34 Sch.7 para.24(2) (January 2, 1992)

5 Words and s.177(5)(a)-(b) substituted for words by Localism Act 2011 c. 20 Pt 6 c.5 s.123(6) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)

6 Added by Planning and Compensation Act 1991 c. 34 Pt I s.6(3) (January 2, 1992 subject to transitional provisions specified in SI 1991/2905)

Commencement

Pt VII s. 177: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Extent

Pt VII s. 177(1)-(8): England, Wales

Customer Support Team
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Direct Line: 0303 444 5000

Email: enquiries@planninginspectorate.gov.uk

1. THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- online at the Appeals Casework Portal (https://acp.planninginspectorate.gov.uk/); or
- sending us enforcement appeal forms, which can be obtained by contacting us on the details above.

You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the enforcement notice.

Please read the appeal guidance documents at https://www.gov.uk/appeal-enforcement-notice/how-to-appeal (https://www.gov.uk/appeal-enforcement-notice/how-to-appeal).

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- the name of the local planning authority;
- the site address; and
- the effective date of the enforcement notice.

We MUST receive this BEFORE the effective date on the enforcement notice. This should immediately be followed by your completed appeal forms.

APPENDIX 2

The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

Official copy of register of title

Title number SF280148 | Edition date 02.05.2006

- This official copy shows the entries on the register of title on 30 SEP 2022 at 06:49:40.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 30 Sep 2022.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Birkenhead Office.

A: Property Register

This register describes the land and estate comprised in the title.

STAFFORDSHIRE : SOUTH STAFFORDSHIRE

1 (18.05.1989) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being Plot 3 Wolverhampton Road, Penkridge.

2 The land has the benefit of the following rights granted by a Transfer of the land in this title dated 6 March 1990 made between (1) Suzanne Winter (Transferor) and (2) Fred Blossom Smith (Transferee):-

"TOGETHER WITH the right (in common with all others similarly entitled)

To use the roadways shown upon the said plan and coloured brown with or without animals or vehicles at all times and for all purposes in connection with the use and enjoyment of the said plot subject to the payment by the Transferee of a one-eleventh part of the cost of the maintenance and repair of the same."

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

1 (09.04.1990) Proprietor(s): FRED BLOSSOM SMITH of 32 Wolverhampton Road, Wolverhampton, WV1 4BN.

2 (09.04.1990) The Transfer to the proprietor(s) contains a covenant to observe and perform the covenants referred to in the Charges Register and of indemnity in respect thereof.

C: Charges Register

This register contains any charges and other matters that affect the land.

1 A Conveyance of the land in this title and other land dated 3 May 1947

C: Charges Register continued

made between (1) The Right Honourable Edward Thomas Walhouse Fifth Baron Hatherton (Vendor) (2) The Honourable Charles Christopher Josceline and The Honourable William Hugh Littleton and (3) Hilda Brown (Purchaser) contains the following covenants:-

For the benefit of the Vendors said Teddesley Estate the Purchaser for herself and her successors in title and to the intent and so as to bind (as far as practicable) the land and premises thereby assured into whosesoever hands the same may come but not so as to render the Purchaser liable (excpet in respect of antecedent acts) after she has parted with all intent in the premises thereby covenants with the Vendor and his successors in title to observe and perform the conditions and stipulations contained in the Second Schedule hereto.

THE SECOND SCHEDULE thereinbefore referred to

Particulars of the said condition and stipulations

Not to use the property thereby conveyed or any part thereof for any noxious noisome of offensive or dangerous trade business or purpose or so to be a cause of nuisance annoyance damage or injury to the adjoining or neighbouring property of the Vendor or any part thereof.

2 The land is subject to the following rights reserved by the Conveyance dated 3 May 1947 referred to above:-

Subject to the right of the Staffs County Council at all times thereafter to enter upon such part of the property thereby conveyed as is coloured blue on the said plan for the purpose of constructing and forever thereafter maintaining embankments to the Wolverhampton Road shown thereon and subject also to all rights of way water drainage support light and other easements (including all quasi-easements and methods of user hitherto used or enjoyed by the Vendors in connection with his adjoining or neighbouring property) if any in respect of fences walls drains and occupation or other roads.

NOTE:-Copy plan filed under SF263588.

End of register

These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

This official copy is issued on 30 September 2022 shows the state of this title plan on 30 September 2022 at 06:49:41. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.
This title is dealt with by the HM Land Registry, Birkenhead Office .

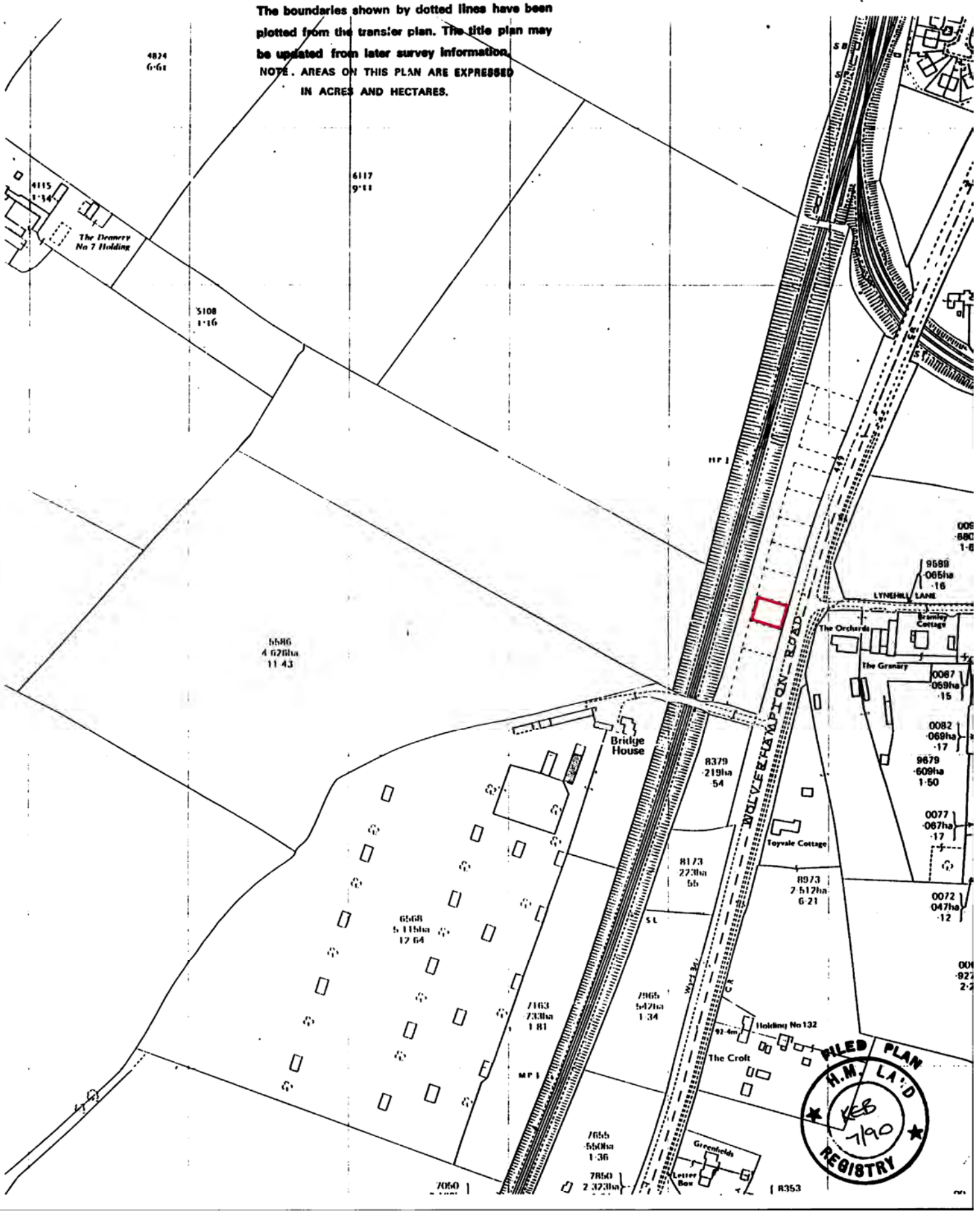
H.M. LAND REGISTRY

TITLE NUMBER	
SF280148	

ORDNANCE SURVEY PLAN REFERENCE	SJ 9112 SJ9113	SECTION	Scale 1/2500
COUNTY STAFFORDSHIRE	DISTRICT SOUTH STAFFORDSHIRE		© Crown copyright

The boundaries shown by dotted lines have been plotted from the transfer plan. The title plan may be updated from later survey information.

NOTE. AREAS ON THIS PLAN ARE EXPRESSED IN ACRES AND HECTARES.



The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

Official copy of register of title

Title number SF280140 | Edition date 04.01.2016

- This official copy shows the entries on the register of title on 15 SEP 2023 at 14:36:13.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 15 Sep 2023.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Birkenhead Office.

A: Property Register

This register describes the land and estate comprised in the title.

STAFFORDSHIRE : SOUTH STAFFORDSHIRE

1 (18.05.1989) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being Land on the west side of Wolverhampton Road, Gailey, Stafford.

2 (25.11.1991) The land edged and numbered in green on the filed plan has been removed from this title and registered under the title number or numbers shown in green on the said plan.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

1 (04.01.2016) PROPRIETOR: JOHN JOSEPH MCCARTY, BARNEY MCCARTHY and JOHN MCCARTHY of 102 Stubby Lane, Wolverhampton WV11 3NJ.

2 (05.07.2013) The price stated to have been paid on 1 July 2013 was £600.

3 (05.07.2013) RESTRICTION: No disposition by a sole proprietor of the registered estate (except a trust corporation) under which capital money arises is to be registered unless authorised by an order of the court.

4 (04.01.2016) The Transfer to the proprietor contains a covenant to observe and perform the covenants referred to in the Charges Register and of indemnity in respect thereof.

C: Charges Register

This register contains any charges and other matters that affect the land.

1 A Conveyance of the land in this title and other land dated 3 May 1947 made between (1) The Right Honourable Edward Thomas Walhouse Fifth

C: Charges Register continued

Baron Hatherton (Vendor) (2) The Honourable Charles Christopher Josceline and The Honourable William Hugh Littleton and (3) Hilda Brown (Purchaser) contains the following covenants:-

For the benefit of the Vendors said Teddesley Estate the Purchaser for herself and her successors in title and to the intent and so as to bind (as far as practicable) the land and premises thereby assured into whosesoever hands the same may come but not so as to render the Purchaser liable (excpet in respect of antecedent acts) after she has parted with all intent in the premises thereby covenants with the Vendor and his successors in title to observe and perform the conditions and stipulations contained in the Second Schedule hereto.

THE SECOND SCHEDULE thereinbefore referred to

Particulars of the said condition and stipulations

Not to use the property thereby conveyed or any part thereof for any noxious noisome of offensive or dangerous trade business or purpose or so to be a cause of nuisance annoyance damage or injury to the adjoining or neighbouring property of the Vendor or any part thereof.

2 The land is subject to the following rights reserved by the Conveyance dated 3 May 1947 referred to above:-

Subject to the right of the Staffs County Council at all times thereafter to enter upon such part of the property thereby conveyed as is coloured blue on the said plan for the purpose of constructing and forever thereafter maintaining embankments to the Wolverhampton Road shown thereon and subject also to all rights of way water drainage support light and other easements (including all quasi-easements and methods of user hitherto used or enjoyed by the Vendors in connection with his adjoining or neighbouring property) if any in respect of fences walls drains and occupation or other roads.

NOTE: Copy plan filed under SF263588.

3 (19.04.1990) A Transfer of the land in this title dated 6 March 1990 made between (1) Suzanne Winter and (2) John Beard and James Smith contains the following covenants:-

"The Transferee hereby covenants with the Transferors so as to benefit the remaining plots 1 - 11 shown on the plan bound up within or any part or parts thereof and so far as to bind the land hereby transferred into whosesoever hands the same may come but not so as to render the Transferee personally liable in damages for any breach of a restrictive covenant after he shall have parted with all interest in the land hereby transferred that the Transferees or either of them will not at any time hereafter in any manner whatsoever obstruct or suffer or allow to be obstructed any part or parts of the said roadways coloured brown upon the said plan."

NOTE: The roadways coloured brown referred to comprises the land in this title.

4 (19.04.1990) The land is subject to the following rights reserved by the Transfer dated 6 March 1990 referred to above:-

"Subject to and excepting and reserving unto the owners and occupiers of the remaining plots 1-11 shown.

Upon the said plan the right with or without animals or vehicles at all times and for all purposes in connection with the use and enjoyment of their respective plots to use the roadways coloured brown and edged red upon the said plan subject to the payment by them of their respective proportions of the cost of the maintenance and repair of the said roadways."

End of register

These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

This official copy is issued on 15 September 2023 shows the state of this title plan on 15 September 2023 at 14:36:13. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.
This title is dealt with by the HM Land Registry, Birkenhead Office .

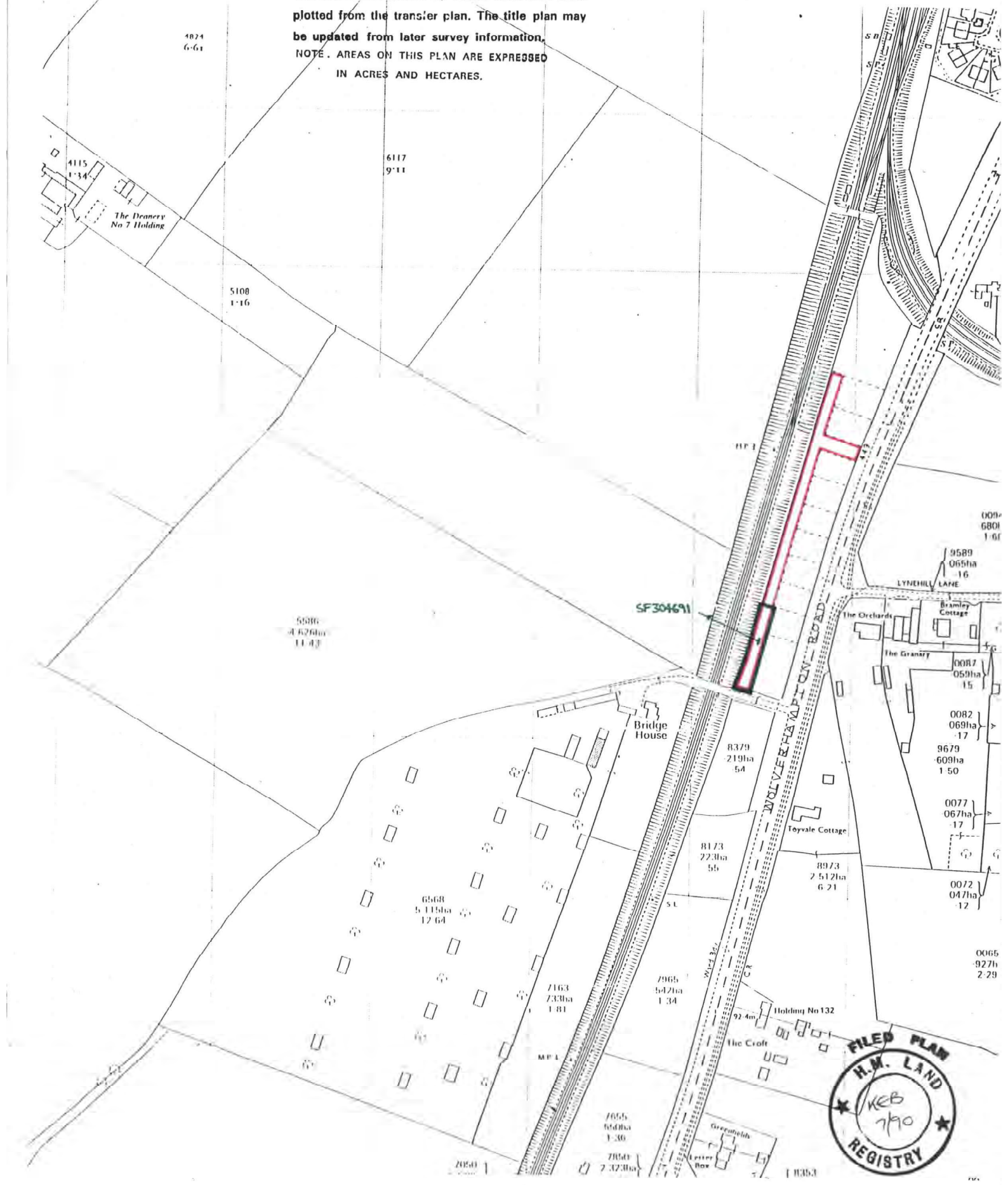
H.M. LAND REGISTRY

TITLE NUMBER	
SF280140	

ORDNANCE SURVEY PLAN REFERENCE	SJ 9112 SJ9113	SECTION	Scale 1/ 2500
COUNTY STAFFORDSHIRE	DISTRICT SOUTH STAFFORDSHIRE		© Crown copyright

The boundaries shown by dotted lines have been plotted from the transfer plan. The title plan may be updated from later survey information.

NOTE. AREAS ON THIS PLAN ARE EXPRESSED IN ACRES AND HECTARES.



APPENDIX 3


South
Staffordshire
Council
14-Oct-2022 11:24
Mark Bray Planning Enforcement Consultant


South
Staffordshire
Council
14-Oct-2022 11:24
Mark Bray Planning Enforcement Consultant


South
Staffordshire
Council
14-Oct-2022 11:27
Mark Bray Planning Enforcement Consultant


South
Staffordshire
Council
14-Oct-2022 11:24
Mark Bray Planning Enforcement Consultant

APPENDIX 4

South Staffordshire Council

Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)

REFUSAL OF PLANNING PERMISSION

Application Number:	23/00066/FUL
Proposed:	Use of land for the stationing of caravans for residential purposes.
At:	New Acre Stables Wolverhampton Road Penkridge Staffordshire

In pursuance of their powers under the above mentioned Act, South Staffordshire Council, hereby **REFUSE** permission for the development described in the above application.

Reasons for refusal:

1. The proposal represents inappropriate development in the Green Belt, contrary to Policies GB1 and H6 (criterion 7 and 8) of the adopted South Staffordshire Core Strategy and Central Government Policy and Guidance given in the National Planning Policy Framework (Protecting Green Belt Land) and Planning Policy for Traveller Sites. The circumstances put forward do not justify overriding the presumption against inappropriate development in the Green Belt in this case.

2. The proposal would cause demonstrable harm to the openness and permanence of the Green Belt, detrimentally impacting upon its essential characteristic; and would also introduce increased built form which would cause additional encroachment; contrary to policies GB1 and H6 of the adopted Core Strategy, Planning Policy for Traveller Sites and the National Planning Policy Framework.

3. The proposal, in the absence of necessary mitigation measures, is contrary to Policy EQ2 'Cannock Chase Special Area of Conservation' of the adopted Core Strategy being within a 15 kilometre radius of the SAC and having potentially adverse effects on its integrity.

   Proactive Statement - Whilst paragraph 38 of the National Planning Policy Framework (2021) requires the Local Planning Authority to work with applicants in a positive and proactive manner to resolve issues arising from the proposed development; in this instance a positive solution could not be found and the development fails to accord with the adopted Core Strategy (2012) and the National Planning Policy Framework (2021).

Signed Dated: 25 August 2023

Helen Benbow
Development Management Team Manager

Mr John Ward
C/O Mr Ethan Giles
Green Planning Studio Ltd
Unit D/Lunesdale
Upton Magna Business Pk
Shrewsbury
SY4 4TT

NOTES

APPEALS

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice [reference], if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.

If this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.

If this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.

Otherwise, if you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

However, if you are not sure which of these time limits applies to your decision please contact the Planning Inspectorate

Appeals can be made online at: https://www.gov.uk/planning-inspectorate.
If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

PURCHASE NOTICE

If permission to develop land is refused or granted subject to conditions, whether by the Local Planning Authority or the Secretary of State for Communities and Local Government, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, she/he may serve on the Borough Council or District Council or County Council in which the land is situated, as the case may be, a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

COMPENSATION

In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

*Householder development means development of an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse. It does not

include a change of use or a change to the number of dwellings in a building.

APPENDIX 5

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

(AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)

PLANNING CONTRAVENTION NOTICE

ISSUED BY: SOUTH STAFFORDSHIRE DISTRICT COUNCIL

TO: FRED BLOSSOM SMITH 32, Wolverhampton Road, Wolverhampton WV1 4BN

1. **THIS NOTICE** is served by the Council because it appears to it that there may have been a breach of planning control within section 171A(1) of the above Act, at the land described below. It is served on you as a person who appears to be the owner or occupier of the land or has another interest in it, or who is carrying out operations in, on, over or under the land or is using it for any purpose. The Council requires you, in exercise of its powers under Section 171C(2) and (3), so far as you are able, to provide certain information about interests in, and activities, on the land.

2. **THE LAND TO WHICH THE NOTICE RELATES**

   Land South of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA outlined in red on the plan attached to this notice ("the Land").

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

   Without planning permission, the material change of use of land to a use for the stationing of a caravan for residential purposes on the land outlined in red for identification purposes on the site plan attached to this notice.

4. **WHAT YOU ARE REQUIRED TO DO**

   Provide in writing the following information:

   a) Your full name (including any middle names), date of birth, and full address of the property at which you currently reside.

   _____

   _____

   _____

_____

_____

b) The names, dates of birth and addresses of any other persons having an interest in the Land (include all owners, mortgagees, charges, lessees, licensees and any other person(s) with a right to the use of the Land for any purpose).

_____

_____

_____

_____

_____

_____

c) What is your interest in the land known as Land North of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA

_____

_____

_____

_____

_____

d) For what purpose is the land used for and when did that use, or uses commence?

_____

_____

_____

_____

_____

_____

_____

_____

e) When was the static mobile home stationed on the Land.

_____

_____

_____

_____

_____

_____

f) Who currently resides in the static mobile home.

_____

_____

_____

_____

_____

_____

g) Please provie any further information that you consider relevant.

_____

_____

_____

_____

_____

_____

Time within which the information must be provided: 23rd October 2023

5. OPPORTUNITY TO MAKE REPRESENTATIONS IN RESPONSE TO THE NOTICE

If you wish to make an offer to apply for planning permission, or to stop carrying out any operations or activities, or to undertake remedial works; or to make any representations about this notice, the Council will consider them 23rd October 2023. If you wish to make representation you will need to contact the officer dealing with the case (contact details of the officer can be found on the cover letter).

6. WARNING

It is an offence to fail, without reasonable excuse, to comply with any requirement of this notice by 23rd October 2023. The maximum penalty on conviction of this offence is a fine of £1,000. Continuing failure to comply following a conviction will constitute a further offence.

It is also an offence knowingly or recklessly to give information, in response to this notice, which is false or misleading in a material particular when purporting to comply with the notice. The maximum penalty on conviction of this offence is a fine of £5,000.

Please sign below to confirm you have read and understood the warning of Section 6.

SIGNATURE …….. DATE …….

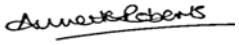
7. ADDITIONAL INFORMATION

If you fail to respond to this notice, the Council may take further action in respect of the suspected breach of planning control. In particular, they may issue an enforcement notice, under section 172 of the 1990 Act, requiring the breach, or any injury to amenity caused by it, to be remedied.

If the Council serves a stop notice, and or one or more temporary stop notices under sections 183 and 171E respectively of the 1990 Act, section 186(5)(b) of the 1990 Act provides that you should otherwise become entitled (under Section 186) to compensation for loss or damage attributable to that notice, no such compensation will be payable in respect of any loss or damage which could have

been avoided had you given the Council the information required by this notice, or had you otherwise co-operated with the Council when responding to it.

Date: 29th September 2023



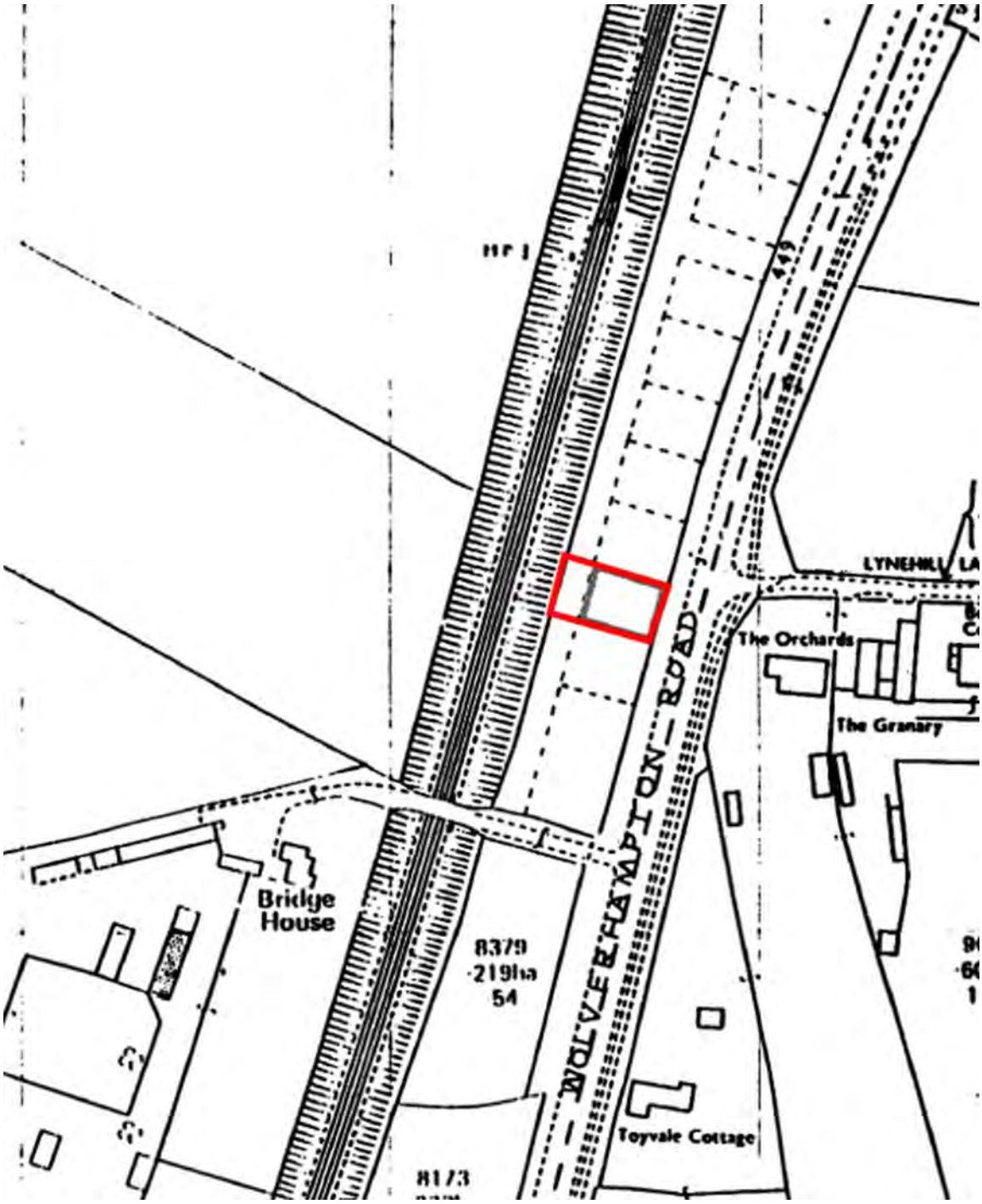
Signed:

Corporate Director of Place and Communities, South Staffordshire District Council,

Council Offices, Wolverhampton Road, Codsall, South Staffordshire WV8 1PX

RED LINE PLAN TO ACCOMPANY PLANNING CONTRAVENTION NOTICE

Land South Of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA



South Staffordshire Council

PLANNING ENFORCEMENT

FRED BLOSSOM SMITH
32, Wolverhampton Road,
Wolverhampton
WV1 4BN

Case Officer: Mark Bray

Telephone: 01902 696000

Email: m.bray@sstaffs.gov.uk

Date: 29th September 2023

CASE REFERENCE	22/00239/UNCOU
DESCRIPTION	Without planning permission, the material change of use of land to a use for the stationing of a caravan for residential purposes on the land outlined in red for identification purposes on the site plan attached to this notice.
LOCATION	Land South of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA outlined in red on the plan attached to this notice.

Dear Mr Smith,

I write in relation to the subject detailed breach in planning control.

In accordance with Sections 172C(2) and (3), I enclose a Planning Contravention Notice which entitles the Council to request information about the land and its uses.

Please provide the information requested in the Notice within 21 days (23rd October 2023) beginning on the day on which this notice is served on you (23rd October 2023).

This information can be submitted in three different ways listed below.

- By emailing the completed notice to m.bray@sstaffs.gov.uk
- By post, please address to Mark Bray the postal address can be found at the bottom of the letter
- By hand delivering the completed notice to the reception desk and the Council Offices

You will note from the information provided in the Notice that it is an offence if you fail to provide the required information within of the prescribed period of time.

If you have any queries please contact me on 01902 696000 or via email.

Yours sincerely,

Mark Bray AssocRTPI
Planning Enforcement Consultant

South Staffordshire District Council
Planning Department
Council Offices
Wolverhampton Road
Codsall,
South Staffordshire,
WV8 1PX

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

(AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)

PLANNING CONTRAVENTION NOTICE

ISSUED BY: SOUTH STAFFORDSHIRE DISTRICT COUNCIL

TO: JOHN JOSEPH MCCARTHY 102 Stubby Lane, Wolverhampton WV11 3NJ

1. **THIS NOTICE** is served by the Council because it appears to it that there may have been a breach of planning control within section 171A(1) of the above Act, at the land described below. It is served on you as a person who appears to be the owner or occupier of the land or has another interest in it, or who is carrying out operations in, on, over or under the land or is using it for any purpose. The Council requires you, in exercise of its powers under Section 171C(2) and (3), so far as you are able, to provide certain information about interests in, and activities, on the land.

2. **THE LAND TO WHICH THE NOTICE RELATES**

   Land South of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA outlined in red on the plan attached to this notice ("the Land").

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

   Without planning permission, the material change of use of land to a use for the stationing of a caravan for residential purposes on the land outlined in red for identification purposes on the site plan attached to this notice.

4. **WHAT YOU ARE REQUIRED TO DO**

   Provide in writing the following information:

   a) Your full name (including any middle names), date of birth, and full address of the property at which you currently reside.

   _____

   _____

   _____

_____

_____

b) The names, dates of birth and addresses of any other persons having an interest in the Land (include all owners, mortgagees, charges, lessees, licensees and any other person(s) with a right to the use of the Land for any purpose).

_____

_____

_____

_____

_____

_____

c) What is your interest in the land known as Land North of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA

_____

_____

_____

_____

_____

d) For what purpose is the land used for and when did that use, or uses commence?

_____

_____

_____

_____

_____

_____

_____

_____

e) When was the static mobile home stationed on the Land.

_____

_____

_____

_____

_____

_____

f) Who currently resides in the static mobile home.

_____

_____

_____

_____

_____

_____

g) Please provie any further information that you consider relevant.

_____

_____

_____

_____

_____

_____

Time within which the information must be provided: 23rd October 2023

5. OPPORTUNITY TO MAKE REPRESENTATIONS IN RESPONSE TO THE NOTICE

If you wish to make an offer to apply for planning permission, or to stop carrying out any operations or activities, or to undertake remedial works; or to make any representations about this notice, the Council will consider them 23rd October 2023. If you wish to make representation you will need to contact the officer dealing with the case (contact details of the officer can be found on the cover letter).

6. WARNING

It is an offence to fail, without reasonable excuse, to comply with any requirement of this notice by 23rd October 2023. The maximum penalty on conviction of this offence is a fine of £1,000. Continuing failure to comply following a conviction will constitute a further offence.

It is also an offence knowingly or recklessly to give information, in response to this notice, which is false or misleading in a material particular when purporting to comply with the notice. The maximum penalty on conviction of this offence is a fine of £5,000.

Please sign below to confirm you have read and understood the warning of Section 6.

SIGNATURE …….. DATE …….

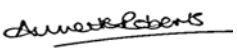
7. ADDITIONAL INFORMATION

If you fail to respond to this notice, the Council may take further action in respect of the suspected breach of planning control. In particular, they may issue an enforcement notice, under section 172 of the 1990 Act, requiring the breach, or any injury to amenity caused by it, to be remedied.

If the Council serves a stop notice, and or one or more temporary stop notices under sections 183 and 171E respectively of the 1990 Act, section 186(5)(b) of the 1990 Act provides that you should otherwise become entitled (under Section 186) to compensation for loss or damage attributable to that notice, no such compensation will be payable in respect of any loss or damage which could have

been avoided had you given the Council the information required by this notice, or had you otherwise co-operated with the Council when responding to it.

Date: 29th September 2023



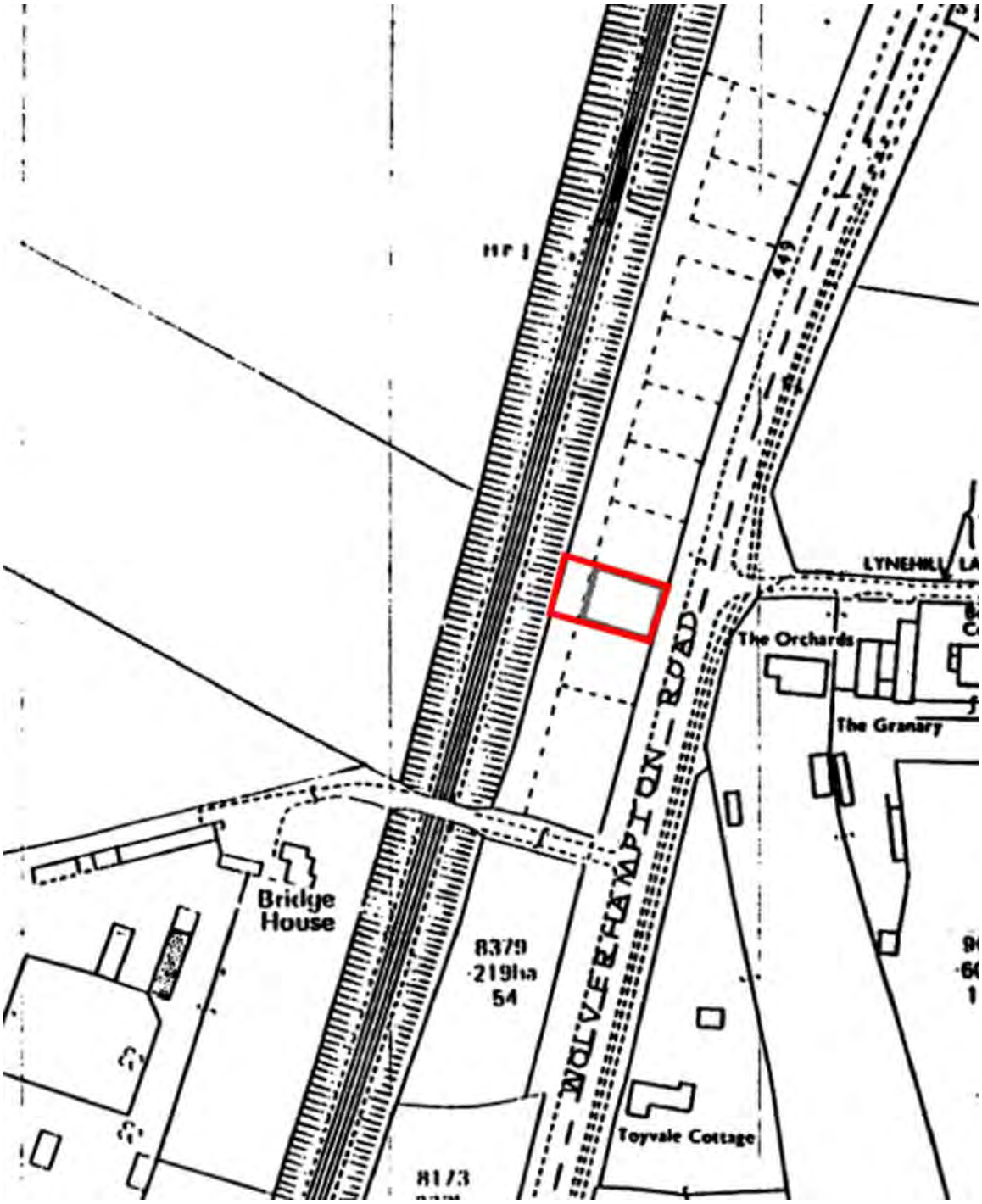
Signed:

Corporate Director of Place and Communities, South Staffordshire District Council,

Council Offices, Wolverhampton Road, Codsall, South Staffordshire WV8 1PX

RED LINE PLAN TO ACCOMPANY PLANNING CONTRAVENTION NOTICE

Land South Of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA



South Staffordshire Council

PLANNING ENFORCEMENT

JOHN JOSEPH MCCARTHY
102, Stubby Lane,
Wolverhampton
WV11 3NJ

Case Officer: Mark Bray

Telephone: 01902 696000

Email: m.bray@sstaffs.gov.uk

Date: 29th September 2023

CASE REFERENCE	22/00239/UNCOU
DESCRIPTION	Without planning permission, the material change of use of land to a use for the stationing of a caravan for residential purposes on the land outlined in red for identification purposes on the site plan attached to this notice.
LOCATION	Land South of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA outlined in red on the plan attached to this notice.

Dear Mr McCarthy,

I write in relation to the subject detailed breach in planning control.

In accordance with Sections 172C(2) and (3), I enclose a Planning Contravention Notice which entitles the Council to request information about the land and its uses.

Please provide the information requested in the Notice within 21 days (23rd October 2023) beginning on the day on which this notice is served on you (23rd October 2023).

This information can be submitted in three different ways listed below.

- By emailing the completed notice to m.bray@sstaffs.gov.uk
- By post, please address to Mark Bray the postal address can be found at the bottom of the letter
- By hand delivering the completed notice to the reception desk and the Council Offices

You will note from the information provided in the Notice that it is an offence if you fail to provide the required information within of the prescribed period of time.

If you have any queries please contact me on 01902 696000 or via email.

Yours sincerely,

Mark Bray AssocRTPI
Planning Enforcement Consultant

South Staffordshire District Council
Planning Department
Council Offices
Wolverhampton Road
Codsall,
South Staffordshire,
WV8 1PX

CERTIFICATE OF SERVICE

LIST OF DOCUMENTS SERVED

- **PNC x 2 & COVER LETTER RE- LAND SOUTH OF NEW ACRE STABLES, WOLVERHAMPTON ROAD, PENKRIDGE, STAFFORDSHIRE ST19 5PA**

I, Mark Andrew Bray certify that on 29th September 2023, two copies of the above documents were sent to:

1. FRED BLOSSOM SMITH
   32, Wolverhampton Road,
   Wolverhampton
   WV1 4BN

   Tracking Reference: DS376247988GB

2. JOHN JOSEPH MCCARTHY
   102 Stubby Lane,
   Wolverhampton
   WV11 3NJ

   Tracking Reference: DS376247974GB

Post Office Ltd
CERTIFICATE OF POSTING

Malvern Row
1-2 Malvern Row
Manchester
Greater Manchester
M15 4FD

Posting date: 29/09/2023 14:45
Session ID: 1-50211
After last acceptance time? N

Destination Country UK (EU)
Address Validated? N
Special D by 1 £6.85
Large Letter
Weight 0.084 kg

Reference number
DS376247991GB

Building Name or Number: 32
Postcode: WV14BN

Next day guaranteed delivery service.
Tracking and signature at royalmail.com.

Destination Country UK (EU)
Address Validated? N
Special D by 1 £6.85
Large Letter
Weight 0.100 kg

Reference number
DS376247988GB

Building Name or Number: 102
Postcode: WV113NJ

Next day guaranteed delivery service.
Tracking and signature at royalmail.com.

Destination Country UK (EU)
Address Validated? N
Special D by 1 £6.85
Large Letter
Weight 0.085 kg

Reference number
DS376247974GB

Building Name or Number: 9
Postcode: WV107JT

Next day guaranteed delivery service.
Tracking and signature at royalmail.com.

PLEASE REFER TO SEPARATE TERMS AND CONDITIONS

For information about Royal Mail services, please visit www.royalmail.com

PLEASE RETAIN AS YOUR PROOF OF POSTING
This is not a financial receipt
Thank You

You could win a £100 Uneaall Gift Card
Visit postoffice.co.uk/feedback

* * * * * * * * * * * * * *

Please retain for future reference

I believe that the facts stated in this certificate of service are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Dated: 29th September 2023

Signed: 

Printed: Mark Bray

Job Title: Planning Enforcement Consultant

APPENDIX 6

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

(AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)

PLANNING CONTRAVENTION NOTICE

ISSUED BY: SOUTH STAFFORDSHIRE DISTRICT COUNCIL

TO: FRED BLOSSOM SMITH New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA

1. **THIS NOTICE** is served by the Council because it appears to it that there may have been a breach of planning control within section 171A(1) of the above Act, at the land described below. It is served on you as a person who appears to be the owner or occupier of the land or has another interest in it, or who is carrying out operations in, on, over or under the land or is using it for any purpose. The Council requires you, in exercise of its powers under Section 171C(2) and (3), so far as you are able, to provide certain information about interests in, and activities, on the land.

2. **THE LAND TO WHICH THE NOTICE RELATES**

   Land South of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA outlined in red on the plan attached to this notice ("the Land").

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

   Without planning permission, the material change of use of land to a use for the stationing of a caravan for residential purposes on the land outlined in red for identification purposes on the site plan attached to this notice.

4. **WHAT YOU ARE REQUIRED TO DO**

   Provide in writing the following information:

   a) Your full name (including any middle names), date of birth, and full address of the property at which you currently reside.

   _____

   _____

_____

_____

_____

b) The names, dates of birth and addresses of any other persons having an interest in the Land (include all owners, mortgagees, charges, lessees, licensees and any other person(s) with a right to the use of the Land for any purpose).

_____

_____

_____

_____

_____

_____

c) What is your interest in the land known as Land North of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA

_____

_____

_____

_____

_____

d) For what purpose is the land used for and when did that use, or uses commence?

_____

_____

_____

_____

_____

_____

_____

_____

e) When was the static mobile home stationed on the Land.

_____

_____

_____

_____

_____

_____

f) Who currently resides in the static mobile home.

_____

_____

_____

_____

_____

_____

g) Please provie any further information that you consider relevant.

_____

_____

_____

Time within which the information must be provided: 21st November 2023

5. OPPORTUNITY TO MAKE REPRESENTATIONS IN RESPONSE TO THE NOTICE

If you wish to make an offer to apply for planning permission, or to stop carrying out any operations or activities, or to undertake remedial works; or to make any representations about this notice, the Council will consider them 21st November 2023. If you wish to make representation you will need to contact the officer dealing with the case (contact details of the officer can be found on the cover letter).

6. WARNING

It is an offence to fail, without reasonable excuse, to comply with any requirement of this notice by 21st November 2023. The maximum penalty on conviction of this offence is a fine of £1,000. Continuing failure to comply following a conviction will constitute a further offence.

It is also an offence knowingly or recklessly to give information, in response to this notice, which is false or misleading in a material particular when purporting to comply with the notice. The maximum penalty on conviction of this offence is a fine of £5,000.

Please sign below to confirm you have read and understood the warning of Section 6.

SIGNATURE …….. DATE …….

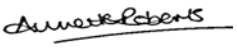
7. ADDITIONAL INFORMATION

If you fail to respond to this notice, the Council may take further action in respect of the suspected breach of planning control. In particular, they may issue an enforcement notice, under section 172 of the 1990 Act, requiring the breach, or any injury to amenity caused by it, to be remedied.

If the Council serves a stop notice, and or one or more temporary stop notices under sections 183 and 171E respectively of the 1990 Act, section 186(5)(b) of the

1990 Act provides that you should otherwise become entitled (under Section 186) to compensation for loss or damage attributable to that notice, no such compensation will be payable in respect of any loss or damage which could have been avoided had you given the Council the information required by this notice, or had you otherwise co-operated with the Council when responding to it.

Date: 26th October 2023



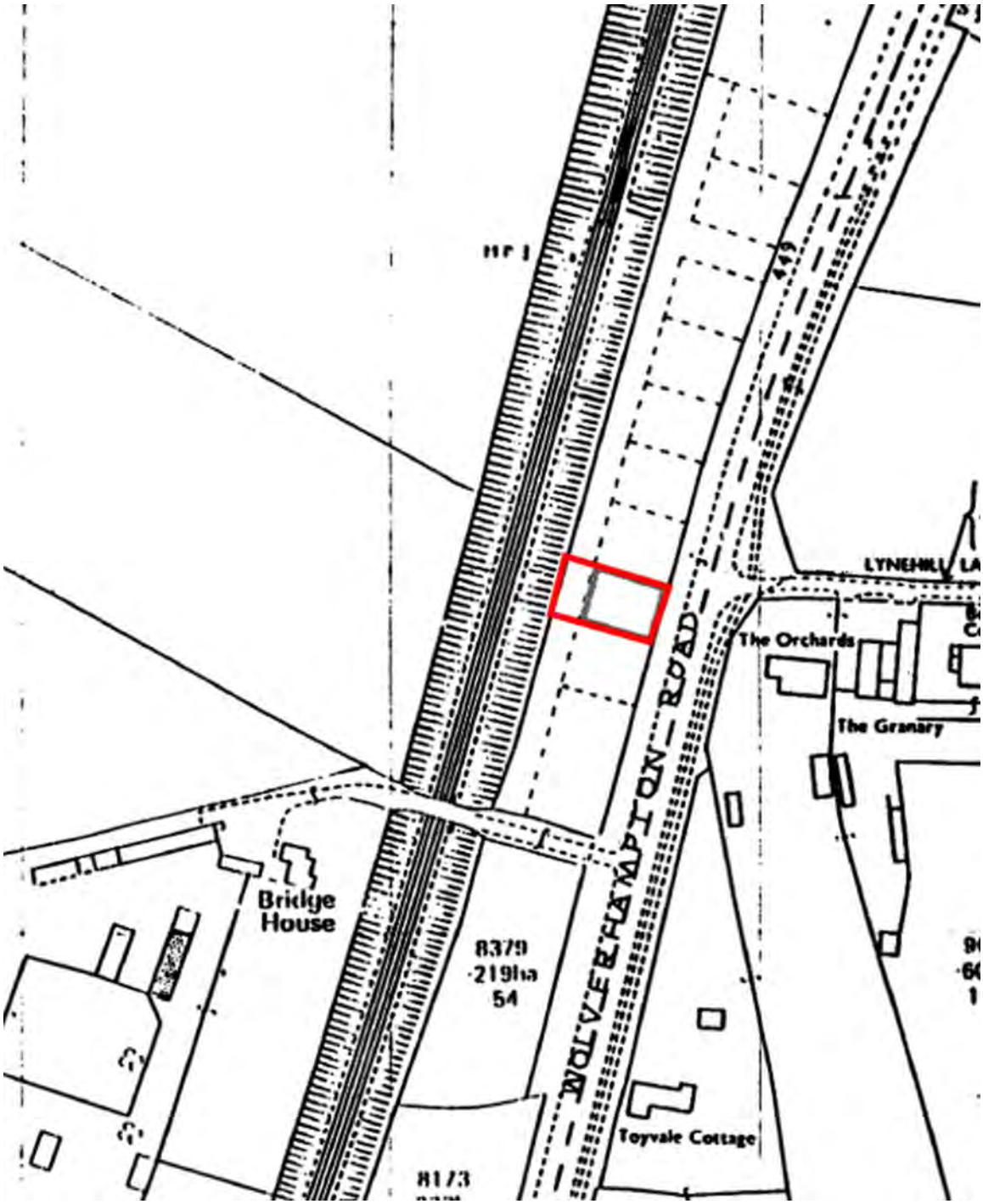
Signed:

Corporate Director of Place and Communities, South Staffordshire District Council,

Council Offices, Wolverhampton Road, Codsall, South Staffordshire WV8 1PX

RED LINE PLAN TO ACCOMPANY PLANNING CONTRAVENTION NOTICE

Land South Of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA



South Staffordshire Council

PLANNING ENFORCEMENT

FRED BLOSSOM SMITH
New Acre Stables,
Wolverhampton Road,
Penkridge,
Staffordshire
ST19 5PA

Case Officer: Mark Bray

Telephone: 01902 696000

Email: m.bray@sstaffs.gov.uk

Date: 26th October 2023

CASE REFERENCE	22/00239/UNCOU
DESCRIPTION	Without planning permission, the material change of use of land to a use for the stationing of a caravan for residential purposes on the land outlined in red for identification purposes on the site plan attached to this notice.
LOCATION	Land South of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA outlined in red on the plan attached to this notice.

Dear Mr Smith,

I write in relation to the subject detailed breach in planning control.

In accordance with Sections 172C(2) and (3), I enclose a Planning Contravention Notice which entitles the Council to request information about the land and its uses.

Please provide the information requested in the Notice within 21 days (21st November 2023) beginning on the day on which this notice is served on you (21st November 2023).

This information can be submitted in three different ways listed below.

- By emailing the completed notice to m.bray@sstaffs.gov.uk
- By post, please address to Mark Bray the postal address can be found at the bottom of the letter
- By hand delivering the completed notice to the reception desk and the Council Offices

You will note from the information provided in the Notice that it is an offence if you fail to provide the required information within of the prescribed period of time.

If you have any queries please contact me on 01902 696000 or via email.

Yours sincerely,

Mark Bray AssocRTPI
Planning Enforcement Consultant

South Staffordshire District Council
Planning Department
Council Offices
Wolverhampton Road
Codsall,
South Staffordshire,
WV8 1PX

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

(AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)

PLANNING CONTRAVENTION NOTICE

ISSUED BY: SOUTH STAFFORDSHIRE DISTRICT COUNCIL

TO: JOHN JOSEPH MCCARTHY New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA

1. **THIS NOTICE** is served by the Council because it appears to it that there may have been a breach of planning control within section 171A(1) of the above Act, at the land described below. It is served on you as a person who appears to be the owner or occupier of the land or has another interest in it, or who is carrying out operations in, on, over or under the land or is using it for any purpose. The Council requires you, in exercise of its powers under Section 171C(2) and (3), so far as you are able, to provide certain information about interests in, and activities, on the land.

2. **THE LAND TO WHICH THE NOTICE RELATES**

   Land South of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA outlined in red on the plan attached to this notice ("the Land").

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

   Without planning permission, the material change of use of land to a use for the stationing of a caravan for residential purposes on the land outlined in red for identification purposes on the site plan attached to this notice.

4. **WHAT YOU ARE REQUIRED TO DO**

   Provide in writing the following information:

   a) Your full name (including any middle names), date of birth, and full address of the property at which you currently reside.

   _____

   _____

_____

_____

_____

b) The names, dates of birth and addresses of any other persons having an interest in the Land (include all owners, mortgagees, charges, lessees, licensees and any other person(s) with a right to the use of the Land for any purpose).

_____

_____

_____

_____

_____

_____

c) What is your interest in the land known as Land North of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA

_____

_____

_____

_____

_____

d) For what purpose is the land used for and when did that use, or uses commence?

_____

_____

_____

_____

_____

_____

_____

_____

e) When was the static mobile home stationed on the Land.

_____

_____

_____

_____

_____

_____

f) Who currently resides in the static mobile home.

_____

_____

_____

_____

_____

_____

g) Please provie any further information that you consider relevant.

_____

_____

_____

Time within which the information must be provided: 21st November 2023

5. OPPORTUNITY TO MAKE REPRESENTATIONS IN RESPONSE TO THE NOTICE

If you wish to make an offer to apply for planning permission, or to stop carrying out any operations or activities, or to undertake remedial works; or to make any representations about this notice, the Council will consider them 21st November 2023. If you wish to make representation you will need to contact the officer dealing with the case (contact details of the officer can be found on the cover letter).

6. WARNING

It is an offence to fail, without reasonable excuse, to comply with any requirement of this notice by 21st November 2023. The maximum penalty on conviction of this offence is a fine of £1,000. Continuing failure to comply following a conviction will constitute a further offence.

It is also an offence knowingly or recklessly to give information, in response to this notice, which is false or misleading in a material particular when purporting to comply with the notice. The maximum penalty on conviction of this offence is a fine of £5,000.

Please sign below to confirm you have read and understood the warning of Section 6.

SIGNATURE …….. DATE …….

7. ADDITIONAL INFORMATION

If you fail to respond to this notice, the Council may take further action in respect of the suspected breach of planning control. In particular, they may issue an enforcement notice, under section 172 of the 1990 Act, requiring the breach, or any injury to amenity caused by it, to be remedied.

If the Council serves a stop notice, and or one or more temporary stop notices under sections 183 and 171E respectively of the 1990 Act, section 186(5)(b) of the

1990 Act provides that you should otherwise become entitled (under Section 186) to compensation for loss or damage attributable to that notice, no such compensation will be payable in respect of any loss or damage which could have been avoided had you given the Council the information required by this notice, or had you otherwise co-operated with the Council when responding to it.

Date: 26th October 2023

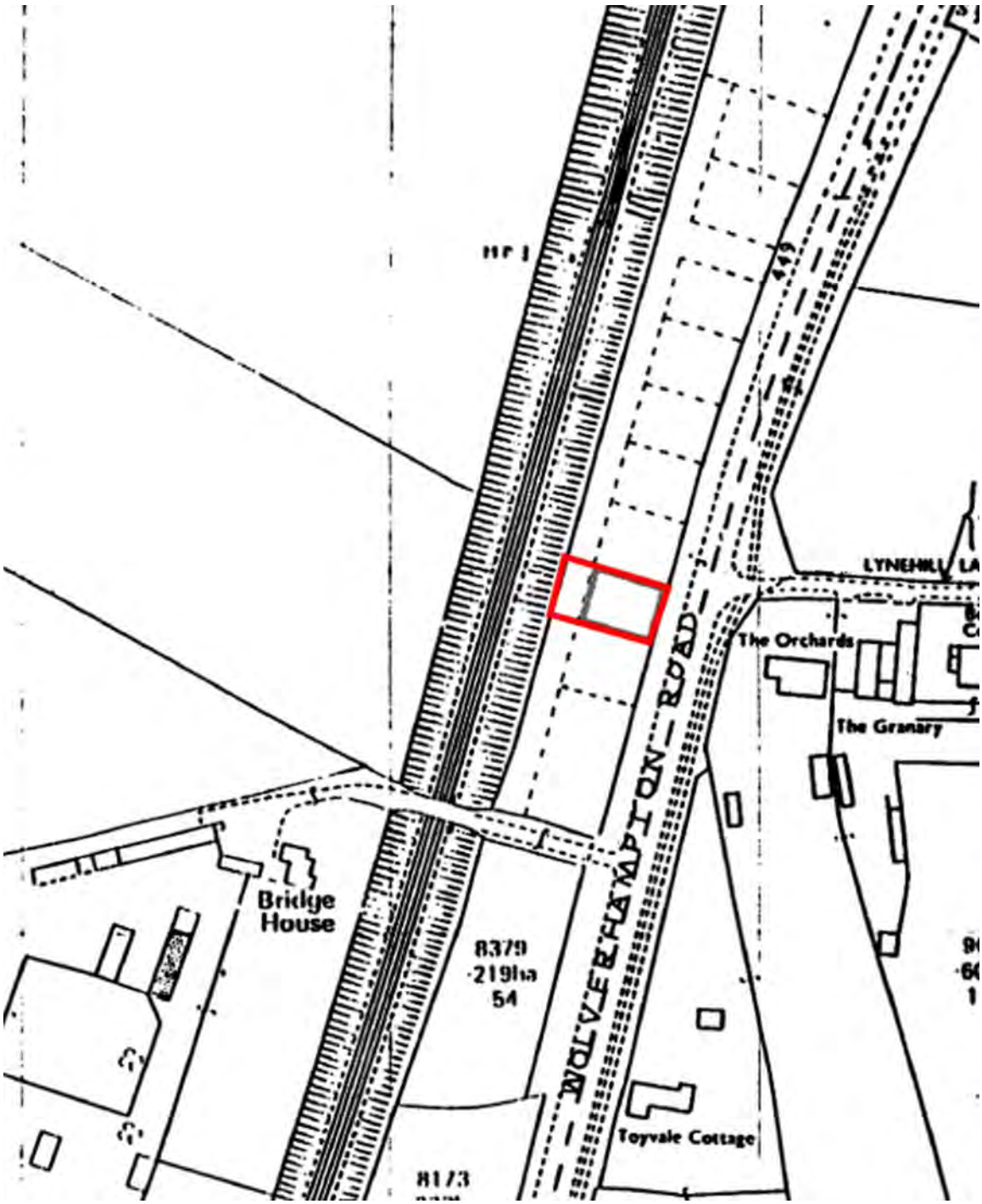
Signed:

Corporate Director of Place and Communities, South Staffordshire District Council,

Council Offices, Wolverhampton Road, Codsall, South Staffordshire WV8 1PX

RED LINE PLAN TO ACCOMPANY PLANNING CONTRAVENTION NOTICE

Land South Of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA


WOLVERHAMPTON ROAD
The Orchards
The Granary
Bridge House
8379
·219ha
54
Toyvale Cottage
8173

South Staffordshire Council

PLANNING ENFORCEMENT

JOHN JOSEPH MCCARTHY
New Acre Stables,
Wolverhampton Road,
Penkridge,
Staffordshire
ST19 5PA

Case Officer: Mark Bray

Telephone: 01902 696000

Email: m.bray@sstaffs.gov.uk

Date: 26th October 2023

CASE REFERENCE	22/00239/UNCOU
DESCRIPTION	Without planning permission, the material change of use of land to a use for the stationing of a caravan for residential purposes on the land outlined in red for identification purposes on the site plan attached to this notice.
LOCATION	Land South of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire ST19 5PA outlined in red on the plan attached to this notice.

Dear Mr McCarthy,

I write in relation to the subject detailed breach in planning control.

In accordance with Sections 172C(2) and (3), I enclose a Planning Contravention Notice which entitles the Council to request information about the land and its uses.

Please provide the information requested in the Notice within 21 days (21st November 2023) beginning on the day on which this notice is served on you (21st November 2023).

This information can be submitted in three different ways listed below.

- By emailing the completed notice to m.bray@sstaffs.gov.uk
- By post, please address to Mark Bray the postal address can be found at the bottom of the letter
- By hand delivering the completed notice to the reception desk and the Council Offices

You will note from the information provided in the Notice that it is an offence if you fail to provide the required information within of the prescribed period of time.

If you have any queries please contact me on 01902 696000 or via email.

Yours sincerely,

Mark Bray AssocRTPI
Planning Enforcement Consultant

South Staffordshire District Council
Planning Department
Council Offices
Wolverhampton Road
Codsall,
South Staffordshire,
WV8 1PX

CERTIFICATE OF SERVICE

LIST OF DOCUMENTS SERVED

- **PNC x 2 & COVER LETTER RE- LAND SOUTH OF NEW ACRE STABLES, WOLVERHAMPTON ROAD, PENKRIDGE, STAFFORDSHIRE ST19 5PA**

I, Mark Andrew Bray certify that on 27th October 2023, two copies of the above documents were sent to:

1. FRED BLOSSOM SMITH
   New Acre Stables,
   Wolverhampton Road,
   Penkridge,
   Staffordshire
   ST19 5PA

   Tracking Reference: DS376249520GB

2. JOHN JOSEPH MCCARTHY
   New Acre Stables,
   Wolverhampton Road,
   Penkridge,
   Staffordshire
   ST19 5PA

   Tracking Reference: DS376249516GB

Post Office Ltd.
CERTIFICATE OF POSTING

Malvern Row
1-2 Malvern Row
Manchester
Greater Manchester
M15 4FD

Posting date: 27/10/2023 12:17
Session ID: 1-54907
After last acceptance time? N

Destination Country	UK (EU)
Address Validated?	N
Special D by 1	£7.35
Large Letter	
Weight	0.082 kg

Reference number
DS376249520GB
Building Name or Number: NEW ACRE
Postcode: ST195PA

Next day guaranteed delivery service.
Tracking and signature at royalmail.com.

Destination Country	UK (EU)
Address Validated?	N
Special D by 1	£7.35
Large Letter	
Weight	0.082 kg

Reference number
DS376249516GB
Building Name or Number: NEW ACRE
Postcode: ST195PA

Next day guaranteed delivery service.
Tracking and signature at royalmail.com.

Destination Country	UK (EU)
Address Validated?	N
Special D by 1	£7.35
Large Letter	
Weight	0.082 kg

Reference number
DS376249502GB
Building Name or Number: NEW ACRE
Postcode: ST195PA

Next day guaranteed delivery service.
Tracking and signature at royalmail.com.

PLEASE REFER TO SEPARATE TERMS AND CONDITIONS

For information about Royal Mail services, please visit www.royalmail.com

PLEASE RETAIN AS YOUR PROOF OF POSTING
This is not a financial receipt
Thank You

I believe that the facts stated in this certificate of service are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Dated: 27th October 2023

Signed:

Printed: Mark Bray

Job Title: Planning Enforcement Consultant

APPENDIX 7

Communities and Local Government

www.communities.gov.uk
community, opportunity, prosperity

28th February 2011

Mr Philip Brown
Philip Brown Associates
74 Park Road
Rugby
Warwickshire
CV21 2QX

Our Ref: APP/C3430/A/10/2127110

Your Ref: 10/111

Dear Mr Brown,

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY MR WILLIAM LEE & OTHERS
AT NEW ACRE STABLES, WOLVERHAMPTON ROAD, PENKRIDGE, STAFFORDSHIRE
APPLICATION: REF 09/00809/FUL

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Susan Heywood BSc(Hons) MCD MRTPI, who held a public local inquiry between 14 and 16 September 2010 into your clients' appeal against the decision of South Staffordshire Council (the Council) to refuse planning permission for a change of use of land to use as a residential caravan site, including the stationing of 23 caravans, erection of two amenity blocks, laying of hardstanding and improvement of access at New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire in accordance with application number 09/00809/FUL, dated 29 October 2009

2. On 23 September 2010, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990. The reason the appeal was recovered is because it involves significant development in the Green Belt.

Inspector's Recommendation and Summary of the Decision

3. The Inspector recommended that the appeal be allowed and permanent planning permission be granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated,

Department for Communities and Local Government
Christine Symes
Planning Casework
1/H1, Eland House
Bressenden Place
London
SW1E 5DU

Tel: 0303 44 41634
Email: PCC@communities.gsi.gov.uk

and partially agrees with her recommendations. He has decided to grant a temporary and personal permission until 31 December 2014 for a total of 7 pitches. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural Matters

4. An application for costs was made by your clients against South Staffordshire Council and this is the subject of a separate decision letter (IR1).

5. The Secretary of State has taken into account the amendments to the application set out by the Inspector at IR3 – 4 and, like her, he considers that the acceptance of the amended plan would not prejudice any party and he has considered the appeal on the basis of the amended plan and amended application description.

6. The Secretary of State has had regard to the fact that the Environment Agency is satisfied that the foul drainage proposals are acceptable, and has withdrawn its former objection to the development (IR6). Like the Inspector, he is also satisfied that there is no evidence to suggest that the impact of noise would cause significant harm to the living conditions of future occupiers of the site (IR7).

Matters Arising after the Close of the Inquiry

7. Regional Strategies (RSs), including the RS for the West Midlands (WMRS), were revoked by the Secretary of State on 6 July 2010, and so the Inspector did not consider the WMRS at the Inquiry. However, that revocation was quashed by the judgement of the Court on 10 November 2010 in *Cala Homes (South) Limited v Secretary of State for Communities and Local Government* [2010] EWHC 2866 (Admin). Accordingly, the WMRS is part of the development plan and is material to this case. Given this, the Secretary of State wrote on 30 November 2010 to the main parties and interested third parties who appeared at the inquiry, inviting representations on the effect relevant policies of the WMRS should have on the determination of this appeal. The responses received were circulated to the same parties under cover of letters dated 22 December 2010 and 20 January 2011. A list of all responses received from parties is set out at Annex A to this letter. The Secretary of State has taken account of all these responses in his consideration of the appeal before him. As the responses were circulated to all the main parties, he does not consider it necessary to summarise the responses here or attach them to this letter. Copies of the correspondence can be obtained upon written request.

8. Following the judgement of the Court on 10 November 2010, the Secretary of State has made clear that it is the Government's intention to revoke RSs, and the provisions of the Localism Bill which is now before Parliament reflect this intention. Whilst he has taken this matter into account in determining this case he gives it limited weight at this stage of the parliamentary process.

9. The Secretary of State has also taken account of the representation received from Mr C Stonehouse dated 6 October 2010. As this did not raise any new matters that would affect his decision, he has not considered it necessary to circulate it to all parties. Copies of this representation can be made available upon written request.

Policy Considerations

10. In deciding the application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

11. In this case, the development plan comprises the WMRS and saved policies of both the Staffordshire and Stoke-on-Trent Structure Plan (SP) and the South Staffordshire Local Plan (LP). The Secretary of State considers that the development plan policies most relevant to the appeal are WMRS policy CF5 and those set out by the Inspector at IR14 and IR15.

12. The Secretary of State has also had regard to the South Staffordshire Core Strategy (CS) as an emerging development plan document (IR16 – 17). However, as this document is still in draft form and has yet to be submitted to the Secretary of State, the weight to be attached to it is limited. The Secretary of State has also taken account of the fact that Policy H4 (which is to be renumbered as H6) of the emerging CS was endorsed by the Council for development control purposes on 5 October 2010 (as set out in the Council's letter of 2 December 2010).

13. Having had regard to the same letter from the Council, the Secretary of State has taken account of the WMRS Phase 3 Revision Options Consultation Document. However, as this document is at an early stage, he has accorded limited weight to its policies. He has also taken account of the Interim Regional Policy Statement on gypsy and traveller site provision that was submitted to the Secretary of State in March 2010.

14. Other material considerations which the Secretary of State has taken into account include Planning Policy Statement (PPS) 1: *Delivering Sustainable Development*; PPG2: *Green Belts*; PPS3: *Housing*; PPS7: *Sustainable Development in Rural Areas*; and PPS23: *Planning and Pollution Control*; Circular 11/95: *Use of Conditions in Planning Permission*. The Secretary of State has also taken account of the Supplementary Planning Guidance (SPG) documents listed at IR18 – 19 and the Southern Staffordshire and Northern Warwickshire Gypsy and Traveller Accommodation Assessment (GTAA) final report February 2008 (IR20).

15. The Secretary of State has taken account of Circular 1/2006: *Planning for Gypsy and Traveller Caravan Sites* as a material consideration in his determination of this case. However, he has also taken account of his announcement on 29 August 2010 of his intention to revoke it as he considers it to be flawed and he has given less weight to the Circular.

Main Issues

16. The Secretary of State considers that the main issues in this case are those listed by the Inspector at IR93.

Impact on Green Belt, Openness and Purposes

17. The Secretary of State agrees with the Inspector and the main parties that the proposal constitutes inappropriate development in the Green Belt (IR93) and, in line with the advice in paragraph 3.2 of PPG2, he has attached substantial weight to the harm that would be caused to the Green Belt (IR94). For the reasons given at IR95 – 96, he agrees with the Inspector at IR97 that the significant harm to the openness of the Green Belt and the moderate harm caused by conflict with one of the purposes of including land in the Green Belt add to the substantial harm by reason of inappropriateness.

Character and Appearance / Landscape Character

18. The Secretary of State agrees with the Inspector, for the reasons she gives at IR98, that the Village Design Guide and the Planning for Landscape Change SPG documents attract significant weight in this appeal. He agrees with the Inspector's reasoning and conclusions with regard to the effect of the proposal on the character and appearance and on the landscape character of the area, as set out at IR99 – 106.

19. Like the Inspector, he concludes that the development would add to the blurring of the southern edge of the village and therefore conflict to an extent with the aims of the Village Design Guide SPG and SP policy D4 (IR104). The Secretary of State shares the Inspector's view that the proposal would cause a limited amount of harm to the landscape character of the surroundings and to the appearance of the area and considers that, for this reason, it would conflict to an extent with the Planning for Landscape Change SPG, LP policies BE26 and LS1 and, in part, with SP policy NC2 (IR104). He agrees that the context of the site would limit the harm caused by these factors and the potential for landscaping would further reduce it (IR104). In the light of the conditions set out at Annex B, he also concludes that the development would comply with LP Policy LS10.

20. In conclusion, like the Inspector, the Secretary of State considers that a limited amount of weight attaches to the conflict with the Village Design SPG and the harm that would be caused to the landscape character and the appearance of the surrounding area (IR106).

Other Planning Matters

21. The Secretary of State agrees with the Inspector's assessment of other planning matters, as set out at IR107 – 110. He agrees that consideration of these matters indicates that they would not cause any harm, albeit that they are not positive benefits to be weighed in favour of the development (IR110).

Other Considerations

Need for gypsy sites

22. The Secretary of State has given careful consideration to the Inspector's analysis at IR111 – 114, and her conclusion that the GTAA provides a good indication of the level of need for gypsy sites in the District (IR113). He has also given careful consideration to the points made in the Council's representations dated 2 December 2010 and 17 January 2011. The Council invites the Secretary of State to rely on the level of need set out in both the Interim Regional Policy Statement

and policy H4 (see paragraph 12 above). However, as neither policy sits within an adopted part of the development plan and he considers it uncertain that the regional re-distribution which would give rise to the reduction of need from 32 to 30 pitches in South Staffordshire (2007-2012) will be finally agreed, the Secretary of State prefers to rely on the figure of 32 pitches as set out in the GTAA. The Secretary of State agrees with the Council's assessment that, set against the need identified in the GTAA, there is currently an unmet need for 8 pitches to be provided by 2012 (IR112).

23. The Secretary of State concludes that the outstanding need for 8 pitches by 2012 will not be met through South Staffordshire's Development Plan system. Like the Inspector (IR117), the Secretary of State attributes significant weight in the appeal's favour both to the failure of the development plan to meet the need identified in the GTAA, and to the actual unmet need for 8 pitches. He further agrees that the provision of a 9th pitch by 2012 would not cause harm in terms of an over-provision of gypsy sites in the District (IR119).

The accommodation needs of the appellants and their alternative accommodation options

24. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR120 – 124 with regard to the accommodation needs of the appellants and their alternative accommodation options. Like the Council and the Inspector, he accepts that all those to occupy the site are gypsies for planning purposes and have a need for a pitch on a gypsy site (IR120). He also agrees that the evidence does not suggest that there are any other sites for any of the appellants to go to if planning permission is refused for this site (IR123). Like the Inspector, the Secretary of State considers that the appellants' personal need for a settled site (in so far as it relates to 7 pitches) and the lack of available alternative sites both attract significant weight in favour of this appeal (IR124).

Education and Health Needs

25. The Secretary of State agrees with the Inspector's reasoning and conclusions, as set out at IR125 – 128, with respect to the education and health needs of the appellants. He considers that educational need lends a moderate amount of weight in favour of the appeal as far as it relates to Jamie and Diane Jones and William and Joanne Lee and their dependants (IR125). He agrees with the Inspector that health issues attract a moderate amount of weight in favour of the development for all but the Lee family (IR127), for whom the matter attracts a significant amount of weight in favour of the development (IR128).

Whether the harm is clearly outweighed by other considerations

26. The Secretary of State has had regard to national policy in PPG2: *Green Belts* as summarised by the Inspector at IR129. The Secretary of State has concluded that the appeal proposal would cause substantial harm to the Green Belt by reason of inappropriateness, significant harm to Green Belt openness and moderate harm to one of the purposes of including land within the Green Belt (paragraph 17 above). Furthermore, he has concluded that conflict with the Village Design Guide SPG and the harm that would be caused to the landscape character and appearance of the surrounding area also attracts a limited amount of weight against the development (paragraph 20 above).

27. In terms of the factors weighing in favour of the appeal, the Secretary of State has attributed significant weight both to the failure of the development plan to meet the need identified in the GTAA and to the actual unmet need for 8 pitches (paragraph 23 above). He has also attributed significant weight both to the lack of available alternative sites and, in respect of 7 pitches, to the appellants' personal need for a settled base (paragraph 24 above). In respect of the medical needs of the appellants, as set out at paragraph 25 above, the Secretary of State has concluded that significant weight attaches to the needs of the Lee family, and that moderate weight attaches to the needs of the other appellants. With regard to education, he has attributed moderate weight to a limited number of the appellants and their dependants (paragraph 25 above).

28. For the reasons given at IR133, the Secretary of State agrees with the Inspector that dismissal of the appeal would have a disproportionate effect upon the rights of the occupants under Article 8 of the European Convention on Human Rights and that this also attracts a significant amount of weight in favour of the appeal. Like the Inspector (IR135), the Secretary of State has had due regard to the Race Relations Act 1976.

Conditions

29. The Secretary of State has considered the proposed conditions and the Inspector's comments, as set out at IR87 – 88 and Annex A to the IR. The Secretary of State has amended the proposed conditions to reflect his decision, set out below, to award a temporary personal consent for a reduced number of pitches. Subject to those amendments, he is satisfied that the conditions are reasonable and necessary and meet the tests of Circular 11/95.

Overall Conclusions

30. With regard to the case for granting permanent planning permission, the Secretary of State has given very careful consideration to the Inspector's overall conclusions at IR134. Whilst he does not differ from the Inspector in relation to the harm which the scheme would cause or the matters weighing in favour of the appeal, he does not share the Inspector's view of the planning balance. He considers that the permanent harm to the Green Belt by reason of inappropriateness and the additional Green Belt harm identified, which would be caused by the proposed 9 pitches, is not clearly outweighed by the factors weighing in favour of the appeal, which he has summarised in paragraph 27 above. He disagrees with the Inspector's conclusion at IR134 that very special circumstances exist in this case to justify the development on a permanent basis and he has gone on to consider whether a temporary consent would be justified.

31. The Secretary of State has given careful consideration to the Inspector's reasoning, at IR139 – 143, with regard to whether the development should be approved for a temporary period. Like the Inspector (IR141), he has had regard to the advice in Circular 1/06 that temporary permission may be justified where it is expected that the planning circumstances will change at the end of the period of temporary permission. The Secretary of State has considered the Inspector's comments on the likely timescale for adoption of the Site Allocations DPD and her expectation that sites would become available on the ground from late 2013 (IR142). Allowing for some slippage in this timescale, he considers that it would

be appropriate to consider granting a temporary consent until 31 December 2014. Having had regard to the Inspector's comments at IR142-143, he is satisfied that planning circumstances are likely to have changed by the end of that period. In line with the provisions of circular 1/2006, the Secretary of State attaches substantial weight to South Staffordshire's unmet need for 8 pitches in considering temporary permission in this case.

32. In view of PPG2's presumption against inappropriate development, in considering temporary permission, the Secretary of State continues to attach substantial weight to the harm to the Green Belt. However, he considers that the actual harm to the Green Belt, the conflict with the Village Design Guide, and the harm that would be caused to the landscape character and the appearance of the surrounding areas would all be less if the development were time limited. The Secretary of State has summarised the matters he has weighed in favour of the development at paragraph 27 above. Having had particular regard to evidence document 28, to IR76, IR121 and his conclusions at paragraph 24 above, the Secretary of State does not consider that other considerations clearly outweigh the harm in relation to 2 of the 4 pitches sought by the Jones family as there is no current need for pitches to accommodate the younger children. However, in relation to the remaining 7 pitches for which permission is sought, the Secretary of State is satisfied that, bearing in mind the appellants' personal need for a settled base, the lack of available alternative sites for them to move to, and their personal circumstances, other considerations do clearly outweigh the harm and he concludes that very special circumstances exist to justify the development on a personal basis until 31 December 2014.

Formal Decision

33. Accordingly, for the reasons given above, the Secretary of State hereby partially allows your clients' appeal and grants temporary planning permission for 7 pitches, subject to conditions. The permission is granted for a period up to 31 December 2014, and is given on a personal basis to the appellants named at condition 11 of Annex B to this letter and their resident dependants, for a change of use of land to use as a residential caravan site, including the stationing of 19 caravans, erection of two amenity blocks, laying of hardstanding and improvement of access at New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire in accordance with application number 09/00809/FUL, dated 29 October 2009, subject to the conditions set out in the schedule at Annex B to this letter.

34. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

35. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

36. This letter serves as the Secretary of State's statement under regulation 21(2) of the Town and Country (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Right to challenge the decision

37. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

38. A copy of this letter has been sent to South Staffordshire Council and all other parties who appeared at the Inquiry. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours sincerely,

Christine Symes
Authorised by Secretary of State to sign in that behalf

ANNEX A – LIST OF CORRESPONDENCE RECEIVED

In response to the Secretary of State's letters of 30 November and 21 December 2010:

Name	Date
Tom Cannon, South Staffs Council	2 December 2010
Tom Cannon, South Staffs Council	17 January 2011

ANNEX B – SCHEDULE OF CONDITIONS

1) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.

2) No more than 2 amenity blocks may be constructed and, prior to their construction, details of the external materials shall be submitted to and approved in writing by the local planning authority. The blocks shall be erected in accordance with the approved details.

3) No more than three commercial vehicles shall be kept on the combined area of 2 of the pitches for use by the occupiers of the caravans hereby permitted.

4) On each of the remaining pitches, no more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans hereby permitted.

5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

6) No commercial activities shall take place on the land, including the external storage of materials.

7) No more than 19 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 13 shall be static caravans or mobile homes) shall be stationed on the site at any time.

8) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (vi) below:

   i) within 3 months of the date of this decision, a scheme specifying the site layout and proposed occupants for the 7 pitches hereby permitted shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation. The development hereby permitted shall be carried out in accordance with the approved site layout.

   ii) within 3 months of the date of this decision, a scheme specifying the condition of land before the development took place and the works necessary to restore the land to that condition (or some other state as agreed with the local planning authority), and the time period within which the restoration works must be undertaken shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.

   iii) within 3 months of the date of this decision a scheme for: the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; resurfacing and maintenance of the existing access 6 metres from the rear of the carriageway edge and provision of highway corner radii; landscaping and boundary treatment; parking and turning areas (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.

   iv) If, within 11 months of the date of this decision, the schemes set out at paragraphs 8i - iii above have not been approved by the local planning authority or, if the local planning authority refuse to approve the schemes, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

v) if an appeal is made in pursuance of (iv) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.

vi) the approved scheme shall have been carried out and completed in accordance with the approved timetable.

9) At the same time as the site development scheme required by condition 8 above is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of two years of the proposed planting commencing at the completion of the final phase of implementation as required by that condition; the schedule to make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

10) The use hereby permitted shall be for a limited period being the period from the date of this decision until 31 December 2014. At the end of this period the use hereby permitted shall cease, all materials and equipment brought on to the land in connection with the use shall be removed, and the land restored to its former condition in accordance with a scheme previously submitted to and approved in writing by the local planning authority.

11) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants:

Layton Follows

Harry & Serena Coupe

Jamie & Diana Jones

Magda Jones

William & Joanne Lee

Gemima Lee

Steven Lee

Linda Lee

Jimmy George Lee

Billy Joe Lee

Dean Hadjioannou

Mary & Lucy Smith

12) When the land ceases to be occupied by those named in condition 11 above, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Report to the Secretary of State for Communities and Local Government

by Susan Heywood BSc(Hons) MCD MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

The Planning Inspectorate
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ GTN 1371 8000

Date: 27 October 2010

TOWN AND COUNTRY PLANNING ACT 1990

SOUTH STAFFORDSHIRE COUNCIL

APPEAL BY MR WILLIAM LEE & OTHERS

Inquiry held on 14, 15 and 16 September 2010

New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire

File Ref: APP/C3430/A/10/2127110

File Ref: APP/C3430/A/10/2127110
New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire

- 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 William Lee & Others against the decision of South Staffordshire Council.
- The application Ref 09/00809/FUL, dated 29 October 2009, was refused by notice dated 29 January 2010.
- The development proposed is a change of use of land to use as a residential caravan site, including the stationing of 23 caravans, erection of two amenity blocks, laying of hardstanding and improvement of access.

Summary of Recommendation: The appeal be allowed.

Procedural Matters

1. At the inquiry an application for costs was made by Mr Lee & Others against South Staffordshire Council. This application is the subject of a separate Report.

2. By letter of 23 September 2010 the Secretary of State recovered this appeal for his determination on the grounds that it involves proposals for significant development in the Green Belt. The inquiry sat on 14, 15 and 16 September 2010 and a site inspection took place on 14 September.

3. The application was amended to refer to the stationing of 23 caravans. This was the basis on which the Council considered the application and is also the basis on which the appeal is assessed. I have altered the description of development in the bullet points above to reflect this.

4. An amended plan (split into two parts annotated as 'site layout plan' and 'site location plan B') (Document 2) was provided at the inquiry. This indicates the proposed positioning of caravans, two amenity buildings and gravel hardstanding. This plan differs from that considered by the Council, only in relation to the subdivision between the pitches. I consider that the acceptance of the plan would not prejudice any party and I have considered the appeal on this basis.

5. The planning application was refused for the following reasons:

   i. The site is within the Green Belt and the proposed development is not considered to be appropriate development as set out in Planning Policy Guidance Note 2 and the adopted Local Plan. The development is therefore harmful to the Green Belt, contrary to policy GB1 of the adopted Local Plan.

   ii. The Local Planning Authority has considered the reasons advanced, but does not consider that these reasons constitute the very special circumstances required to justify inappropriate development in the Green Belt.

   iii. The development due to the number of caravans which are proposed and their rather stark and utilitarian appearance would provide an unnecessary visual intrusion into the Green Belt and would be prejudicial to the openness, character and amenity of this part of the Green Belt, contrary to

the policies set out in PPG2 (Green Belts), policy D5B of the Staffordshire and Stoke on Trent Structure Plan and policy BE26 of the adopted Local Plan.

iv. The development due to the number of caravans which are proposed and their rather stark and utilitarian appearance would provide an incongruous and visually intrusive form of development on the edge of the village harming the open and undeveloped character of the area. The development would therefore have a detrimental impact on the landscape character of the area contrary to policies T17[1], D4 and NC2 of the Staffordshire and Stoke on Trent Structure Plan and policies LS1 and LS10 of the adopted Local Plan and advice contained in PPG2.

v. The proposed method of disposing of foul waste from the site is unacceptable and poses an unacceptable risk of contamination to the underlying controlled waters contrary to advice contained in PPS23 and policy BE28 of the adopted local plan. (See paragraph 5 below)

6. The Environment Agency had originally objected to the application as there was no evidence that Circular 03/1999: *Planning requirement in respect of the use of non-mains sewerage incorporating septic tanks in new development* (Circular 3/99) had been complied with. Following further information from the appellants, the Environment Agency is satisfied that the foul drainage proposals are acceptable. They have withdrawn their objection to the development (Document 5), subject to the imposition of conditions which are assessed in the Conditions section below. As such, reason for refusal (v) above was not pursued at the inquiry.

7. No party had raised the issue of the impact of noise on the site occupants from the west coast main railway line or the A449. I raised this matter in a note prior to the inquiry, in order to seek the parties' views. Having visited the site, I am satisfied that the impact of noise would not be such that I would have required further evidence in relation to this point. There is no evidence to suggest that noise from either of these sources would cause significant harm to the living conditions of future occupiers of the site.

Statement of Common Ground (Document 3)

8. The Statement of Common Ground (SOCG) comprises: site description; relevant development plan and national policies; planning history of the site; reasons for refusal and agreed matters[2].

The Site and Surroundings

9. The site is located in the West Midlands Green Belt. It comprises 0.45 hectare of land bounded to its west by the west coast main line, which sits within a cutting, and by the A449 Wolverhampton Road to its east. To the north is a disused railway line while a small area of vacant land, which I heard is occasionally used

[1] The Council confirmed that policy T17 was included in error and is not a relevant consideration in this appeal.
[2] The Council stated that they did not agree with paragraph 4.4 of the SOCG which relates to the impact of the development on the amenities of nearby occupiers, although this was not a matter pursued by them in relation to this appeal.

by Railtrack, lies to the south. To the west, on the opposite side of the railway line, lie open fields. To the east, on the opposite side of the A449, are fields (immediately opposite the site), and dwellings to the south of Lynehill Lane. Trees and a mature hedge lie along much of the eastern boundary with Wolverhampton Road, although there are some gaps in the hedge, particularly towards the southern end of the site. Access to the site is via a junction onto Wolverhampton Road.

10. The site lies approximately 100 metres south of the village of Penkridge. The parties agree that Penkridge contains a full range of services and facilities. The boundary of Penkridge as defined in the South Staffordshire Local Plan proposals map (Document 31, Appendix 8) runs along the disused railway line to the north of the site. On the eastern side of the A449, the built development of Penkridge extends up to the disused railway. On the western side of the road, and to the north of the appeal site, lies an open playing field which separates the dwellings within the village from the disused railway line.

11. There are currently 10 caravans located on the site, 4 of which are mobile homes. Post and rail fencing separates the plots and hardcore has been laid over a large part of the site.

Planning Policy

12. Relevant Government guidance is referred to in the SOCG and comprises: Planning Policy Statement (PPS) 1: *Delivering Sustainable Development*, Planning Policy Guidance Note (PPG) 2: *Green Belts*, PPS3: *Housing*, PPS7: *Sustainable Development in Rural Areas*, PPS23: *Planning and Pollution Control*, Circular 3/99, ODPM Circular 01/2006*: Planning for Gypsy and Traveller Caravan Sites* (Circular 1/06) and the Secretary of State's letter dated 6 July 2010 to Chief Planning Officers (Document 31, Appendix 2).

13. The development plan includes the saved policies of the Staffordshire and Stoke-on-Trent Structure Plan 1996-2011 (SP) adopted 10 May 2001 and amended on 5 February 2002 and the South Staffordshire Local Plan (LP) adopted 1996. The following is a summary of the relevant policies referred to in the SOCG or by the parties in their evidence to the inquiry.

Staffordshire and Stoke-on-Trent Structure Plan (Document 33)

14. There are no saved policies relating to the consideration of gypsy and traveller developments. Policy D4 seeks to protect the countryside for its own sake. Policy D5B advises that inappropriate development within the Green Belt will not be approved except in very special circumstances. Policy NC2 requires that development contributes to the regeneration, restoration, enhancement, maintenance or active conservation of the landscape. It advises that development will be assessed having regard to (amongst other things) the extent to which it would cause unacceptable visual harm and introduce incongruous landscape elements.

South Staffordshire Local Plan (Document 34)

15. There are no saved policies relating to the consideration of gypsy and traveller developments. Policy GB1 advises that inappropriate development in the Green Belt will not accord with the Plan. Policy BE26 states that development should be sympathetic with the appearance and character of the surrounding area. Policy

LS1 states that permission will not normally be granted for development which would destroy or damage the landscape character of the District. Policy LS10 seeks to ensure that landscape features are conserved and that new native planting is provided. Policy BE28 seeks to ensure the protection of ground water resources.

Emerging Local Development Framework

16. At the inquiry the Council estimated that its Core Strategy (CS) is likely to be adopted early in 2012 (submission to Secretary of State in May 2011, Examination in the autumn of 2011), with the Site Allocations Development Plan Document (DPD) adopted early in 2013 (submission to Secretary of State in summer of 2012, Examination in autumn of 2012).[3]

17. The CS will contain policy H6 (previously entitled policy H4) 'Gypsies, Travellers and Travelling Showpeople' (Document 7). Prior to the adoption of the CS, policy H6 is to be adopted by the Council and used as a means to assess planning applications for gypsy sites. However, very little weight can be given to this policy at present, given the very early stage it has reached in its formal adoption process.

Other Relevant Guidance and Documents

Supplementary Planning Guidance (SPG) to the Staffordshire and Stoke-on-Trent Structure Plan: *Planning for Landscape Change* (adopted May 2001) (Document 10 & 31, Appendix 3)

18. This document provides guidance on the conservation, enhancement and regeneration of the rural landscape within the plan area. The area within which the appeal site is located is identified as falling within the 'Ancient Clay Farmlands' Character Area. This SPG describes the visual character of the area as one of mixed arable and pastoral farmland with a medium to large scale landscape. The SPG identifies a general decline in village character and landcover elements as having the potential for long-term irreversible erosion of the landscape character. It also states that the landscape is locally very sensitive to the impacts of development and land use change.

The South Staffordshire Council *Village Design Guide* SPG (adopted September 2009) (Document 11)

19. This document summarises the design context for the village of Penkridge. It states that the "village is dominated by its tightly enclosed landscape setting" and that together with the linear transport routes, "these create strong, impermeable edges to the settlement's boundaries, and a distinctively inward looking built form". The SPG advises that two of its key development design principles are "enhancing the village entrances, creating clear points of arrival at the junctions with the countryside", and "strengthening the Green Belt edge, maintaining a clear and abrupt edge to the village's built form".

[3] The timetable set out in the Local Development Scheme (Doc 35) as amended (by hand) has been superseded. The timescale given verbally also differs from that in the SOCG (Doc 3).

Southern Staffordshire and Northern Warwickshire Gypsy and Traveller Accommodation Assessment (GTAA) final report February 2008 (Document 8)

20. The GTAA identifies a need for 32 pitches to be provided in South Staffordshire during the period 2007-2012, 15 to 2016, 17 to 2021 and 15 to 2026 (79 in total). It also sets out the need within the wider study area for a combined total of 317 pitches to 2026.

Planning History

21. The appeal site was briefly used as a gypsy site in 1990. An application to regularise the use was refused by the Council and enforcement notices served. The subsequent appeals were dismissed in 1991 (Document 31, Appendix 7). The current site occupants moved onto the site in September 2009 and a High Court Injunction was obtained by the Council in November 2009 (Document 31, Appendix 12). No further operational development has taken place since the Injunction was issued.

The Proposals

22. The development is as outlined in the bullet points in the heading to this report, and as amended by paragraph 3 above, i.e. to involve the stationing of 23 caravans. Each pitch would be separated by hedgerow / tree planting, apart from pitches 1 & 2 and 8 & 9 which would be joined to form larger pitches.

23. The intended site occupants are as set out in the Council's delegated report (Document 32, 2nd & 3rd page), apart from Gilbert and Siobhan Smith and family, who no longer intend to live on the site. The proposal seeks 9 pitches as follows: Follows family (includes Harry and Serena Coupe) – 2 pitches (4 caravans); Jones family – 4 pitches (8 caravans); Lee family – 2 pitches (9 caravans); Mary and Lucy Smith – 1 pitch (2 caravans).

Other Agreed Facts

24. It is agreed between the parties that the appellants are gypsies as defined in paragraph 15 of Circular 1/06 (Document 32, 2nd page). The parties also agree that the proposal constitutes inappropriate development in the Green Belt and that it is for the appellants to demonstrate whether very special circumstances exist to justify the development.

THE CASE FOR THE APPELLANTS *(Taken principally from Closing Submissions, Document 25, supplemented by Proof of Evidence, Document 28 and verbal evidence to the inquiry)*

The material points are:

Letter from the Planning Inspectorate (PINS) in relation to the intention to replace Circular 1/06 *(Document 27) (the following is a summary of the points made, the full content of the submissions can be found in the Closing Submissions, Document 25, paragraphs 2.1.1 to 2.1.9)*

25. An issue is taken with a letter from PINS to the parties sent prior to the opening of the inquiry. The letter drew attention to the advice by the Secretary of State relating to the intention to revoke Circular 1/06. It stated that the Inspector would raise the matter at the inquiry.

26. It is submitted that the letter raises concern in regard to Article 6 of the European Convention on Human Rights (ECHR). The letter is inappropriate and improper as it requires the Inspector to invite public discussion on the weight to be given to Circular 1/06. The letter appears to put pressure on the Inspector to consider the Secretary of State's political agenda in regard to direction of policy, rather than determining the case on established principles, policy and procedure.

27. In the Alconbury judgement[4] the Court took the view that since there were clear procedural rules, the safeguard against any breach of Article 6 could be dealt with by the judicial review process. However, there is no procedural template for this letter. The legal position is clear; Circular 1/06 should be accorded its normal weight as the most up-to date unrevised national gypsy guidance. There is currently nothing to replace it. In the past where national or local policy has been in the process of being reviewed but no replacement has been published, full weight has been given to the current document.

28. There is clear appearance of bias by the Secretary of State against policy 1/06, a policy subject to full consultation, brought in part to reflect the case of *Chapman v UK [2001]* and to facilitate the gypsy way of life and a policy at present valid and not replaced.

29. The Inspector declined to state at the beginning of the inquiry what weight was to be given to the Circular. There is concern that the bias against the Circular will affect the exercise undertaken by the Inspector. There is also concern that the intervention of the Secretary of State has had a detrimental effect on the fairness of the proceedings. This has substantially prejudiced the appellants' case.

Green Belt

30. It is conceded that there is harm to the Green Belt by way of inappropriateness and substantial weight must be attributed to the harm in accordance with PPG2.[5] The development will also cause a small reduction in openness. Due to the nature of the site and its boundaries the development will only cause limited harm to one of the purposes of including land in the Green Belt; that of safeguarding the countryside from encroachment. [6]

31. However the harm referred to above has to be considered in the light of the fact that the Council conceded that by 2013 they would have identified sufficient gypsy sites to meet need and that those sites will inevitably be in the Green Belt. Thus, the above harm will apply to any gypsy site in South Staffordshire District as 80% of the District is Green Belt.

32. The advantages of this Green Belt location are: not in AONB or SSSI; no highway objection (Document 18); no flooding issues; highly sustainable site well situated on the outskirts of the market town; self contained site not capable of further expansion or encouragement for over concentration of sites; capable of significant landscaping.

---

[4] *R v Secretary of State for Environment, Transport and the Regions, ex p Holding and Barnes [2001]*
[5] Document 28 paragraph 5.1
[6] Document 28 paragraph 5.6 and 5.7

Landscape Character and Visual Impact[7]

33. Any gypsy site in the countryside is likely to have some adverse visual impact. The Secretary of State has, in the past, accepted that sites are likely to be located in rural areas and that this impacts upon the assessment of countryside harm, even in Green Belts.[8] The development should also be considered in light of paragraph 54 of Circular 1/06.

34. The Planning for Landscape Change SPG (Document 10, 31, Appendix 3) covers such a wide geographical area that it cannot apply to every site. The SPG describes the landscape as having a very rural feel, with small winding country lanes and large red brick farms. This is not the context of the appeal site. The site is contained by urban features and there is urban development nearby. The proposed development would be separated from the village by an open space to the north. It would not therefore detract from the edge of the village.[9]

35. All sites in the District would attract the same arguments as to landscaping since nearly the entire District is covered by a landscaping designation. The SPGs (Documents 10, 31 & 11) do not comply with up to date requirements in PPS7. All sites in the District would not comply with emerging policy H6, criteria 10 (a) and 11 (Document 7) because of Green Belt and landscaping objections. This site complies with all the other criteria in that policy.

36. The evidence shows that the site has been unused since 1991. There is no evidence that it was used for agriculture or grazing. Rubbish was moved off the site when the appellants moved onto the land.[10] Land to the south of the site is periodically used as a railway depot. In this context, the development will not have an unacceptable effect on the landscape character or appearance of the countryside.

Need for gypsy sites

37. It is necessary to consider the extent to which revocation of Regional Strategies (RS) has impacted on the issue of need. The relevant procedural and policy framework, none of which has been revoked, is as follows: The Town and Country Planning Acts; The Planning and Compensation Act 2004; Housing Act 2004; PPS3; Circular 1/06; Human Rights Act; European Convention on Human Rights Articles 6, 14 and 8 and Article 1 of Protocol 1.

38. It remains the duty of the Council to assess need and identify sites to meet that need; these are now statutory obligations under the Housing Act 2004 and the Planning and Compensation Act 2004 as well as requirements under PPS3 and Circular 1/06. In his guidance letter following the revocation of RS, the Secretary of State made it clear that requirements under PPS3 and the Housing Act remain and that the revocation is not a signal for local authorities to stop making plans for their area (Document 31, Appendix 2).

39. The Council say there is a need for 8 pitches up to 2012 (Document 9) It is accepted that the GTAA (Document 8) is the starting point, but unauthorised

[7] Document 28 paragraphs 5.8 – 5.11
[8] Document 28 Appendix 1
[9] Verbal evidence given by Mr Brown
[10] Mr Jones' verbal evidence

developments should also be taken into account, in accordance with the transitional arrangements in Circular 1/06 (paragraph 41 (c) and 43). Taking into account the existing unauthorised developments in the District and the sites with temporary consent, the minimum current need is at least 28.[11] Matters such as doubling up and overcrowding, the extent of household formations, the hidden need in housing etc. would all increase that need.

40. The RS allocated need between the Districts in the Region. There is now no mechanism for another Local Authority to meet the need of those on unauthorised developments in this District or those on sites with a temporary permission. The revocation of RS has created a vacuum in regard to the assessment of need in the short term. The Inspector is invited to make an assessment of need based on the current figures, to identify what the current minimum requirement is to 2011-12.

41. The Council have done nothing about the site allocations DPD despite the key aim of PPS3 and Circular 1/06 to identify sites within a 5 year period to address need. Circular 1/06 aims to increase significantly the number of gypsy and traveller sites in order to address under provision within 3-5 years, i.e. by February 2011. The site allocations DPD will not come forward until at least 2013 if ever. There must be a serious possibility that if one of the existing planning appeals grants a permanent consent the Council will say that they have met their need and a site allocations DPD is not necessary, at least for need up to 2012.

42. Substantial weight should be given to the unmet need. The Council has offered no solution as to how need should be addressed in the interim until 2013.

Failure of the Council to provide for gypsy sites

43. The Council's failure to address the need has to be put into the context of their previous failure to meet the needs of gypsies. They did not comply with The Caravan Sites Act 1968; no public site was ever provided; they were not designated; they failed to comply with the requirements of Circular 1/94; there was no assessment of need or search for sites. In addition, the Council has never granted planning permission for a gypsy site. They have often rejected their own officer's recommendations for approval. The officer conceded that this had occurred on four occasions. The failure of policy and failure of the Council to meet the needs of gypsies in the District weighs in favour of the development.[12]

Availability of Alternative Sites

44. Paragraph 49 of Circular 1/06 does not preclude the possibility of permission being granted for sites within the Green Belt, at least as a last resort. There is no requirement on the appellant to prove that no alternative sites are available.[13]

45. This is a rural authority where there is little available open land within existing settlements. What land there is is subject to competition from higher value land uses. It is therefore highly likely that gypsy sites will be located outside of settlements. 80% of land in the District is in the Green Belt. Thus it is likely that any new gypsy site in the District will be in the Green Belt.

---

[11] Verbal evidence based on Document 9
[12] Document 28 paragraphs 5.34 – 5.39
[13] *South Cambridgeshire v SSCLG & Brown [2008]*

46. Jamie Jones indicated that he had been searching for a site for about 11 years before buying plots on this site. He had looked at estate agents in the local area, on the internet and by making verbal enquiries. Before hearing about the appeal site, he had been unsuccessful in finding an alternative site as many landowners were not interested once they knew that he was a gypsy. [14]

47. The appeal site has been in the ownership of the Lee and Smith families for many years. William and Joanne Lee and their dependent children have previously tried living in a house, but found this very stressful. [15] Both the Jones and the Lee families were previously living on a private gypsy site in Willenhall. The Jones family moved from that site as it was too small for their needs. The Lee family were required to move due to Steven's health problems, a matter returned to below.

48. Layton Follows and Harry and Serena Coupe had no settled site before moving onto the appeal site. Mary Smith and her daughter Lucy have not moved onto the site, but currently lead an itinerant lifestyle with no permanent base on which to stop.

49. Alternative sites must be appropriate, suitable available and affordable. No such site exits. It is submitted that there is a substantial shortage of lawful gypsy sites in South Staffordshire. If the appellants are required to leave this site, they will be forced back to a roadside existence. Substantial weight should be given to the absence of alternative sites. The fact that no suitable alternative accommodation is available engages Article 8 of the ECHR.[16]

Personal Circumstances of the Appellants

50. Material considerations personal to the applicants are to be considered.[17] This is an inter-related family, both by family church and travelling ties.

Educational requirements[18]

51. There are four school age children currently living on the site. They are settled in the local schools and have been for some time. There are gaps in their education due to periods spent travelling, when they had no permanent settled site. The girls in particular were subjected to bullying when they first attended school, but the schools and the children have worked hard to integrate and the children have now made friends (Document 15). The children's literacy skills are now improving. Continuity of education for the children is important and would be very difficult to provide if they were forced back into a roadside existence.[19]

---

[14] Verbal evidence of Jamie Jones
[15] Verbal evidence of William and Joanne Lee
[16] *UK v Chapman [2001]* paragraph 103
[17] *Westminster Council v Great Portland Estates PLC [1985] AC 661; R v Kerrier DC ex p Catherine Uzell & Others QBD [1995]* (Document 21)
[18] See *R (oao Coyle & Ors) v SSCLG & Basildon DC [2008] EWHC 2878* (paragraphs 33 and 34), also *South Buckinghamshire DC v SSTLR & Porter CoA [2003] EWCA Civ 687* (paragraph 31)
[19] Verbal evidence on behalf of Appellants from Caroline Escott an advisory teacher employed by Wolverhampton County Council but working with gypsy children in Staffordshire on behalf of Staffordshire County Council

Health issues

52. Gemima Lee and her son, Steven James Lee, are chronically ill. Steven suffers from psychosis and his personal problems mean that it is difficult for the Lee family to be accommodated on public sites and any private site would need the toleration of other occupiers. Steven is on medication and his doctor visits the site 4 or 5 times a week. The other families on the site are tolerant and supportive of his needs. He is only allowed to leave hospital due to the support of his extended family (Document 14). William, Joanne and Jimmy George Lee, Serena Coupe and Layton Follows also have health problems which require medication or are currently being investigated.[20]

53. The families' needs are considerable and exceptional. As the appeal site is their only opportunity of a settled site, their need for access to specialized health-care and to a GP are matters which should carry substantial weight.

Sustainability

54. This is clearly a sustainable site. Circular 1/06 advises that sustainability should not be considered just in relation to access to transport and facilities. Substantial weight should be given to the issue of social inclusion; the families have become included in the local community and there is local support for them to remain on this site (Document 13).

Human Rights, Equality, Race Relations

55. Since Article 8 of the ECHR is engaged in this case, the question arises in relation to proportionality in returning the appellants to the road (contrary to paragraph 12 (i) of Circular 1/06).[21] The failure of the Council to facilitate the gypsy way of life amounts to a breach of the appellants' Human Rights under Article 8 and Article 14 of the ECHR and a breach of Section 2 of the Race Relations Act as amended. A breach of Article 8 by this Council led to a financial award of £75,000 being made to the parents of some of the residents now on site (Document 17).

56. The Council's witness accepted that there has been an unequal approach to gypsy housing needs when compared to the settled population. The Council have a five year supply of land to meet the needs of the settled population but have failed to meet the land requirements for the travelling population. It is contended that the Council have discriminated against gypsies by not carrying out a DPD within the required time frame. This breaches the Race Relations Act as amended and is a material consideration which must be added to the balancing exercise.[22] Significant weight should be given to the issue of discrimination.

57. The Council were under an obligation to investigate the families' circumstances before issuing the Injunction, this failure reflects on the question of proportionality and there is an obligation to take this into account.

---

[20] Document 28 paragraph 5.41-4.42 and verbal evidence given by William and Joanne Lee and Jamie Jones
[21] *Chapman v UK [2001]*
[22] *Baker v SSCLG & Bromley [2007] EWHC 2370 [2008] EWCA Civ 141*

Overall Balance

58. Cumulatively, the material considerations in favour of this development clearly outweigh the harm and constitute the very special circumstances necessary to justify this inappropriate development in the Green Belt.

59. It is submitted that even without consideration of the Human Rights or personal circumstances of the appellants, the material considerations outweigh the harm in this case. If this is not accepted, it is necessary to look at the Human Rights and personal circumstances separately for each family. If planning permission is granted for only some of the families, this must form part of the consideration for the remaining families in regard to Green Belt harm.

Temporary planning permission

60. If a permanent permission is not forthcoming, the balancing exercise must be done a second time having regard to a temporary permission. This consideration must take into account the substantial weight to be given to unmet need[23] and the fact that the harm would not be permanent and therefore less weight should be attached to it. If a temporary period is considered it should be at least 4 years to allow for the site allocations DPD to be prepared and a site to become available.

The Case for South Staffordshire Council

61. This is one in a series of appeals in which gypsies have sought permission for sites in the Green Belt within South Staffordshire Council. The latest appeal decision (Poolhouse Barn) was issued only a short time ago by this Inspector (Document 12).

Green Belt

62. The appellants concede that the development is inappropriate in PPG2 terms. Policy dictates that substantial weight should be attached to this harm.

Impact on Openess

63. Keeping land permanently open is the fundamental aim of PPG2 and openness is the most important attribute of the Green Belt. This development would be very extensive; 9 pitches, 2 amenity buildings, 23 caravans together with hardstanding and paraphernalia associated with domestic occupation of the site. This amount of development will have a considerable impact on openness. In the Poolhouse Barn decision (Document 12 paragraph 5) it was concluded that 4 pitches stationing 8 caravans and 1 utility room would cause "significant" harm to the openness of the Green Belt. Following through the logic of that decision, it must follow that the harm to openness in this case can only be described as very significant.

Encroachment

64. The appellants agree that there would be encroachment into the countryside. Unlike in the Poolhouse Barn case, the entirety of the development in this case would jut out into the countryside from what is presently a well defined (and

[23] Paragraphs 45 and 46 Circular 1/06

adopted) settlement boundary (Document 31, Appendix 8) in the form of ribbon development. The harm in terms of encroachment was found to be "moderate" in the Poolhouse Barn case. Here it can only reasonably be described as significant harm in terms of encroachment.

Character and appearance of the countryside / landscape character

65. In judging the level of harm to the character and appearance of the countryside, and in particular the harm to landscape character, considerable weight must be given to the evidence of Mr Baugh-Jones (Document 30). He is the only qualified landscape planner from whom evidence was heard.

66. The appellants asserted that the Council had acted contrary to paragraph 53 of Circular 1/06 in using local landscape designations in themselves to refuse planning permission. This is not the case, the evidence looks at the reasoning behind the landscape designations, the policy objectives set out in the landscape policies, and whether this proposal would harm those objectives and cause harm to the landscape character. The Circular has some relevant guidance on how landscape impact should feed into the overall planning balance when deciding whether or not to grant permission, but it does not affect the task of a landscape planner in evaluating the degree of harm.

67. Paragraph 54 of Circular 1/06 states that sites on the outskirts of built up areas "may" be appropriate, not that they will always be appropriate. This is a matter to be decided on the specifics of each case. It is necessary to look at how a site relates to a settlement boundary and what impact it will have on the relationship between the settlement and the countryside surrounding it.

68. In this case significant weight must be attached to the South Staffordshire Village Design Guide; recently adopted SPG which has been through consultation. This document sets out certain design principles, including enhancing village entrances and strengthening the Green Belt edge (Document 11). The proposal would result in a finger of ribbon development stretching out into the countryside from what is at present a well defined settlement boundary. It would seriously harm the objectives in the SPG.

69. The appellants' reliance on paragraph 55 of Circular 1/06, that the land was untidy or derelict before occupied by them, is not borne out by the evidence. The photograph (Document 6) does not support this assertion and there is no evidence that the site had been used for fly tipping to any great extent.

70. Harm to landscape is not necessarily about views, and the Planning for Landscape Change SPG (Documents 10 & 31, Appendix 3) recognizes that the landscape character is "locally very sensitive to the impacts of development". In this case the harm will be great. Very substantial weight should be attached this harm.

Need for gypsy sites

71. It is not disputed that there remains a general need for gypsy sites as at this moment. That need may have decreased as a result of permissions granted, but it remains (Document 9). The best evidence as to the level of need is the GTAA (Document 8). This is only two years old and is therefore a fairly recent assessment which assesses need going well into the future to 2026. It was

conducted by respected academics and based on methodology that was subject to scrutiny and discussion.

72. There is no policy or any other backing for assessing need by reference to the number of unauthorized sites in the District or by reference to the number of applications being made in the District. This indicates the level of demand but not need. Each unauthorised development cannot equal need, otherwise need would be infinite. The level of need can only be assessed in a structured way.

73. There are a number of other appeals and applications currently in progress and if all of these are approved / allowed, the general level of need as indicated by the GTAA would have been significantly exceeded (Document 9).[24]

74. The appellants argued that a review of the GTAA will be due in 2012. It is clear from the Government's responses to questions on the revocation of RS that Local Authorities are responsible for assessing need. It implies that there is no obligation for Local Authorities to review the GTAA. The Council may decide not to do this, so it cannot be assumed that any future assessment will be in the form of a GTAA and that it will show more need.

75. The remaining need resulting from the GTAA is currently for 8 pitches. Therefore, if substantial weight is to be given to this, then it can only be attached to general need to the extent that the appellants seek 8 pitches or less. Here the application is for 9 pitches. The general need cannot be prayed in aid in respect of the 9th pitch.

Personal Need

76. There is no current personal need for 2 of the 9 pitches applied for. Mr Jones owns 4 pitches, and currently needs only 2 to accommodate the caravans he currently needs (1 pitch for himself, his wife and his three younger children, and 1 pitch for his older daughter Magda). He may have a need for the other two pitches when his children grow (4-5 years from now), but no weight should be attached to that personal need now. This, together with the point on general need, means that for 2 pitches there is no personal need and for 1 of those pitches there is also no general need.

77. The weight to be attached to the educational and health needs of those on site is limited for three reasons. Firstly, not all of the proposed occupiers have such needs. Secondly, the needs identified are those which would be satisfied from any settled site. Thirdly, the educational and health needs of the persons on site (with the exception of Steven Lee) are not materially different from the needs of most gypsy families. The Council accepts that some weight must be attached to personal needs (because clearly being moved off the site will undermine educational and health care that everyone is entitled to) but that weight is by no means exceptional in this case.

[24] The Secretary of State may wish to note that I conducted an informal hearing into a development for 6 gypsy pitches elsewhere within the District (Appeal ref: APP/C3430/A/10/2127121) on 21 September 2010. That appeal is currently adjourned in order to allow the appellant and Environment Agency to produce an agreed statement on flooding matters.

78. In terms of the availability of alternative sites, the Council had suggested that there may be plots available on the Oak Tree Caravan Site within the District, although they accept the appellants' evidence that these plots are not available to them.[25]

Overall Balance

79. The harm must be balanced against the other considerations. This is not easy, especially when the lives and perfectly reasonable needs, including cultural needs, of individuals conflict with fundamental objectives of our planning system. The Council's judgment was and remains that the substantial harm by reason of inappropriateness, the very significant harm caused by encroachment and the very substantial harm that will be caused to the character and appearance of the countryside, particularly to the landscape and its relationship with the settlement edge is not outweighed by the general need for gypsy site provision or by the personal needs of the appellants.

Human Rights

80. Rejecting this appeal holds out the very real prospect of interference with the appellants' Article 8 rights. This is however a qualified right, and interference is permissible where it is proportionate to the public benefit sought to be secured. In this case, it is proportionate to interfere with the appellants' Article 8 rights in order to secure the very real public benefit of avoiding the substantial harm identified above.

Temporary permission

81. A temporary permission does not arise for consideration in this case. A temporary permission would be appropriate where the harm is such that a permanent permission cannot be justified, but there is an unmet need and there is some prospect that that need will be provided for at the end of the temporary period.

82. In this case, given that the unmet need is for only 8 pitches, it is wholly unrealistic to grant a temporary permission in the expectation that at the end of the temporary period there will be an allocated site for these families to move to. The reality is that those 8 pitches are likely to be provided through the appeals process given the number of outstanding appeals and applications pending. If a temporary permission were to be granted here, there will either be no additional pitches at the end of the temporary period (because the need as identified by the GTAA will have been met) or if there are pitches made available this will be to meet need arising post 2012. Granting temporary planning permission now could lead to a greater number of temporary planning permissions than the identified unmet need.

Interested parties supporting the development

83. Letters of support from nearby residents and local business owners were submitted to the inquiry (Document 13). These relate to the Jones family in particular, although two of the letters more generally refer to the other occupiers of the site. Ms Suzanna Matthews appeared at the inquiry in support of the

[25] Document 29 (paragraph 4.18) and Mr Cannon's verbal evidence

Jones family. The material points from these representations are that they are friendly, welcoming, hardworking, kind and compassionate; the children have settled well in the schools and have made friends; they are good members of the community.

Interested parties objecting to the development

84. Local residents Mr Stonehouse and Mr McPheat, appeared at the inquiry objecting to the development. The material points made are: no justification for inappropriate development in the Green Belt; previous appeal decision (Document 31, Appendix 7(2)); highway concerns; no services, sewers or footpaths to the site; noise from dogs barking; visual impact outside village boundary; landscaping difficult; unauthorised occupation of land; unfair on settled community; Human Rights of settled community; Government's localism agenda.

Written Representations

Leremy Lefroy MP (Document 36)

85. Mr Lefroy outlines his support for the Council's decision. He draws attention to the Secretary of State's announcements relating to strengthening the law on unauthorised development, the abolition of RS and the scrapping of nationally imposed caravan pitch targets and a shift to locally-led assessment and plans. He submits that these significant changes in government policy should be taken into account when considering this appeal.

Local residents objecting to the development (Document 37)

86. Concerns raised have been recorded above either in the case for the Council or those who spoke at the inquiry objecting to the development. Other material points made are: proximity to play area and residential properties; anti-social behaviour; number of additional children and impact on schools; proximity to railway – safety concerns; businesses run from the site; the proposal will deter people from shopping in Penkridge.

Conditions

87. A list of conditions (Document 19) was prepared and discussed at the inquiry. Should the Secretary of State be minded to grant planning permission, the Schedule of Conditions appended to this Report at Annex A comprises those conditions that I consider should be imposed. Further suggested conditions relating to temporary and personal planning permission are included should the Secretary of State disagree with my recommendation. The conditions comply with Circular 11/95 *The Use of Conditions in Planning Permissions* and one of the conditions is worded so as to deal with the fact that the development has already been partially implemented.

88. A condition is suggested to restrict the use of the site to gypsies and travellers only, in order to ensure that the site meets the needs of that population. A condition is suggested to ensure that the development is carried out in accordance with the submitted plans, for the avoidance of doubt and in the interests of proper planning. In order to protect the appearance of the area conditions are required to secure the submission of details of materials for the amenity blocks; restricting commercial vehicles and activities; restricting the number and type of caravans to be sited on the land; requiring submission of

lighting details, boundary treatments, landscaping and its maintenance. A condition is suggested to ensure the resurfacing and maintenance of the existing access and provision of corner radii, in the interests of highway safety. Drainage details should also be submitted to ensure that the site is properly drained in accordance with the Environment Agency's recommendations. It is not considered necessary to recommend a condition requiring the submission of a noise survey for the reasons outlined in paragraph 7.

Inspector's Conclusions

The numbers in square brackets [] refer to earlier paragraphs in the report on which my Conclusions are based.

Letter from the Planning Inspectorate (PINS) in relation to the intention to replace Circular 1/06. [25-29]

89. The letter from PINS advised the parties of the Secretary of State's announcement in relation to Circular 1/06 and that the Inspector would seek the parties' views on this. At the inquiry, both parties referred to this matter in their opening submissions. The Council put forward their view that the weight to be given to the Circular should be reduced given the Secretary of State's announcement. The appellants on the other hand, consider that the Circular should be given its full weight.

90. Reference has been made to the Alconbury judgement. In that case it was decided that since there were clear procedural rules within the planning system as a whole, the safeguard against any breach of Article 6 could be dealt with by the judicial review process. The appellants argue that the letter from PINS does not sit within a procedural framework. However, the letter is designed to ensure that all parties come to the inquiry prepared and ready to deal with the matter raised in the Secretary of State's announcement. It does not seek to imply weight one way or the other. Furthermore, the judicial review process still applies to this appeal.

91. Circular 1/06 is still extant and unrevised and there are no policies in the SP or LP which relate to gypsy development. As the most up to date guidance in relation to gypsy and traveller development, I have given due weight to the Circular. However, I have had regard to the Secretary of State's announcement as a material consideration in this appeal.

92. The appellants' advocate raised the issue of the Council's handling of the Injunction. I do not consider that this matter is directly relevant to the planning merits of this case and the appellants' professional planning witness stated in evidence that this was also his view. [57]

Main Considerations

93. The main parties agree that the proposal would constitute inappropriate development in the Green Belt and I concur [24]. The main considerations in this case are therefore as follows:

    i the impact of the development on the openness of the Green Belt and on the purposes of including land within it;

    ii. the impact of the development on the character and appearance of the surrounding countryside, including its landscape character;

    iii. whether the harm to the Green Belt 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 the development.

Impact on Green Belt, Openness and Purposes

94. Policy GB1 of the South Staffordshire Local Plan advises that inappropriate development will not be in accordance with the Plan. Paragraph 3.2 of Planning PPG2 advises that inappropriate development is, by definition, harmful to the Green Belt and substantial weight will be attached to that harm. [15, 30, 62]

95. PPG2 advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the most important attribute of Green Belts is their openness. The development would introduce 23 caravans, 2 utility buildings and other features such as hardstandings, fencing and ancillary domestic features onto land which would otherwise have been undeveloped. The amount of development proposed would cause significant harm to the openness of the Green Belt. [30, 63]

96. PPG2 also sets out the five purposes of including land in the Green Belt. The parties agree that the development would only affect one of those purposes, that of safeguarding the countryside from encroachment. The appeal site is located beyond the settlement boundary of the village of Penkridge. I agree that due the intrusion that would be caused by the proposed development, it would conflict with the purpose of safeguarding the countryside from encroachment. However, the site is contained by urban features; the west coast main line, the A449 Wolverhampton Road and the disused railway line. In addition, the site is close to other development on the edge of the village, both within the settlement boundary and outside, to the south east of the site. This context means that the site does not appear to be part of the open countryside, rather it appears as a transitional area located between the village and the open countryside beyond. For this reason, the harm caused by the conflict with this purpose should only attract a moderate amount of weight against the development. [9, 10, 30, 64]

97. The significant harm to the openness of the Green Belt and the moderate harm caused by conflict with one of the purposes of including land in the Green Belt add to the substantial harm by reason of inappropriateness.

Character and appearance / Landscape Character

98. The appellants consider that neither of the SPG documents referred to below has been prepared in compliance with the guidance in PPS7 on local landscape designations (paragraphs 24 and 25). The Council conceded that this was the case. However, the Village Design Guide SPG is a recently adopted document which was subject to consultation. The Planning for Landscape Change SPG, although older, involved a comprehensive assessment of landscape character (paragraph 2.4, Document 10). I acknowledge that much of the District is covered by such designations; nevertheless these documents should be given a significant amount of weight in this appeal. [35, 68]

99. Two of the Development Design Principles identified in the Village Design Guide SPG are to create a clear point of arrival with the countryside and to strengthen the Green Belt edge. Notwithstanding the description of the village edge in the SPG, as being strong and impermeable, the appeal site is also seen in the context of the development to the south east. This comprises a number of properties alongside the A449 and beyond the settlement boundary. Whilst these other properties are intermittently located along the road and do not form a continuous ribbon of development, this context already results in a degree of blurring of the southern edge of the village. As such, the conflict with the SPG already exists

along this road and the development would simply continue the existing pattern of intermittent development beyond the settlement boundary. Thus, whilst the development would conflict with these aims of the SPG, the above context limits the harm which would be caused by this conflict and therefore the weight which should be attached to it. [19, 34, 65-68]

100. There are differing accounts from the parties in relation to the state of the land before the appellants moved onto it, but there is no dispute that it was previously open land. The introduction of caravans and other structures onto the land and the additional activity the use would create would give it a more urban character. In this respect the appeal development would undoubtedly harm the nature of the landscape provided by the appeal site. [36, 69]

101. Nevertheless, the appeal site has a smaller scale than much of the surrounding landscape, it is also narrower and more linear in nature. These characteristics, together with its containment between the railway and A449, lead me to the view that the site already has a less rural character than the surrounding landscape. In my judgement, these factors reduce the degree of harm that the development would cause to the character of the surrounding landscape and limit the conflict with the Planning for Landscape Change SPG. [34, 70]

102. The substantial vegetation along the disused railway ensures that there would be very limited views of the development from the north. There is a substantial boundary hedge / trees alongside the A449, particularly at the northern end of the site. This ensures that from the east only glimpses of the caravans and structures would be visible through the hedge at this end of the site. Further to the south, the hedge becomes sparser and the structures at this end of the site would therefore be more visible. The site layout indicates that hedgerow / tree planting is proposed along this part of the boundary and along the southern boundary of the site. In time, this planting would ensure that the development would not be unduly visually intrusive in views from the A449 and further east or from the south. [36, 70, 84]

103. The western boundary of the site is more open and the development would be visible from the open countryside to the west. When viewed from this direction the development would be more prominent. However it would be possible to provide supplementary planting along the western boundary in order to soften the visual impact of the development when viewed from the open land to the west.

104. In summary, the development would add to the blurring of the southern edge of the village and therefore conflict to an extent with the aims of the Village Design Guide SPG and SP policy D4. It would cause a limited amount of harm to the landscape character of the surroundings and to the appearance of the area. For this reason it would conflict to an extent with the Planning for Landscape Change SPG, LP policies BE26 and LS1 and in part with SP policy NC2. However, the context of the site would limit the harm caused by these factors and the potential for landscaping would further reduce it. Suitable conditions could ensure that the development would comply with LP policy LS10. [14]

105. I note that in the previous appeal decision in 1991, the Inspector concluded that a development of 20+ caravans would “detract very significantly from the appearance and rural character of the Green Belt at the approach to Penkridge”. However, that decision refers to the prominence of the appeal site from the south

and the likely ineffectiveness of additional planting. That decision was made over 19 years ago and it is likely that the existing boundary hedge has matured considerably in that time. I have come to the conclusion that the development would not be unduly prominent from the A449 for the reasons outlined above. In addition, I have had regard to the advice in paragraph 53 of Circular 1/06, which advises that local landscape designations should not be used in themselves to refuse planning permission. Furthermore, paragraph 54 advises that sites on the outskirts of built-up areas, or rural or semi-rural settings may be appropriate. [33, 67, 84]

106. Having regard to the above assessment, a limited amount of weight should be given to the conflict with the Village Design Guide SPG and the harm that would be caused to the landscape character and the appearance of the surrounding area.

Other planning matters

107. The main parties agree that the site is located within a sustainable location. There are also no other objections having regard to issues such as conflict with national designations (SSSI, AONB) or flooding issues. I have considered the impact of the proposal on local residents, but as the site is located well away from the nearest residential property, the development would not harm the living conditions of nearby occupiers. [32, 84, 86]

108. Local residents have raised concerns in relation to the impact on highway safety and in considering the previous appeal on the site in 1991 the Inspector found that the development would be harmful. However, at that time the A449 was a Trunk Road and the Department for Transport had raised concerns in relation to the increased use of the access. The road is no longer classified as a Trunk Road and as such, different considerations apply to the movement of traffic on the road now than at the time of the previous appeal. [32, 84, 86]

109. The County Council highway engineers are now satisfied that the development would not be harmful to highway safety. On the basis of the information submitted in relation to sight lines, and my own observations, I have no reason to consider that the access would not be safe. There is also no evidence to suggest that any harm would be caused by traffic slowing to allow vehicles to turn into the site. Accordingly, I am satisfied that the development would not cause harm to highway safety. [32, 84]

110. Consideration of the above matters indicates that they would not cause any harm. However, these are not positive benefits in favour of the development; they merely add no additional weight against it.

Other considerations

<u>Need for gypsy sites</u> [37-43, 71-75]

111. The Council acknowledges that there is a need for the provision of gypsy pitches in the District and accepts the assessment of need as demonstrated in the GTAA. The GTAA identifies a need for 32 pitches in South Staffordshire between 2007 and 2012 and a need for further pitches beyond 2012 and up to 2026. It also indicates a need for the provision of pitches in the wider study area of Southern Staffordshire and Northern Warwickshire.

112. The Council states that due to the number of pitches which have been provided on sites since 2007 (excluding temporary planning permissions), there is currently an unmet need for only 8 pitches to be provided by 2012. The appellants consider that the unmet need should include existing unauthorised developments, as these indicate that there are gypsies in need of a lawful site who have nowhere else to live. On this basis, they say that the level of need is at least for a further 28 pitches.

113. The Government's guidance document on the revocation of Regional Strategies advises that GTAAs form a good starting point for any review of levels of provision, although Council's are not bound by them. In a recent appeal decision (Appeal ref: APP/C3430/A/10/2122649) in this District, I indicated that I was satisfied that the figures in the GTAA and accepted by the Council, provide a good indication of the level of need in the District. I am still of the view that this is the case.

114. That is not to say that other factors (such as unauthorised developments) should not be taken into account in any comprehensive assessment of need. Indeed Circular 1/06 (paragraph 43) indicates that unauthorised developments should be taken into account in the assessment of whether there is a clear and immediate need for sites. It advises that LPAs should bring forward site allocations DPDs in such circumstances. Furthermore, there does appear to be a mismatch between the number of gypsies on sites on the ground and the level of identified need remaining in the District. That having been said, in the absence of more robust evidence on the matter, I do not consider that it is proper for individual appeal decisions to make ad hoc assessments of need on a wider basis.

115. The Council's current estimate for adoption of their Core Strategy is early 2012 with the site allocations DPD adopted in early 2013. The Council agreed that it is likely to be the end of 2013 before sites become available on the ground following the adoption of the site allocations DPD. Thus the remaining need currently identified in the GTAA to 2012 will not be met through the Development Plan system.

116. One of the aims of Circular 1/06 was to increase significantly the number of gypsy sites with planning permission over a period of 3-5 years from the date of the Circular ie. by 2011. It is clear that the Council cannot demonstrate a 5 year supply of deliverable sites for gypsies and travellers and that they will not be able to meet the aim of the Circular. [56]

117. The failure of the development plan to meet the need identified by the Council should be given significant weight in favour of the appeal especially as there is no dispute about the need for an additional 8 pitches within the District. Significant weight also needs to be given to that unmet need.

118. The current appeal seeks permission for the provision of 9 pitches and the Council argue that substantial weight cannot be given to the need for the additional pitch, so far as general levels of need in the District are concerned. The Council also raise concerns in relation to the number of other appeals and applications currently in progress in the District.

119. The GTAA identifies need up to 2026 for a wider geographical area than just South Staffordshire. The effect of the RS was to distribute pitches to individual Local Authorities and allocate them to time frames to ensure a rolling supply of pitches to meet the need into the future. In the absence of the RS, it is

inevitable that some overlap will occur and that pitch locations and numbers will not necessarily fit neatly within these defined time scales and Local Authority boundaries. As such, I do not consider that the provision of the additional pitch by 2012 would cause harm in terms of an over-provision of gypsy sites in the District. Similarly, little harm would occur to the overall strategy for the provision of sites within the wider geographical area to 2026, if further appeals and applications effectively 'use up' the remaining general need in South Staffordshire in the near future.

The accommodation needs of the appellants and their alternative accommodation options [44-49, 76]

120. Some of the existing site occupants appeared at the inquiry and some information was submitted about the other intended occupants of the pitches. Much of the information about the site occupants was given orally. The Council accept, and I have no reason to disagree, that all those to occupy the site are gypsies for planning purposes and have a need for a pitch on a gypsy site.

121. Jamie Jones currently owns 4 pitches on the site, on which it is proposed to site a total of 8 caravans. It was accepted at the inquiry that his need is currently only for 2 pitches. He indicated that he would require the additional 2 pitches once his younger children have grown and I sympathise with his wish to provide for his children's future in this manner. However, personal need can only currently be put forward in favour of 2 pitches for the Jones family. [23]

122. There is evidence that some of the site residents searched for alternative sites prior to settling on this site. Circular 1/06 advises that alternatives should be explored before Green Belt locations are considered. However, the Secretary of State will be aware of the judgement in *South Cambridgeshire v SSCLG & Brown [2008]* in which it was held that there is no requirement on the appellant to prove non-availability of alternative sites. Furthermore, a large proportion of the District is in the Green Belt, so even if there had been evidence of an extensive search for an alternative site by all of the appellants, there is a high probability that any alternative site in this District would also be in the Green Belt.

123. The evidence does not suggest that there are any other sites for any of the appellants to go to if planning permission is refused for this site. The Council had suggested that there may be plots available on the Oak Tree Caravan Site within the District, although they accepted the appellants' evidence that these plots were not available to them. The appellants indicated that any spare plots on that site were for members of the extended families already resident. The Secretary of State will be aware of the judgement of *Doncaster MBC v FSS & Angela Smith [2007]* where it was held that alternative accommodation has to be suitable, available, affordable and acceptable. On this basis and having regard to the evidence, very little weight should be given to the possible availability of an alternative site at Oak Tree.

124. The appellants' personal need for a settled site (in so far as it relates to 7 pitches) and the lack of available alternative sites should both be given significant weight in favour of this appeal.

Education and Health Needs

125. There are currently 4 school age children living on the site and they are settled in nearby schools. The educational needs of these families are no different to

that of other gypsy families and it is not essential for their needs to be met from this site. But the children are all attending the local schools within Penkridge and are apparently settled and happy there after having overcome some initial difficulties. In the absence of an alternative site for the families to move to it is likely that the continuity of the children's education would be disrupted if they are required to move off this site. Access to education would be much more difficult if the families had a roadside existence. A moderate amount of weight needs to be attached to this factor in favour of the appeal as far as it relates to Jamie and Diane Jones and William and Joanne Lee and their dependants. [51, 77]

126. With regard to health matters, a number of the appellants currently have health problems which are being treated or investigated. They need regular access to their GPs and to hospital care. There are also infants living on the site and one of the appellants is elderly (Mrs Smith, who is not currently living on the site). These individuals would clearly benefit from a settled site from which to access healthcare. In relation to the majority of the appellants, the health needs are not significantly different to those of many gypsy families and they do not need to be met from this site. However, there are no alternative sites for the families to move to. Access to healthcare is likely to be much more difficult if the appellants were required to revert to a roadside existence. [52, 53, 77]

127. Circular 1/06 advises that gypsies and travellers have the worst health and education status of any disadvantaged group in England. The health issues need to be given a moderate amount of weight in favour of the development for all but the Lee family whom I consider below.

128. Steven Lee's medical condition appears to be severe and he needs the constant attention of his family and the support of the other families on the site. His mother, Gemima, is the main carer, but she has her own chronic health problems. She finds Steven's care difficult to manage because of his condition and size, together with her own health issues. Steven's doctor regularly visits him on the appeal site and he is only allowed to be out of hospital due to the care and attention that he receives from his extended family. Joanne Lee, in particular provides a lot of help with his care. Steven's condition makes it difficult for the Lee family to live on a site with other families that they don't know. This was the reason they had to leave their former site in Willenhall. This matter should be given a significant amount of weight in favour of the development as far as it relates to the Lee family. [52, 53, 77]

Whether the harm is clearly outweighed by other considerations

129. PPG2 (paras. 3.1 and 3.2) sets out the general presumption against inappropriate development within the Green Belt. It states that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

130. I have concluded that the development would cause substantial harm by reason of inappropriateness. It would also cause significant harm to the openness of the Green Belt and moderate harm to one of the purposes of including land within it. The conflict with the Village Design Guide SPG and the harm that would be caused to the landscape character and the appearance of the

surrounding area should also be given a limited amount of weight against the development. [97, 106]

131. On the other hand, weighing in favour of the development is the significant weight which should be given to the general need for gypsy sites in the District. The personal need of the appellants for 7 pitches and the lack of available alternative sites should also both be given significant weight. In addition, the failure of the development plan to meet the identified need attracts significant weight in favour of the appeal. [116, 117, 124]

132. The medical needs of the appellants should be given a moderate amount of weight except in the case of the Lee family. For them, Steven's difficulties should be given a significant amount of weight in favour of the development. Finally, the educational needs of the Jones and Lee families attract a moderate amount of weight in favour of the development for those families. [125, 127, 128]

133. Dismissal of the appeal would, in all likelihood require the existing occupants to vacate the site (which for those currently resident has to be regarded as their home) without any certainty of suitable alternative accommodation being readily available. Mrs Smith and her daughter would be required to continue an itinerant lifestyle with no settled base. This would represent an interference with the home and family life of the appellants which in my view outweighs the harm which has been and would continue to be caused by the development in terms of its effect upon the public interest. Dismissal of the appeal would have a disproportionate effect upon the rights of the occupants under Article 8 of the ECHR and this also attracts a significant amount of weight in favour of the appeal. [37, 49, 55, 59, 80]

Overall conclusion

134. In conclusion, the harm by reason of inappropriateness and the additional harm identified, which would be caused by the proposed 9 pitches, is clearly outweighed by the totality of the other considerations outlined above. This is a case where the appellants have a clear need for a site and have no other sites on which they could reside. Many of the families have health issues and there are elderly and very young people either resident or proposed to be resident on the site. Some of the families also have further compelling personal circumstances. Dismissal of this appeal would ultimately result in their removal from the site, causing distress and hardship to many of the individuals. Such consequences would in my view, be disproportionate to the harm caused. In my judgement, having considered the case as a whole, very special circumstances do exist so as to justify this inappropriate development in the Green Belt. [58, 79]

Other matters raised

135. One of the interested parties appearing at the inquiry raised concerns in relation to the human rights implications for local residents if the appeal is allowed. Although it was not made clear which Article of the ECHR would be infringed in these circumstances, the rights and freedoms of local residents must be balanced against the effect of the development on the public interest. I have taken into account the residents' concerns. However, in the light of the conclusions on the matters addressed above I consider that if the appeal is allowed, its effect on local residents would be proportionate in the circumstances and would not result in an infringement of their rights. [84]

136. The Race Relations Act 1976 (RRA) places a duty on decision makers in respect of planning permission to consider race equality under section 71(1). The Secretary of State will be aware of the Court of Appeal judgement in *R (oao) Harris v London Borough of Haringey & ors [2010] EWCA Civ 703* where it was found that the decision maker must engage this duty where the issue of race equality is raised and to demonstrate due regard for the duty. I have given due weight to Circular 1/06 in this appeal and my assessment of the proposal and this recommendation has therefore had due regard to this duty. [56, 91]

Recommendation

137. I recommend that the appeal be allowed and planning permission granted subject to the conditions set out in Annex A.

138. If the Secretary of State is minded to disagree with my recommendation, I set out below some further considerations.

Temporary planning permission [60, 81, 82]

139. If the Secretary of State disagrees with my conclusions set out above and considers that very special circumstances do not exist in this case to justify the development on a permanent basis, it is necessary to consider whether the development should be approved for a temporary period.

140. A temporary permission would affect the weight which should be given to the identified harm. The weight given to the harm factors: inappropriateness; openness; conflict with one of the purposes of including land in the Green Belt; conflict with the Village Design Guide SPG and the harm that would be caused to the landscape character and the appearance of the surrounding area, would all be reduced as the development would be time limited.

141. The matters in favour of the development would be as set out in paragraphs 131-133 above. In addition, Circular 1/06 advises that substantial weight should be attached to the unmet need for gypsy sites in the District in considering whether temporary planning permission should be given. It advises that temporary planning permission may be justified where it is expected that the planning circumstances will change at the end of the period of temporary permission.

142. I have set out above the likely timescale for adoption of the Site Allocations DPD and sites becoming available on the ground as being late 2013. Having regard to this, planning permission should be granted for a temporary period of 4 years ie. to 2014 to allow for a small amount of further slippage in this timescale. The Council consider that this would take up the identified need going beyond 2012 and that they may end up with more temporary planning permissions than sites to be allocated in the DPD.

143. However, it should reasonably be expected that the Site Allocations DPD would identify sites going beyond 2012, given its likely adoption date. Therefore, at the end of the temporary planning permission, the planning circumstances should have changed and sites should have been allocated. As I have set out above, little harm would occur to the overall strategy for the provision of sites within the wider geographical area to 2026, if sites are approved now on a temporary basis, to meet an existing need. [119]

144. In these circumstances, I consider that the harm identified would be clearly outweighed by the other considerations in the short term, until the need can be met on sites allocated through the Site Allocations DPD. Very special circumstances would therefore exist to justify a grant of planning permission for a temporary period of 4 years.

Considerations if the Secretary of State disagrees with the above conclusions

145. If the Secretary of State considers that the other considerations do not outweigh the totality of the harm, either for a permanent or temporary period and that very special circumstances do not therefore exist, the following should be considered.

146. The appeal relates to 4 separate but inter-related families. The families indicated that they would wish to stay together, as they provide support to each other. However, in the judgement in *Moss v FSS & South Cambridge DC [2003] EWHC 2781* it was found that consideration should have been given to the possibility of allowing some of the appeals for those whose personal circumstances were the most compelling. [59]

147. In this case, the personal circumstances for the Jones and Lee families are the most compelling. In a consideration of their circumstances separately from the others, the harms would be as follows:

- Substantial - harm by inappropriateness
- Significant - loss of openness (although the impact would be reduced as there would be fewer caravans and other structures and less of the site would be covered by development).
- Limited - harm by reason of encroachment; harm to landscape character / visual harm / conflict with Village Design Guide SPG (this would be reduced further as there would be fewer caravans and other structures and less of the site would be covered by development).

148. The benefits in favour of the development for the Jones family would be as follows:

- Significant - general need; personal need (for 2 pitches); lack of alternative sites; ECHR considerations.
- Moderate – education; health.

149. The benefits in favour of the development for the Lee family would be as follows:

- Significant - general need; personal need (for 2 pitches); lack of alternative sites; ECHR considerations; health.
- Moderate – education.

150. A further consideration should also be given to granting planning permission for a temporary period for the Jones and Lee families if permanent planning permission is not accepted, in which case the harm factors would be reduced further.

151. If planning permission is considered on this basis, the Secretary of State may then wish to consider the extent of the additional harm which would be caused by the 6 caravans (on 3 pitches) proposed for the other families if the Jones and Lee families are themselves allowed to stay on the site (with 13 caravans on 4 pitches). Again, consideration should be given to granting both permanent and temporary planning permission for the others in such circumstances.

Susan Heywood

INSPECTOR

ANNEX A

Recommended conditions in the event that planning permission is granted

1) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.

2) The development hereby permitted shall be carried out in accordance with the amended plans annotated as 'Site Location Plan B' and 'Site Layout Plan' submitted on 16 September 2010.

3) Before the 2 amenity blocks are constructed, details of the external materials shall be submitted to and approved in writing by the local planning authority. The blocks shall be erected in accordance with the approved details.

4) On pitches 3-9 as shown on the plans identified in condition 2 above, no more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans hereby permitted.

5) No more than three commercial vehicles shall be kept on the combined area of pitches 1 and 2 as shown on the plans identified in condition 2 above for use by the occupiers of the caravans hereby permitted.

6) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

7) No commercial activities shall take place on the land, including the external storage of materials.

8) No more than 23 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 15 shall be static caravans or mobile homes) shall be stationed on the site at any time.

9) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

   i) within 3 months of the date of this decision a scheme for: the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; resurfacing and maintenance of the existing access 6 metres from the rear of the carriageway edge and provision of highway corner radii; landscaping and boundary treatment; parking and turning areas (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.

   ii) if within 11 months of the date of this decision the site development scheme has not been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

   iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.

iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.

10) At the same time as the site development scheme required by condition 9 above is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of five years of the proposed planting commencing at the completion of the final phase of implementation as required by that condition; the schedule to make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

If the Secretary of State is minded to grant planning permission for a temporary period:

11) The use hereby permitted shall be for a limited period being the period of 4 years from the date of this decision. At the end of this period the use hereby permitted shall cease, all materials and equipment brought on to the land in connection with the use shall be removed, and the land restored to its former condition in accordance with a scheme previously submitted to and approved in writing by the local planning authority.

Conditions 1-10 would also need to be included in this situation. A clause would need to be added to condition 9, to require a scheme to be submitted specifying the condition of land before the development took place and the works necessary to restore the land to that condition, or some other state as agreed with the local planning authority, and the time period within which the restoration works must be undertaken.

If the Secretary of State is minded to grant planning permission for named persons only:

12) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: (names from Document 4)

13) When the premises cease to be occupied by those named in condition 12 above, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.

Conditions 1, 3, 6, 7, 9 & 10 would need to be included in this situation. A clause would need to be added to condition 9, to require a scheme to be submitted specifying the condition of land before the development took place and the works necessary to restore the land to that condition, or some other state as agreed with the local planning authority, and the time period within which the restoration works must be undertaken.

A further clause would need to be added to condition 9 to require the submission of details of siting of the caravans for those named persons.

Conditions 4/5 and 8 above, would need to be altered according to the number of pitches / caravans.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Satnam Choongh, of Counsel	Instructed by: Mr D Patterson Director of Legal and Licensing Services South Staffordshire Council
He called	Mr Baugh-Jones Landscape Planning Manager
	Mr Cannon Principal Planning Officer

FOR THE APPELLANT:

Alan Masters, of Counsel	Instructed by Mr P Brown Philip Brown Associates
He called	Caroline Escott Advisory Support Teacher On behalf of Staffordshire County Council
	Jamie Jones Appellant
	William Lee Appellant
	Joanne Lee Appellant
	Mr P Brown Philip Brown Associates

INTERESTED PERSONS OBJECTING TO THE DEVELOPMENT:

Mr McPheat
Mr Stonehouse

INTERESTED PERSONS SUPPORTING THE DEVELOPMENT:

Mrs Matthews

DOCUMENTS

1 Council's notice of inquiry and circulation list
2 Application plans including amended plans submitted to inquiry
3 Statement of Common Ground
4 List of proposed occupants, submitted by the appellants
5 Environment Agency response
6 Aerial photograph of the site, submitted by the Council
7 Draft policy H6 (previously H4), submitted by the Council
8 Southern Staffordshire and Northern Warwickshire GTAA
9 List of planning permissions / applications for gypsy sites, submitted by the Council
10 Planning for Landscape Change SPG Extracts, submitted by the Council
11 Village Design Guide SPG Extract, submitted by the Council
12 Appeal decision APP/C3430/A/10/2122649, submitted by the Council
13 Letters supporting the development, submitted by the appellants
14 Letter from NHS trust, submitted by the appellants
15 Letters from 3 of the appellants' children, submitted by the appellants
16 Letter from owner of Willenhall site, submitted by the appellants
17 Press cutting, submitted by the appellants
18 Joint statement on highway matters
19 List of suggested conditions, submitted by the Council
20 Suggested noise condition, submitted by the Council
21 R v Kerrier DC ex p Catherine Uzell & ors QBD [1995], submitted by the appellants
22 Wychavon v SSCLG & Butler [2008] EWCA Civ 692, submitted by the appellants
23 Hedges & Hedges v SSE & East Cambs [1996] EWHC Admin 239, submitted by the appellants
24 Council's closing submissions
25 Appellants' closing submissions
26 Costs application
27 PINS letter dated 9 September 2010
28 Proof of Evidence of Mr Brown, for the appellants
29 Proof of Evidence of Mr Cannon, for the Council
30 Proof of Evidence of Mr Baugh-Jones, for the Council
31 Appendices to Council's Proofs
32 Council's delegated report for the application
33 Staffordshire and Stoke-on-Trent Structure Plan extracts
34 South Staffordshire Local Plan extracts
35 Local Development Scheme (hand altered)
36 Letter from Jeremy Lefroy MP
37 Letters to PINS objecting to the development

APPENDIX 8

The Planning Inspectorate

Appeal Decision

Hearing held on 10 June 2014

Site visit made on 10 June 2014

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 January 2016

Appeal Ref: APP/C3430/A/13/2210160
New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire, ST19 5PG

- 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 William Lee against the decision of South Staffordshire District Council.
- The application Ref 13/00191/FUL, dated 26 February 2013, was refused by notice dated 5 September 2013.
- The development proposed is a change of use of land to use as a residential caravan site for an extended gypsy family with up to 6 caravans, of which up to 4 will be static caravans/mobile homes, together with laying of hardstanding and erection of 2 amenity blocks.

Decision

1. The appeal is dismissed.

Procedural Matters

2. This appeal was recovered for decision by the Secretary of State (SoS) for Communities and Local Government, by letter dated 30 May 2014. This was because the appeal involves a traveller site in the Green Belt. Following a legal challenge, on 23 March 2015 the Government confirmed its intention to 'de-recover' appeals for traveller development in the Green Belt on which a decision had not yet been reached. This appeal has now been de-recovered. Both main parties were given the opportunity in April 2015 to confirm whether or not there has been any change in circumstances since the hearing that they wish to be taken into account but no responses were received. I have referred to policy changes later.

3. The description of the development was amended in the appellant's appeal form to reflect the proposal more accurately and I have therefore used this description in the bullet point above.

4. The site layout plan was amended by letter dated 17 June 2013 to include the access which already has planning permission. This was the basis on which the Council considered the application and is also the basis on which the appeal is assessed.

Background

The site, its surroundings and the proposal

5. The appeal site lies within the West Midlands Green Belt, some 100m south of the village of Penkridge. It comprises around 2 ha of land along the western side of Wolverhampton Road (the A449) and bounded from that road by a tall mature hedge. A hedge with some gaps provides the boundary between the site and the west coast main railway line to the west which sits within a cutting. Beyond that are open fields. There is a disused railway line to the north with an area of woodland and an area of public open space beyond that. On the opposite side of the A449 are open fields to the east and the currently vacant Lyne Hill industrial/ business site. A larger traveller's caravan site lies to the south of the existing access to the appeal site from the A449. Beyond that there are several dwellings with access from the A449 or from Lynehill Lane.

6. The site comprises the northern part of the wider gypsy and traveller site granted temporary permission in 2011. The appeal site has been partially landscaped, hard-surfaced with gravel and there is a timber fence through its centre. At the time of my visit there were two touring caravans stationed on the site which are occupied by some of the family members. The other members of the family were away travelling.

7. The proposed development is as described in the bullet point. At the hearing the appellant agreed with the Council that there would be four pitches. The proposed occupants would be: William, Joanne and Mary Lee (the appellant, his wife and younger daughter), Billy Joe Lee and Lacey Smith (the appellant's son and his wife), Jimmy George and Alisha Lee (the appellant's brother and his wife), Georgia Lee (the appellant's elder daughter) and Joe Vary (Joanne Lee's father).

Planning policy

8. Government guidance referred to by the parties includes the National Planning Policy Framework ("the Framework") and Planning Policy for Traveller Sites (PPTS) and the Ministerial Statements of 1 July 2013 and 17 January 2014. The Framework sets out the three dimensions of sustainable development. These are economic, social and environmental. Paragraph 8 of the Framework states that the three sustainability roles should not be undertaken in isolation, because they are mutually dependent. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously.

9. Since the appeal was de-recovered, in August 2015 the Government published a revised version of Planning Policy for Traveller Sites (PPTS) and a planning policy statement on Green Belt protection and intentional unauthorised development. I have had regard to the revised policy in this decision. The main parties were consulted in September 2015 regarding any changes in circumstances and the revised PPTS. No further representations have been received on behalf of the appellant. The Council made a further comment that the revised PPTS 'reaffirms the Government commitment to the protection of the Green Belt and the presumption against inappropriate development'.

10. The development plan includes the Core Strategy Development Plan Document (CS), adopted 2012. The following is a summary of the most relevant policies referred to by the parties in their statements or at the hearing.

11. Policy GB1 sets out the criteria for development in the Green Belt. Policy H6 says that the Council will meet the accommodation need of Gypsies, Travellers and Travelling Showpeople as set out in the Gypsy and Traveller Accommodation Assessment 2008 (GTAA 2008) and seek to maintain a 5 year supply of specific deliverable sites on an annual basis. It sets out the criteria for the consideration of proposals for such sites, one of which is that in the Green Belt, demonstrably harmful impact on the openness of the Green Belt will be resisted. Both policies are consistent with the Framework in seeking to protect the Green Belt from inappropriate development.

12. A further relevant document is the Gypsy and Traveller Accommodation Assessment for South Staffordshire District Council, dated January 2014 and published March 2014 (GTAA 2014). This updates the previous 2008 GTAA. It identifies a need for 33 additional permanent pitches over the development plan period 2013/14 to 2027/28. For the 5 year period 2013/14 to 2017/18 it identifies a shortfall of 11 pitches.

13. The Council's Village Design Guide Supplementary Planning Guidance has been referred to but both parties agreed at the hearing that has been superseded by the CS.

Planning history

14. The appeal site forms part of a wider area of land that was briefly used as a gypsy site in 1990. An application to regularise the use was refused by the Council and enforcement notices served. The subsequent appeals were dismissed in 1991. The site was again occupied in September 2009 and a High Court Injunction was obtained by the Council in November 2009 preventing further operations or caravans (ie no more than the 10 on the site at that time).

15. Permission was granted on appeal in 2011 (APP/C3430/A/10/2127110) for the change of use of the wider site to provide 7 pitches (19 caravans) and associated works including 2 amenity blocks (reduced by the SoS from the 9 pitches and 23 caravans originally sought) for a temporary period to 31 December 2014, personal to the named occupants some of whom are those in this appeal. That permission included 2 pitches, 7 caravans and 2 amenity blocks on the current appeal site.

16. In 2012 permission was granted for a new vehicular access into the appeal site (11/00885/FUL). At the time of my visit, that permission had not been implemented but the permission remained extant. I have not been told of any changes in that regard.

Other agreed facts

17. Both parties agree that the proposed development would constitute inappropriate development in the Green Belt and on the basis of what I have seen and heard, I would agree. National guidance in the Framework advises that inappropriate development in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special

circumstances. The resultant harm should be given substantial weight in determining the appeal.

18. Both parties also agree that there is a need for further pitches in the district, a shortfall of deliverable sites in the 5 year period and that the appeal site is likely to be considered by the Council for inclusion in the Council's Site Allocations Development Plan Document (DPD).

Main issues

19. The main issues in this case are therefore a) the effect of the proposed development on the openness of the Green Belt and its purposes; b) whether the harm to the Green Belt 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 the development.

Reasons

Impact on Green Belt openness and purposes

20. The Framework confirms that the Government attaches great importance to Green Belts. The essential characteristics of Green Belts are their openness and permanence. Openness is a matter of its physical presence rather than its visual qualities. Policy GB1 accords with the Framework in this respect.

21. The six caravans proposed under this application would be one less than the seven permitted on this part of the wider site under the 2011 permission. The approved layout plan for that permission provided at the hearing shows that the two amenity blocks were permitted on this site rather than the adjacent part of the wider site. The density of the proposal is therefore slightly less than that in the previous permission. As that permission expired at the end of 2014, the impact on that permission is not relevant. Furthermore, any pressure for further development of the adjacent site would be considered on its merits at the time.

22. However, as the land should return to its former condition following the expiry of that permission at the end of 2014, it would then be open and predominantly free from development. Although the site area is less than the original, larger site, the permanent presence of the proposed caravans, vehicles and additional domestic paraphernalia, whilst slightly less than that allowed under the previous temporary permission, would inevitably reduce that openness even in the short term and more significantly in the longer term after the temporary permission has expired. I have therefore given the harm significant weight.

23. The development would also result in harm to one of the purposes of the Green Belt of assisting in safeguarding the countryside from encroachment by extending the area of occupied land to the south of the existing built up area of Penkridge. However, I agree with the previous Inspector's findings that the proximity of the site to the edge of the settlement and to other development to the south-east, together with its railway and road boundaries, give it the character of a transitional area between the village and the countryside. This, and the much smaller site area in this appeal, should lend only a small amount of weight against the development.

24. The significant harm to the openness of the Green Belt and the slight harm to its purpose of encroachment add to the substantial harm by reason of inappropriateness.

Landscape character

25. Although the site is outside the built up area of Penkridge, for the reasons stated above, it is transitional in character and I would agree with the Parish Council that it forms an element in the southern gateway to the village. The principal views of the site are from the A449 although I heard that the disused railway line is the subject of a S106 agreement for a residential development opposite the site to provide a footpath route. The substantial hedge and tree planting along the eastern and northern boundaries would provide a good amount of screening of the site during the summer months. As most of those trees and shrubs are deciduous, that would be clearly reduced during the winter. The construction of the new access already permitted would result in the loss of some trees and the site would be visible through that access, although access gates could reduce the impact and could be required as part of a condition for a site development scheme if the proposal was acceptable. However, the majority of views into the site would be from those in passing vehicles rather than pedestrians on this busy main road which has a footway only on the opposite side of the road at this point. The views from passing cars would be fleeting. Therefore, and as a result of the smaller size of this site compared to the site in the previous appeal, any impact on landscape character would be very limited.

Other planning matters

26. The SoS in the previous appeal agreed with the Inspector's findings that the appeal site was in a sustainable location. I have not been provided with any evidence from either of the main parties that would suggest otherwise. Despite the lack of a footway on this side of the A449 referred to by the Parish Council and the MP for Stafford, there is a footway on the opposite side of the road and the site lies in close proximity to the many services in Penkridge.

27. A local resident, the Parish Council and the MP for Stafford have referred to the unsuitability of the access. The County Council as the highways authority has raised no objections to the proposed development and at the time of the hearing there was an extant planning permission for a new access into the site. From my observations at the site visit, I have no reason to conclude that the access would be unsuitable or would cause danger to pedestrians, cyclists or drivers.

28. I have not been provided with any evidence in support of the Parish Council's objection that the adjacent road and railway would cause an unacceptable level of noise for the occupiers of the site. My own impressions at the site visit did not indicate that this would cause significant harm to the living conditions of the occupiers and that was also the view of the Inspector and the SoS in the previous appeal.

29. There is insufficient evidence that the proposal would result in an unacceptable impact in terms of drainage and a condition for a site development scheme condition requiring further details of foul and surface water drainage (as the application refers to cesspit foul sewage disposal) would ensure that this matter was satisfactorily addressed if the proposal was acceptable.

30. The Police have referred to a number of incidents between the appellant's family and another family who live on the traveller site to the south. However, it seems to me that the permission for a new access, the small size of this site and its self-containment from the wider site would reduce the potential for further conflict. The Parish Council has objected on the grounds of possible problems of social cohesion with the settled community but I have insufficient evidence in support of that and indeed a letter from one local resident submitted at the application stage indicates support for the proposal from himself and other residents.

31. I have no compelling reason to conclude that the incorrect, missing or confusing information referred to by the Parish Council is material to the consideration of the appeal or has prejudiced the interests of the parties.

32. The new access to the site was granted permission in 2012 and I have insufficient evidence that the area is susceptible to flooding or that the proposal would result in flooding.

Need and provision

33. PPTS seeks to promote more private traveller site provision and to ensure that local planning authorities develop strategies to meet the need for sites in appropriate locations, to address under provision and maintain an appropriate level of supply. Policy H6 is consistent with that and the Council's GTAA 2014 provides a starting point for that objective. Its forthcoming DPD will seek to deliver that objective. The Council's approach is consistent with that advocated in PPTS. However, PPTS also requires an up to date five year supply of deliverable sites.

34. Regardless of the appellant's criticism of the methodology of the GTAA 2014 which will, in any case, be tested as part of the DPD process, it shows a shortfall of 11 pitches over a five year period. PPTS does not attach different weight according to the level of that shortfall as the Council has sought to claim, notwithstanding its view that it attracts significant weight in favour of the appeal. Rather any need for pitches should attract the same weight.

35. It is clear that at present, the Council is unable to demonstrate a five year supply of sites for travellers that will meet the identified need. Whilst this matter carries heavy weight, the revised PPTS makes it clear that, subject to the best interests of the child, unmet need is unlikely to clearly outweigh harm to the Green Belt.

Alternative accommodation

36. At the hearing, I heard no compelling evidence from the Council that refuted the appellant's assertion that the Featherstone sites are not available to the family as a result of the nomadic habits of the occupiers of that site or that the Cheslyn Hay site is not available to the appellant's brother's wife, Alisha Lee.

37. The distance of the Shipston on Stour site from the Penkridge area would make it unsuitable for the appellant's daughters to continue their current educational arrangements and his brother and son have economic connections with the Penkridge area.

38. Joe Vary, the appellant's father in law, appears to have no alternative accommodation.

39. There does not appear to be any reasonable alternative accommodation for the appellant and his family and I have given this significant weight.

Personal circumstances

40. PPTS seeks to enable the 'provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure'.

41. Although some of the appellant's health problems have unfortunately increased since the previous appeal, I am not persuaded that any of the conditions referred to require treatment that can only be carried out by a specific hospital or that the treatments referred to would not be available to him from another site. This also applies to his son, Billy Joe. However, I accept that a roadside existence would be extremely unsuitable for the appellant and his wife in respect of their health needs and for his father in law in respect of his age and need to be cared for by his daughter.

42. The previous appeal gave significant weight to the health needs of the appellant's brother, Steven, who has unfortunately since died and his mother, Gemima, who is not included in this appeal and who, together with Joanne Lee, provided much of his care. In view of this change in circumstances, I attach only moderate weight to the health needs of the current occupiers and this accords with the degree of weight given in the previous appeal decision for those occupiers.

43. The appellant has two children of school age, rather than the one suggested by the Council as the change in the school leaving age now requires full time education until the age of 18. One daughter, aged 15 at the time of the hearing, has a home tutor from the Traveller Education Service and attends a centre in Codsall for education twice a week. Another daughter, aged 17 at the time of the hearing, attends college in Cannock for a hairdressing course. William Lee hopes that his daughters will gain jobs and independence and says that they need access to regular schooling and health care and to maintain their social and family relationships. As the family has no alternative site it is likely that the children's education would be disrupted or access to their bases in Codsall and Cannock made more difficult should they have to leave this site for a roadside existence. This is an important consideration which adds further weight but is not determinative in itself given that the girls have only a short period of time left in mandatory education and it is likely that they are now able to travel independently.

44. The proposed development would enable the extended family to live together as a group where they are able to provide the necessary care and support for one another which is an important consideration given their circumstances. This is part of the traveller way of life which PPTS seeks to facilitate and this provides some weight in favour of the appeal.

45. Overall, the health and education needs of the family have decreased since the previous appeal decision but for the above reasons, given the particular personal circumstances of the appellant and his family there would be some benefit in having a settled base in this location. This adds a moderate amount

of weight to the proposed development. However, the revised PPTS makes it clear that, subject to the best interests of the child, personal needs are unlikely to clearly outweigh harm to the Green Belt.

Whether the harm is clearly outweighed by other considerations

46. The Framework advises that inappropriate development should not be approved except in very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The substantial harm caused by reason of inappropriateness and the significant impact on openness together with the slight impact on its purposes carries substantial weight against the proposal. The very limited harm in terms of landscape character carries a further small amount of weight against the development. For these reasons the proposed development would not fulfil the environmental dimension of sustainable development as set out in the Framework.

47. In favour of the appeal is the unmet need for sites within the district. This carries significant weight in favour of the development as does the failure of the Council to meet that need. The lack of alternative available sites for the appellant and his family also provides significant weight in favour of the appeal. The proposed development would enable the family to maintain their economic connections with the area and to access health and education services justified by their personal circumstances. These matters carry moderate weight in favour of the proposal and it would, therefore have some social and economic benefits.

48. Whilst general need and personal need are important factors, I find that, in accordance with PPTS and subject to the best interests of the child, they do not justify permanent harm to the Green Belt and landscape character. The accommodation need in the local area should be assessed through the development plan process with a supply of suitable and deliverable sites identified to meet that need. Through that process, sites which best meet the need with least harm to the environment should come forward and those sites might be less harmful than, and therefore preferable to, the appeal site.

49. Whilst the application was for a permanent permission, the appellant has requested that a temporary permission is considered should a permanent permission be unacceptable. Although a temporary permission is not a substitute for a permanent site, it would give the family an opportunity to pursue a site through the DPD allocation process. On each pitch, there is a moderate need for the occupiers to stay put in the short term while no suitable alternative is available having regard to the educational needs of the children, and the need for all, particularly those with medical problems, to have ready access to health services.

50. However, whilst a temporary condition would lessen the harm I have identified in terms of the Green Belt and the landscape character of the area it would not overcome that harm sufficiently because the operational development includes a hardstanding and two amenity blocks.

51. Crucially, unlike the previous PPTS, paragraph 27 of the revised PPTS advises that if a local planning authority cannot demonstrate an up to date supply of deliverable sites, this cannot be a significant material consideration when considering applications for the grant of temporary planning permission where

the proposal is on land designated as Green Belt. A temporary permission would not, therefore, be appropriate.

52. I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty under the Equality Act 2010. Article 8 of the European Convention on Human Rights (as incorporated by the HRA) requires that decisions ensure respect for private and family life and the home. The Article 8 rights of the children must also be seen in the context of Article 3 of the United Nations Convention on the Rights of the Child which requires that the best interests of the children shall be a primary consideration. No other consideration can be regarded as inherently more important. I have kept these interests at the forefront of my mind in reaching my decision. Dismissing the appeal would result in the direct loss of the proposed occupiers' homes as the site is currently occupied by them. Dismissing the appeal would force the appellant and his family, none of whom have their own permanent, individual base, to leave the site after the expiry of the extant permission in December 2014 and resume an itinerant lifestyle. This would represent an interference with the best interests of the two children referred to earlier and with the occupants' homes, their family life and their livelihoods, and this adds further weight in favour of the appeal.

53. However, these are qualified rights and interference may be justified where in the public interest. The concept of proportionality is crucial. These interferences would be in accordance with the law and in pursuit of a well-established and legitimate aim, that is, the protection of the Green Belt. The harm that would be caused by the development in terms of the Green Belt would be substantial. In the context of this case it outweighs the human rights of the families and the best interests of the children. Despite the need for pitches, the lack of a five year supply, the lack of an affordable, available and suitable alternative site and the other matters weighing in the appellant's favour, I have concluded that the granting of a temporary or permanent planning permission would not be appropriate. I am satisfied that the legitimate aim of the protection of the Green Belt cannot be achieved by any means which are less interfering with the appellant's and the families rights. They are proportionate and necessary in the circumstances.

54. Weighing all these matters in the balance, I conclude that the totality of the other social and economic considerations in favour of the proposal, unmet need (including the lack of alternative accommodation) and personal circumstances, do not clearly outweigh the environmental harm in terms of the identified harm to the Green Belt and the conflict with the development plan and the Framework as a whole and do not amount to the very special circumstances necessary to justify inappropriate development on either a permanent or a temporary basis.

55. There was no dispute between the parties in their statements or at the hearing regarding the appellant and his family's status as travellers as defined in the previous version of PPTS. The revised version of PPTS alters the definition of a gypsy or traveller for planning purposes. This has not been specifically referred to by the parties. As I am dismissing the appeal on the grounds of harm to the Green Belt, this is not a matter upon which I need to make a determination in this case.

Conclusion

56. For the reasons given above and taking into account all other matters raised, the proposed development would not constitute sustainable development and the appeal is dismissed.

Sarah Colebourne

Inspector

APPEARANCES

FOR THE APPELLANT

Philip Brown	Planning Consultant
William Lee	Appellant

FOR THE COUNCIL

Paul Turner	Planning Consultant

INTERESTED PERSONS OBJECTING TO THE DEVELOPMENT

District Councillor Len Bates	
District Councillor Donald Cartwright	
Peter Tufnell	Planning Consultant for Penkridge Parish Council
Parish Councillor J Kelly	Penkridge Parish Council

DOCUMENTS

1 Decision notice and plans for wider site (09/00809/FUL).
2 Gypsy and Traveller Accommodation Assessment, dated January 2014 (GTAA 2014).
3 Letter from James Lee re Featherstone sites.
4 Approved site layout plans for wider site (09/00809/FUL).

APPENDIX 9

The Planning Inspectorate

Appeal Decision

Site visit made on 29 September 2016

by Elaine Worthington BA (Hons) MTP MUED MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29th September 2017

Appeal Ref: APP/C3430/W/15/3081132
Plots 10-12 New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire, ST19 5PG

- 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 Jamie Jones against the decision of South Staffordshire Council.
- The application Ref 15/00008/FUL, dated 2 January 2015, was refused by notice dated 8 April 2015.
- The development proposed is the change of use of land to use as a residential caravan site for one gypsy family with up to 4 caravans, laying of hardstanding, erection of amenity building, and formation of new access.

Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by South Staffordshire Council against Mr Jamie Jones. This application is the subject of a separate Decision.

Procedural Matters

3. The appeal was the subject of a Hearing held on 29 September 2016. The appellant did not attend and it was agreed that the appeal would proceed via written representations. The Council has produced an update note to its previously submitted statements to which no further comments have been received from the appellant.

4. Subsequently, following the issuing of two other gypsy and traveller appeal decisions[1] in the Council's area, the parties were invited to comment on the implication of those decisions in relation to the supply of gypsy and traveller pitches (including the 5 year supply situation). The Council's response has been incorporated into this decision, but no further comments have been received from the appellant.

Background

5. The appeal site is south of the village of Penkridge on a plot of land to the west of Wolverhampton Road and is situated between that and the west coast main railway line. It is within the Green Belt and comprises the southern part of a

[1] APP/C3430/W/15/3033377 and APP/C3430/W/16/3162671

wider gypsy and traveller site that was granted permission on appeal[2] in 2011. This permission allowed the wider site to provide 7 pitches (19 caravans) and two amenity blocks for a temporary period to 31 December 2014. The appellant and his family were named occupants of the site under the personal terms of that permission.

6. The use of the northern part of that wider site as a caravan site for a gypsy family was dismissed at appeal[3] in January 2016. The temporary use of the middle part of the wider site as a gypsy site was allowed at appeal[4] in April 2017. At the time of my visit both these two adjoining sites appeared to be occupied. The appeal scheme concerns one gypsy pitch with two static caravans, two tourers and an amenity block for occupation by the appellant, his wife and three children. The appeal site had been occupied by the appellant on this basis since 2009, but the Council advises that he left the site in May 2016. The appeal site is in part owned by Railtrack who obtained a Writ of Possession Order which was executed in September 2016. At the time of my visit the appeal site was unoccupied. On this basis, I will continue to refer to the appeal scheme as a proposal.

7. The parties are agreed that the appellant satisfies the definition in the Planning Policy for Travellers Sites (August 2015) (PPTS) Annex 1 (persons of nomadic habit of life whatever their race or origin, including such persons who on the grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily). I see no reason to come to a different view. I also concur with the parties that the proposed development would be inappropriate development in the Green Belt as defined by paragraph 89 of the National Planning Policy Framework (the Framework). This has led to my identification of the main issues in this case below.

Main Issues

8. The main issues in this case are

- The effect of the proposal on the openness and purposes of the Green Belt; and
- The effect of the proposal on community safety and social cohesion; and
- 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 it.

Reasons

Openness and purposes of the Green Belt

9. The Framework is clear that the government attaches great importance to Green Belts and that their essential characteristics are their openness and permanence. The PPTS sets out the Government's aims in respect of traveller sites including that plan making and decision taking should protect the Green Belt from inappropriate development (d). Policy GB1 of the South Staffordshire

[2] APP/C3430/A/10/2127110
[3] APP/C3430/A/13/2210160
[4] APP/C3430/W/15/3033377

Core Strategy (Core Strategy) sets out the criteria for development in the Green Belt.

10. Core Strategy Policy H6 states that the Council will meet the accommodation needs of gypsies, travellers and travelling showpeople as set out in the Gypsy and Traveller Accommodation Assessment 2008 (GTAA) and maintain a 5 year supply of specific deliverable sites identified on an annual basis. It also identifies criteria for the consideration of such proposals. Criterion 8 (a) advises that in the Green Belt where proposals would have a demonstrably harmful impact on the openness of the Green Belt they will be resisted.

11. Paragraph 79 of the Framework indicates that openness is an essential characteristic of the Green Belt. The proposal includes the siting of two static caravans, two tourers and a large amenity block.

12. The appeal site is smaller than the wider site subject to the previous temporary permission, and so I accept that its impact on openness would be reduced in relation to that overall scheme. Whilst I note the Council's views to the contrary, the appellant also argues that the appeal proposal would be of a lesser scale than that development permitted on the southern part of the site (which provided for one static caravan, a maximum of three tourers and two smaller amenity blocks). However, even if this were to be so, that permission expired in 2014 and was subject to a condition requiring the site to return to its former condition on its expiry. As such, it should be for the most part free from development and open in nature. The appeal scheme would introduce a substantial amenity block and a number of caravans (along with associated vehicles and domestic paraphernalia) onto land where none are currently permitted. Thus, the proposal would reduce openness on the appeal site significantly.

13. The five purposes of the Green Belt are set out at paragraph 80 of the Framework and include to assist in safeguarding the countryside from encroachment. By the nature of the development it involves, the appeal scheme would result in some encroachment into the countryside. However, even given its location at the southern end of the wider site, the appeal site is not remote from the edge of Penkridge and is bounded to the west by the railway, to the east by the main road and to the south by a bridge over the railway. As such, its role as part of the wider countryside is somewhat limited and it appears more as an area of transition between Penkridge and the wider countryside beyond. Consequently, the harm caused to this purposes of the Green Belt would only be limited. I also accept that the appeal scheme's harm in this regard would be less than that of the wider permitted scheme given the smaller size of the site, but am conscious that that permission has since expired and was temporary rather than permanent.

14. In addition to the harm that would be caused by its inappropriateness, the appeal scheme would therefore cause significant harm to openness and limited harm to one of the purposes of the Green Belt. Paragraph 88 of the Framework establishes that substantial weight should be given to any harm to the Green Belt.

Community safety and social cohesion

15. The PPTS aims to reduce tensions between settled and traveller communities in plan making and planning decisions (paragraph 4 criterion i). It also requires local authorities to promote peaceful and integrated co-existence between the site and the local community (paragraph 14 criterion a).

16. The Framework seeks to create safe and accessible environments where crime and disorder do not undermine quality of life or community cohesion. Core Strategy Policies CP13 and CS1 also aim to ensure that proposals include a means of reducing opportunities for crime and disorder. Core Strategy Policy H6 indicates at criterion 7 that a proposal, either itself or cumulatively having regard to existing neighbouring sites, must be of an appropriate size so as to not put unacceptable strain on infrastructure or dominate the nearest settled communities to avoid problems of community safety arising from poor social cohesion with existing families.

17. The Council does not suggest that the appeal site is unduly large or is of an inappropriate size. Even in the context of the adjoining gypsy sites, nor does the Council argue that the appeal proposal would dominate the nearest settled community at Penkridge (where there are a number of services and facilities) or put an unacceptable strain on infrastructure. Even accepting these points, the Council is concerned about community safety.

18. There have been many reported incidents of crime and disorder attended to and recorded by South Staffordshire Police at the wider site. I have had regard to the evidence submitted by the Police which outlines a number of incidents, mainly between travelling families, in which the appellant has been involved. The appellant claims that he has been the victim of these rather than the perpetrator. He advises that following difficulties arising from other residents on the wider site failing to comply with the conditions of the 2011 permission, he sought to distance himself from them and created a new access and closed off the roadway between his pitch and the others. The appellant also considers that most of the incidents took place in 2011 and that the situation at the wider site has since calmed down significantly (in part as a result of a change of occupiers at the adjacent pitches).

19. Nevertheless, I appreciate that the Police are concerned about the unusually high volume of incidents relating to threats of violence and use of weapons in particular, and the potential for this to impact negatively on the well being and safety of gypsy families living without planning permission on the wider site, Police officers attending the site, and the wider community. I also accept that such incidents place on going demands on the Police.

20. That said, I am conscious that the Inspector dealing with the appeal on the northern part of the wider site also considered a number of incidents between the occupiers of that site and another travelling family on the site to the south. However, she found the small size of that site with its own access and resultant self-containment from the wider site would reduce the potential for further conflict. The appeal site is limited in size and similarly self-contained with its own access and I also consider that these features provide some separation from the wider site and so would lessen opportunities for conflict to occur.

21. Whilst there have been problems of community safety amongst existing families within the wider site failing to cooperate with each other or to live as a cohesive society, I have been provided with no evidence of tension between the settled and traveller communities in the area. Nor have I seen anything to suggest that the appeal scheme would fail to promote peaceful and integrated co-existence between the site and the local community (as required by the PPTS). In my view it is also the impact of proposals on the nearest settled communities that criterion 7 of Core Strategy Policy H6 seeks primarily to address. Overall, I see no reason why problems of community safety arising from poor social cohesion with existing families in the settled community would be likely to arise in this instance.

22. On balance, I therefore conclude that the appeal scheme would cause no undue harm to community safety or social cohesion in conflict with Core Strategy Policy H6 criterion 7, and find that it would support the aims of the PPTS with regard to relationships with the settled local community.

Other considerations

23. According to the Framework (paragraph 87) inappropriate development is by definition harmful to the Green Belt. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

24. The appellant has forwarded a number of other considerations in support of the proposal. The scheme would meet the other relevant requirements of Core Strategy Policy H6. The occupiers would meet the definition of gypsies and travellers as set out at Annex 1 of the PPTS (criterion 1). Essential services such as power, water sewerage drainage and waste disposal are available (criterion 2). The Council's Landscape Officer raises no objections to the scheme and the site would be well designed and landscaped to give privacy between pitches, for the occupiers of the site, and between the site and adjacent users (criterion 3). Despite the concerns of the Parish Council, the Council is satisfied that the site can be safely accessed and the Highways Authority raises no objections to the scheme. Additionally there would be adequate space on the site for the safe parking and turning vehicles (criterion 6). Furthermore, the site is not within an area at high risk of flooding (criterion 9). The Council raises no objections to the scheme on these points, and I have seen no evidence to come to a different view. However, the absence of harm in these regards counts neither for, nor against, the appeal scheme.

<u>Supply of gypsy and traveller sites</u>

25. The PPTS aims to promote more private traveller site provision and to increase the number of traveller sites in appropriate locations with planning permission to address under provision and maintain an appropriate level of supply. It also requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years worth of sites against their locally set targets.

26. Core Strategy Policy H6 sets out a gypsy pitch requirement of 85 residential pitches based on the 2008 GTAA. The Council has produced a further GTAA in 2014 which updates the 2008 version. This identifies a need for 33 permanent pitches over the plan period 2013/14 to 2027/28. This is to be addressed

through the emerging Site Allocations Document for Gypsy, Traveller and Travelling Showpeople (SAD) the preferred options consultation for which took place in October/November 2015. This approach is in line with the advice in the PPTS.

27. Since the publication of the 2014 GTAA a number of planning permissions have been approved for gypsy and traveller sites within the Council's area. In its statement the Council argues there to be an oversupply of pitches against identified needs in relation to Core Strategy Policy H6 and both GTAA requirements when considered on an annual delivery basis. The appellant has not disputed these findings.

28. However, in line with two recent appeal decisions[5] in the Council's area, the Council now accepts that it does not have a 5 year supply of deliverable gypsy and traveller pitches. The appellant has not disagreed with this finding. There are no allocated sites in the Council's area and I note the appellant's view that this failure of policy has been on going for a number of years. Although I have seen nothing to suggest that sufficient suitable sites will not be identified through the SAD process to meet the identified need for gypsy and traveller sites over the plan period, the existence of unmet need, along with the lack of a 5 year supply of deliverable sites adds significant weight in favour of the appeal scheme.

29. Whilst I note the appellant's concerns as to the GTAA 2014 methodology, I am mindful that this will be addressed as part of the production of the SAD and note that the appellant has made representations to this process. The appellant also considers that there is strong likelihood of any gypsy and traveller sites in the SAD being in the Green Belt and I understand that the wider site was included in an early draft. The appellant also refers to the Council's intention to release land from the Green Belt in order to deliver its proposed housing allocations. The Council accepts that the SAD includes proposed allocations in the Green Belt, but only where necessary and in the least harmful locations. Although these are also matters for consideration through the SAD process, that future site provision of allocated sites is likely to be in the Green Belt, adds some limited weight in favour of the appeal scheme.

Alternative accommodation

30. The appellant confirms that there are no alternative sites locally to which he could move. All the sites in South Staffordshire are privately owned and even if a pitch were to become available, experience shows that it would be filled by another family member or friend of the owner, or would be connected to the appellant's former neighbours. Despite the progress made on the SAD, there does not appear to be any reasonable alternative accommodation for the appellant and his family and I afford this factor significant weight.

Personal circumstances

31. The PPTS aims to enable the provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure (paragraph 4 criterion j). The appellant argues that the appeal site provides an essential settled base for the health and education needs of his family, allows

[5] APP/C3430/W/15/3033377 and APP/C3430/W/16/3162671

the children to attend school regularly and the family to integrate with settled community.

32. As set out above, the Council advises that the appellant and his family are no longer resident at the appeal site and are understood to be living in the Coventry area. I note the Council's view that this affects the balance of material considerations in terms of personal circumstances. I agree that the family's move out of the local area runs contrary to the appellant's arguments for seeking to remain at the appeal site. Even so, I confirm that I have considered the information in relation to the appellant's personal circumstances as provided and on the basis that he were still living at the appeal site.

33. The appellant has three children. At the time of the appellant's appeal submissions in 2015 the younger two children were attending local schools whilst the eldest was intending to do a beauty course at a local college. A letter of support for the scheme from the Wolverhampton Education Advisory Service was provided with the appeal and advises that the education of the children has always been the appellant's priority. However, a letter from the Gypsy and Traveller Advisory Teacher at Staffordshire County Council indicates that none of the children attended school during the last academic year running up to the Hearing.

34. Even so, at the time the appeal was lodged, the appellant and his family had no alternative accommodation. Thus, the education of the children would have been disrupted and access to school/college made more difficult by the dismissal of the appeal scheme. Whilst the youngest child was attending sports training and had become a successful member of a local club, I see no reason why the appellant should not seek to find alternative accommodation elsewhere.

35. The family is registered at the Penkridge Medical Centre. The submitted letter from a doctor there refers to one of the children's eczema and recommends continuity of care for the whole family. Although not referred to in the doctor's letter, the appellant's statement refers to another child having a condition that will require an operation at a future date. However, it seems to me that these health problems do not require treatment from a specific health centre or hospital and could be treated from an alternative site.

36. On this basis, overall I accept that whilst having a settled base at the appeal site would result in some benefits to the appellant and his family, for the reasons given, this adds only a modest amount of weight in favour of the proposal.

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 it

37. The proposed development would be inappropriate development and as such would cause substantial harm. It would also have a significant impact on openness and a limited impact on the purposes of the Green Belt. These factors also attract substantial weight against the scheme. Additionally the proposal is contrary to Core Strategy Policy GB1 and criterion 8 a of Core Strategy Policy H6 which also counts against it. The absence of harm in relation to the scheme's compliance with the other criteria of Core Strategy Policy H6, counts neither for, nor against the proposal.

38. On the other hand, and since I am unaware of the nature of the appellant's current living arrangements, the lack of available alternative sites for the appellant and his family provides considerable weight in favour of the scheme. The lack of a 5 year supply of sites and the current absence of allocated sites to meet unmet need over the plan period adds a significant amount of weight in favour of the scheme. The Council's reliance on Green Belt sites for its allocations adds further limited weight. The provision of a settled base for the appellant and his family to maintain connections with the area and access to education and health facilities also adds modest weight in favour of the proposal.

39. Paragraph 27 of the PPTS states that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The exception is where the proposal is on land designated as (amongst other things) Green Belt. Paragraph 16 of the PPTS confirms that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

40. In the event that permanent planning permission is not considered satisfactory, the appellant seeks a five year temporary permission and suggests the deletion of the amenity block from the scheme. The Council indicates that any temporary permission should not extend beyond the end of July 2018 to allow for the adoption of the SAD and subsequent processing of planning applications. I have considered the option of a temporary permission and appreciate that the reduction in the amount of built development on the site, along with the limited period of the permission (either for 5 years or for a shorter period as suggested by the Council), would to some extent lessen the scheme's impact on the Green Belt and reduce the amount of resultant harm. Nevertheless, the appeal scheme would remain inappropriate development and would still result in some loss of openness and harm to one of the purposes of the Green Belt.

41. I have had regard to the requirements of Article 8 of the First Protocol to the Convention, as incorporated by the Human Rights Act 1998, and am aware that the Article 8 rights of a child should be viewed in the context of Article 3(1) of the United Convention on the Rights of the Child. However, I am mindful that the appellants' individual rights for respect for private and family life (along with the best interests of the children) must be weighed against other factors including the wider public interest and legitimate interests of other individuals.

42. I have also considered the Public Sector Equality Duty (PSED) at section 139 of the Equality Act 2010 to which I am subject. Since the appellant is an English Romani Gypsy Section 149 of the Act is relevant. Because there is the potential for my decision to affect persons (the appellant and his family) with a protected characteristic(s) I have had due regard to the three equality principles set out in Section 149 (1) of the Act.

43. Since I am unaware of the nature of the appellant's current living arrangements, the negative impacts of dismissing the appeal on the appellant and his family arise since they would lose the appeal site and in the absence of acceptable alternative accommodation may have had to resort to a roadside

existence. This would interfere with the best interests of the children and each member of the family's right for respect for private and family life and lends additional weight in favour of the appeal.

44. However, I have found that the proposal would cause substantial harm to the Green Belt, and am satisfied that the well-established and legitimate aim of granting planning permission in accordance with the development plan and planning policies which seek to protect Green Belts in the wider public interest, can only be adequately safeguarded by the refusal of permission in this instance. Whilst bearing in mind the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing the scheme on the appellant and his family are necessary and proportionate.

45. Bringing matters together, the other considerations in this case, even taking into account the family's Article 8 rights and the PSED considerations, do not clearly outweigh the totality of the harm identified. As such, the very special circumstances necessary to justify the development, either on a permanent or a temporary basis, do not exist.

Conclusion

46. For the reasons set out above, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR

APPENDIX 10

The Planning Inspectorate

Appeal Decision

Hearing Held on 12 March 2019

Site visit made on 12 March 2019

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29th March 2019

Appeal Ref: APP/C3430/W/18/3214818
New Acre Stables, Wolverhampton Road, Penkridge, ST19 5PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Martin Ward against the decision of South Staffordshire Council.
- The application Ref 17/00435/VAR, dated 11 May 2017, was refused by notice dated 12 September 2018.
- The application sought planning permission for material change of use of land to travellers site for 5 plots with associated hard standing, access, fencing, utility blocks and cesspools without complying with a condition attached to planning permission Ref 15/00001/FUL, dated 12 April 2017.
- The condition in dispute is No 4 which states that:
  (4) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependents:
  John and Fanta McCarty
  Winnie, Philomena and Lucy Ward
  Ann McDonagh
- The reason given for the condition is:
  (4) Conditions stating that the site shall be occupied only by gypsies and travellers, and detailing the occupants and their dependents, are necessary in view of the personal circumstances that have been taken into account in granting a temporary planning permission.

Decision

1. The appeal is allowed and planning permission is granted for 5 plots with associated hard standing, access, fencing, utility blocks and cesspools at New Acre Stables, Wolverhampton Road, Penkridge, ST19 5PA in accordance with the application Ref 17/00435/VAR dated 11 May 2017 without complying with condition No 4 set out in planning permission Ref 15/00001/FUL granted on 12 April 2017, but otherwise subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is whether the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

3. Planning Policy for Traveller Sites (PPTS) states that traveller sites (temporary or permanent) in the Green Belt are inappropriate development. In this regard, Paragraph 143 of the National Planning Policy Framework ('the Framework') states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

4. The proposal is to vary a condition that was attached to a previous appeal Decision[1] at the site, that restricts the occupancy of the pitches. That Decision states that the disputed condition is necessary in view of personal circumstances that were taken into account in granting a temporary permission. In this regard, the previous Inspector gave significant weight to health and educational needs of the occupants, with particular reference to the children, in finding that 'very special circumstances' existed. The disputed condition is therefore necessary, as without it, the justification for permitting harmful development in the Green Belt would be significantly diminished.

5. It is common ground that the occupation of an existing pitch by the appellant and his daughter has not resulted in any greater loss of openness than the development approved by the previous Inspector in 2017. Moreover, were the appeal to be dismissed then the pitch could remain in its current state, unoccupied, until the temporary permission expired. The effect of the proposal on the openness of the Green Belt is therefore neutral.

6. It is also common ground that the Council is unable to demonstrate a 5 year supply of traveller sites, as required by PPTS. However, the balance towards granting permission set out at Paragraph 11 of the Framework does not apply in this case as policies in the Framework relating to the Green Belt indicate that development should be restricted.

Gypsy status

7. The gypsy status of the appellant is not in dispute, and at the hearing Mr Ward confirmed that he travels for economic purposes for around 2-3 months of the year (in total). From the information before me, I am satisfied that both Mr Ward and Ms Ward fall within the definition of 'gypsies and travellers' set out in the Annex to the PPTS. The Government's PPTS is therefore a material consideration.

Personal circumstances

8. Both Mr Ward and Ms Ward have severe and longstanding health conditions that are confirmed by letters from a local medical practice. Ms Ward, in particular, relies heavily on the close support of family members who live on the neighbouring pitches, which allows Mr Ward to travel for work. Whilst Mr Ward's conditions are mostly treated with medication, Ms Ward has had a regular programme of therapy with healthcare professionals at a nearby hospital. At the hearing it was stated that these sessions are scheduled to recommence shortly. The letters from the local medical practice also confirm that Ms Ward has been referred for treatment.

[1] APP/C3430/W/15/3033377

9. Prior to moving onto the site, Mr and Ms Ward did not have a settled base and moved regularly between unauthorised and roadside locations in the West Midlands. At the hearing, it was stated that they usually did not stay in any one location for more than 2 weeks before being moved on. This meant it was not possible to register with a local GP or to receive regular treatment and medication for their conditions. Moreover, when Mr Ward travelled for work, he had to leave Ms Ward alone in unauthorised locations where there was a likelihood of being moved on by the authorities. This restricted his ability to seek work.

10. Since moving to the site both Mr and Ms Ward have been able to register with a local medical practice and are now receiving treatment. Both Mr and Ms Ward have clearly benefited from a more stable base and the support of close family members, as is acknowledged by the letters provided by the local medical practice. It has also allowed Mr Ward to travel more frequently for work. These personal circumstances, outlined in brief, are clearly important matters to which I attach substantial weight.

Alternative sites

11. The Council adopted its Site Allocations Document in September 2018. This allocated 20 gypsy and traveller pitches, mostly through the intensification of existing sites. That level of provision was based on the requirement set in the 2012 South Staffordshire Core Strategy, which in turn drew on the findings of an earlier needs assessment published in 2008. More recently however, a 'Black Country and South Staffordshire Gypsy, Traveller and Travelling Showpeople Accommodation Assessment' (GTTSAA) was published in 2017. This identified a significantly higher need of 87 additional pitches over the period 2016-36. It is common ground that the 2017 GTTSAA forms the most up-to-date assessment of need within the Borough.

12. The Council does not monitor the availability of the pitches identified in the Site Allocations Document. However, it stated that it is aware that many of these were put forward by gypsies/travellers with family members or other individuals in mind. The Statement of Common Ground also states that it is unclear whether any of those sites would be available for the appellant, and the Council did not seek to argue that alternative sites were currently available at the hearing. In any case, even if those sites were available, they would not provide the close family support that exists at the appeal site. Moreover, the appellant asserted that the majority of sites in South Staffordshire are occupied by English Gypsies, who do not allow Irish Travellers such as the appellant to reside there, due to cultural and other differences.

13. The Council is currently working on a Local Plan Review that will eventually replace both the adopted Core Strategy and Site Allocations Document. This will seek to identify the residual shortfall of pitches unless a neighbouring authority indicates a willingness to meet those needs in its area. However, the Local Plan Review is at an early stage of preparation and the Council do not expect to adopt it until late 2022. Any new allocations would also require an additional lead-in time in which to secure planning permission, discharge conditions, and be built out. Any availability of new gypsy/traveller sites is therefore someway off. At the hearing, it was also confirmed that most new gypsy and traveller sites identified in the Local Plan Review are likely to be on land currently in the Green Belt.

Intentional unauthorised development

14. On 31 August 2015 the government introduced a policy statement on Green Belt protection and intentional unauthorised development. This states that intentional unauthorised development is a material consideration to be weighed in the determination of planning applications and appeals. In this case, the appellant has already occupied the appeal site without permission. This clearly represents intentional unauthorised development.

Other Matters

15. The accessibility of the appeal site was discussed at the hearing. In this regard, it is located on the edge of Penkridge, which is identified in the South Staffordshire Core Strategy as a 'Main Service Village'. Such settlements are at the top of the settlement hierarchy in the Borough, which does not contain any larger towns. The appeal site is within walking distance of shops and facilities in Penkridge, and near to a train station with regular services to Birmingham, Stafford, and Wolverhampton. Penkridge also contains schools at both primary and secondary level, doctors' surgeries, and 2 small convenience stores. In view of the proximity of these facilities, I consider that the appeal site is in a relatively accessible location.

16. The safety of the access point onto Wolverhampton Road was also raised at the hearing. However, this access was approved in the previous appeal Decision and is currently used by all 5 pitches. This proposal would not result in any additional use of the access over and above that envisaged by the previous Inspector.

Conditions

17. I have varied condition No 4 to include both Mr Ward and Ms Ward, and to remove Lucy Ward who has now left the site. This is necessary in view of the personal circumstances I have taken into account in varying this condition. I have also adjusted the time limit condition to state that permission will expire on 12 April 2020, which is the same end date as under permission Ref 15/00001/FUL.

18. With regard to the conditions not in dispute, Planning Practice Guidance states[2] that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. At the hearing, it was confirmed that all of these conditions remain relevant, and that the condition relating to amenity blocks has not been discharged. I have therefore imposed all of the undisputed conditions from permission Ref 15/00001/FUL.

Overall Balance and Conclusion

19. The development is inappropriate development in Green Belt that requires the demonstration of very special circumstances. In addition, the intentional nature of the unauthorised development must be added to the harm due to inappropriateness. The proposal would not harm the openness of the Green Belt and this is a neutral consideration in the planning balance.

[2] Paragraph: 031 Reference ID: 21a-031-20180615

20. Set against this are the weighty personal circumstances of both Mr Ward and Ms Ward. Moreover, given the lack of suitable alternatives, it is likely that they would have to resort to an unauthorised site or roadside living were the appeal to be dismissed. This would significantly undermine current and on-going health care arrangements and would limit the immediate family support that they (and particularly Ms Ward) currently benefit from. In addition, there is a significant unmet need for gypsy and traveller sites in the Borough more widely that is unlikely to be resolved in the near future. The appeal site is also in a relatively accessible location. Together, these considerations carry substantial weight in favour of the proposal.

21. PPTS advises that personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. However, the personal circumstances described above are unusual and both Mr and Ms Ward have benefitted significantly from a settled base and the support of immediate family members. In this case, I consider that these matters clearly outweigh the harm to the Green Belt on a temporary basis. I therefore conclude that very special circumstances exist to justify varying the disputed condition. This would not conflict with Policy H6 of the South Staffordshire Core Strategy (2012), PPTS, or guidance in the Framework relating to Green Belts.

22. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

INSPECTOR

Schedule of Conditions

1) The use hereby permitted shall be for a limited period being the period from the date of this decision until 12 April 2020. At the end of this period, the use hereby permitted shall cease, all materials and equipment brought on to the land in connection with the use shall be removed, and the land restored to its former condition in accordance with a scheme previously submitted to and approved in writing by the local planning authority.

2) The development shall be carried out in accordance with the approved drawings: Plan 1 Revised Location Plan received on 13/01/2015; Plan 2 Revised Proposed Layout Plan received on 13/01/2015; Proposed Utility Blocks received on 05/01/15.

3) The site shall not be occupied by any persons other than gypsies and travellers as defined in the National Planning Policy for Traveller Sites.

4) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependents:

   John and Fanta McCarty

   Winnie, Philomena, Martin and Mary Ward

   Ann McDonagh

5) No more than 6 amenity blocks may be constructed and, prior to their construction, details of the external materials shall be submitted to and approved in writing by the local planning authority. The blocks shall be erected in accordance with the approved details.

6) No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans hereby permitted.

7) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

8) No commercial activities shall take place on the land, including the external storage of materials.

9) No more than 12 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 6 shall be static caravans or mobile homes) shall be stationed on the site at any time.

APPEARANCES

FOR THE APPELLANT:

Alison Heine	Planning Consultant
Martin Ward	Appellant
Mary Ward	

FOR THE LOCAL PLANNING AUTHORITY:

Paul Turner	Planning Consultant
Ed Fox	South Staffordshire Council

INTERESTED PERSONS:

Cllr Victor Kelly

DOCUMENTS SUBMITTED AT THE HEARING

1 The approved plans for permission Ref 15/00001/FUL.

2 Policy SAD4 of the South Staffordshire Site Allocations Document (2018).

3 The Council's notification letters confirming the time and date of the hearing.

APPENDIX 11

The Planning Inspectorate

Appeal Decisions

Inquiry Held on 28 March 2023, 5-7 September 2023 and 8 December 2023
Site visits made on 29 March 2023 and 7 September 2023

by R Merrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2024

Appeal A: APP/C3430/C/20/3262819
Land at Rose Meadow Farm, Wolverhampton Road, Prestwood, Stourbridge DY7 5AJ

- 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 Mr Billy Joe Timmins against an enforcement notice issued by South Staffordshire Council.
- The enforcement notice was issued on 13 October 2020.
- The breaches of planning control alleged in the notice are (i) failure to comply with condition No 3 of a planning permission Ref 12/00789/FUL, granted by way of an appeal decision Ref APP/C3430/A/13/2205793, on 17 August 2015 and (ii) "Unauthorised Operational Development has taken place consisting of the erection of a raised children's playground area, (shaded green) to the immediate south of the area of development, together with the erection of six 'street lights', (shaded yellow), to both north and south of the development plot."
- The development to which the permission relates is the use of land for the stationing of caravans for residential purposes for 2 gypsy pitches, together with the formation of additional hard standing and utility/dayrooms ancillary to that use. The condition in question is No 3 which states that: "When the land ceases to be occupied by Anthony and Brooke Timmins and their children and Crystal Flute and her partner and their children, or at the end of the specified 4 years, whichever shall first occur, the use hereby permitted shall cease, all materials and equipment brought onto the land in connection with the use, including the dayrooms hereby approved, shall be removed and the land restored to its former condition in accordance with a scheme of work submitted to, and approved in writing by, the local planning authority. The scheme of work for the restoration of the site shall be approved prior to the first occupation of the site." The notice alleges that the condition has not been complied with in that at the end of the specified 4 years, as at 17th August 2019, the use has not ceased and all materials and equipment brought on to the Land in connection with the use, including the dayrooms hereby approved have not been removed from Land and the Land restored to its former condition in accordance with a scheme approved in writing by the local planning authority.
- The requirements of the notice are: i) Permanently cease the use of the Land outlined in red on the attached plan, for the siting of caravans and utility days rooms; ii) Permanently cease the use of the Land outlined in red on the attached plan, for residential use; iii) To ensure the cessation of the unauthorised use of the Land outlined in red on the attached plan, permanently remove the caravans, utility days rooms and all materials and equipment brought on to the Land in connection with that use; iv) Permanently remove the unauthorised operational development consisting of the raised children's playground (shaded green), 'street lights', (shaded yellow) and all materials associated with the unauthorised operational development from the Land outlined in red on the attached plan; v) Restore the Land in accordance with the

scheme of restoration attached to this notice reference 11-426-011 with the removal of all hardstanding in the area hatched red on the restoration scheme reference 11-426-011 and restore the Land to agricultural use.
- The period for compliance with the requirements is twelve months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B: APP/C3430/W/20/3262816
Land at Rose Meadow Farm, Wolverhampton Road, Prestwood, Stourbridge DY7 5AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Billy Joe Timmins against South Staffordshire Council.
- The application Ref 20/00275/VAR is dated 01 April 2020.
- The application sought planning permission for the use of land for the stationing of caravans for residential purposes for 2 gypsy pitches, together with the formation of additional hard standing and utility/dayrooms ancillary to that use without complying with conditions 2 and 3 attached to planning permission Ref APP/C3430/A/13/2205793, dated 17 August 2015.
- The conditions in dispute are Nos 2 and 3 which state that: 2. "The use hereby permitted shall be carried on only by Anthony and Brooke Timmins and their children and Crystal Flute and her partner and their children, and shall be for a limited period being the period of 4 years from the date of this permission, or the period during which the land is occupied by them whichever is the shorter"; 3. "When the land ceases to be occupied by Anthony and Brooke Timmins and their children and Crystal Flute and her partner and their children, or at the end of the specified 4 years, whichever shall first occur, the use hereby permitted shall cease, all materials and equipment brought onto the land in connection with the use, including the dayrooms hereby approved, shall be removed and the land restored to its former condition in accordance with a scheme of work submitted to, and approved in writing by, the local planning authority. The scheme of work for the restoration of the site shall be approved prior to the first occupation of the site."
- The reasons given for the conditions are 2. Because the justification for planning permission being granted was based on it being for a temporary period only and because of the personal circumstances of the site occupiers; 3. The land needs to be restored to its former condition, once condition 2, could no longer be complied with.

Summary of decision: The time limit of the temporary planning permission has expired and therefore no further action is taken in relation to this appeal.

Preliminary Matters

Whether Appeal B is validly made?

1. Appeal B concerns a temporary and personal planning permission that was granted on appeal for, amongst other things, the residential use of the land for two gypsy pitches. The Council's case is that the appeal made, in relation to the application for development subject to Appeal B, is invalid because the

aforementioned temporary permission had expired by the time that application was made[1].

2. It is noted in relevant case law[2] that the Act is silent as to what happens at the expiry of a temporary planning permission, but since s72(1)(b) provides for the imposition of a time limit and restoration condition, and a planning permission granted subject to such a condition is a planning permission for a limited period, it is implicit that the condition circumscribes the entire authorisation of the use. It appears to me that the condition survives only for the purposes of enforcement action. There is nothing in the legislation or case law which suggests it is possible to determine an application made pursuant to s.73 once the time limit of the permission has expired and only the time limit and restoration condition(s) exist.

3. Section 73A of the Act enables the grant of permission for development already carried out. S.73A(2)(b) is specifically drafted to ensure that development which has been carried out in accordance with planning permission granted for a limited period is "development" for the purposes of the grant of permission in accordance with s.73A. Permission can be granted under s.73A on an application made to an LPA. This includes an application made pursuant to s.62 of the Act (i.e. a full planning application). This is the appropriate application to submit where full consideration of the planning merits is required to determine whether permission should be granted. Having considered the circumstances of this case it seems to me that full consideration of the planning merits of the case is required because the previous permission was authorised on a temporary and personal basis due to the exceptional circumstances existing at the time.

4. To determine whether a continuation of the development is permissible it is necessary to consider the current planning circumstances, including the development plan, national policy and any other material considerations. This requires full consideration of the planning merits of the development.

5. The current use of the site is unauthorised, the time limit of the previous temporary planning permission having expired. Accordingly, I find that the application, made pursuant to s.73, is invalid and the Appeal B cannot proceed. I therefore take no further action in relation to Appeal B.

6. The appellant relies on case law to support the point that an application made under s.73 of the Act may be treated as one under s.73A[3]. However, in that case permission had been sought for development without complying with a condition subject to which planning permission was granted; not, as in the present case, where planning permission had been granted for a limited period. The case law in question does not therefore lead me to a different conclusion.

7. The appellant has referred me to an appeal decision in relation to which the relevant Inspector stated that he was not persuaded that the appellant had no legal right to apply for permission, without compliance with a condition, even though that application was made after the expiry of the temporary period[4]. However, I note that the Inspector had the benefit of Counsel's opinion which

[1] Condition 2 granted planning permission on 17 August 2015 for a temporary period of 4 years.
[2] *Avon Estates Ltd v the Welsh Ministers & Ceredigion CC [2011] EWCA Civ 553.*
[3] *Lawson Builders Ltd v SSCLG [2015] EWCA Civ 122*.
[4] Appeal refs APP/L2820/C/20/3262337 & APP/L2820/W/20/3262332.

is not before me in this case. Therefore, the conclusion reached in that case, also leads me not to alter my above findings.

The significance of the actual developed area in relation to the area covered by the temporary permission?

8. The notice alleges a breach of condition and the construction of unauthorised operational development. With regard to the breach of condition, the parties do not dispute that the permission to which it relates covers a somewhat smaller area compared to that which has been developed on the ground. Specifically, in practice part of one of the mobile homes and adjacent hardstanding area extends further to the west.

9. The question is whether the extended area is caught by the breach of condition element of the notice. The Council's position is that this development is part and parcel of the development subject to the temporary permission and so properly falls within the scope of the notice.

10. However, in this regard I concur with the appellant that the additional area of development, though adjoining that previously permitted, is sufficiently significant in scale to have resulted in a separate material change of use of the land in its own right. Accordingly, the notice fails to 'bite' on this extended area. The deemed planning application, the subject of the ground (a) appeal, insofar as it relates to the use of the site, therefore corresponds to the area that was the subject of the temporary planning permission; and insofar as it relates to the operational developments targeted, as they have been developed on the site. The analysis of the ground (a) related issues is therefore made in this context. I am satisfied that it would be possible to correct the notice requirements and plan to reflect this position, without causing injustice to the main parties.

The Oath

11. Evidence to the Inquiry was given on oath.

The National Planning Policy Framework

12. A revised version of this document was published on 19 December 2023. The parties were given the opportunity to comment on the significance to this case of any revisions therein.

Other Preliminary Matters

13. The appellants presented drawing 11_426B-015Rev P01 on the final day of the Inquiry. The Council objected to its acceptance, insofar as it purports to show accurately surveyed tree root protection areas, because it had not had the opportunity to verify the position at such short notice. The Council was, however, content with the drawing insofar as it depicted the proposed restoration area, that being the additional area of development outside the scope of the 2015 planning permission, as referred to above. I have sympathy with the Council's reservations and accept the drawing only on the basis of it depicting the proposed restoration area.

Appeal A on ground (b)

14. The appeal on ground (b) is that the breach alleged in the notice has not occurred as a matter of fact. Specifically the appellant's case is that the alleged breach of condition is over an expansive area that is not the area of the planning permission containing condition 3, and as such the breach cannot have occurred over land where the condition does not operate; secondly that the alleged operational development in the form of the children's playground and potentially the 'street lights' are incorrectly marked on the plan.

15. It is undisputed that the notice plan covers a more extensive area than that which was the subject of the temporary permission. However, it seems to me the key point is that the plan includes the area where the condition operates, even if the area has been drawn more extensively than it needed to be in this regard. Other than this the appellant does not say that there has not been a breach of the condition as a matter of fact.

16. With regard to the alleged operational development, the appellant's case is that it has been identified in the wrong place on the notice plan, not that it has not occurred at all, or that it is not within the red line depicted on the notice plan. From all the evidence before me, I am in no doubt that it is understood by the appellant that the notice seeks to target unauthorised operational development comprising the specified playground and 'street lights'.

17. That the operational development extends beyond the area over which the breach of condition could have occurred is immaterial. They are identified as two distinct breaches of planning control, with the deemed planning application in this case applying to both elements. I agree with the appellant that the position of the alleged unauthorised operational development (playground and northern line of lights) has been incorrectly identified on the notice. Indeed this has been accepted by the Council. However, I am firmly of the view that if the position of these features were to be corrected on the plan, what is being alleged cannot be said to surprise or disadvantage the appellant on the basis of any previous uncertainty or ambiguity over what the notice was attacking.

18. In relation to both breaches the appellant has had the opportunity to argue their case fully as part of the appeal proceedings. I am not persuaded that there is injustice in this regard. The ground (b) appeal fails.

Appeal A on ground (a)

Main Issues

19. The ground (a) appeal is that planning permission should be granted. The main issues are:

- Whether the development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
- The effect of the development on the openness of the Green Belt and the purposes of including land within the Green Belt;
- The effect of the development on the character and appearance of the area;
- The effect of the development on a veteran tree;

- The effect of the development on highway safety;
- The need for Gypsy and Traveller sites;
- The personal circumstances of the appellant;
- The question of intentional unauthorised development;
- If the development is inappropriate, whether the harm to the Green Belt by way of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Green Belt

20. Paragraph 142 of the Framework sets out that the essential characteristics of Green Belts are their openness and their permanence. It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 143 notes that the Green Belt has five purposes which include safeguarding the countryside from encroachment; checking the unrestricted sprawl of large built-up areas and preventing neighbouring towns from merging into one another. Paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

21. There is no dispute between the parties that the residential use proposed and the various operational development would amount to inappropriate development. Indeed, with regard to the use, the Government's Planning Policy for Traveller Sites 2015 (PPTS) expressly states that such sites in the Green Belt are inappropriate development.

Openness and Green Belt Purposes

22. The assessment of impact on openness is about considering the presence of the development in the context of national policy which seeks to keep Green Belt land permanently open, thus avoiding urban sprawl. This specific assessment is not about the quality of the development, including the suitability of materials used, in itself, or its effect on the character and appearance of the area.

23. The Court of Appeal has confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect[5]. The various caravans (two statics and two touring), buildings and paraphernalia and structures, targeted by the notice, would take up space which was previously free from development.

24. Aside from taking up space, however, it was apparent that because of the site's setting within dense mature woodland surroundings, visual receptors of that occupied space outside the site itself are very limited. In terms of receptors in the public domain, these are where the A449 road crosses the River Stour to the north east of the site, and further south along the same road, closer to the site entrance. Whilst the north elevations of the mobile homes would be seen from these vantages points, the views comprise fleeting glimpses between gaps

[5] *Turner v SSCLG & East Dorset Council [2016].*

in the highway boundary hedgerow. I do accept that existing lighting arrangements on the site may serve to draw further attention to these structures during hours of darkness. However, it seems to me that the impact of external site lighting could be mitigated by giving consideration to the control of any light spillage, through the imposition of an appropriate planning condition.

25. Similarly views into the site along the access road leading to it would be momentary. Given that by far the predominant receptor of these aforementioned views would be passing motorists, I consider that any perception of visual harm to the openness of the Green Belt would be very minor indeed.

26. Furthermore, from the A449 road, visibility of the play equipment, the southern most line of 'street lights' and a majority of the hardstanding would be screened by the two mobile homes. It seems to me that the visual impact of the northern line of lights would be substantially assimilated against, and therefore even less than that of, the mobile homes. I acknowledge that visibility of the two mobile homes may be increased a little as a result of seasonal leaf fall, however it seems to me that views would remain heavily filtered such that any additional material harm would be unlikely to arise.

27. I also viewed the site, both from part of the grounds, and within one of the rooms, on the eastern side of the Prestwood House Care Home, situated a relatively short distance to the west of the appeal site. From here it was apparent the site is substantially screened by dense vegetation. I have also had regard to a photograph of the outlook, taken within the same room during the winter, whilst also being mindful of the effects of external lighting on the site. Whilst the appeal site development, including the playground equipment, is visible to a degree at this time, due to seasonal leaf fall, visibility remains heavily filtered, and when also taking into consideration the small number of recipients of this view, albeit that such persons may be present in the room for long periods, I am not persuaded that the visual harm to openness is significant.

28. Drawing these considerations together, whilst the development would result in spatial harm, I am not persuaded that it causes any more than limited harm to the openness of the Green Belt, or in terms of encroachment into the countryside. Furthermore, in terms of the other Green Belt purposes, when considering the relatively limited scale of development in this case, the argument that the development is at odds with policies seeking to check the unrestricted sprawl of large built-up areas and preventing neighbouring towns merging into one another is simply not compelling. I draw this conclusion, whilst considering the site not to be so far from the settlement of Stourton to the south, that it may be regarded as 'away from' existing settlements in the context of the PPTS.

29. Policy H6 of the South Staffordshire Core Strategy 2012 (CS) seeks to ensure that Gypsy and Traveller sites in the Green Belt do not have a "demonstrably harmful" impact on openness. I concur with the findings of the previous Inspector that this term is not defined but intended to convey a significant loss of openness, rather than the more limited loss that would result in the present case. Accordingly, I do not find conflict with Policy H6.

Character and Appearance

30. The appeal site occupies a valley location alongside the River Stour. Despite the presence of the busy A449 road, and sporadic buildings, this is essentially a countryside position in which dense mature woodland predominates the immediate setting of the site. However, whilst the amount of nearby built development is limited, it is also not so far removed from the site to give the impression that this is an isolated spot.

31. I have set out above where I consider the key visual receptors for the development to be located. For the reasons set out above the visibility of the site is generally well concealed from the public domain. From where the site is visible the two mobile homes would appear as relatively squat structures against a backdrop of mature woodland. The site is away from and at lower ground level in relation to the adjacent main road, and the mobile homes are finished with a mock natural stone cladding, which serves to soften their appearance. Adherence to the previously approved site boundaries would serve to reduce the apparent scale of residential development, with the possibility of retaining a similar external appearance.

32. For most drivers passing through the area, it seems to me that the development is unlikely to attract attention away from the route of the A449 road. I have set out above that the site would be visible from the Prestwood House Care Home during the winter months. However, the fact that it would appear heavily filtered by woodland planting ensures that the development does not appear incongruous or obtrusive. I am not persuaded that the position and operation of the 'street lights' and playground, when considering the limited scale of development involved, is sufficient to harm landscape character and appearance.

33. I am also mindful that it would be possible to impose a planning condition requiring additional tree planting. I concur with the previous Inspector that this would enable the site to be satisfactorily integrated with its surroundings.

34. Drawing these considerations together I am not persuaded that the development, by its presence, results in a sense of urbanisation or harm to the character and appearance of the landscape. Accordingly in this respect the development would be compliant with Policies EQ4, EQ11 and H6 of the CS insofar as they seek to protect the intrinsic rural character and local distinctiveness.

Impact on Veteran Tree

35. The Council raises the concern that the development, including the mobile homes and hardstanding, are close to, and within the root protection area (RPA) of, a protected veteran Oak tree[6]. The Council says that this is detrimental to the health of the tree, which is showing signs of deterioration including dead wood in the crown, and may result in its early death.

36. The Council has referred to statutory guidance regarding the protection of veteran trees[7]. This notes that veteran trees are recognised for their

[6] Tree Preservation Order number 75/1985.
[7] Ancient woodland, ancient trees and veteran trees: advice for making planning decisions – Natural England and Forestry Commission January 2022.

exceptional biodiversity, cultural and heritage value and that development can result in loss or deterioration of a tree through damage to roots and because of soil compaction. It is undisputed that the statutory guidance indicates a minimum RPA of some 30 metres should be applied to the tree; also that there would be encroachment within the RPA, irrespective of whether considering the as-built development or the physical limitations to development dictated by the previously approved site area.

37. The appellant however considers that the appropriate time for assessing impact on the tree was when the original planning application and appeal was under consideration, and accordingly that the material change of use previously lawfully undertaken is highly material to the assessment of the issue. However, for the reasons set out above, I find it is possible to give full consideration to the planning merits of the case, including the well-being of the tree.

38. The development, both as built and in terms of the nature and area approved in 2015 by the previous grant of temporary planning permission (as covered by the present appeal), encroaches on the RPA of the tree, as defined by statutory guidance. No evidence has been provided to persuade me that the alleged harm has not occurred and is not continuing to occur. Whilst Policy EQ4 of the CS does not go so far as to require veteran trees to be safeguarded in all circumstances, it does seek their protection unless removal is deemed necessary. I do not deem removal of the tree to be necessary and thus I find conflict with Policy EQ4 in this specific regard. Furthermore, the Framework states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exits. I therefore consider this matter further in the planning balance section of the decision below.

Highway Safety

39. The site is accessed from the A449 road, a busy north-south route, subject to a 50mph speed limit in the vicinity of the site. The issue between the appellant and the Rule 6 Party (R6 Party) is the extent to which the requisite standard of visibility, that should be available to drivers emerging from the site, is obstructed (or could be potentially obstructed) such that there is a risk to highway safety. The Council raises no objection on highway safety grounds.

40. Visibility splays are expressed in terms of *x* and *y* distances, where *x* is the distance back from the carriageway 'give way' line on the minor arm (or access) and *y* is the distance that a driver can see to the left and right along the main road.

41. Guidance on appropriate design standards for roads is to be found in Manual for Streets (MfS), Manual for Streets 2 (MfS2) and the Design Manual for Roads and Bridges (DMRB). In strict terms the MfS relates only to lightly trafficked situations where speeds do not exceed 37mph. Similarly though, the DMRB standards are higher than MfS, as they have been specifically developed for the Strategic Road Network and should not necessarily be strictly applied to situations away from motorways and trunk roads.

42. It is not therefore the case that the circumstances of the appeal site, accessed from a 50mph A-road in a rural location should obviously be subject to the guidance in one or the other of the DMRB or the MfS. However, I am mindful of the statement within MfS2 that "most MfS advice can be applied to a highway regardless of speed limit. It is therefore recommended that as a starting point for any scheme affecting non-trunk roads, designers should start with MfS"[8]

43. The R6 Party has undertaken a survey of traffic speed passing the site. Its case, having regard to the results of this survey[9], and in accordance with guidance in the DMRB and MfS2, is that an *x* distance of 2.4 metres and *y* distances of 178 metres to the south and 157 metres to the north are minimum requirements.

44. The R6 Party also relies on a topographic survey depicting physical features, including walls and hedges, which it considers constitute the boundary between the highway and third-party land. This survey, it says, demonstrates that the requisite splay cannot be guaranteed because it necessarily encroaches on land in third party ownership.

45. By contrast the appellant's case is based on the theoretical design speed of 85kph (52.8mph) for this type of road (DMRB), and evidence of the way the access works in practice, rather than a specific survey of actual traffic speeds. Furthermore, whilst acknowledging that a 2.4m *x* distance is the ideal, the appellant relies on guidance in MfS2 which it says allows standards to be relaxed in certain circumstances. It says that an *x* distance of 2m and *y* distance of 160 metres both to the north and south would be deliverable and acceptable in this case, when taking guidance in MfS2 and DMRB into account, and that this can be achieved through trimming back highway boundary vegetation.

46. The appellant also criticises the R6 Party's traffic speed survey for reasons including that its timing coincided with a school holiday period when there would have been less traffic using the road, therefore raising average vehicle speeds, and that it underestimates vehicle deceleration rates.

47. Notwithstanding the survey timing, the vehicle speeds identified exceed by only a relatively small margin the design speed used to inform the 160 metre *y* distance (having regard to DMRB guidance). Accordingly, I do not consider this provides a compelling reason for insisting that the *y* distance should be significantly greater than this. Moreover, I am mindful that based on the County Council's own highway guidance, which remains extant, even though it pre-dates MfS2, it would be appropriate to allow for a higher vehicle deceleration rate than was used to inform the R6 Party case[10]. The R6 Party accepts that applying this modification to the formula set out in MfS2, for the determination of stopping sight distances, reduces the *y* distances to 118m northbound and 112m southbound. Furthermore, it seems to me that site specific circumstances are of key importance.

48. From the evidence before me the precise location of the highway boundary cannot be definitively established. I have considered the R6 Party evidence

[8] Paragraph 1.3.2.
[9] 85th percentile speeds of 53.4mph (85.9kph) northbound and 53.3mph (85.8kph) southbound were found.
[10] 0.45g as opposed to 0.25g (the latter standard allowing for the scenario of a snow-covered road).

that the alignment of an historic brick wall and post and rail fence (no longer present) to the south of the site access, and conifer hedge to the front of the neighbouring residential property to the north, both constitute boundary features with the highway[11]. However, I am also mindful the previous Inspector found, at the time, having regard to expert advice, that boundary fencing on both sides of the access probably encroached on the highway verge. Accordingly, I am not persuaded by the R6 Party evidence in respect of the position of post and rail fencing coinciding with the definitive highway boundary.

49. On this basis, and from my observations during the site visit, I concur with the parties that the *x* distance of 2.4 metres does not appear to be obtainable, as visibility for emerging drivers (at least towards the south) would potentially remain obstructed by features on third party land.

50. However, by contrast, from the evidence submitted, and my site observations, I consider that visibility in excess of the modified *y* distance to the north would be achievable, if the *x* distance were reduced to 2 metres. In addition, I am not persuaded, on the balance of probability, that a 2 metre set back would mean that visibility in excess of the aforementioned modified *y* distance to the south could not be achieved.

51. These findings are subject to any vegetation encroaching within the highway being trimmed back. In saying this I am mindful that it is within the remit of the Highway Authority to remove features, such as overhanging vegetation, that encroach within the highway boundary to the detriment of safety.

52. A 2 metre *x* distance would necessitate some types of vehicle projecting into the highway to a degree. However, even if drivers seeking to egress the junction were to rely to a degree on edging forward in the vehicle and leaning forward to improve visibility further, then this would not be inherently unsafe. Such compensatory actions are recognised within MfS2, at para. 10.5.8, as potentially appropriate in "some slow-speed situations".

53. In this context, whilst I am not persuaded that this is a slow-speed situation, it appeared to me that forward visibility along the A449 road towards the site entrance was to a high standard in both directions. This means that drivers approaching the junction from both directions would be aware in good time of a vehicle emerging from or edging out of the site access road, and would have sufficient time to slow down gradually or, taking into account the generous width of the road, manoeuvre around it safely. I am also mindful that MfS2 at para. 10.5.9 states that "...unless there is evidence to the contrary, a reduction in visibility below recommended levels will not necessarily lead to a significant problem."; also at para 10.4.2 that there is no evidence that failure to provide visibility at priority junctions in accordance with recommended standards will cause increased risk of injury collisions.

54. I have also had regard to the conclusion drawn by the Inspector in relation to the previous appeal at this site that satisfactory visibility was likely to be achievable on the balance of probability; that the relatively small scale of development means associated traffic movements are unlikely to be high in this case and that the Highway Authority has raised no objection. Furthermore,

[11] Determined in consultation with an unidentified County Council officer.

notwithstanding the views of the R6 Party, the fact that there has not been a record of a personal injury accident having occurred in connection with the junction over the relatively lengthy period since the development took place in 2019 (whilst also having regard to the likely tempering effect on traffic movements of the Covid 19 pandemic) is highly significant in my view.

55. I conclude that the development does not result in harm to highway safety. Accordingly, it does not conflict with Policy H6 of the CS insofar as it seeks to ensure that sites can be safely accessed by vehicles, or with the Framework which seeks to avoid unacceptable impacts on highway safety.

Need for Gypsy and Traveller Sites

56. Paragraph 7(b) of the PPTS states that local planning authorities should prepare and maintain an up-to-date understanding of the likely accommodation needs of their areas over the lifespan of the development plan. The Council's most recent Gypsy and Traveller Accommodation Assessment (GTAA) was produced in August 2021. This identified a requirement over the period 2021-38 for those households that meet the definition of Gypsies and Travellers in Annex 1 of the PPTS[12], of some 121 pitches. This figure includes 72 pitches in the initial 5 years 2021-25.

57. The recent change to the definition, cited above, followed in the wake of a Court of Appeal judgment[13]. The thrust of this judgment is that the previous PPTS definition was unlawfully discriminatory against Gypsies and Travellers who have ceased to travel permanently on grounds of age or disability. It indicated that such persons should be included in any assessment of need for site provision, thus potentially increasing the overall level of need.

58. The GTAA identifies a need of some 24 pitches for those Gypsies and Travellers not meeting the previous PPTS definition (17 of which are within years 2021 – 2025). Therefore the effect of including, in the assessment of need for sites in the District, Gypsies and Travellers known not to fall within the previous PPTS definition and who thus might previously have been excluded from consideration in the context of PPTS policies, is to significantly increase the requirement for sites. Although the appellant considers that the GTAA underestimates the true level of need for pitches, the Council at least agrees with the appellant that there is an immediate unmet need for sites[14].

59. The PPTS states that local planning authorities should identify, and update annually, a 5-year supply of specific deliverable sites against their locally set targets. The Council confirmed by way of written evidence[15] and at the Inquiry that since publication of the GTAA in 2021, planning permission has been granted for seven pitches[16]. It said in its closing submissions that a further 15 pitches identified within its Site Allocations Document (2018) are yet to gain planning permission.

60. The Council said at the Inquiry that it does not anticipate adopting its emerging Local Plan before the winter of 2025 / 26. It confirmed that, whilst it was hoping for more, a total of 37 pitches had so far been allocated in its emerging

[12] From 19 December 2023 the definition has reverted to that adopted in the 2012 version of the document.
[13] *Lisa Smith v SSLUHC & Ors [2022] EWCA Civ 1391.*
[14] The Council and appellant agree that this equates to some 42 pitches.
[15] See P Turner final proof of evidence, para 5.9.
[16] Including 4no. pitches at Fair Haven.

allocation document. When also taking into account the relatively small number of permissions, as identified above, it is clear that at present the potential supply of sites falls significantly short of the level of need identified, and it is uncertain whether the identified level of need will be met at all. Having regard to the previous Inspector's appeal decision, it seems to me the shortfall in site provision is worse now than when the temporary planning permission was granted in 2015.

61. The Council does not dispute that it is unable to demonstrate a five-year supply of deliverable sites. Furthermore a suitable and available alternative site for the two families currently occupying the appeal site cannot be identified by the Council at this time.

62. I note that when temporary planning permission was previously granted for the development, the Inspector found there to be a shortfall in the supply of sites, and no guarantee that immediate need would be fully addressed through the development plan process. In this context, the present evidence is indicative of an ongoing failure to meet national policy requirements for the delivery of sites against targets.

63. In addition it is undisputed that a large proportion of land in the District, some 80 per cent, lies within the Green Belt. It therefore seems to me likely that there will need to be reliance to a degree on the Green Belt in any event for the provision of pitches going forward.

64. I accept that the level of harm may vary between different Green Belt sites and acknowledge the Council refers to selecting sites where such harm would be less. However, I have found in this case the degree of visual impact on the openness of the Green Belt to be limited[17]. In this context it is significant that there is no evidence to persuade me that Green Belt harm arising from the appeal site would be greater than from any other site that may be allocated. All of these factors weigh positively in favour of the development.

Personal Circumstances

65. Article 8 of the Human Rights Act 1998 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. Article 8(2) provides that interference may be justified where it is in the interests of, amongst other things, the economic well-being of the country, which has been held to include the protection of the environment and upholding planning policies. 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.

66. 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, to advance equality of opportunity and to foster good relations. The Act recognises that race constitutes a relevant protected

[17] In contrast, for example, to the Squirrels Rest case – Appeal ref APP/C3430/W/21/3282975.

characteristic for the purposes of PSED. Romany Gypsies and Irish Travellers are ethnic minorities and thus have the protected characteristic of race.

67. The site is subdivided into two pitches, occupied by the appellant, his brother and their respective families. Their ethnic status as Romany Gypsies is undisputed; nor that the brothers work together in the building trade and travel to find work. The appellant explained at the Inquiry, and within other representations provided, that between the households there are several children under the age of 18 present. It is also undisputed that his own children are attending a nearby school and that their grandparents live not very far away from the site.

68. It seems to me that if the appeal is not successful, in the absence of an alternative site, the appellants are at risk of being made homeless. There can be no doubt that if the appeal was unsuccessful, it would take away the secure living environment of a settled base for these households, who may potentially need to resort to living on the roadside, which would very likely mean disruption to the children's educational provision as a result. I am mindful that it may be difficult to enrol children in school and /or maintain the children's attendance if they have no fixed address.

69. In the context of the PSED I therefore find that to uphold the notice would be detrimental to the aims of advancing equality of opportunity and fostering good relations between persons with protected characteristics and persons without such characteristics. I also consider that the removal of a secure and settled base is likely to be harmful to the potential for play and interaction and therefore social development of those children; also the ability of the families to live together as a group, where they are able to provide support to one another in furtherance of the Gypsy way of life.

70. The appellants' personal circumstances therefore weigh in favour of the development.

Intentional Unauthorised development

71. The case against the appellant in this regard is that he was aware that he was not included within the list of persons to whom occupation of the site was restricted, by virtue of the planning condition. Furthermore, the appellant conceded as much at the Inquiry.

72. Because the enforcement notice alleges a breach of condition, which would not fall within the definition of development, the appellant says that this element of the alleged breach of planning control cannot constitute intentional unauthorised development. However, it is clear that the unauthorised occupation of the site was intentional and, in the context of a time limited planning permission where that time limit has now elapsed, is in my judgment consistent with what national policy seeks to resist.

73. The appellant's evidence was that he previously shared a pitch, relatively nearby with other family members, but wanted to move to live alongside his brother; his previously vacated pitch is no longer available. However, in the context of the substantial need for pitches in the District, I consider this significantly mitigates the impact of the appellant's decision to move to the

appeal site, it being likely that if not the appellant somebody else would have sought to occupy his pitch there.

74. I am also mindful that the Act makes provision for a grant of retrospective planning permission, including the imposition of planning conditions, and planning enforcement that is remedial rather than punitive. A ground (a) appeal was made, the scope of which included development for which planning permission had previously been granted, albeit temporarily. In light of these considerations, whilst also taking into account the relatively limited scale of the operational development subject to the notice, I attach only very limited weight to the intentional unauthorised nature of the development. The R6 Party has referred in its closing submissions to a decision where the Inspector gave moderate adverse weight to intentional unauthorised development[18]. However I have limited information regarding that case, and am not persuaded that the circumstances that prevailed there should lead me to judge the present appeal in the same way.

Other Matters

Access covenant

75. There is no dispute that the appellant enjoys a right of way to the site on foot.

76. The R6 Party raises the concern however, that a covenant is in place which restricts vehicular access to the site to farm vehicles only. Accordingly, it says that vehicular access to the site by the appellant and other site occupiers for residential purposes is unlawful.

77. In terms of the lawfulness of gaining access to the site in a vehicle, it is not within my remit to determine whether such rights exist, or can be secured, for the appellant. That would be a matter for another tribunal. It seems to me however that I am required to consider whether there is at least a realistic prospect of such rights existing. I have had regard to Planning Practice Guidance in relation to factors that can be considered when assessing housing land availability. This refers to there being confidence of no legal impediments to development.

78. In my judgment the term 'farm vehicles' is a vague description. It might reasonably be argued to encompass large agricultural vehicles, but could also reasonably include smaller cars and trucks that are also 'farm vehicles' simply because of their association with the farm. If such smaller vehicles are not excluded from using the access, then I am not persuaded that a logical reason exists to exclude vehicular access to a car or truck owned by the present site occupiers.

79. Therefore, whilst not definitive, I cannot rule out a realistic prospect of a private vehicular right of way to the site being made available to the site occupiers. Accordingly, although the definitive position regarding lawful vehicular access for the benefit of the appellant remains inconclusive, for the above reasons I am not persuaded that a legal impediment exists that cannot be overcome, and I do not consider that this should count against the appellant's case in this appeal.

[18] Appeal Ref APP/C3430/C/22/3303085.

80. For the above reasons I am not persuaded that enforcement of the covenant, and as such the need to park at an alternative location, would be a likely outcome. However should this occur, the subsequent likelihood of parking on the A449, would in my view be very low because of the risk to the appellant's personal safety and damage to his vehicles from collisions.

81. Reference was made to the use of land on the opposite site of the A449 to the appeal site, which apparently is in the appellant's control and utilised for stables, for parking associated with the appeal site should the covenant be enforced. It was the R6 Party's case that this would be harmful to highway and pedestrian safety due to the regular need to cross the road between sites, and for this reason would also not be in the best interests of the children. However, I concur with the R6 Party that this would be likely to require a separate planning permission. Accordingly, it is a matter likely to be in the Council's control and if a planning application in this regard were not to be successful, on highway safety grounds, I am not persuaded that such an outcome would be conducive to the ongoing residential use of the appeal site in any event, such that the occupation of the site would continue.

82. Ultimately, I conclude that the access covenant issue would be unlikely, on the balance of probability, to result in a highway safety problem. This matter does not therefore attract adverse weight.

Green Belt balance

83. National planning policy attaches great importance to Green Belts. Therefore, when considering any planning application substantial weight should be given to any harm to the Green Belt. The appeal proposal is inappropriate development in the Green Belt. In addition, the residential use and associated paraphernalia, and alleged operational developments, cause a loss of openness and harm to one of the purposes of including land in the Green Belt, namely to assist in safeguarding the countryside from encroachment, albeit I consider harm to openness to be limited in visual terms.

84. I have found that the development, as a whole, poses a threat to the health and long-term survival of the nearby protected veteran Oak tree. It would therefore be necessary to demonstrate that wholly exceptional reasons exist, along with a suitable compensation strategy, to justify the development in order to avoid conflict with Framework policy. I am in no doubt this test presents a high bar to overcome.

85. However, in the context of unmet need for sites, uncertainty as to whether and when that need might be addressed and the lack of an alternative base for the present occupiers they would be faced with losing their homes and the likelihood of an uncertain roadside existence. The development would make a contribution, albeit limited, to reducing the Council's need. Furthermore, a successful deemed application would allow for the restoration of land, nearest to the subject tree, on which part of the development, including hardstanding currently sits. In addition, whilst the Council's evidence is that the early death of the tree is possible, it does not go so far as to say this is inevitable.

86. I am mindful that the play equipment and lighting help to facilitate the justifiable residential use of the site and, in the case of the play equipment, the social development and interaction of the children. Furthermore the

playground area, in itself, covers a relatively small fraction of the overall RPA buffer zone and is undisputed to be outside the maximum RPA set by the advice in the British Standard[19]. Similarly, when considering the collective surface area occupied by the lighting columns (not all of which are within the RPA of the tree in any event) is very small, and associated ground intrusion works are likely to be very limited, I am not persuaded the columns would, in themselves, result in any significant damage to the tree.

87. In view of these factors I consider the first part of the aforementioned test is met. Sufficient land is available to allow for compensatory planting, with a planning condition acting as a suitable strategy to achieve this, and accordingly the development is not in conflict with this specific Framework policy. The Council has referred to case studies where impact on protected trees was a reason for refusal of planning permission[20]. However, it seems to me that the circumstances of those cases are distinguishable from the present appeal.

88. The threat to the veteran tree nevertheless remains a factor which, having regard to case law[21], attracts great adverse weight, in its own right, in the overall planning balance. For the reasons set out above the intentional unauthorised nature of the development attracts only very limited weight in this case.

89. I have found that the presence of the development, in itself, would not result in harm to the character and appearance of the area or to highway safety. This 'absence of harm' is neutral in the planning balance and does not weigh in favour of the appeal.

90. There are other considerations which support the appeal. I have had regard to advice in the PPTS when considering sites in Green Belt locations. This indicates that in such locations the absence of an up to date 5-year supply of deliverable sites should not amount to the significant material consideration it may otherwise do in a less strictly controlled area, when considering applications for the grant of temporary planning permission. It also states that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

91. However, an unlikely scenario is distinguishable from one that may never occur. Indeed, it seems to me that the Council's undisputed significant and immediate unmet need for pitches (without taking into account need that is likely to exist over a broader geographical area), as manifested in the lack of available alternative sites and the lack of five-year land supply should be a matter that collectively attracts substantial weight.

92. In addition I give moderate weight to the likelihood that when Gypsy and Traveller sites are allocated, a significant proportion of pitches will be located within the Green Belt in any event. I also attach significant weight to the site occupiers' personal circumstances, when considering, in particular, the benefits of a settled base for the various children present on the site. All of this leads

[19] BS 5837:2012 Trees in relation to design, demolition and construction sets a capped radius RPA at 15 metres, and is thus more flexible than statutory guidance in this regard. The parties did not dispute an annotated aerial photograph submitted at the Inquiry, which showed the playground to be outside the 15m RPA contour.
[20] Planning for Ancient Woodland – Planners' Manual for Ancient Woodland and Veteran Trees – July 2019.
[21] *Shadwell Estates Ltd. V Breckland DC [2013] EWHC 12 (admin).*

me to conclude that such an exception to the probable position, as set out in the PPTS, would be justified in this case.

93. I have balanced the harm to the Green Belt and any other harm, against the other considerations referred to above. Having regard to the PPTS, I find that they clearly outweigh the harm identified. However, I only find this to be the case when taking into consideration the weight that I have afforded the site occupiers' personal circumstances. It therefore seems to me that a personal planning permission would be most appropriate in this case, but I discount that this should only be for a temporary period, given my doubt as to when the level of need for sites will be satisfied.

94. For the avoidance of doubt the Council's apparent policy failure to address the need for sites over many years, including a lack of assurance as to when the position might be addressed, also weighs in favour of the development but does not alter the conclusions already made above, in the overall balance.

95. The very special circumstances necessary to justify the development have therefore been demonstrated. Consequently, the proposal accords with the strategy for the protection of Green Belt land, as set out in the Framework. In this context I do not find conflict with Policy GB1 of the CS which seeks to protect the Green Belt in accordance with national policy. Policy GB1 refers to changes of use of land normally being permitted where there would be no material effect on the openness of the Green Belt, or fulfilment of its purposes. Whilst I did find a material effect on openness and encroachment in this case, albeit limited, the policy does not specifically resist development in such circumstances, whilst also deferring to national planning policy. I do not therefore find Policy GB1 to be inconsistent with national policy in this regard.

Conclusion

96. Therefore, despite the proposal conflicting with the development plan, material considerations indicate that a decision should be taken otherwise than in accordance with the plan. For the reasons given above, I conclude that Appeal A succeeds on ground (a) and the enforcement notice should be quashed. I shall grant planning permission on the application deemed to have been made i) for the change of use previously permitted and ii) for the operational development, as described in the notice as corrected, subject to the conditions as set out below.

97. The Council has referred to appeal decisions in relation to sites elsewhere in South Staffordshire[22]. However, I have only limited information in relation to those cases, and in any event the decisions pre-date the most recent GTAA and therefore assessment of need for sites. In respect of a more recent unsuccessful appeal, the Inspector in that case attached greater adverse weight to Green Belt harm than I have found necessary in this case as well as considerable weight to landscape harm[23]. The outcome of these appeals do not therefore indicate that I should not grant planning permission. Nor am I persuaded that the circumstances and reasoning in *Sykes*[24] should lead me to a different conclusion than the one I have drawn in this case, with each case needing to be considered on its individual merits.

[22] Appeal refs APP/C3430/A/13/2210160 & APP/C3430/W/18/3201530.
[23] Appeal ref APP/C3430/C/21/3274332 and others.
[24] *Sykes v SSHCLG & Runnymede BC* [2020] EWHC 112 (Admin).

98. The appeal on grounds (f) and (g) do not fall to be considered.

Conditions

99. The permission is personal and accordingly a condition restricting occupation to the appellant, his brother and their respective partners and resident dependants is necessary. A condition requiring the restoration of the site when occupation ceases is required in the interests of helping to safeguard the Green Belt and the protected veteran tree. A 'plans' condition will be imposed in the interests of clarity.

100. A condition limiting the number of pitches and caravans stationed is needed in order to protect the character and appearance of the area. Conditions preventing commercial activity on the site and restricting the number of commercial vehicles is required in the interests of helping to safeguard the character and appearance of the area and the living conditions of residents.

101. A condition confirming the loss of the permission unless details are submitted for approval (including a timetable for implementation) concerning the site layout, external appearance of the static caravans and utility / dayrooms, boundary treatments, external lighting arrangements, soft landscaping works, including their replacement, if necessary, and restoration of the extended area is required in order to help safeguard the character and appearance of the area and the living conditions of the site occupiers and nearby residents.

102. The form of this condition is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matters before the development takes place. The condition will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.

Formal Decision

103. It is directed that the enforcement notice is corrected by the substitution of the plan attached to this decision for the plan, denoted as the "Red Line Plan" attached to the enforcement notice.

104. Subject to this correction, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely i) the use of land for the stationing of caravans for residential purposes for 2 gypsy pitches, together with the formation of additional hardstanding and utility / dayrooms ancillary to that use and ii) erection of a raised children's playground area (shaded green) to the immediate south of the area of development, together with the erection of six 'street lights', (shaded yellow), to both north and south of the development plot at Land at Rose Meadow Farm, Wolverhampton Road, Prestwood,

Stourbridge DY7 5AJ as shown on the plan attached to the notice and subject to the conditions in the schedule below.

R Merrett

INSPECTOR

The Planning Inspectorate

Plan

This is the plan referred to in my decision dated:16 February 2024

by R Merrett Bsc(Hons) DipTP MRTPI

Land at Rose Meadow Farm, Wolverhampton Road, Prestwood, Stourbridge DY7 5AJ

Reference: APP/C3430/C/20/3262819

Scale: Not to Scale

SCHEDULE OF CONDITIONS

1) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants:

   Pitch 1: Anthony and Brooke Timmins
   Pitch 2: Billy Joe and Laura Timmins

2) When the land ceases to be occupied by those named in condition 1 above, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, and works undertaken to it in connection with the use, including the playground and 'street lights', shall be removed and the land shall be restored to its condition before the development took place.

3) There shall be no more than two pitches on the site. On each of the pitches hereby approved no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than one shall be a static caravan), shall be stationed on the pitch at any time.

4) No more than one commercial vehicle per pitch shall be kept on the site for use by the occupiers of the caravans hereby permitted and this vehicle shall not exceed 3.5 tonnes in weight.

5) No commercial activities shall take place on the land, including the external storage of materials.

6) The residential use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

   (i) Within 3 months of the date of this decision a scheme with details for:
   (a) the internal layout of the site including the extent of the residential pitches, the location of the caravans and vehicle parking, any hardstandings;
   (b) the external appearance of the static caravans and utility / dayrooms;
   (c) all boundary treatments and all other means of enclosure (including internal sub-division);
   (d) proposed and existing external lighting on the boundary of and within the site including the prevention of light spillage;
   (e) soft landscaping including existing planting, compensatory tree planting, details of species, plant sizes and proposed numbers and densities and details of a schedule of maintenance for a period of 5 years;
   (f) a scheme of restoration for the area denoted 'Restoration Area' on plan 11_426B-015 Rev P01
   (hereafter referred to as the 'site development scheme') shall have been submitted for the written approval of the local planning authority and the site development scheme shall include a timetable for its implementation.
   ii) If within 11 months of the date of this decision the local planning authority refuse to approve the site development scheme or fail to give a

decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
iv) The approved site development scheme shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

7) The residential use hereby permitted shall be carried out in accordance with the following approved plans: 11_426A_001; 11_426_004_A (excluding reference therein to landscaping and boundary treatments as these matters are covered by condition 6 above).

END OF SCHEDULE OF CONDITIONS

APPEARANCES

FOR THE APPELLANT: Michael Rudd

He called:

Billy-Joe Timmins	Appellant
Matthew Green	Planning Consultant
Jeremy Hurlstone	Transport Consultant

FOR THE LOCAL PLANNING AUTHORITY: Piers Riley-Smith

He called:

Mark Bray	Planning Enforcement Consultant
Steven Dores	Arboricultural Consultant
Paul Turner	Planning Consultant

FOR THE RULE 6 PARTY: Killian Garvey

He called:

Oliver Rider	Planning Consultant
John Llloyd	Transport Consultant

DOCUMENTS SUBMITTED AT THE INQUIRY:

1. Opening Statements from the Parties.
2. Extracts from Design Manual for Roads and Bridges (CD 123, GG 101 and CA 185).
3. Extract from Highways Agency document TA 22/81 -Vehicle Speed Measurement on All Purpose Roads.
4. Drawing nos. 11_426_004_A; 11_426_010; 11_426_011.
5. Land title documents – Rose Meadow Farm.
6. Appeal Decision references APP/L2820/C/20/3262337 and APP/C3430/W/21/3282975.
7. Witness statement of Billy-Joe Timmins.
8. Potential alternative enforcement notice plans A, B and C.
9. Extract from Guidelines for Landscape and Visual Impact Assessment – Third Edition- Landscape Institute and Institute of Environmental Management and Assessment.

10. Extract from PPG – What factors can be considered when assessing availability? – Paragraph 19 Reference ID 3-019-20190722.
11. Annotated Appendix 20 of Council's Statement of Case.
12. Landscape Consultation responses regarding planning application 12/00789/FUL.
13. Photograph of appeal site from Prestwood Coach House Care Home.
14. Drawing no. 11_426B-015Rev P01.

DOCUMENTS SUBMITTED FOLLOWING THE INQUIRY:

1. Closing Submissions from the Parties.

APPENDIX 12

Green Belt protection and intentional unauthorised development: Written statement - HLWS404

WS Department for Communities and Local Government Made on: 17 December 2015

Made by: **Baroness Williams of Trafford** (Parliamentary Under Secretary of State for Communities and Local Government)

HLWS404

Green Belt protection and intentional unauthorised development

My hon. Friend the Minister of State for Housing and Planning has made the following Written Ministerial Statement.

This Statement confirms changes to national planning policy to make intentional unauthorised development a material consideration, and also to provide stronger protection for the Green Belt, as set out in the manifesto.

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. Such cases can involve local planning authorities having to take expensive and time consuming enforcement action.

For these reasons, we introduced a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. This policy applies to all new planning applications and appeals received since 31 August 2015.

The Government is particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt.

For this reason the Planning Inspectorate will monitor all appeal decisions involving unauthorised development in the Green Belt to enable the Government to assess the implementation of this policy.

In addition we will consider the recovery of a proportion of relevant appeals in the Green Belt for the Secretary of State's decision to enable him to illustrate how he would like his policy to apply in practice. Such appeals will be considered for recovery under the criterion set out in 2008: "There may on occasion be other cases which merit recovery because of the particular circumstances."

After six months we will review the situation to see whether it is delivering our objective of protecting land from intentional unauthorised development.

The National Planning Policy Framework makes clear that most development in the Green Belt is inappropriate and should be approved only in very special circumstances. Consistent with this, this Statement confirms the government's policy that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

This statement has also been made in the House of Commons: HCWS423

APPENDIX 13

The Planning Inspectorate

Appeal Decision

Hearing held on 6 February 2019

Site visit made on 6 February 2019

by Rachel Walmsley BSc MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2019

Appeal Ref: APP/C3430/W/18/3201530
122 Streets Lane, Cheslyn Hay WS6 7AW

- 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 Barry Birch against the decision of South Staffordshire Council.
- The application Ref 17/00572/COU, dated 20 June 2017, was refused by notice dated 3 November 2017.
- The development proposed is change of use of land for use as a caravan site for the applicants family.

Decision

1. The appeal is dismissed.

Procedural matters

2. A revised version of the National Planning Policy Framework (the Framework)[1] has been published since the appeal was lodged. Both main parties were given the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework and any comments received in reaching my decision.

3. At the time of my site visit caravans were present on the appeal site, albeit not in the location or to the specification applied for in the planning application. I have therefore decided the appeal on the basis of what I saw on site and the evidence before me.

Main Issues

4. These are:

(i) whether the proposal would be inappropriate development in the Green Belt, taking into account the effect of the proposal on the openness of the Green Belt and the purposes of including land within it; and,

(ii) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other

[1] National Planning Policy Framework, Ministry of Housing, Communities and Local Government (July 2018)

considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development and openness

5. The Framework (paragraph 133) indicates that openness is an essential characteristic of the Green Belt with a fundamental aim of Green Belt policy being to prevent urban sprawl and keep land permanently open. There is a general presumption against inappropriate development in the Green Belt unless very special circumstances exist. Most new development should be regarded as inappropriate, but for certain defined exceptions.

6. The main parties agree that the development would be inappropriate development in the Green Belt. The three caravans proposed would extend the presence of structures in the landscape beyond a line of frontage development and therefore into the countryside. Given the form and scale of the caravans, they would also be a notable feature on an open and development free area of land. The proposal would therefore result in a loss of openness and an encroachment into the countryside.

7. The openness of the Green Belt has a spatial as well as a visual aspect. Visually the development would be largely obscured from views from the highway by an existing property and boundary landscaping which front the appeal site. Boundary landscaping along the other three sides of the site would also help screen the caravans from local views. Nonetheless the landscaping would not obscure or minimise the presence of the development in a way that the openness of the Green Belt could be said to be preserved.

8. My attention is drawn to an appeal[2] which found that the development proposed would have a limited effect on the openness of the Green Belt because of an existing progression of built features into the Green Belt and high conifer hedges. I have found that at the appeal site the landscaping would do little to mitigate the harm to the openness of the Green Belt and there is no development that exists within the Green Belt that sets a precedent for development to progress further into it. As such the appeal decision carries limited weight in favour of the appeal.

9. The proposal would result in a loss of openness of the Green Belt and an encroachment into the countryside which would be contrary to a fundamental aim of Green Belt policy as set out in the Framework.

10. Policy H6 of the Core Strategy[3] grants planning permission in suitable locations for additional pitches for gypsies, travellers and travelling showpeople in accordance with the national Planning Policy for Traveller Sites (PPTS), the Framework and criteria 1-9 listed within the policy. I concur with the main parties that criterion 8 (a) is the most relevant and disputed criterion. Whilst landscaping would help to mitigate the visual impact of the development, I have found that the proposal would have a demonstrably harmful impact on the openness of the Green Belt. As such the development would be contrary to criterion 8 (a) of policy H6.

[2] APP/C3430/W/17/3187057
[3] South Staffordshire Council, Core Strategy Development Document (Adopted 11 December 2012)

11. As with an appeal before me[4], the development performs well against most of the criteria within policy H6. Whilst this carries some weight in favour of the proposal, the development would have a demonstrably harmful impact on the openness of the Green Belt. In accordance with the Framework, substantial weight must be given to this harm.

Other considerations

Need for and supply of sites

12. The PPTS indicates in Policy B that Councils should be able to demonstrate a five-year supply of deliverable sites to meet the identified need for gypsy and traveller accommodation. The Council accepts that it cannot demonstrate an adequate five-year supply.

13. The Council's most recent Gypsy and Traveller Accommodation Assessment (GTAA) dated 2017 indicates that there is an established need for 48 new pitches in the five-year period 2016-2021. The Site Allocations Document (SAD)[5] allocates 20 new pitches which is substantially short of the number of pitches needed. The Council confirmed that the remaining supply will come through sites that meet policy requirements. With a large percentage of undeveloped land in the district being Green Belt and with no alternative sites available, a supply of sites to meet the need identified is not immediately forthcoming.

14. I find that the Council cannot demonstrate a five-year supply of deliverable sites to meet the identified need for gypsy and traveller accommodation. The PPTS makes it clear that where a proposal is on land designated as Green Belt, the lack of an up-to-date five-year supply of deliverable sites is not a significant material consideration when considering proposals for the grant of temporary planning permission. As the appeal proposal is for a permanent development, it would have a greater impact on the Green Belt than a temporary site, and I consider that the lack of an adequate supply of sites to meet the general need for accommodation carries only moderate weight.

Alternative sites

15. With no vacant pitches on publicly available sites and private sites being full, I am satisfied that there are no suitable alternative sites available for the appellant and his extended family.

16. The large percentage of the borough designated as Green Belt restricts the potential for a suitable site. Whilst policy H6 of the Core Strategy provides for traveller development, the restrictive approach taken by planning policy to development in the Green Belt means that the matter of alternative sites carries important weight in support of the appeal proposal.

Personal need and circumstances

17. At the date of the hearing the appellant, Mr Barry Birch and his wife Ceylon and their children Barry Birch (Jnr) and his wife Laney Birch, Brad Birch (age 19), Hazel Birch (age 18) and Cole Birch (age 15) were living in caravans on the appeal site. The family comprise four households; Barry and Ceylon Birch; Barry (Jnr) and Laney Birch; Hazel Birch; and Brad and Cole Birch. If the

[4] APP/Q4625/C/13/2209742 & APP/Q4625/C/13/2209777
[5] Site Allocations Document (adopted 11 September 2018)

appeal is allowed, Barry and Ceylon Birch would live in the existing bungalow, once works to it are complete, and other family members in the three caravans proposed.

18. I heard that the male members of the family carry out manual work, including gardening and property maintenance, and travel within around fifty miles of the appeal site to seek and carry out this work. The Council does not dispute traveller status and having regard to the definition in Annex 1 of the PPTS, I am satisfied that the occupants of the appeal site are travellers for the purpose of planning policy.

19. The family have moved from site to site for many years, stopping at the side of the road for limited periods of time. They have more recently resided at the appeal site following their decision to live closer to and offer support to their son Brad who was the first to move to the site. The appellant is seeking a settled base so that his immediate and extended family can live together. The appellant owns the appeal site which makes it a logical and convenient place to reside.

20. There are no alternative sites available to the appellant. The Council re-affirmed this position stating that there were no publicly available sites for the appellant and his family to reside. The appellant had not considered what he would do if the appeal was dismissed but strongly held the view that it would put the family in a difficult position of having no-where to reside which, in turn, would exacerbate the health problems members of his family currently suffer.

21. At the time of the hearing three family members were suffering with a shared health problem that requires regular medication. I have no written evidence of the medical condition, nor did I hear that proximity to the doctors surgery in Cheslyn Hay was imperative. Nonetheless I did hear that being registered at a local surgery has enabled those concerned to receive prescribed medication. In addition, two family members visit the doctors on a weekly and monthly basis respectively which has been made possible since living on the appeal site which is within a reasonable travelling distance of a doctor's surgery. Another family member visits Cannock Hospital every six months. The hospital is within about three miles of the appeal site making visits convenient and possible.

22. There are no children within the family who attend school currently but it was suggested that children may do so in the future and the proximity of the site to local schools would facilitate this. With no children requiring education at the time of the hearing, the matter of education carries little favourable weight. Nonetheless access to medical services as described is an important factor in support of the appeal proposal and in light of the above I accord moderate weight to the personal need of the appellant and his extended family for accommodation.

Whether the harm is clearly outweighed by other considerations

23. The Framework advises that inappropriate development should not be approved except in very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

24. The substantial harm caused by reason of inappropriateness and the significant impact on openness and the harm to Green Belt purposes carries substantial weight against the proposal.

25. In favour of the appeal is the unmet need for sites within the district. This carries moderate weight in favour of the development, as does the failure of the Council to meet that need. The lack of alternative sites for the appellant and his family also provides important weight in favour of the appeal. The proposed development would enable the family to maintain their economic connections with the area and access health services justified by their personal circumstances. This carries moderate weight in favour of the proposal. Also in favour of the appeal is the limited weight to the favourability of the site in the context of policy H6 and the many criteria listed. However, whilst general need and personal need are important factors, in accordance with the PPTS and subject to the best interests of the child, they do not justify permanent harm to the Green Belt. Furthermore, the weight to compliance with criteria in policy H6 is limited and does not clearly outweigh the substantial harm to the Green Belt.

26. Although the application is for a permanent permission I have considered the option of a temporary permission. A temporary permission would give the family an opportunity to pursue a site through the current review of the local plan. However, a temporary permission would not overcome the harm found to the Green Belt as a result of caravans being on the appeal site. In addition and crucially, paragraph 27 of the PPTS advises that if a local planning authority cannot demonstrate an up-to-date supply of deliverable sites, this cannot be a significant material consideration when considering applications for the grant of temporary planning permission where the development proposed is in the Green Belt. A temporary permission, therefore, would not be appropriate.

27. In my considerations I have taken into account the human rights of the appellant and his extended family. Dismissal of the appeal would result in the family continuing to travel with no settled base for their caravans. This would represent an interference with the best interests of the children and with the occupants' homes, their family life and their livelihoods, as detailed within their rights under Article 8 of the European Convention on Human Rights. This adds weight in favour of the appeal.

28. However, these are qualified rights and interference may be justified where in the public interest. I turn to the matter of proportionality. The harm that would be caused by the development to the Green Belt would be substantial. In this case it outweighs the human rights of the families and the best interests of the children. Despite the need for pitches, the lack of a five-year supply, the lack of alternative sites and other matters weighing in the appellant's favour, I have concluded that the granting of a temporary or permanent planning permission would not be appropriate. Therefore, the legitimate aim of the protection of the Green Belt cannot be achieved by any means which are less interfering with the appellant's and family's rights.

29. I therefore conclude that the matters in favour of the proposal do not clearly outweigh the identified harm to the Green Belt and the conflict this creates with the development plan and the Framework. As such these matters do not

amount to the very special circumstances necessary to justify inappropriate development on a permanent or temporary basis.

Conclusion

30. None of the suggested conditions would overcome my objection to the appeal proposal. As such, for the reasons given above and having regard to all other matters raised, I conclude that the appeal is dismissed.

R Walmsley

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Barry Birch	
Barry Birch (Jnr)	
Brad Birch	
Cole Birch	
Philip Brown	Phillip Brown Associates

FOR THE LOCAL PLANNING AUTHORITY:

Paul Turner	South Staffordshire Council
Lucy MacDonald	South Staffordshire Council

INTERESTED PERSONS:

Jak Abrahams	Local Resident
Margaret Baggott	Local Resident
Lynda McBurnik	Local Resident
Janet Ceney	Local Resident
J Fletcher	Local Resident
M Fletcher	Local Resident
L Kilby	Local Resident
S Kilby	Local Resident
Audrey Kingston	Local Resident
Paul Kingston	Local Resident
Cllr Kath Perry	Great Wyrley Parish Council
Cllr Ray Perry	Great Wyrley Parish Council

DOCUMENTS SUBMITTED DURING THE HEARING:

Document 1 – Signed and dated copy of the Statement of Common Ground

Document 2 – Appeal decision ref APP/C3430/W/17/3187057

Document 3 – Planning Enforcement Notice re16/00541/UNDEV dated 23 November 2017

Document 4 – Third party objection, Cllrs R.J and Mrs K.M Perry

APPENDIX 14

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 15

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 16

Sykes v Secretary of State for Housing, Communities and Local Government and Runnymede Borough Council

[2020] EWHC 112 (Admin)

Queen's Bench Division (Planning Court)

Lang J28 January 2020

Judgment

Marc Willers QC (instructed by **Deighton Pierce Glynn**) for the **Claimant**
Caroline Bolton (instructed by **Legal Services**) for the **Second Defendant**
The **First Defendant** did not attend and was not represented
Hearing dates: 17 & 18 December 2019

- - - - - - - - - - - - - - - - - - - -

Approved Judgment
Mrs Justice Lang:

1. 1. The Claimant applies under section 288 of the Town and Country Planning Act 1990 ("the TCPA 1990") to quash the decision of the First Defendant, dated 9 May 2019, by which his Inspector dismissed an appeal under section 78 TCPA 1990 against the refusal by Runnymede Borough Council ("the Council") of an application for planning permission for a change of use of land, to use as a residential caravan site, at Adas Farm, Hardwick Lane, Lyne, Chertsey, Surrey KT16 0BH ("the Site").

1. 2. The Site, which is about 1.5 ha (3.7 acres) in size, is in the Green Belt, in a semi-rural area with low density housing. It is also within 5 km of the Thames Basin Heaths Special Protection Area.

1. 3. The Claimant is a Romani Gypsy. He is part of a group of Gypsy and Traveller households (hereinafter referred to as "the Group") who wish to live together on the Site in their caravans. The Group comprises families who are related to one another, and longstanding friends, who are members of the Light and Life Evangelical Church. There are 23 households, comprising about 86 adults and children. They have purchased individual plots of land from the Site's owner, who is related to some members of the Group.

1. 4. The application for planning permission and the subsequent appeal was made by another member of the Group, Mr Nino Lee (referred to as "the Appellant" in this judgment). The application for planning permission was retrospective because, over the Bank Holiday weekend at the beginning of May 2017, members of the Group went ahead and developed the Site for their use, and entered into occupation of it, in breach of planning controls. The Site, which was previously predominantly wooded, with a grassed clearing, was stripped of most of its trees and other vegetation, and largely covered with hardstanding.

1. 5. Following a High Court injunction granted on 5 May 2017, the Group vacated the Site, but the unauthorised development has remained ever since. The Council issued an enforcement notice on 30 June 2017 requiring restoration, but that was also appealed by Mr Lee. The Inspector allowed the enforcement appeal solely in respect of the length of time provided for compliance, substituting a period of 6 months.

1.

6. The Claimant accepted that the First Defendant's decision to refuse permanent planning permission could not be challenged, for the reasons he gave. His claim under section 288 TCPA 1990 was solely in respect of the refusal of temporary planning permission.

1.

7. The Council contested the claim on all grounds. However, the First Defendant conceded the Claimant's ground 4(a), namely, that the Inspector failed to provide adequate reasons to address the question whether suitable permanent sites might become available in neighbouring areas by the end of a period of temporary planning permission. On that basis the First Defendant accepted that the decision should be quashed and remitted for redetermination.

1.

8. Permission was given on the papers by Sir Wyn Williams, sitting as a Judge of the High Court, on 19 August 2019. In response to the Claimant's skeleton argument, the First Defendant filed written representations in relation to ground 1 (discrimination against ethnic Gypsies and Travellers). At the hearing, the Claimant did not pursue grounds 1 and 2 of his pleaded grounds.

The application for planning permission

1.

9. By an application dated 1 May 2017, which was amended on 10 July 2017, the Appellant applied for permission for 13 pitches, to be laid out either side of a central spine access road. The 13 pitches would accommodate up to 23 households.

1.

10. The Council refused planning permission on 28 March 2018, for a number of reasons. Those which are material to this challenge relate to the protection of the Green Belt. The Council concluded that the change of use of the land for a residential caravan site and associated hardstanding and buildings constituted “inappropriate development” which was by definition harmful, and had a harmful impact on the openness of the Green Belt. It resulted in encroachment of built form into the Green Belt which conflicted with the purposes of inclusion of the land within the Green Belt. There were no very special circumstances that outweighed the harm to the Green Belt and other harm. The proposal failed to comply with Saved Policy GB1 of the Local Plan and guidance in the National Planning Policy Framework.

1.

11. The Inspector's conclusions were set out in his Decision Letter (“DL”) as follows:

1.

“*Planning balance*

1.

39. By definition, inappropriate development is harmful to the Green Belt, and further harm arises through the loss of openness and encroachment on the countryside, the more so given the considerable size of the development. Each of these must be accorded substantial weight, and I have also found that the intentional nature of the unauthorised development should be accorded significant weight.

1.

40. The sum of this harm must be balanced against the factors in favour of the proposal. At present, the borough has a significant level of unmet need for traveller sites, as is the case regionally and nationally, and this carries significant weight. The Council has a poor record of bringing forward sites through the development plan process, there is not a 5-year supply of sites and I am far less confident than the Council that its current approach to future provision is likely to see the shortfall overcome within the next 5 years. These are also matters to which I attribute significant weight.

1.

41. The lack of an alternative site is a matter that would normally also add significant weight in favour of an appeal, but the circumstances of the prospective occupiers are not all the same, so I have had to consider whether less weight should be accorded to this matter in this case. To be a realistic alternative, accommodation has to be suitable, available, affordable and acceptable. In this case many of the households who occupied the site and who remain prospective occupiers have got alternative lawful sites to live on. They consider them to be unsuitable or unacceptable for reasons of overcrowding, fear of crime or insecurity of tenure, but neither the overcrowding point nor that of fear of crime stood up well to scrutiny, and on the sites where security of tenure was an issue the households concerned had long

connections with those sites and appeared able to return to them when required. For those who would not reveal where they were living, I could not conclude with any certainty that they did not have access to alternative accommodation, although I have no reason to doubt their oral evidence that wherever they are currently staying is unauthorised.

1.

42. Notwithstanding, however, that some prospective occupants have access to alternative accommodation, there are qualitative aspects to traveller site provision that are often overlooked in quantitatively oriented accommodation assessments. I have formed the view that the impetus for moving onto the site was a combination, in roughly equal parts, of a genuine need for an affordable pitch by, primarily, close relatives of the then landowner, and the aspiration, on the part of those who already had alternative pitches, to live on a better site with like-minded people. In this context the personal need for a site is clearly more pressing for some of the prospective occupiers than others, but the group as a whole still have what I see as a legitimate aspiration of being able to live in the safe, secure and mutually supportive community that they had planned for the appeal development, and for which no alternative site has been identified. In these circumstances I consider that this matter can be accorded significant weight, particularly as the opportunity for the households to live together for mutual support is characteristic of the traveller way of life. The proposal would therefore be consistent with the Government's aim of facilitating the traditional and nomadic way of life of travellers.

1.

43. Similarly, the personal circumstances of the prospective occupants, so far as they are material planning considerations, vary significantly, but I consider that they are worthy of very significant weight. I heard compelling evidence that the particular environment of the appeal development would be of considerable assistance in the management of the severe conditions affecting some of the children, and having a settled base would ensure that the many children who would live at the site had the stable access to education and health services that was, in most cases, denied their parents. The families of the children with the most pressing needs have been able to access appropriate specialist services in the area despite not living at the appeal site, but these might be at risk if they are unable to find suitable stable accommodation in the wider area at least. It would undoubtedly be in the best interests of those children who do not currently benefit from a stable base to have one from which to access education and health services. This also adds significant weight in favour of the appeal.

1.

44. In balancing these opposing considerations and their respective weight, however, I consider that the Green Belt harm supplemented by the weight arising from the intentional unauthorised nature of the development is not clearly outweighed by the weight of the other considerations. It follows that the very special circumstances necessary to justify a grant of planning permission for the development in the Green Belt do not exist. The development therefore conflicts with LP Policy GB1 and the development plan read as a whole, and with national planning policy.

1.

45. I have also considered whether a temporary permission would be justified, given that the Green Belt harm would be reduced. The principal justification for a temporary permission in a case such as this is that at the end of it there would be a realistic likelihood of the occupants being able to move to suitable alternative accommodation. Taking the group as a whole, and the Council's current position on future provision, I consider it very unlikely that such a site would become available by the end of the four year period suggested by the appellant, and I consider it quite unlikely that all or even most of the 23 individual households would, individually, have suitable accommodation to move to after that period. Further, given the substantial nature of the development, which has now been in place for over 2 years, I consider that reduction in Green Belt harm due to time-limiting would still not reduce the overall harm to a level where it would be clearly outweighed by the considerations in favour of the appeal.

1.

46. It has been submitted that planning permission, or even temporary planning permission, could be granted for some plots only, on the basis of according different weights to the prospective occupiers' circumstances and carrying out the balancing exercise on a per plot basis. I do not believe that that would

be an appropriate approach in a case such as this where the application is for the development as a whole, much of the infrastructure would still be required and it concerns land that was previously entirely undeveloped, but I consider in any case that such an approach would not alter the respective weights so much as to indicate a different outcome.

1.

47. That being so, it follows that very special circumstances do not exist to justify planning permission for the development, or any part of it, on either a temporary or permanent basis. I have reached this conclusion having borne in mind my public sector equality duty throughout.

1.

Human rights

1.

48. Dismissal of the appeal would not make any of the prospective occupiers immediately homeless, but it would deprive the prospective occupants of the possibility of establishing a home on the appeal site, and of living in the family or community environment that they aspire to. Bearing in mind also that it is likely that many of the prospective occupiers do not have a lawful home at present, I accept that dismissal would represent an interference with their rights under Article 8 of the … European Convention on Human Rights.

1.

49. However, the protection of Green Belts is an important aim of local and national planning policies. The protection of the Green Belt is therefore a legitimate objective in the public interest, and has a clear basis in the relevant planning legislation. In these circumstances, some interference with Article 8 rights is permissible, and I consider that the protection of the public interest cannot be achieved by means which are less interfering with the prospective occupiers' rights. They are proportionate and necessary and hence would not result in a violation of rights under Article 8.

1.

Overall conclusion

1.

50. For the reasons set out above, I conclude that the appeal development, which was intentional unauthorised development, would cause unacceptable harm to the Green Belt. That harm is not outweighed by any of the other considerations, including the need for more gypsy and traveller sites in the area, or the prospective occupiers' personal circumstances, on either a temporary or permanent basis. I have taken account of all the other matters raised, but none changes these conclusions. The appeal is therefore dismissed…."

Statutory and policy framework

1.

12. The Claimant relied upon the "seven familiar principles" set out by Lindblom J. in *Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government* [2014] EWHC 754 (Admin), at [19].

1.

(i) Applications under section 288 TCPA 1990

1.

13. Under section 288 TCPA 1990, a person aggrieved may apply to quash a decision on the grounds that (a) it is not within the powers of the Act; or (b) any of the relevant requirements have not been complied with, and in consequence, the interests of the applicant have been substantially prejudiced.

1.

14. The general principles of judicial review are applicable to a challenge under section 288 TCPA 1990. Thus, the Claimant must establish that the Secretary of State misdirected himself in law or acted irrationally or failed to have regard to relevant considerations or that there was some procedural impropriety.

1.

15. The exercise of planning judgment and the weighing of the various issues are matters for the decision-maker and not for the Court: *Seddon Properties Ltd v Secretary of State for the Environment* (1981) 42 P & CR 26. As Sullivan J. said in Newsmith v Secretary of State for the Environment, Transport and the Regions [2001] EWHC Admin 74, at [6]:

1.

"An application under section 288 is not an opportunity for a review of the planning merits….."

1.

16. In *Hopkins Homes Ltd v Secretary of State for Communities and Local Government* [2017] 1 WLR 1865, Lord Carnwath giving the judgment of the Supreme Court warned, at paragraph 23, against over-legalisation of the planning process. At [24] to [26], he gave guidance that the courts should recognise the expertise of the specialist planning inspectors and work from the presumption that they will have understood the policy framework correctly. Inspectors are akin to expert tribunals who have been accorded primary responsibility for resolving planning disputes and the courts have cautioned against undue intervention by the courts in policy judgments within their areas of specialist competence. Recourse to the courts may sometimes be needed to resolve distinct issues of law, or to ensure consistency of interpretation in relation to specific policies. But issues of interpretation, appropriate for judicial analysis, should not be elided with issues of judgment in the application of that policy.

1.

17. A decision letter must be read (1) fairly and in good faith, and as a whole; (2) in a straightforward down-to-earth manner, without excessive legalism or criticism; (3) as if by a well-informed reader who understands the principal controversial issues in the case: see Lord Bridge in *South Lakeland v Secretary of State for the Environment* [1992] 2 AC 141, at 148G-H; Sir Thomas Bingham MR in *Clarke Homes v Secretary of State for the Environment* (1993) 66 P & CR 263, at 271; Seddon Properties Ltd v Secretary of State for the Environment (1981) 42 P & CR 26, at 28; and South Somerset District Council v Secretary of State for the Environment (1993) 66 P & CR 83.

1.

18. Two citations from the authorities listed above are of particular relevance to the disputed issues in this case.

1.

a) *South Somerset District Council*, per Hoffmann LJ at 84:

1.

"...as Forbes J. said in *City of Westminster v Haymarket Publishing Ltd*:

1.

"It is no part of the court's duty to subject the decision maker to the kind of scrutiny appropriate to the determination of the meaning of a contract or a statute. Because the letter is addressed to parties who are well aware of all the issues involved and of the arguments deployed at the inquiry it is not necessary to rehearse every argument relating to each matter in every paragraph."

1.

The inspector is not writing an examination paper on current and draft development plans. The letter must be read in good faith and references to policies must be taken in the context of the general thrust of the inspector's reasoning ... Sometimes his statement of the policy may be elliptical but this does not necessarily show misunderstanding. One must look at what the inspector thought the important planning issues were and decide whether it appears from the way he dealt with them that he must have misunderstood a relevant policy or proposed alteration to policy."

1.

b) *Clarke Homes*, per Sir Thomas Bingham MR at 271-2:

1.

"I hope I am not over-simplifying unduly by suggesting that the central issue in this case is whether the decision of the Secretary of State leaves room for genuine as opposed to forensic doubt as to what he has decided and why. This is an issue to be resolved as the parties agree on a straightforward down-to-earth reading of his decision letter without excessive legalism or exegetical sophistication."

1.

19. An inspector is under a statutory duty to give reasons for his decision, pursuant to rule 19 of the Town and Country Planning Appeals (Determination by Inspectors)(Inquiries Procedure)(England) Rules 2000.

1.

20. In *South Buckinghamshire District Council v Porter* (No 2) [2004] 1 WLR 1953, Lord Brown reviewed the authorities and gave the following guidance on the nature and extent of the inspector's duty to give reasons:

1.

"36. The reasons for a decision must be intelligible and they must be adequate. They must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the 'principal important controversial issues', disclosing how any issue of law or fact was resolved. Reasons can be briefly stated, the degree of particularity required depending entirely on the nature of the issues falling for decision. The reasoning must not give rise to a substantial doubt as to whether the decision-maker erred in law, for example by misunderstanding some relevant policy or some other important matter or by failing to reach a rational decision on relevant grounds. But such adverse inference will not readily be drawn. The reasons need refer only to the main issues in the dispute, not to every material consideration. They should enable disappointed developers to assess their prospects of obtaining some alternative development permission, or, as the case may be, their unsuccessful opponents to understand how the policy or approach underlying the grant of permission may impact upon future such applications. Decision letters must be read in a straightforward manner, recognising that they are addressed to parties well aware of the issues involved and the arguments advanced. A reasons challenge will only succeed if the party aggrieved can satisfy the court that he has genuinely been substantially prejudiced by the failure to provide an adequately reasoned decision."

1.

21. In *Save Britain's Heritage v Number 1 Poultry Limited* [1991] 1 WLR 153, Lord Bridge confirmed the requirement of substantial prejudice, at 167D-E:

1.

"The single indivisible question, in my opinion, which the court must ask itself whenever a planning decision is challenged on the ground of a failure to give reasons is whether the interests of the applicant have been substantially prejudiced by the deficiency of the reasons given."

1.

22. The Supreme Court, in *R (CPRE Kent) v Dover District Council* [2017] UKSC 79, [2018] 1 WLR 108 affirmed Lord Brown's formulation in the *South Bucks* case; per Lord Carnwath at [35] to [42]. In rejecting the submission that the deficiency in reasons did not justify the quashing of the grant of planning permission, Lord Carnwath held, at [68] that the inadequate reasoning of the Planning Committee:

1.

"raises a "substantial doubt" (in Lord Brown's words) as to whether they had properly understood the key issues or reached "a rational conclusion on them on relevant grounds". This is a case where the defect in reasons goes to the heart of the justification for the permission and undermines its validity. The only appropriate remedy is to quash the permission."

1.

(ii) Decision-making

1.

23. Section 70(2) TCPA 1990 provides that the decision-maker shall have regard to the provisions of the development plan, so far as material to the application. Section 38(6) of the Planning and Compulsory Purchase Act 2004 ("PCPA 2004") provides:

1.

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise."

1.

24. In *City of Edinburgh Council v Secretary of State for Scotland* 1998 SC (HL) 33, [1997] 1 WLR 1447, Lord Clyde explained the effect of this provision, beginning at 1458B:

1.

"Section 18A [the parallel provision in Scotland] has introduced a priority to be given to the development plan in the determination of planning matters……

1.

By virtue of section 18A the development plan is no longer simply one of the material considerations. Its provisions, provided that they are relevant to the particular application, are to govern the decision unless there are material considerations which indicate that in the particular case the provisions of the plan should not be followed…..If it is helpful to talk of presumptions in this field, it can be said that there is now a presumption that the development plan is to govern the decision on an application for planning permission….. Thus the priority given to the development plan is not a mere mechanical preference for it. There remains a valuable element of flexibility. If there are material considerations indicating that it should not be followed then a decision contrary to its provisions can properly be given.

1.

Moreover the section has not touched the well-established distinction in principle between those matters which are properly within the jurisdiction of the decision-maker and those matters in which the court can properly intervene. It has introduced a requirement with which the decision-maker must comply, namely the recognition of the priority to be given to the development plan. It has thus introduced a potential ground on which the decision-maker could be faulted were he to fail to give effect to that requirement. But beyond that it still leaves the assessment of the facts and the weighing of the considerations in the hands of the decision-maker. It is for him to assess the relative weight to be given to all the material considerations. It is for him to decide what weight is to be given to the development plan, recognising the priority to be given to it. As Glidewell J observed in *Loup v Secretary of State for the Environment* (1995) 71 P & C.R. 175, 186:

1.

"What section 54A does not do is to tell the decision-maker what weight to accord either to the development plan or to other material considerations."

1.

Those matters are left to the decision-maker to determine in the light of the whole material before him both in the factual circumstances and in any guidance in policy which is relevant to the particular issues."

1.

25. This statement of the law was approved by the Supreme Court in *Tesco Stores Limited v Dundee City Council* [2012] UKSC 13, [2012] PTSR 983, per Lord Reed at [17].

1.

26. In *Tesco Stores Limited v Secretary of State for the Environment* [1995] 1 WLR 759, Lord Hoffmann explained, at 780F-H:

1.

"The law has always made a clear distinction between the question of whether something is a material consideration and the weight which it should be given. The former is a question of law and the latter is a question of planning judgment, which is entirely a matter for the planning authority. Provided that the planning authority has regard to all material considerations, it is at liberty (provided that it does not lapse into Wednesbury irrationality) to give them whatever weight the planning authority thinks fit or no weight at all. The fact that the law regards something as a material consideration therefore involves no view about the part, if any, which it should play in the decision-making process.

1.

The distinction between whether something is a material consideration and the weight which it should be given is only one aspect of a fundamental principle of British planning law, namely that the courts are concerned only with the legality of the decision-making process and not with the merits of the decision. If there is one principle of planning law more firmly settled than any other, it is that matters of planning judgment are within the exclusive province of the planning authority or the Secretary of State."

1.

27. In *Bolton MBC v Secretary of State for the Environment* [1991] 61 P & CR 343, Glidewell LJ, at 352, analysed the duty to take into account relevant considerations as follows:

1.

"1. The expressions used in the authorities that the decision maker has failed to take into account a matter which is relevant, which is the formulation for instance in Forbes J.'s judgment in *Seddon Properties,* or that he has failed to take into consideration matters which he ought to take into account, which was the

way that Lord Greene put it in *Wednesbury* and Lord Denning in *Ashbridge Investments,* have the same meaning.

1.

2. The decision maker ought to take into account a matter which might cause him to reach a different conclusion to that which he would reach if he did not take it into account. Such a matter is relevant to his decision making process. By the verb "might," I mean where there is a real possibility that he would reach a different conclusion if he did take that consideration into account.

1.

3. If a matter is trivial or of small importance in relation to the particular decision, then it follows that if it were taken into account there would be a real possibility that it would make no difference to the decision and thus it is not a matter which the decision maker ought to take into account.

1.

4. As Hodgson J. said, there is clearly a distinction between matters which a decision maker is obliged by statute to take into account and those where the obligation to take into account is to be implied from the nature of the decision and of the matter in question. I refer back to the *Creed N.Z.* case.

1.

5. If the validity of the decision is challenged on the ground that the decision maker failed to take into account a matter in the second category, it is for the judge to decide whether it was a matter which the decision maker should have taken into account.

1.

6. If the judge concludes that the matter was "fundamental to the decision," or that it is clear that there is a real possibility that the consideration of the matter would have made a difference to the decision, he is thus enabled to hold that the decision was not validly made. But if the judge is uncertain whether the matter would have had this effect or was of such importance in the decision-making process, then he does not have before him the material necessary for him to conclude that the decision was invalid.

1.

7. (Though it does not arise in the circumstances of this case). Even if the judge has concluded that he could hold that the decision is invalid, in exceptional circumstances he is entitled nevertheless, in the exercise of his discretion, not to grant any relief."

1.

28. The parties agreed that the court, in deciding whether or not to exercise its discretion to grant relief, should apply the test in *Simplex GE (Holdings) and Anor v Secretary of State for the Environment and Anor* [1989] 57 P & CR 306. In *Simplex*, the Court of Appeal quashed a decision of the Secretary of State, which contained an admitted error, because the court was not satisfied that, absent the error, the decision would necessarily have been the same (per Purchas LJ, at 327) and the decision might have been different (per Staughton LJ, at 329). The *Simplex* test has been regularly adopted in statutory reviews under section 288 TCPA 1990: see, for example, *Secretary of State for Communities and Local Government v South Gloucestershire Council* [2016] EWCA Civ 74, where Lindblom LJ described it as a "stringent test", at [25].

1.

(iii) Human rights and the best interests of the child

1.

29. Article 8 of the European Convention on Human Rights provides:

1.

"(1) Everyone has a right to respect for his private and family life, his home and his correspondence.

1.

(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

1.

30. When considering whether any interference with the rights protected by Article 8 is 'necessary in a democratic society' decision makers should apply the approach to proportionality set out in the case of *Bank Mellat v HM Treasury (No 2)* [2013] UKSC 38 by Lord Sumption, at [20]:

1.

"…an exacting analysis of the factual case advanced in defence of the measure, in order to determine (i) whether its objective is sufficiently important to justify the limitation of a fundamental right; (ii) whether it is rationally connected to the objective; (iii) whether a less intrusive measure could have been used; and (iv) whether, having regard to these matters and to the severity of the consequences, a fair balance has been struck between the rights of the individual and the interests of the community."

1.

31. Article 3(1) of the United Nations Convention on the Rights of the Child 1989 states that:

1.

"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

1.

32. In *Zoumbas v Secretary of State for the Home Department* [2013] UKSC 74, the Supreme Court, per Lady Hale at [10], approved the following principles:

1.

"(1) The best interests of a child are an integral part of the proportionality assessment under article 8 of the Convention; (2) in making that assessment, the best interests of a child must be a primary consideration, although not always the only primary consideration; and the child's best interests do not of themselves have the status of the paramount consideration; (3) although the best interests of a child can be outweighed by the cumulative effect of other considerations, no other consideration can be treated as inherently more significant; (4) while different judges might approach the question of the best interests of a child in different ways, it is important to ask oneself the right questions in an orderly manner in order to avoid the risk that the best interests of a child might be undervalued when other important considerations were in play; (5) it is important to have a clear idea of a child's circumstances and of what is in a child's best interests before one asks oneself whether those interests are outweighed by the force of other considerations; (6) to that end there is no substitute for a careful examination of all relevant factors when the interests of a child are involved in an article 8 assessment; and (7) a child must not be blamed for matters for which he or she is not responsible, such as the conduct of a parent."

1.

33. In the context of a planning appeal, the best interests of children affected must be treated as a primary consideration (albeit not the primary or the paramount consideration) when a decision maker considers whether the refusal of planning permission would amount to a disproportionate interference with their Article 8 rights: see the judgment of Hickinbottom J. in *Stevens v Secretary of State for Communities and Local Government and Guildford Borough Council* [2013] EWHC 792 (Admin), at [47] – [69].

1.

(iv) National policy

1.

National Planning Policy Framework

1.

34. The National Planning Policy Framework ("the Framework") (February 2019 edition) is a material consideration to be taken into account when applying section 38(6) PCPA 2004 in planning decision-making. It is policy not statute, but a decision maker who decides to depart from it must give cogent reasons for doing so.

1.

35. Section 13 of the Framework, headed "Protecting Green Belt land" provides materially as follows:

1.

"133. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

1.

…

1.

143. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

1.

144. 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.

1.

145. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are: …" *(the exceptions are not applicable in this case)*

1.

Planning Policy for Traveller Sites

1.

36. The First Defendant's Planning Policy for Traveller Sites (2015 edition) ("PPTS") is to be read in conjunction with the Framework and enjoys a similar status as a material consideration in planning decision-making.

1.

37. The Glossary defines "gypsies and travellers" as:

1.

"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."

1.

38. The First Defendant's "overarching aim is to ensure fair and equal treatment of travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community" (paragraph 3). To help achieve this, the First Defendant's aims include, at paragraph 4, the assessment of need by local planning authorities and provision to meet the assessed need.

1.

39. Paragraph 9 provides that local authorities should set pitch targets which address the likely accommodation needs of Travellers in their area. Paragraph 10(a) provides that local planning authorities should identify in their Local Plans, "a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets". Footnote 4 provides:

1.

"To be considered deliverable, sites should be available now, offer a suitable location for development, and be achievable with a realistic prospect that development will be delivered on the site within 5 years. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that the schemes will not be implemented within 5 years…."

1.

40. PPTS expressly protects the Green Belt, in the following ways.

1.

41. The policy objectives set out in paragraph 4 provide at sub - paragraph (d):

1.

"plan-making and decision-taking should protect Green Belt from inappropriate development"

1.

42. Under the heading "Policy E: Traveller sites in Green Belt", paragraphs 16 and 17 provide:

1.

"16. Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

1.

17. Green Belt boundaries should be altered only in exceptional circumstances. If a local planning authority wishes to make an exceptional, limited alteration to the Green Belt boundary (which might be to

accommodate a site inset within the Green Belt) to meet a specific, identified need for a traveller site, it should only do so through the plan-making process and not in response to a planning application. If land is removed from the Green Belt in this way, it should be specifically allocated in the development plan as a traveller site only."

1.

43. Under the heading "Policy H: Determining planning applications for traveller sites", paragraph 24 provides:

1.

"Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

1.

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

1.

b) the availability (or lack) of alternative accommodation

1.

c) other personal circumstances of the applicant

1.

d) ….

1.

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

1.

However, as paragraph 16 makes clear, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances."

1.

44. Paragraph 27 provides:

1.

"If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The exception is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and/or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads)."

1.

45. The previous edition of the PPTS in 2012, included a policy in similar terms to that in paragraph 27, but without the exceptions for Green Belt land and other protected land.

1.

Planning Practice Guidance ("PPG")

1.

46. Paragraph 27 cross-refers to the guidance on the grant of temporary planning permissions in the PPG. In the section headed "Use of Planning Conditions", paragraph 14 states:

1.

"**When can conditions be used to grant planning permission for a use for a temporary period only?**

1.

Under section 72 of the Town and Country Planning Act 1990 the local planning authority may grant planning permission for a specified temporary period only.

1.

Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.

1.

…

1.

It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of permission will then be granted permanently.

1.

…"

1.

Written Ministerial Statement 17 December 2015

1.

47. A written ministerial statement was made on 17 December 2015, concerning Green Belt protection and intentional unauthorised development. The Minister of State for Housing and Planning said:

1.

"This Statement confirms changes to national planning policy to make intentional unauthorised development a material consideration, and also to provide stronger protection for the Green Belt, as set out in the manifesto.

1.

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. Such cases can involve local planning authorities having to take expensive and time consuming enforcement action.

1.

For these reasons, we introduced a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. This policy applies to all new planning applications and appeals received since 31 August 2015.

1.

The Government is particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt.

1.

For this reason the Planning Inspectorate will monitor all appeal decisions involving unauthorised development in the Green Belt to enable the Government to assess the implementation of this policy.

1.

…..

1.

The National Planning Policy Framework makes clear that most development in the Green Belt is inappropriate and should be approved only in very special circumstances. Consistent with this, this Statement confirms the government's policy that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances."

Grounds of challenge

1.

48. The Claimant challenged the decision on the following grounds.

1.

Ground 3

1.

49. The decision of the Inspector to refuse temporary planning permission was unlawful in that he failed to take account of a material consideration, namely, the likelihood that members of the Group would be able to find suitable alternative accommodation elsewhere within the County of Surrey, outside the Borough of Runnymede, at the end of the temporary period.

1.

Ground 4

1.

50. The decision of the Inspector to refuse temporary planning permission was unlawful because he failed to provide adequate and intelligible reasons for his decision. The Claimant relied upon the three failures, which I set out below, and contended that each one was sufficient to render the decision unlawful.

1.

a) *A change in planning circumstances in the County of Surrey*

1.

The Inspector failed properly or at all to explain why he had limited his consideration of the likelihood of a change in planning circumstances to the prospect that there would be a suitable site or sites to accommodate some or all of the Group in the Borough of Runnymede, and why he had not also considered the prospect that such a site or sites would be available elsewhere within the County of Surrey.

1.

b) *A change in planning circumstances beyond the 4 year period*

1.

In Mr Willers QC's written Closing Submissions, at paragraph 132, the Inspector was invited to consider granting a temporary planning permission of "at least 4 years". The Inspector, at DL45, limited his consideration to "the end of the four year period" and failed to give reasons for not considering a period beyond 4 years.

1.

c) *The availability of accommodation at the end of a temporary period*

1.

The Inspector failed properly or at all to provide adequate and intelligible reasons for his conclusion in DL45 that it was "quite unlikely that all or even most of the 23 individual households would, individually, have suitable accommodation to move to after that period."

1.

Ground 5

1.

51. The decision of the First Defendant's Inspector to refuse temporary planning permission was unlawful in circumstances where he failed properly to consider granting planning permission for the residential use of fewer than 13 pitches.

1.

Ground 6

1.

52. The decision of the First Defendant's Inspector was unlawful because he failed to explain properly or at all why he considered that the grant of planning permission for the residential use of fewer than 13 pitches "would not alter the respective weights so much as to indicate a different outcome" (DL46).

Conclusions

1.

Grounds 3 and 4(a): accommodation elsewhere in Surrey

1.

53. It is convenient to consider Grounds 3 and 4(a) together. The Claimant submitted that the Inspector failed to take account of a material consideration, namely, the likelihood that members of the Group would be able to find suitable accommodation elsewhere within the County of Surrey, outside the Borough of Runnymede, at the end of the temporary period, thus satisfying the requirement in paragraph 14 of the PPG. It was also submitted that he failed to give any or any adequate reasons for only considering the availability of sites in the Borough, and not elsewhere in Surrey.

1.

54. In *Linfoot v Secretary of State for Communities and Local Government and Chorley Borough Council* [2012] EWHC 3514 (Admin), HH Judge Sycamore, sitting as a Judge of the High Court, quashed an inspector's decision refusing temporary planning permission for a Traveller Site on the basis that the inspector failed to take into account the possibility of sites arising in the wider area beyond the Borough of Chorley. The Judge concluded, at [30], that given the inspector's findings of a significant need for sites at regional and county level, it was reasonable to expect that sites would become available in the wider area.

1.

55. However, in *Beaver v Secretary of State for Communities and Local Government and South Cambridgeshire District Council* [2015] EWHC 1774 (Admin), Ouseley J. declined to follow *Linfoot*. At [20], he noted that in *Linfoot*, Chorley Borough Council had sufficient sites to meet the needs of Gypsies

in its area, and so there was no likelihood that a future needs assessment would show that Chorley needed to provide more sites. The shortage of sites was only at regional and county level. In contrast, in *Beaver*, the shortfall arose in the area of the District Council where the application for planning permission was made, and so that was the relevant area. Ouseley J. said, at [23]:

1.

"Although Mr Masters also cited Linfoot to support a contention that the Inspector here ought also to have considered the wider area of South Cambridgeshire at least and East Anglia more generally, it is unnecessary to go into that issue since the shortfall in this case arose in the area of the District Council in question, and whether or not it arose in other areas also is not relevant to the argument here about the right approach to the likelihood of changes in planning circumstances. If the argument that South Cambridgeshire District Council should be assumed to be preparing to change its policies to meet the shortfall is good, then what might happen elsewhere is irrelevant. It is not as though it was being argued either that South Cambridgeshire District Council had to meet a shortfall arising elsewhere or that elsewhere was going to change so as to meet a shortfall in South Cambridgeshire."

1.

56. Ouseley J. went on to consider the meaning of the guidance in paragraph 14 of the Planning Practice Guidance which provides that a grant of temporary permission may be appropriate "where it is expected that the planning circumstances will change in a particular way at the end of the period". At [25], he rejected the claimant's submission that such an expectation will arise wherever there is a shortfall in supply as it must be assumed that a local planning authority will take steps to overcome the shortfall, otherwise it could rely upon its own failings as a reason for refusal of temporary planning permission. Ouseley J. noted that the Guidance did not include any reference to this, and he considered that such an important point could not be inferred (at [26]).

1.

57. Ouseley J. preferred the interpretation of the guidance presented on behalf of the Secretary of State, and said at [27] – [29]:

1.

"27. Instead, the guidance requires a judgment as to what, in reality, is likely to change in the future. The planning circumstances which would need to change relate to the actual provision of permanent sites. There was no evidence that that was likely to happen here in the sort of period for which a temporary planning permission would be granted. A grant of a temporary planning permission based on a false assumption, however much the local planning authority may deserve such an assumption in one sense, would conflict with important parts of the guidance in two respects: (1) that second temporary planning permissions should not be granted, yet there would have been no change in planning circumstances on expiry of the first from those in which the first temporary permission was granted, and (2) a temporary permission should not be a route to a permanent permission except where it is a trial run. The policy, therefore, does not permit or expect unrealistic let alone false assumptions to be made, simply because the local planning authority should have been taking measures already or be planning to take them now. On the correct interpretation and approach, the Inspector's analysis contains no error of law. This is not a question of letting a local planning authority get away with its failings. An unmet current need, as here, is an important consideration for the grant of a permanent permission. If the local authority is failing to do what it should be doing and is not proposing to remedy its failings at an adequate pace so that no relevant change in planning circumstances is likely, the risk that it faces is that sites it regards as less suitable than others which might be brought forward will receive permission because no alternative is in sight. Were a temporary permission granted without a change in planning circumstances being likely, on its expiry either a second temporary permission would probably be refused or the permission would become permanent. The former would leave the position un-advanced but only without a further temporary permission; the latter would be contrary to the purpose of a temporary permission in the first place.

1.

28. The nettle should be grasped, therefore, in making a decision on the permanent planning permission and should not be put off by the grant of a temporary permission. But it should be emphasised that an Inspector, as here, or a local authority, is still entitled to reach the planning judgment that the harm done

by any particular site is too severe for a permanent planning permission to be granted, despite the unmet need and the absence of proposals to make the position good."

1.

29. I do not read paragraph 33 of the decision in Langton as adopting a different approach. As a general observation, what I have cited is sound, but I do not read it as a comment on the issue here since the arguments do not appear to have been raised or discussed. Linfoot contains no discussion either of the issues here, even if they were raised. I am not sure either that Linfoot as concerned with the broader point rather than the circumstances specific to the decision letter at issue."

1.

58. I agree with Ouseley J's analysis. I do not consider that, where there is a shortfall, it can be assumed that the local planning authority will overcome the shortfall by the end of a period of temporary permission. The likelihood of suitable accommodation becoming available at the end of the temporary permission period has to be decided on the actual evidence in any particular case. Moreover, temporary permission should not be granted as a way of ducking a difficult decision on the grant of permanent permission – as Ouseley J. said, the decision-maker should "grasp the nettle". In appropriate cases, the decision-maker is entitled to reach the planning judgment that the harm done by any particular site is too severe for permanent planning permission to be granted, despite the unmet need and the absence of proposals to make the position good. I consider that this principle applies with particular force to land in the Green Belt, in the light of national policy which protects the Green Belt (I note that the site in *Beaver* was not in the Green Belt).

1.

59. On the facts, this case was comparable to *Beaver*, not *Linfoot*, since the Appellant alleged that there was unmet need in the Borough of Runnymede. The focus of the appeal was on the position in the Borough, not in other areas of Surrey. In particular:

1.

i) The Appellant's Statement of Case in the appeal did not seek temporary permission and only referred to the supply of sites within the Borough of Runnymede, not elsewhere in Surrey.

1.

ii) The Council's Statement of Case referred to temporary permission (for the sake of completeness), and submitted that the harm that would arise from a temporary permission would not be outweighed by other considerations (paragraph 5.16). The Council did not refer to sites outside the Borough.

1.

iii) The Pre-Inquiry Meeting Agenda referred to the grant of permission on either a permanent or temporary basis, in the context of assessing whether there were very special circumstances which could justify the harm to the Green Belt. The list of "other considerations" included "the need for, and provision of, Gypsy Traveller sites (nationally, regionally and locally)". However, during the hearing the need for and provision of regional sites was only considered in general terms, as a factor to be weighed in the planning balance.

1.

iv) Mr Brown, the Appellant's planning consultant, submitted a lengthy proof of evidence dealing with the supply of sites in the Borough, but it did not refer to the likelihood of sites outside the Borough becoming available. Mr Brown did not refer to this issue in his oral evidence either.

1.

v) Both parties referred to the Runnymede Borough Council Gypsy and Traveller Accommodation Assessment ("GTAA"), dated January 2018, which was prepared by Opinion Research Services. Although it included a section on needs and supply in neighbouring authorities, this was not presented to the Inspector as part of the Appellant's case in support of a grant of temporary permission. Furthermore, I accept Ms Bolton's submission that the brief overview of provision in neighbouring areas in the GTAA did not indicate that accommodation suitable for some or all of the Group was likely to become available at the end of a temporary permission period.

1.

vi) The only other evidence in relation to sites in neighbouring authorities was a letter from Surrey County Council confirming that there were no available spaces on its sites and that there was a lengthy

waiting list for spaces. This evidence was adduced by the Appellant in support of the submission that there were no alternative sites available for the Group, not as part of any consideration of the likelihood of sites becoming available in the County by the end of a temporary planning permission.

1.

60. Despite the fact that the issue of suitable accommodation becoming available outside the Borough at the end of a temporary permission area had not been previously identified as part of the Appellant's case, Mr Willers QC relied upon this issue in his written Closing Submissions, where he said:

1.

"132. In the alternative, it is submitted that temporary planning permission ought to be granted for at least 4 years in order to enable this Council (and the neighbouring local authorities) to comply with the requirements of PPTS – by demonstrating that they have an up-to-date supply of deliverable sites.

1.

133. Such DPDs will be likely to assist the site residents to identify and then obtain planning permission for the use of another parcel or parcels of land in Surrey. In the meantime, they would have the benefit of a settled and secure base …."

1.

61. Mr Willers QC's Closing Submission followed the Council's Closing Submissions which are silent on this point. I accept that Ms Bolton did not consider that the likelihood of sites coming forward outside the Borough was in issue in the appeal, and that was why she did not refer to this point.

1.

62. Turning now to the Inspector's decision, after a detailed examination of the evidence, the Inspector found, at DL29, that the Council "cannot at present identify a supply of specific deliverable sites sufficient to provide 5 years worth of sites against their locally set targets". The lack of a 5 year supply of sites was not required to be treated as a significant material consideration when considering the grant of temporary planning permission, as paragraph 27 PPTS (2015 edition) no longer applies to Green Belt land. However, in response to the Appellant's submissions on this issue, the Inspector in this appeal did attribute significant weight to the unmet need in the Borough, and he also took it into account. In my view, he was entitled to do so. Paragraph 27 PPTS does not prevent a decision-maker from treating the lack of a 5 year supply of sites in the Green Belt as a significant material consideration; it just does not mandate the decision-maker to do so.

1.

63. The Inspector also took into account, in general terms only, the undisputed regional and national unmet need (DL31, DL40). On my reading of the decision, these references to the regional position were part of the Inspector's assessment of factors to be taken into account in the planning balance, not part of an assessment of the likelihood of accommodation becoming available at the end of a temporary period of planning permission.

1.

64. When the Inspector considered a grant of temporary planning permission at DL45, he concluded, on the evidence, that there was not a "realistic likelihood" of suitable accommodation becoming available in the Borough either for the Group as a whole, or for individual households, at the end of a 4 year period of temporary permission. He did not refer to the possibility that suitable accommodation might become available elsewhere in Surrey.

1.

65. In my judgment, it is probable that the Inspector did not refer to the alternative option of accommodation elsewhere in Surrey in 4 years time, because the appeal had not been presented to him on that basis, until the very end. In these circumstances, the Inspector was entitled to refuse to allow Mr Willers QC to raise the issue for the first time in Closing Submissions, and he was entitled to decline to decide the issue in the absence of the required evidence, as described by Ouseley J. in *Beaver*. But the Inspector did not expressly do so, either at the hearing or in his decision. On the balance of probabilities, I am not satisfied that he simply overlooked the point altogether, as it was clearly expressed in Mr Willers QC's submissions, and generally the Inspector's decision was carefully and conscientiously drafted. Therefore, the Claimant has not made out Ground 3. However, I do consider that the Inspector ought to have explained, either at the hearing or in his decision, why Mr Willers QC could not properly raise this

issue at such a late stage, without adducing evidence in support. To that extent, the Inspector's reasons were defective, as alleged in Ground 4(a).

1.

66. Under both Ground 3 and 4(a), Ms Bolton submitted that it was clear from DL 45 that the Inspector concluded that, even if there was a prospect of alternative sites coming forward by the time a temporary planning permission had expired, any reduction to Green Belt harm due to time-limiting the planning permission would still not reduce the overall harm to a level where it would be clearly outweighed by the considerations in favour of the appeal. Accordingly, applying the case of *Bolton MBC*, and *Simplex*, the decision would be the same in any event and accordingly, the relief sought by the Claimant ought to be refused.

1.

67. I accept Ms Bolton's submission. In my view, Mr Willers QC's submission that the word "Further", at the beginning of the final sentence of DL45, could not be taken to mean "In any event", and was an example of the type of forensic, over-critical analysis which the courts have deplored on many occasions: see paragraphs 17 and 18 of my judgment. On my reading, in the final sentence of DL45, the Inspector was clearly identifying an additional reason for refusing to grant temporary planning permission which was not dependant upon the availability of suitable alternative accommodation at the end of the temporary permission period. My interpretation is confirmed when read together with the Inspector's conclusions, at DL44, DL47 and DL50, where he stated that the appeal development would cause unacceptable harm to the Green Belt; that harm was not outweighed by the other considerations in favour of the appeal; and so it followed that very special circumstances did not exist to justify planning permission for the development, or any part of it, on either a temporary or permanent basis.

1.

68. In reaching my conclusions on Grounds 3 and 4(a), I have taken into account the fact that the First Defendant conceded Ground 4(a) but not Ground 3. It would have been helpful if the First Defendant had explained the basis of the concession to the Court in his Acknowledgment of Service or by letter, but Mr Willers QC showed me the reasons given in a draft consent order which the First Defendant sent to the Claimant. In light of Mr Willers QC's Closing Submissions, the First Defendant accepted that the Inspector "failed to provide lawfully adequate reasons addressing the availability of suitable sites in neighbouring areas" and therefore the decision should be quashed. The First Defendant did not file Detailed Grounds or a skeleton argument, nor attend the hearing, and he did not have the benefit of considering the detailed submissions made by the Claimant and the Council, in particular, in regard to the way in which the appeal was presented, without any evidence in relation to the position in neighbouring authorities and without any reference to this issue until Mr Willers QC made his Closing Submissions. In the light of the fuller submissions made to me, and the care with which I have considered Ground 3 and 4(a), I consider that I am justified in taking a different approach to the First Defendant on Ground 4(a), as set out above.

1.

69. For these reasons, Grounds 3 and 4(a) do not succeed.

1.

Ground 4(b): accommodation beyond the 4 year period

1.

70. In Mr Willers QC's written Closing Submissions, at paragraphs 132 and 134, he stated:

1.

"132. In the alternative, it is submitted that temporary planning permission ought to be granted *for at least 4 years* in order to enable this Council (and the neighbouring local authorities) to comply with the requirements of PPTS – by demonstrating that they have an up-to-date 5 years supply of deliverable sites." *(emphasis added)*

1.

"134. Given the Council's evidence regarding the steps it is taking to address the need for additional site provision there must be a realistic expectation that the planning circumstances *will change within 4 years* and it follows that there would be a good reason to grant temporary planning permission in this case

for such a period in order to allow those changes to take place and to allow for any slippage in the timetable and the development of new sites." *(emphasis added)*

1.

71. When the Inspector addressed this submission, at DL45, he said:

1.

"Taking the group as a whole, and the Council's current position on future provision, I consider it very unlikely that such a site would become available *by the end of the four year period suggested by the appellant*, and I consider it quite unlikely that all or even most of the 23 individual households would, individually, have suitable accommodation to move to after that period." *(emphasis added)*

1.

72. Under Ground 4(b), Mr Willers QC submitted that he did not invite the Inspector to limit his consideration to a 4 year period, and the Inspector failed to explain his reasons for limiting his consideration to 4 years, instead of "at least 4 years". However, at paragraph 134, Mr Willers QC did refer to a change in the planning circumstances "within 4 years", which may explain why the Inspector did not accurately record his additional submission of "at least 4 years" at paragraph 132.

1.

73. At the hearing, I asked Mr Willers QC to explain the basis for his submission that temporary planning permission should be granted for at least 4 years. He referred me to the Council's proposal to allocate sites through the Local Plan process which would provide 32 to 42 permanent pitches by 2023/24. The appeal hearing was in May 2019, and so provision in 2023/24 would be in 4/5 years time. Thus, in reality, his invitation to the Inspector to consider a period of "at least 4 years" was an invitation to consider a period of 4 to 5 years. There was no evidential basis for a submission based upon a longer period of time.

1.

74. The Inspector addressed the Council's proposal at DL29. He clearly found that the Council's proposal of providing 32-42 pitches by 2023/24 was not deliverable.

1.

75. Moreover, earlier in his decision, he found that the GTAA's estimate of a need for 96 pitches between 2017/18 and 2021/22 was an underestimate. He estimated that the identified need over the plan period was between 118 and 150 pitches, and the immediate identified need was between 53 and 85 pitches. The Inspector also found that the Council's reliance upon the provision of 48 pitches, in the period to 2023/24, at Little Almners Caravan Site ("LA") and Walnut Tree Farm ("WTF") was unrealistic, and their contribution to the target, if any, was likely to be much lower. Hence his conclusion that the Council could not identify 5 years' worth of sites against their targets. It follows that, even if (contrary to the Inspector's finding), the Council was able to deliver 32-42 pitches by 2023/24, those pitches would be over-subscribed, and occupied by those already on the waiting list for a pitch.

1.

76. In those circumstances, the Inspector's conclusion that it was very unlikely that a site would become available by the end of a temporary permission period of 4 years would have been the same even if the Inspector had chosen the longer period of 5 years. I consider that this would have been obvious to the parties at the Inquiry hearing, in particular, to the Appellant's representative, Mr Willers QC. It is also clear from the Inspector's decision that he gave detailed consideration to the availability of accommodation over a 5 year period, at DL16 to DL29. Therefore, in my judgment, the Inspector's failure to address a 5 year period at DL45 did not substantially prejudice the Claimant. As Lord Bridge said in *Save Britain's Heritage*, at 167D-E:

1.

"The single indivisible question…. is whether the interests of the applicant have been substantially prejudiced by the deficiency of the reasons given."

1.

77. In the alternative, Ms Bolton submitted that even if there was a breach of the duty to give adequate reasons (which she denied), it was clear from DL45 that the Inspector concluded that, even if there was a prospect of alternative sites coming forward by the time a temporary planning permission had expired, any reduction to Green Belt harm due to time-limiting the planning permission would still not reduce the

overall harm to a level where it would be clearly outweighed by the considerations in favour of the appeal. Accordingly, applying the case of *Bolton MBC*, and *Simplex*, the decision would be the same in any event and accordingly, the relief sought by the Claimant ought to be refused. For the reasons set out in paragraph 67 above, I accept Ms Bolton's alternative submission.

1.

Ground 4(c) – accommodation at the end of a temporary period

1.

78. Under Ground 4(c), the Claimant submitted that there was no proper basis upon which the Inspector could conclude, on the evidence before him, that the Council would not allocate at least 32-42 pitches by 2023/24. It followed that he did not give adequate and intelligible reasons for his conclusion in DL45 where he stated:

1.

"I consider it quite unlikely that all or even most of the 23 individual households would, individually, have suitable accommodation to move to after that period."

1.

79. In my judgment, the Inspector's reasons for this conclusion were both adequate and intelligible. It is clear from DL16 to DL31 that the Inspector did not accept the Council's position with regard to the sites and number of pitches that it would deliver, and he found that the level of need had been under-estimated.

1.

80. The GTAA required 96 pitches for Gypsies and Travellers that met the planning definition within the next 5 years, "of which an immediate need of 32 pitches arose from unauthorised pitches and 23 pitches which arose from concealed or doubled up households or adults and 4 from those currently living in houses." That accounted for 59 of the pitches to be delivered within that time frame for those Gypsies and Travellers that met the planning definition.

1.

81. However, the Inspector found that the GTAA assessment under-estimated need by excluding those households who had not been interviewed, on the basis that their PPTS status as Gypsies/Travellers had not been determined. He found that this group formed a significant proportion of the Gypsies/Travellers in the Borough (DL23). He also found that by the conclusion of the Inquiry, the number of those considered to meet the PPTS definition had fallen by 5 due to the granting of certificates of lawfulness

1.

82. Therefore, the Inspector concluded, at DL24, "that left a GTAA identified need over the plan period of 118 in the unlikely event that none of those not interviewed turned out to meet the PPTS definition, or 150 if all did. The equivalent immediate or unmet need is for 53 or 85 pitches respectively. No doubt the true figure falls somewhere in between, but that nonetheless represents a consider [*sic, perhaps considerable?*] level of need."

1.

83. The Inspector also found that the Council had erroneously relied upon the provision of 48 pitches on the sites at LA and WTF as a major component of supply in the period to 2023/24: see DL22, DL23, DL27, DL28. He was not satisfied that they would become available; and certainly not within the suggested timeframe (DL28).

1.

84. The Council was only proposing to provide 32-42 permanent pitches by 2023/24 (which would not cover the immediate need of 53 to 85 pitches already identified), but at present these 32-42 pitches were not considered by the Inspector to be deliverable, as defined by footnote 4 to paragraph 10 of PPTS (set out at paragraph 35 above). The Inspector said, at DL29:

1.

"The Council also proposes to allocate sites through the Local Plan process which, on the most recent projection, would provide 32-42 permanent pitches by 2023/24. However, at this stage of the process it would not be prudent to consider the pitches as deliverable for the purposes of footnote 4 of PPTS. I note the Council's assertion that it expects, through its allocations and actions at LA/WTF, to exceed the level of identified need by 2023/24. That seems unlikely, but I consider in any case, on the evidence before me, that the Council cannot at present identify a supply of specific deliverable sites sufficient to provide 5 years worth of sites against their locally set targets."

1.

85. In my judgment, these reasons were both adequate and intelligible. The Appellant and his legal advisers cannot have been in any genuine, as opposed to forensic, doubt as to the reasons why the Inspector came to the conclusion that suitable accommodation would not be available at the end of the proposed temporary period, particularly since the Inspector accepted many of the criticisms which the Appellant's planning consultant and counsel made of the figures put forward by the Council. Even if, contrary to my primary finding, the reasons were inadequate in some respect, I consider that the Claimant failed to establish substantial prejudice.

1.

86. In the alternative, Ms Bolton reiterated her submission that, even if there was a breach of the duty to give adequate reasons, it was clear from DL45 that the Inspector concluded that, even if there was a prospect of alternative sites coming forward by the time a temporary planning permission had expired, any reduction to Green Belt harm due to time-limiting the planning permission would still not reduce the overall harm to a level where it would be clearly outweighed by the considerations in favour of the appeal. Accordingly, applying the case of *Bolton MBC*, and *Simplex*, the decision would be the same in any event and accordingly, the relief sought by the Claimant ought to be refused. For the reasons set out in paragraph 67 above, I accept Ms Bolton's alternative submission.

1.

Conclusion

1.

87. For the reasons I have set out above, Ground 4 does not succeed.

1.

Grounds 5 and 6: planning permission for fewer than 13 pitches

1.

88. It is convenient to consider these grounds together since they relate to the same issue. The Claimant submitted that the Inspector's decision to refuse temporary planning permission was unlawful:

1.

i) in circumstances where he failed properly to consider granting planning permission for the residential use of fewer than 13 pitches **(Ground 5)**;

1.

ii) because he failed to explain properly or at all why he concluded, in DL46, that the grant of planning permission for the residential use of fewer than 13 pitches "would not alter the respective weights so much as to indicate a different outcome" **(Ground 6)**.

1.

89. The Claimant submitted in the section 288 claim that the grant of planning permission for a reduced number of pitches would reduce the harm caused to the Green Belt, because the extent of the development would be reduced, and so too would the impact of the development on openness, and encroachment on the countryside. The Claimant further submitted that the Inspector was required to consider the position of each member/household in the Group separately, when undertaking a proportionality assessment under Article 8 ECHR.

1.

90. I accept the Council's submission that the Appellant's application for planning permission, and his appeal, was for 13 pitches with associated facilities to accommodate 23 households. If the Appellant wished to apply for an alternative proposal for a reduced number of pitches and households on appeal, he should have submitted details of the alternative proposal, with plans, indicating the number of households; the number of pitches and their location; and the access roads and infrastructure required.

1.

91. The Appellant, who had the benefit of a planning consultant, solicitor and Queens Counsel, all of whom had experience of planning applications, including on behalf of Gypsy and Traveller communities, did not at any stage submit any details of an alternative proposal. A reduced number of pitches and households was not mentioned in the Appellant's Statement of Case; at the Pre-Inquiry Meeting, or in Mr Brown's lengthy witness statement. At the Inquiry hearing, the Council witnesses and the objectors gave oral evidence but were not cross-examined about the possibility of an alternative proposal.

1.

92. It was only during Mr Brown's oral evidence that this issue was raised. Mr Brown said that the appeal did not have to be considered on an “all or nothing” basis and invited the Inspector to consider granting planning permission for a smaller number of pitches and plots than had been applied for, if the Inspector was persuaded that that the personal circumstances of some of the families tipped the balance in favour of allowing the appeal. Mr Brown did not give any evidence as to the outline or detail of an alternative scheme for a lesser number of pitches and plots; no changes to the site layout were proposed and no draft planning conditions were provided.

1.

93. In those circumstances, where the Claimant did not at any stage present a proposal for a reduced number of pitches/households, I consider that the Inspector was entitled to deal with this issue in general terms, as he did at DL46, where he said:

1.

“46. It has been submitted that planning permission, or even temporary planning permission, could be granted for some plots only, on the basis of according different weights to the prospective occupiers' circumstances and carrying out the balancing exercise on a per plot basis. I do not believe that that would be an appropriate approach in a case such as this where the application is for the development as a whole, much of the infrastructure would still be required and it concerns land that was previously entirely undeveloped, but I consider in any case that such an approach would not alter the respective weights so much as to indicate a different outcome.”

1.

94. Since this was previously an entirely undeveloped site, comprising woodland and green space, the Inspector was entitled to make the planning judgment that even a reduced scheme would still require significant infrastructure (access road, hard standing for pitches, structures etc), and would cause unacceptable harm to the Green Belt, which would not be outweighed by any of the other considerations, including *inter alia* the personal circumstances of members of the Group. The Claimant's challenge to this conclusion was, in truth, a disagreement with the Inspector's conclusions on the planning merits, which is not a permissible ground of challenge in an application under section 288 TCPA 1990: *Tesco Stores v Secretary of State for the Environment* [1995] 1 WLR 759, per Hoffmann LJ at 780F-H.

1.

95. In my judgment, it is apparent that the Inspector gave careful and conscientious consideration to the personal circumstances of the members of the Group, both on an individual basis and collectively – see DL32 to 25 and DL41 to 43. He was not required to set these out in any greater detail in his decision.

1.

96. In my view, it is only fair to read the Inspector's assessment of the planning balance at the end of DL46 in the context of the decision as a whole. After setting out the personal circumstances at some length, the Inspector weighed the various factors in the balance, at DL44, concluding that the “Green Belt harm supplemented by the weight arising from the intentional unauthorised nature of the development is not clearly outweighed by the weight of the other considerations”. At DL45, he considered whether a grant of temporary permission would be justified, but he concluded that “the reduction in Green Belt harm due to time-limiting would still not reduce the overall harm to a level where it would be clearly outweighed by the considerations in favour of the appeal”.

1.

97. At DL46, he considered whether permanent or temporary planning permission could be granted for a reduced number of pitches, and concluded that such an approach “would not alter the respective weights so much as to indicate a different outcome”. I have no doubt that the Inspector was there referring back to the balancing exercise at DL44. It is obvious, in my view, that he was conducting a similar balancing exercise as at DL44, substituting a notional reduced number of pitches and plots, which he found would still require significant infrastructure on a previously undeveloped site. The Inspector could not assess or comment on a specific proposal because none was presented by the Claimant.

1.

98. The Inspector confirmed his conclusion in the very next paragraph - DL47 - where he said:

1.

"That being so, it follows that very special circumstances do not exist to justify planning permission for the development, or any part of it, on either a temporary or permanent basis."

1.

The phrase "That being so" makes it clear that the Inspector is referring back to his assessment of the planning balance at DL39 to DL46.

1.

99. At DL48 and 49, the Inspector gave due consideration to interference with Article 8 ECHR, concluding that the protection of the Green Belt was a legitimate objective in the public interest, and it could not be achieved by means which were less interfering with any Article 8 rights of the members of the Group. Thus, he concluded that the interference with any Article 8 rights of the members of the Group was proportionate and necessary.

1.

100. The Inspector then set out his overall conclusion, at DL50, that "the appeal development, which was intentional unauthorised development, would cause unacceptable harm to the Green Belt. That harm is not outweighed by any of the other considerations, including ….. the prospective occupiers' personal circumstances, on either a temporary or permanent basis".

1.

101. In my judgment, the meaning of the final sentence of DL46, read in its proper context, as I have set out above, was both intelligible and adequately explained, in the terms I have set out at paragraph 97 above. I do not consider that the Claimant or his legal representatives were left in any genuine, as opposed to forensic, doubt as to what the Inspector had decided, and why.

1.

102. For these reasons, Grounds 5 and 6 do not succeed.

Conclusion

1.

103. The application is dismissed for the reasons set out above.

APPENDIX 17

South Staffordshire Council

Gypsy and Traveller Accommodation Assessment

Final Report

August 2021

Opinion Research Services | The Strand, Swansea SA1 1AF
Steve Jarman, Michael Bayliss, Gill Craddock, and Lee Craddock
enquiries: 01792 535300 · info@ors.org.uk · www.ors.org.uk

Contents

1. Executive Summary

Introduction and Methodology

1.1 The primary objective of this Gypsy and Traveller Accommodation Assessment (GTAA) is to provide a robust assessment of current and future need for Gypsy, Traveller and Travelling Showpeople accommodation in South Staffordshire Council (the Council).

1.2 The GTAA provides a credible evidence base which can be used to aid the implementation of Local Plan Policies and, where appropriate, the provision of new Gypsy and Traveller pitches and Travelling Showpeople plots for the period 2021 to 2038 to cover the South Staffordshire Local Plan Review period and the 15-year requirements set out in PPTS. The outcomes of this study supersede the outcomes of any previous GTAAs for South Staffordshire Council.

1.3 The GTAA has sought to understand the accommodation needs of the Gypsy, Traveller and Travelling Showpeople population in South Staffordshire through a combination of desk-based research, stakeholder interviews and engagement with members of the travelling community living on all known sites, yards, and encampments. A total of 115 interviews or proxy interviews were completed with Gypsies and Travellers living on sites in South Staffordshire and a total of 6 interviews were completed with Travelling Showpeople. Interviews were completed with 2 households living in bricks and mortar and 2 households living on the roadside, and a total of 11 stakeholder interviews were also completed.

1.4 The fieldwork for the study was completed in August 2021 and this is also the baseline date for the study.

Key Findings

Pitch Needs – Gypsies and Travellers

1.5 Overall the pitch needs for Gypsies and Travellers for the period 2021-2038 are set out below. Needs are set out for those households that met the planning definition of a Gypsy or Traveller; for any undetermined households[1] where an interview was not able to be completed due to households not being present despite up to three visits to each site who may meet the planning definition; and for those households that did not meet the planning definition – although this is no longer a requirement for a GTAA.

1.6 Only the need from those households who met the planning definition and from those of the undetermined households who subsequently demonstrate that they meet it should be formally considered as need arising from the GTAA. The need arising from households that met the planning definition should be addressed through site allocation/intensification/expansion Local Plan Policies as appropriate.

[1] See Paragraph 3.28 for further information on undetermined households.

1.7 The Council will need to carefully consider how to address any need associated with undetermined Travellers as it is unlikely that all this need will have to be addressed through the provision of conditioned Gypsy or Traveller pitches. In terms of Local Plan Policies, the Council should consider the use of a criteria-based policy (as suggested in PPTS) for any undetermined households, as well as to deal with any windfall applications.

1.8 In general terms, the need for those households who did not meet the planning definition will need to be addressed as part of general housing need and through separate Local Plan Policies. This approach is specifically referenced in the revised National Planning Policy Framework (July 2021). Paragraph 61 of the NPPF sets out that in determining the minimum number of homes needed, strategic plans should be based upon a local housing need assessment conducted using the standard method in national planning guidance. Paragraph 62 then states that [emphasis added] '*Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, **travellers**, people who rent their homes and people wishing to commission or build their own homes*'. The footnote to this section states that '*Planning Policy for Traveller Sites sets out how travellers' housing needs should be assessed for those covered by the definition in Annex 1 of that document*.'

1.9 It is recognised that the Council already has in place an adopted Local Plan that sets out overall housing need. As this plan is reviewed the findings of this report should be considered as part of future housing mix and type within the context of the assessment of overall housing need in relation to Gypsies, Travellers and Travelling Showpeople. Whilst the findings in this report are aggregated totals for the whole of South Staffordshire due to data protection issues, the Council have more detailed data to enable accurate Local Plan allocation to be made.

1.10 There were 124 Gypsy or Traveller households identified in South Staffordshire that met the planning definition; 28 undetermined households that may meet the planning definition; and 32 households that did not meet the planning definition.

1.11 There is a need for **121 pitches for households that met the planning definition**. This is made up of 16 unauthorised pitches; 25 concealed or doubled-up households or single adults; 7 temporary pitches; 3 from in-migration/roadside; 21 teenagers in need of a pitch of their own in the next 5 years; and 49 from new household formation[2], derived from the household demographics.

1.12 There is a need for **9 pitches for undetermined households**. This is made up of 1 unauthorised pitch, and new household formation of 8 from a maximum of 28 households (using the ORS national formation rate of 1.50%[3]). If the ORS national average[4] of 30% were applied this could result in a need for 3 pitches. If the locally derived proportion of households that met the planning definition (79%) were applied this could result in a need for 7 pitches.

1.13 Whilst not now a requirement to include in a GTAA, there is a need for **24 pitches for households that did not meet the planning definition**. This is made up of 8 concealed or doubled-up households or single adults; 2 movement from bricks and mortar; 5 teenagers in need of a pitch

[2] See Chapter 7 for further information on new household formation.
[3] See Chapter 3 for further information on the ORS national formation rate.
[4] Based on over 4,100 interviews completed by ORS across England.

of their own in the next 5 years; 2 temporary pitches; and 7 from new household formation, using a rate of 1.45% derived from the household demographics.

1.14 Figure 1 summarises the identified need and Figure 2 breaks this down by 5-year periods.

Figure 1 – Need for Gypsy and Traveller households in South Staffordshire (2021-38)

Status	2021-2038
Meet Planning Definition	**121**
Undetermined	**0-9**
Do not meet Planning Definition	**24**

Figure 2 – Need for Gypsy and Traveller households in South Staffordshire that met the Planning Definition by year periods

Years	0-5	6-10	11-15	16-18	Total
	2021-25	2026-30	2031-35	2036-38	
	72	11	24	14	**121**

Plot Needs - Travelling Showpeople

1.15 Overall the plot needs for Travelling Showpeople from 2021-2038 are set out below. Needs are set out for those households that met the planning definition of a Travelling Showperson; for those undetermined households where an interview was not able to be completed who may meet the planning definition; and for those households that did not meet the planning definition (although this is no longer a requirement for a GTAA).

1.16 Only the need from those households who met the planning definition and from those of the undetermined households who may subsequently demonstrate that they meet it should be considered as need arising from the GTAA.

1.17 The need arising from households that met the planning definition should be addressed through yard allocation/intensification/expansion in Local Plan Policies.

1.18 The Council will need to carefully consider how to address any need associated with undetermined Travelling Showpeople as it is unlikely that all of this need will have to be addressed through the provision of conditioned Travelling Showpeople plots.

1.19 Any need for households who did not meet the planning definition will need to be considered as part of general housing need. See Paragraphs 1.10-1.13 for further details.

1.20 There is 1 Travelling Showperson's yard in South Staffordshire. All of the 6 households were interviewed, and all met the planning definition.

1.21 The GTAA identifies a need for **3 plots for households that met the planning definition**. This is made up of 3 from new household formation derived from the household demographics.

Figure 3 – Need for Travelling Showpeople households in South Staffordshire (2021-2038)

Status	2021-38
Meet Planning Definition	**3**
Undetermined	**0**
Do not meet Planning Definition	**0**

Figure 4 – Need for Travelling Showpeople households in Wiltshire that meet the Planning Definition by year periods

Years	0-5	6-10	11-15	16-18	Total
	2021-25	2026-30	2031-35	2036-38	
	0	0	2	1	**3**

Transit Recommendations

1.22 Due to low historic low numbers of unauthorised encampments, and the existence of private transit pitches, it is not recommended that there is a need for a formal public transit site in South Staffordshire at this time.

1.23 The situation relating to levels of unauthorised encampments should be monitored whilst any potential changes associated with PPTS (2015) develop – for example a potential increase in the number of households travelling to seek to meet the current planning definition.

1.24 As well as information on the size and duration of the encampments, this monitoring should also seek to gather information from residents on the reasons for their stay in the local area; whether they have a permanent base or where they have travelled from; whether they have any need or preference to settle permanently in the local area; and whether their travelling is a result of changes to PPTS (2015). This information could be collected as part of a Welfare Assessment (or similar).

1.25 It is recommended that a review of the evidence base relating to unauthorised encampments, including the monitoring referred to above, should be undertaken on a Staffordshire-wide basis. This will establish whether there is a need for investment in any new transit provision or emergency stopping places, or whether a managed approach is preferable.

1.26 In the short-term the Council should continue to use its current approach when dealing with unauthorised encampments and management-based approaches such as negotiated stopping agreements could also be considered.

1.27 The term 'negotiated stopping' is used to describe agreed short-term provision for Gypsy and Traveller caravans. It does not describe permanent 'built' transit sites but negotiated agreements which allow caravans to be sited on suitable specific pieces of ground for an agreed and limited period of time, with the provision of limited services such as water, waste disposal and toilets. Agreements are made between the Council and the (temporary) residents regarding expectations on both sides. See www.leedsgate.co.uk for further information.

1.28 Temporary stopping places can be made available at times of increased demand due to fairs or cultural celebrations that are attended by Gypsies and Travellers. A charge may be levied as determined by the local authority although they only need to provide basic facilities including: a cold-water supply; portaloos; sewerage disposal point and refuse disposal facilities.

2. Introduction

2.1 The primary objective of this Gypsy and Traveller Accommodation Assessment (GTAA) is to provide a robust assessment of current and future need for Gypsy, Traveller and Travelling Showpeople accommodation in South Staffordshire. The outcomes of the study will supersede the outcomes of the previous Traveller and Travelling Showpeople Accommodation Needs Assessments completed in South Staffordshire.

2.2 The study provides an evidence base to enable the Council to comply with their requirements towards Gypsies, Travellers and Travelling Showpeople under the Housing Act 1985, Planning Policy for Traveller Sites (PPTS) 2015, the Housing and Planning Act (2016), the revised National Planning Policy Framework (NPPF) 2021, and the revised Planning Practice Guidance (PPG) 2021.

2.3 The GTAA provides a robust assessment of need for Gypsy, Traveller and Travelling Showpeople accommodation in the study area. It is a credible evidence base which can be used to aid the implementation of Local Plan Policies and the provision of Traveller pitches and plots covering the period 2021 to 2038 to meet the Local Plan Review period and the 15-year requirements of the PPTS. As well as identifying current and future permanent accommodation needs, it also seeks to identify any need for the provision of transit sites or emergency stopping places.

2.4 We would note at the outset that the study covers the needs of Gypsies (including English, Scottish, Welsh and Romany Gypsies), Irish Travellers, New (Age) Travellers, and Travelling Showpeople, but for ease of reference we have referred to the study as a Gypsy and Traveller (and Travelling Showpeople) Accommodation Assessment (GTAA).

2.5 The baseline date for the study is August 2021 which was when the household interviews were completed.

Definitions

2.6 The planning definition for a Gypsy, Traveller or Travelling Showperson is set out in PPTS (2015). The previous definition set out in the Housing Act (2004) was repealed by the Housing and Planning Act (2016).

The Planning Definition in PPTS (2015)

2.7 For the purposes of the planning system, the definition was changed in PPTS (2015). The planning definition is set out in Annex 1 and states that:

> *For the purposes of this planning policy "gypsies and travellers" means:*
>
> *Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.*
>
> *In determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:*

a) Whether they previously led a nomadic habit of life.
b) The reasons for ceasing their nomadic habit of life.
c) Whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

For the purposes of this planning policy, "travelling showpeople" means:

Members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily, but excludes Gypsies and Travellers as defined above.

(Planning Policy for Traveller Sites, Department for Communities and Local Government (DCLG), August 2015)

2.8 The key change that was made to both definitions was the removal of the term "*persons…who have ceased to travel permanently"*, meaning that those who have ceased to travel permanently will no longer fall under the planning definition of a Traveller for the purposes of assessing accommodation need in a GTAA.

Definition of Travelling

2.9 One of the most important questions that GTAAs will need to address in terms of applying the planning definition is *what constitutes travelling?* This has been determined through case law that has tested the meaning of the term '*nomadic*'.

2.10 **R v South Hams District Council (1994)** – defined Gypsies as "persons who wander or travel for the purpose of making or seeking their livelihood (not persons who travel from place to place without any connection between their movements and their means of livelihood.)" This includes 'born' Gypsies and Travellers as well as 'elective' Travellers such as New Age Travellers.

2.11 In **Maidstone BC v Secretary of State for the Environment and Dunn (2006)**, it was held that a Romany Gypsy who bred horses and travelled to horse fairs at Appleby, Stow-in-the-Wold and the New Forest, where he bought and sold horses, and who remained away from his permanent site for up to two months of the year, at least partly in connection with this traditional Gypsy activity, was entitled to be accorded Gypsy status.

2.12 In **Greenwich LBC v Powell (1989)**, Lord Bridge of Harwich stated that a person could be a statutory Gypsy if he led a nomadic way of life *only seasonally*.

2.13 The definition was widened further by the decision in **R v Shropshire CC ex p Bungay (1990)**. The case concerned a Gypsy family that had not travelled for some 15 years in order to care for its elderly and infirm parents. An aggrieved resident living in the area of the family's recently approved Gypsy site sought judicial review of the local authority's decision to accept that the family had retained their Gypsy status even though they had not travelled for some considerable time. Dismissing the claim, the judge held that a person could remain a Gypsy even if he or she did not travel, provided that their nomadism was held in abeyance and not abandoned.

2.14 That point was revisited in the case of **Hearne v National Assembly for Wales (1999)**, where a traditional Gypsy was held not to be a Gypsy for the purposes of planning law as he had stated

that he intended to abandon his nomadic habit of life, lived in a permanent dwelling, and was taking a course that led to permanent employment.

2.15 **Wrexham County Borough Council v National Assembly of Wales and Others (2003)** determined that households and individuals could continue to lead a nomadic way of life with a permanent base from which they set out from and return to.

2.16 The implication of these rulings in terms of applying the planning definition is that it will **only include those who travel (or have ceased to travel temporarily) for work purposes, or for seeking work, and in doing so stay away from their usual place of residence**. It can include those who have a permanent site or place of residence, but that it will not include those who travel for purposes other than work – such as holidays and visiting friends or relatives. It will not cover those who commute to work daily from a permanent place of residence (see APP/E2205/C/15/3137477).

2.17 It may also be that within a household some family members travel for nomadic purposes on a regular basis, but other family members stay at home to look after children in education, or other dependents with health problems etc. In these circumstances the household unit would be defined as travelling under the planning definition.

2.18 Households will also fall under the planning definition if they can demonstrate that they have ceased to travel temporarily as a result of their own or their family's or dependants' educational, health needs or old age. In order to have ceased to travel temporarily these households will need to demonstrate that they have travelled for work in the past. In addition, households will also have to demonstrate that they plan to travel again for work in the future.

2.19 This approach was endorsed by a Planning Inspector in Decision Notice for an appeal in East Hertfordshire (Appeal Ref: APP/J1915/W/16/3145267) that was issued in December 2016. A summary can be seen below.

> *Case law, including the R v South Hams District Council ex parte Gibb (1994) judgment referred to me at the hearing, despite its reference to 'purposive activities including work' also refers to a connection between the travelling and the means of livelihood, that is, an economic purpose. In this regard, there is no economic purpose… This situation is no different from that of many landlords and property investors or indeed anyone travelling to work in a fixed, pre-arranged location. In this regard there is not an essential connection between wandering and work… Whilst there does appear to be some connection between the travel and the work in this regard, it seems to me that these periods of travel for economic purposes are very short, amounting to an extremely small proportion of his time and income. Furthermore, the work is not carried out in a nomadic manner because it seems likely that it is done by appointment… I conclude, therefore, that XX does not meet the definition of a gypsy and traveller in terms of planning policy because there is insufficient evidence that he is currently a person of a nomadic habit of life.*

2.20 This was further reinforced in a more recent Decision Notice for an appeal in Norfolk that was issued in February 2018 (Ref: APP/V2635/W/17/3180533) that stated:

> *As discussed during the hearing, although the PPTS does not spell this [the planning definition] out, it has been established in case law (R v South Hams DC 1994) that the nomadism must have an economic purpose. In other words, gypsies and travellers wander of travel for the purposes of making or seeking their livelihood.*

Legislation and Guidance for Gypsies and Travellers

2.21 Decision-making for policy concerning Gypsies, Travellers and Travelling Showpeople sits within a complex legislative and national policy framework and this study must be viewed in the context of this legislation and guidance. For example, the following key pieces of legislation and guidance are relevant when developing policies relating to Gypsies, Travellers and Travelling Showpeople:

- The Housing Act, 1985
- Planning Policy for Traveller Sites (PPTS), 2015
- The Housing and Planning Act, 2016
- National Planning Policy Framework (NPPF), 2021
- Planning Practice Guidance[5] (PPG), 2021

2.22 In addition, Case Law, Ministerial Statements, the outcomes of Local Plan Examinations and Planning Appeals, and Judicial Reviews need to be taken into consideration. Relevant examples have been included in this report.

2.23 The primary guidance for undertaking the assessment of housing need for Gypsies, Travellers and Travelling Showpeople is set out in the PPTS (2015). It should be read in conjunction with the National Planning Policy Framework (NPPF). In addition, the Housing and Planning Act makes provisions for the assessment of need for those Gypsy, Traveller and Travelling Showpeople households living on sites and yards who do not meet the planning definition – through the assessment of all households living in caravans.

Planning Policy for Traveller Sites (PPTS) 2015

2.24 PPTS (2015), sets out the direction of Government policy. As well as introducing the planning definition of a Traveller, PPTS is closely linked to the NPPF. Among other objectives, the aims of the policy in respect of Traveller sites are (PPTS Paragraph 4):

- *Local planning authorities should make their own assessment of need for the purposes of planning.*
- *To ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites.*
- *To encourage local planning authorities to plan for sites over a reasonable timescale.*
- *That plan-making and decision-taking should protect Green Belt from inappropriate development.*

[5] With particular reference to the sections on *Housing needs of different groups* (May 2021).

- *To promote more private Traveller site provision while recognising that there will always be those Travellers who cannot provide their own sites.*
- *That plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective.*
- *For local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies.*
- *To increase the number of Traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply.*
- *To reduce tensions between settled and Traveller communities in plan-making and planning decisions.*
- *To enable provision of suitable accommodation from which Travellers can access education, health, welfare, and employment infrastructure.*
- *For local planning authorities to have due regard to the protection of local amenity and local environment.*

2.25 In practice, the document states that (PPTS Paragraph 9):

- *Local planning authorities should set pitch targets for Gypsies and Travellers and plot targets for Travelling Showpeople, which address the likely permanent and transit site accommodation needs of Travellers in their area, working collaboratively with neighbouring local planning authorities.*

2.26 PPTS goes on to state (Paragraph 10) that in producing their Local Plan local planning authorities should:

- *Identify and annually update a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets.*
- *Identify a supply of specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15.*
- *Consider production of joint development plans that set targets on a cross-authority basis, to provide more flexibility in identifying sites, particularly if a local planning authority has special or strict planning constraints across its area (local planning authorities have a Duty-to-Cooperate on strategic planning issues that cross administrative boundaries).*
- *Relate the number of pitches or plots to the circumstances of the specific size and location of the site and the surrounding population's size and density.*
- *Protect local amenity and environment.*

2.27 Local Authorities now have a duty to ensure a 5-year land supply to meet the identified needs for Traveller sites. However, PPTS 2015 also notes in Paragraph 11 that:

- *Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. Criteria-based policies should be fair and should facilitate the traditional and nomadic life of Travellers, while respecting the interests of the settled community.*

Revised National Planning Policy Framework (2021)

2.28 The most recent version of the revised National Planning Policy Framework was issued in July 2021. Paragraph 61 of the revised NPPF sets out that in determining the minimum number of homes needed, strategic plans should be based upon a local housing need assessment conducted using the standard method in national planning guidance.

2.29 Paragraph 62 then states that [emphasis added] '*Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families,* ***travellers****, people who rent their homes and people wishing to commission or build their own homes*'. The footnote to this section states that '*Planning Policy for Traveller Sites sets out how travellers' housing needs should be assessed for those covered by the definition in Annex 1 of that document*.'

2.30 This essentially sets out that the needs of households that meet the planning definition should be assessed under the PPTS and that the needs of households that are not found to meet the planning definition should be assessed as part of the wider housing needs of an area.

2.31 In an Appeal Decision that was published in March 2020 for an appeal in Central Bedfordshire (APP/P0240/C/18/3213822) the Inspector concluded in relation to Paragraph 61 of the revised NPPF that:

> *It seems to me that this wording makes clear that it is only those meeting that definition that should be included in an assessment of need for 'planning definition' travellers and that gypsies who have ceased travelling should be counted and provided for elsewhere and this is the approach proposed in the emerging LP. This does not, of course mean that these gypsies should be allocated 'bricks and mortar' type housing. They will also need a suitable supply of caravan sites to meet their needs.*

Planning for the Future White Paper (2020)

2.32 In August 2020 the Government published a White Paper on proposals to reform the current planning system in England. The consultation period on the White Paper ended on 29th October 2020. Whilst the White Paper does not make any references to planning for Gypsies and Travellers, the Council may need to consider the outcomes of the consultation and any subsequent changes to planning legislation in England that relate to Gypsies and Travellers.

3. Methodology

Background

3.1 Over the past 10 years, ORS has continually refined a methodology for undertaking robust and defensible Gypsy, Traveller and Travelling Showpeople Accommodation Needs Assessments. This has been updated in light of changes to PPTS in August 2015, the Housing and Planning Act (2016) the revised NPPF (2021), and the revised PPG (2021). It has also responded to changes set out by Planning Ministers, with particular reference to new household formation rates. This is an evolving methodology that has been adaptive to changes in planning policy as well as the outcomes of Local Plan Examinations and Planning Appeals.

3.2 PPTS (2015) contains a number of requirements for local authorities which must be addressed in any methodology. This includes the need to pay particular attention to early and effective community engagement with both settled and traveller communities (including discussing travellers' accommodation needs with travellers themselves); identification of permanent and transit site accommodation needs separately; working collaboratively with neighbouring local planning authorities; and establishing whether households fall within the planning definition for Gypsies, Travellers and Travelling Showpeople.

3.3 ORS would note that since the changes to the PPTS in August 2015 the ORS GTAA methodology has been repeatedly found to be sound and robust, including through Local Plan Examinations in Bedford, Cambridge, Central Bedfordshire, Cheltenham, Cotswold, Daventry, East Hertfordshire, Gloucester, Maldon, Milton Keynes, Newham, Runnymede, South Cambridgeshire, South Northamptonshire, Tewkesbury, and Waverley.

3.4 A recent Appeal Decision for a Hearing in Central Bedfordshire (APP/P0240/C/18/3213822) that was issued in March 2020 concluded:

> *'…whilst there have been some queries in previous appeal decisions over the conclusions of other GTAAs produced by ORS, the methodology, which takes into account the revisions made in 2015 to the Government's Planning Policy for Traveller Sites (PPTS), has nevertheless been accepted by Inspectors in a considerable number of Local Plan Examinations.'*

3.5 The Inspector for the East Herts District Plan also found the evidence base in relation to Gypsies and Travellers to be sound in her Inspection Report that was issued in July 2018. She concluded:

> *'The need of the travelling community has been carefully and robustly assessed and locations to meet identified needs have been allocated for the plan period. Policy HOU9 sets out the need for 5 permanent pitches for Gypsies and Travellers… the approach to the provision of housing is comprehensive, positively prepared, appropriate to the needs of the area and consistent with national policy.'*

3.6 The stages below provide a summary of the methodology that was used to complete this study. More information on each stage is provided in the appropriate sections of this report.

Glossary of Terms/Acronyms

3.7 A Glossary of Terms/Acronyms can be found in **Appendix A**.

Desk-Based Review

3.8 ORS collated a range of secondary data that was used to support the study. This included:

- Census data.
- Traveller Caravan Count data.
- Records of unauthorised sites/encampments.
- Information on planning applications/appeals.
- Information on enforcement actions.
- Existing Needs Assessments and other relevant local studies.
- Existing national and local policy, guidance, and best practice.

Stakeholder Engagement

3.9 Engagement was undertaken with key Council Officers from South Staffordshire through telephone interviews. A total of 3 interviews were completed with Council Officers from the study area and an interview was also completed with an Officer from Staffordshire County Council.

Working Collaboratively with Neighbouring Planning Authorities

3.10 To help support the Duty-to-Cooperate and provide background information for the study, telephone interviews were conducted with Planning Officers in neighbouring planning authorities. These interviews will help to ensure that wider issues that may impact on this project are fully understood. This included interviews with Officers from the Councils set out below. Again, a detailed topic guide was agreed with the Council.

- Bromsgrove
- Cannock Chase
- Dudley
- Shropshire
- Stafford
- Walsall
- Wolverhampton

Survey of Travelling Communities

3.11 Through the desk-based research and the stakeholder interviews, ORS sought to identify all authorised and unauthorised sites/yards and encampments in the study area and attempted to complete an interview with the residents on all occupied pitches and plots. In order to gather the robust information needed to assess households against the planning definition of a Traveller, up

to 3 visits were made to households where it was not initially possible to conduct an interview because they were not available at the time.

3.12 Our experience suggests that an attempt to interview households on all pitches is more robust. A sample-based approach often leads to an under-estimate of need – and is an approach which is regularly challenged by the Planning Inspectorate and at Planning Appeals.

3.13 ORS worked closely with the Council to ensure that the interviews collected all the necessary information to support the study. The site interview questions that were used (see **Appendix E**) have been updated to take account of recent changes to PPTS and to collect the information ORS feel is necessary to apply the planning definition. All sites and yards were visited by members of our dedicated team of experienced Researchers who work on our GTAA studies across England and Wales. Researchers attempted to conduct semi-structured interviews with residents to determine their current demographic characteristics, their current or future accommodation needs, whether there is any over-crowding or the presence of concealed households and travelling characteristics. Researchers also sought to identify contacts living in bricks and mortar to interview, as well as an overall assessment of each site to determine any opportunities for intensification or expansion to meet future needs.

3.14 Researchers also sought information from residents on the type of pitches they may require in the future – for example private or socially rented, together with any features they may wish to be provided on a new pitch or site.

3.15 Where it was not possible to undertake an interview, Researchers sought to capture as much information as possible about each pitch through a proxy interview from sources including neighbouring residents and site management (if present).

3.16 Researchers also distributed copies of an information leaflet that was prepared by Friends, Families and Travellers explaining the reasons for the need to complete the household interview as part of the GTAA process.

Figure 5 – Friends, Families and Traveller Leaflet

Engagement with Bricks and Mortar Households

3.17 The 2011 Census recorded just 13 households that were identified as either Gypsies or Irish Travellers who lived in a house in South Staffordshire and just 3 who lived in a flat or maisonette.

3.18 ORS apply a rigorous approach to making contact with bricks and mortar households as this is a common issue raised at Local Plan Examinations and Planning Appeals. Contacts were sought through a range of sources including the interviews with people on existing sites and yards; intelligence from the stakeholder interviews; information from housing registers; and other local knowledge from stakeholders. Through this approach the GTAA endeavoured to do everything to give households living in bricks and mortar the opportunity to make their views known.

3.19 As a rule, ORS do not make any assumptions on the overall needs from household in bricks and mortar based on the outcomes of any interviews that are completed, as in our experience this leads to a significant over-estimate of the number of households wishing to move to a site or a yard. ORS work on the assumption that all those wishing to move will make their views known to us based on the wide range of publicity put in place.

Timing of the Fieldwork

3.20 ORS are fully aware of the transient nature of many travelling communities and subsequent seasonal variations in site and yard occupancy. ORS would normally aim to complete fieldwork during the non-travelling season, and also avoid days of known local or national events. The initial fieldwork was completed over an extended period between November 2019 and March 2020 and Researchers were able to collect information on the majority of residents. In addition further household interviews were completed between June and August 2021 during the completion of a Pitch Deliverability Study.

Applying the Planning Definition

3.21 The primary change to PPTS (2015) in relation to the assessment of need was the change to the definition of a Gypsy, Traveller or Travelling Showperson for planning purposes. Through the site interviews ORS sought to collect information necessary to assess each household against the planning definition. As the revised PPTS was only issued in 2015, only a small number of relevant appeal decisions have been issued by the Planning Inspectorate on how the planning definition should be applied (see Paragraphs 2.20 and 2.21 for examples) – these support the view that households need to be able to demonstrate that they travel for work purposes, or for seeking work, to meet the planning definition, and stay away from their usual place of residence when doing so, or have ceased to travel for work purposes temporarily due to education, ill health or old age.

3.22 The household survey included a structured section of questions to record information about the travelling characteristics of household members. This included questions on the following key issues:

- Whether any household members have travelled in the past 12 months.
- Whether household members have ever travelled.
- The main reasons for travelling.

- Where household members travelled to.
- The times of the year that household members travelled.
- Where household members stay when they are away travelling.
- When household members stopped travelling.
- The reasons why household members stopped travelling.
- Whether household members intend to travel again in the future.
- When and the reasons why household members plan to travel again in the future.

3.23 When the household survey was completed, the answers from these questions on travelling were used to determine the status of each household against the planning definition in PPTS (2015). Through a combination of responses, households need to provide sufficient information to demonstrate that household members travel for work purposes, or for seeking work, and in doing so stay away from their usual place of residence, or that they have ceased to travel temporarily due to education, ill health or old age, and plan to travel again for work purposes in the future. The same definition applies to Travelling Showpeople as to Gypsies and Travellers.

3.24 Households that need to be considered in the GTAA fall under one of three classifications that will determine whether their housing needs will need to be assessed in the GTAA. Only those households that meet, or may meet, the planning definition will form the components of need to be formally included in the GTAA:

- Households that travel under the planning definition.
- Households that have ceased to travel temporarily under the planning definition.
- Households where an interview was not possible who may fall under the planning definition.

3.25 Whilst the needs of those households that do not meet the planning definition do not need to be included in the GTAA, they will be assessed to provide the Council with components of need to consider as part of their work on wider housing needs assessments. This is consistent with the requirements of the revised NPPF (2021).

Undetermined Households

3.26 As well as calculating need for households that meet the planning definition, the needs of the households where an interview was not completed (either due to refusal to be interviewed or households that were not present during the fieldwork period) need to be assessed as part of the GTAA where they are believed to be Gypsies and Travellers who may meet the planning definition. Whilst there is no law or guidance that sets out how the needs of these households should be addressed; an approach has been taken that seeks an estimate of potential need from these households. This will be an additional need figure over and above the need identified for households that do meet the planning definition.

3.27 The estimate seeks to identify potential current and future need from any pitches known to be temporary or unauthorised, and through new household formation. For the latter the ORS national rate of 1.50% has been used as the demographics of residents are unknown.

3.28 Should further information be made available to the Council that will allow for the planning definition to be applied, these households could either form a confirmed component of need to be addressed through the GTAA or through wider assessments of housing need.

3.29 ORS believe it would not be appropriate when producing a robust assessment of need to make any firm assumptions about whether households where an interview was not completed meet the planning definition based on the outcomes of households where an interview was completed.

3.30 However, data that has been collected from over 5,000 household interviews that have been completed by ORS since the changes to PPTS in 2015 suggests that overall approximately 30% of households who have been interviewed meet the planning definition (this rises to 70% for Travelling Showpeople based on over 400 interviews that have been completed) – and in some local authorities, no households meet the planning definition.

3.31 ORS are not implying that this is an official national statistic - rather a national statistic based on the outcomes of our fieldwork since the introduction of PPTS (2015). It is estimated that there are 14,000 Gypsy and Traveller pitches in England and ORS have spoken with households on approximately 30% of them at a representative range of sites. Approximately 30% meet the planning definition. It is ORS' view therefore that this is the most comprehensive national statistic in relation to households that meet the planning definition in PPTS (2015) and should be seen as a robust statistical figure.

3.32 This would also suggest that it is likely that only a proportion of the potential need identified from undetermined households will need conditioned Gypsy and Traveller pitches, and that the needs of the majority will need to be addressed through separate Local Plan Policies.

3.33 The ORS methodology to address the need arising from undetermined households was supported by the Planning Inspector for a Local Plan Examination for Maldon District Council, Essex. In his Report that was published on 29th June 2017 he concluded:

> 150. The Council's stance is that any need arising from 'unknowns' should be a matter left to the planning application process. Modifications to Policy H6 have been put forward by the Council setting out criteria for such a purpose, which I consider further below. To my mind, that is an appropriate approach. While there remains a possibility that up to 10 further pitches may be needed, that cannot be said to represent identified need. It would be unreasonable to demand that the Plan provide for needs that have not been established to exist. That being said, **MM242h** is nonetheless necessary in this regard. It commits the Council to a review of the Plan if future reviews of the GTAA reveal the necessity for land allocations to provide for presently 'unknown' needs. For effectiveness, I have altered this modification from the version put forward by the Council by replacing the word "may" with "will" in relation to undertaking the review committed to. I have also replaced "the Plan" with "Policy H6" – the whole Plan need not be reviewed.

Households that Do Not Meet the Planning Definition

3.34 Households who do not travel for work now fall outside the planning definition of a Traveller. However Romany Gypsies, Irish and Scottish Travellers may be able to claim a right to culturally appropriate accommodation under the Equality Act (2010) as a result of their protected characteristics. In addition, provisions set out in the Housing and Planning Act (2016) now include a duty (under Section 8 of the 1985 Housing Act that covers the requirement for a periodical review of housing needs) for local authorities to consider the needs of people residing in or resorting to their district with respect to the provision of sites on which caravans can be

stationed, or places on inland waterways where houseboats can be moored. Draft Guidance[6] related to this section of the Act has been published setting out how the government would want local housing authorities to undertake this assessment and it is the same as the GTAA assessment process. The implication is therefore that the housing needs of any Gypsy and Traveller households who do not meet the planning definition of a Traveller will need to be assessed as part of the wider housing needs of the area and will form a subset of the wider need arising from households residing in caravans. This is echoed in the revised NPPF (February 2019).

3.35 Paragraph 62 of the revised NPPF states that [emphasis added] '*Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families,* ***travellers****, people who rent their homes and people wishing to commission or build their own homes*'. The footnote to this section states that '*Planning Policy for Traveller Sites sets out how travellers' housing needs should be assessed for those covered by the definition in Annex 1 of that document*.'

Calculating Current and Future Need

3.36 To identify need, PPTS (2015) requires an assessment for current and future pitch requirements but does not provide a methodology for this. However, as with any housing assessment, the underlying calculation can be broken down into a relatively small number of factors. In this case, the key issue is to compare the supply of pitches available for occupation with the current and future needs of the population.

Supply of Pitches

3.37 The first stage of the assessment sought to determine the number of occupied, vacant, and potentially available supply in the study area:

- Current vacant pitches.
- Pitches currently with planning consent due to be developed within 5 years.
- Pitches vacated by people moving to housing.
- Pitches vacated by people moving from the study area (out-migration).

3.38 It is important when seeking to identify supply from vacant pitches that they are in fact available for general occupation – i.e. on a public or social rented site, or on a private site that is run on a commercial basis with anyone being able to rent a pitch if they are available. Typically, vacant pitches on small private family sites are not included as components of available supply but can be used to meet any current and future need from the family living on the site.

[6] *Draft guidance to local housing authorities on the periodical review of housing needs for caravans and houseboats.* DCLG (March 2016).

Current Need

3.39 The second stage was to identify components of current need, which is not necessarily the need for pitches because they may be able to be addressed by space already available in the study area. It is important to address issues of double counting:

- Households on unauthorised developments for which planning permission is not expected.
- Concealed, doubled-up or over-crowded households (including single adults).
- Households in bricks and mortar wishing to move to sites.
- Households in need on waiting lists for public sites.

Future Need

3.40 The final stage was to identify components of future need. This includes the following four components:

- Teenage children in need of a pitch of their own in the next 5 years.
- Households living on sites with temporary planning permissions.
- New household formation.
- In-migration/roadside.

3.41 Household formation rates are often the subject of challenge at appeals or examinations. ORS firmly believe that any household formation rates should use a robust local evidence base, rather than simply relying on national precedent. The approach taken is set out in more detail in Chapter 7 of this report.

3.42 ORS are also increasingly identifying households and adult household members who have been forced to leave sites due to over-crowding or exceeding planning conditions on the number of caravans permitted on sites. These households are typically living on the roadside or doubling-up on pitches in neighbouring local authorities. ORS include these households as components of hidden need and term them displaced in-migration.

3.43 All of these components of supply and need are presented in tabular format which identify the overall net need for current and future accommodation for Gypsies, Travellers and Travelling Showpeople. This has proven to be a robust model for identifying needs. The residential and transit pitch needs for Gypsies and Travellers and Travelling Showpeople are identified separately and the needs are to 2038.

Pitch Turnover

3.44 Some assessments of need make use of pitch turnover as an ongoing component of supply. ORS do not agree with this approach or about making any assumptions about annual turnover rates. This approach frequently ends up significantly under-estimating need as, in the majority of cases, vacant pitches on sites are not available to meet any local need. The use of pitch turnover has been the subject of a number of Inspectors Decisions, for example APP/J3720/A/13/2208767 found a GTAA to be unsound when using pitch turnover and concluded:

> *West Oxfordshire Council relies on a GTAA published in 2013. This identifies an immediate need for 6 additional pitches. However, the GTAA methodology treats pitch turnover as a component of supply. This is only the case if there is net outward migration, yet no such scenario is apparent in West Oxfordshire. Based on the evidence before me I consider the underlying criticism of the GTAA to be justified and that unmet need is likely to be higher than that in the findings in the GTAA.*

3.45 In addition, a recent GTAA Best Practice Guide produced jointly by organisations including Friends, Families and Travellers, the London Gypsy and Traveller Unit, the York Travellers Trust, the Derbyshire Gypsy Liaison Group, Garden Court Chambers and Leeds GATE concluded that:

> *Assessments involving any form of pitch turnover in their supply relies upon making assumptions; a practice best avoided. Turnover is naturally very difficult to assess accurately and in practice does not contribute meaningfully to additional supply so should be very carefully assessed in line with local trends. Mainstream housing assessments are not based on the assumption that turnover within the existing stock can provide for general housing needs.*

3.46 As such, other than current vacant pitches on sites that are known to be available, or pitches that are known to become available through the household interviews, pitch turnover has not been considered as a component of supply in this GTAA.

Transit Provision

3.47 GTAA studies require the identification of demand for transit provision. While the majority of Gypsies and Travellers have permanent bases either on Gypsy and Traveller sites or in bricks and mortar and no longer travel, other members of the community either travel permanently or for part of the year. Due to the mobile nature of the population a range of sites can be developed to accommodate Gypsies and Travellers as they move through different areas.

- **Transit sites** - full facilities where Gypsies and Travellers might live temporarily (for up to three months) – for example, to work locally, for holidays or to visit family and friends.
- **Emergency stopping places** - more limited facilities.
- **Temporary sites and stopping places** - only temporary facilities to cater for an event.
- **Negotiated stopping places** - agreements which allow caravans to be sited on suitable specific pieces of ground for an agreed and limited period of time.

3.48 Transit sites serve a specific function of meeting the needs of Gypsy and Traveller households who are visiting an area or who are passing through on the way to somewhere else. A transit site typically has a restriction on the length of stay of usually around 12 weeks and has a range of facilities such as water supply, electricity, and amenity blocks.

3.49 An alternative to or in addition to a transit site is an emergency stopping place. This type of site also has restrictions on the length of time for which someone can stay on it but has much more limited facilities with typically only a source of water and chemical toilets provided.

3.50 Another alternative is 'negotiated stopping'. The term 'negotiated stopping' is used to describe agreed short-term provision for Gypsy and Traveller caravans. It does not describe permanent 'built' transit sites but negotiated agreements which allow caravans to be sited on suitable specific pieces of ground for an agreed and limited period of time, with the provision of limited services such as water, waste disposal and toilets. Agreements are made between the authority and the (temporary) residents regarding expectations on both sides.

3.51 Temporary stopping places can be made available at times of increased demand due to fairs or cultural celebrations that are attended by Gypsies and Travellers. A charge may be levied as determined by the local authority although they only need to provide basic facilities including: a cold-water supply; portaloos; sewerage disposal point and refuse disposal facilities.

3.52 The Criminal Justice and Public Order Act 1994 (Section 62a) is particularly important with regard to the issue of Gypsy and Traveller transit site provision. Section 62a of the Act allows the police to direct trespassers to remove themselves and their vehicles and property from any land where a suitable transit pitch on a relevant caravan site is available within the same local authority area (or within the county in two-tier local authority areas).

3.53 In order to investigate the potential need for transit provision when undertaking work to support the study, ORS sought to undertake analysis of any records of unauthorised sites and encampments, as well as information from the Ministry of Housing Communities and Local Government (MHCLG)[7] Traveller Caravan Count. The outcomes of discussions with Council Officers and with Officers from neighbouring planning authorities were also taken into consideration when determining this element of need in the study area.

[7] Formerly the Department for Communities and Local Government (DCLG).

4. Gypsy, Traveller & Travelling Showpeople Sites & Population

Introduction

4.1 One of the main considerations of this study is to provide evidence to support the provision of pitches and plots to meet the current and future accommodation needs of Gypsies, Travellers and Travelling Showpeople. A pitch is an area normally occupied by one household, which typically contains enough space for one or two caravans but can vary in size[8]. A site is a collection of pitches which form a development exclusively for Gypsies and Travellers. For Travelling Showpeople, the most common descriptions used are a plot for the space occupied by one household and a yard for a collection of plots which are typically exclusively occupied by Travelling Showpeople. Throughout this study the main focus is upon how many extra pitches for Gypsies and Travellers and plots for Travelling Showpeople are required in the study area.

4.2 The public and private provision of mainstream housing is also largely mirrored when considering Gypsy and Traveller accommodation. One common form of a Gypsy and Traveller site is the publicly provided residential site, which is provided by a Local Authority or by a Registered Provider (usually a Housing Association). Pitches on public sites can be obtained through signing up to a waiting list, and the costs of running the sites are met from the rent paid by the tenants (similar to social housing).

4.3 The alternative to a public residential site is a private residential site and yard for Gypsies, Travellers and Travelling Showpeople. These result from individuals or families buying areas of land and then obtaining planning permission to live on them. Households can also rent pitches on existing private sites. Therefore, these two forms of accommodation are the equivalent to private ownership and renting for those who live in bricks and mortar housing. Generally, the majority of Travelling Showpeople yards are privately owned and managed.

4.4 The Gypsy, Traveller and Travelling Showpeople population also has other types of sites due to its mobile nature. Transit sites tend to contain many of the same facilities as a residential site, except that there is a maximum occupancy period of residence which can vary from a few days or weeks to a period of months. An alternative to a transit site is an emergency or negotiated stopping place. This type of site also has restrictions on the length of time someone can stay on it but has much more limited facilities. Both of these two types of site are designed to accommodate, for a temporary period, Gypsies, Travellers and Travelling Showpeople whilst they travel. A number of authorities also operate an accepted encampments policy where short-term stopovers are tolerated without enforcement action.

[8] Whilst it has now been withdrawn, *Government Guidance on Designing Gypsy and Traveller Sites (2007)* recommended that, as a general guide, an average family pitch must be capable of accommodating an amenity building, a large trailer [a static caravan or park home for example] and touring caravan, parking space for two vehicles and a small garden area.

4.5 Further considerations for the Gypsy and Traveller population are unauthorised developments and encampments. Unauthorised developments occur on land which is owned by the Gypsies and Travellers or with the approval of the landowner, but for which they do not have planning permission to use for residential purposes. Unauthorised encampments occur on land which is not owned by the Gypsies and Travellers.

Sites and Yards in South Staffordshire

4.6 In South Staffordshire, at the base date for the GTAA, there were no public sites; 20 private sites (129 pitches[9]); 3 temporary sites (10 pitches); 1 tolerated site (1 pitch); and 10 unauthorised sites or unauthorised pitches on sites with planning permission (18 pitches); and 1 Travelling Showmen's yard (6 plots). There were no public transit sites identified. See **Appendix D** for further details.

Figure 6 - Total amount of provision in South Staffordshire (August 2021)

Category	Sites/Yards	Pitches/Plots
Public sites	0	0
Private with permanent planning permission	20	129
Private with temporary planning permission	3	10
Tolerated sites	1	1
Unauthorised sites/pitches	10	18
Public transit sites	0	0
Travelling Showpeople yards	1	6
TOTAL	**35**	**164**

MHCLG Traveller Caravan Count

4.7 Another source of information available on the Gypsy, Traveller and Travelling Showpeople population is the bi-annual Traveller Caravan Count which is conducted by each Local Authority in England on a specific date in January and July of each year and reported to MHCLG. This is a statistical count of the number of caravans on both authorised and unauthorised sites across England. With effect from July 2013 it was renamed the Traveller Caravan Count due to the inclusion of data on Travelling Showpeople.

4.8 As this count is of caravans and not households, it makes it more difficult to interpret for a study such as this because it does not count pitches or resident households. The count is merely a 'snapshot in time' conducted by the Local Authority on a specific day, and any unauthorised sites or encampments which occur on other dates will not be recorded. Likewise, any caravans that are away from sites on the day of the count will not be included. As such it is not considered appropriate to use the outcomes from the Traveller Caravan Count in the calculation of current and future need as the information collected during the site visits is seen as more robust and fit-for-purpose. However, the Caravan Count data has been used to *support* the identification of the need to provide for transit provision and this is set out later in this report.

[9] This includes 8 pitches with planning permission at Oak Tree Caravan Park which are currently in breach of planning conditions. This breach is in the process of being resolved.

4.9 The most recent Traveller Caravan Count in January 2020 recorded 6 caravans on sites with temporary planning permission; 139 caravans on sites with permanent planning permission; and 2 caravans on land owned by Travellers that were tolerated. There were no Caravan Counts completed in July 2020 and January 2021 due to COVID-19 and the outcomes of the July 2021 count have not been published at the time of this report.

5. Stakeholder Engagement

Introduction

5.1 ORS undertook a stakeholder engagement programme to complement the information gathered through interviews with members of the Travelling Community. This consultation took the form of telephone interviews which were tailored to the role of the individual.

5.2 The aim of these interviews was to provide an understanding of current provision and possible future need; short-term encampments; transit provision; and cross-border issues.

5.3 A total of 3 interviews were undertaken with Council Officers from the study area and one interview was completed with an Officer from Staffordshire County Council.

5.4 As stated in the Planning Policy for Traveller Sites, Local Authorities have a duty to cooperate on strategic planning issues that cross administrative boundaries (S.110 Localism Act 2011). In order to explore issues relating to cross boundary working, ORS interviewed a Planning Officer from 7 neighbouring local authorities:

- Bromsgrove
- Cannock Chase
- Dudley
- Shropshire
- Stafford
- Walsall
- Wolverhampton

5.5 Due to issues surrounding data protection, and in order to protect the anonymity of those who took part, this section presents a summary of the views expressed by interviewees and verbatim comments have not been used. The views expressed in this section of the report represent a balanced summary of the views expressed by stakeholders, and on the views of the individuals concerned, rather than the official policy of their Council or organisation.

Views of Key Stakeholders and Council Officers in South Staffordshire

Accommodation Needs

5.6 The area is considered to be popular because of its location near the highway infrastructure (A5 and A449). Most of the existing pitches are located in the north of district including the area near the Cannock border and main highway infrastructure.

5.7 South Staffordshire adopted its Site Allocations Document (SAD) in September 2018 allocating 20 additional pitches in the district in order to meet the pitch requirements set out in the adopted Core Strategy 2012. Most of the need derives from the family growth of the existing population, and there are few applications from new families.

5.8 The officer explained that it is difficult to meet the need given the authority is predominantly made up of Green Belt and open countryside. There are currently many sites located within the Green Belt which have been allowed at appeal.

Short-term Encampments and Transit Provision

5.9 There are occasional roadside encampments and when they do occur it is usually just families passing through. Officers were of the view that these are not particularly problematic and are handled effectively by the enforcement team.

5.10 There are no public transit sites in South Staffordshire and no officer indicated that public transit provision was required in the area. There is some private transit provision available at the Fishponds and St James sites.

Cross Border Issues and Meeting the Duty to Cooperate

5.11 A potential issue was raised concerning families moving into South Staffordshire from Sandwell and Dudley, due to the lack of provision in those areas.

5.12 The authorities are said to work well together via Duty to Cooperate discussions with Gypsy and Traveller issues being a consistent part of the agenda.

5.13 During the Local Plan Review Issues and Options Consultation, one of the options was to consider cross-boundary options for the delivery of a new public site.

Future Priorities and Any Further Issues

5.14 It was suggested that South Staffordshire should prioritise creating small family sites for families local to the area.

5.15 It was also suggested that the Council should look to continue ensuring that there is adequate provision and that public health needs are met for the Travelling community, including access to health and education services.

Neighbouring Authorities

Bromsgrove District Council

5.16 With regard to overall accommodation need in Bromsgrove, the views of the officer interviewed were as follows:

- Since the last GTAA, a site with 3 pitches was approved on appeal in 2019.
- The 2019 GTAA Addendum found there to be a need for 17 additional Gypsy and Traveller pitches over the Local Plan period to 2030, and a need for 2 additional TSP plots for the period 2024/25-2030.
- There are occasional instances of unauthorised encampments in the area. However, the latest GTAA suggested there to be no need for any transit provision in the district.

5.17 With regard to the subject of cross border issues and the Duty to Cooperate, the views of the officer interviewed were as follows:

- No specific cross-border issues with neighbouring authorities in relation to Gypsies and Travellers were identified.
- Bromsgrove engage with neighbouring authorities wherever invited to and do so proactively for strategic planning purposes.
- It was thought that Bromsgrove, and neighbouring authorities, are all complying with the Duty to Cooperate.

Cannock Chase District Council

5.18 With regard to overall accommodation need in Cannock, the views of the officer interviewed were as follows:

- The officer interviewed believed that Cannock would benefit from providing a site which is open to all members of the community. However, the officer was not aware of any funding available to develop such a site.
- There has been a change of use application for 7 new pitches (reference CH/19/048), and associated works, at the former Grove Colliery, Pelsall that was refused. Cannock await further information on the status of any appeal.
- Unauthorised encampments were said to be infrequent, usually numbering 6 or less per year, and occur around the time of the Appleby Fair. The Council have Injunctions protecting the three most popular locations that most commonly see short-term encampments stopping.
- In the past the Council have resorted to court action to obtain a repossession order to move an encampment on; this process can take up to three weeks. The Council has recently employed a private bailiff company to manage encampments, which is said to have resulted in encampments being moved on within 24 hours with very little clearing-up involved. Given the small numbers, and the recent improvement in the time taken to move encampments the officer was of the view that there is not a need for a transit site in Cannock Chase.

5.19 With regard to the subject of cross border issues and the Duty to Cooperate, the views of the officer interviewed were as follows:

- Regarding Duty to Co-operate discussions, neighbouring authorities were said to also be in a challenging situation in terms of trying to meet their own need. It was suggested that there would appear to be very little prospect of needs being met elsewhere.
- Since the use of private bailiffs, the officer was of the view that Travellers are not coming to Cannock and are staying out of the district. It is believed that many now travel to South Staffordshire, who still use repossession orders, as they know that they will be able to stay for a couple of weeks until the Council have obtained an order, rather than coming to Cannock and getting moved on within 24 hours.

Dudley Metropolitan Borough Council

5.20 With regard to overall accommodation need in Dudley, the views of the officer interviewed were as follows:

- Since the last GTAA, a site for 5 transit pitches and 2 permanent pitches was granted planning permission in 2019. The Council have also been liaising with representatives from the Travelling Showperson community to identify future needs and the potential for a further yard, as part of the Local Plan review.
- At the Caravan Count undertaken in January 2020 there was no record of unauthorised encampments. All sites with temporary planning permission have now expired and there was no record of sites being occupied.
- Dudley Council will be providing a transit site following approval and the Council are due to implement the site.

5.21 With regard to the subject of cross border issues and the Duty to Cooperate, the views of the officer interviewed were as follows:

- No specific cross-border issues with neighbouring authorities in relation to Gypsies and Travellers were identified.
- The new Black Country Plan will address the identified needs of Gypsies and Travellers over an appropriate period. The Black Country authorities have not yet been requested to address Gypsy and Traveller accommodation issues through the Duty to Cooperate process.

Shropshire Council

5.22 With regard to overall accommodation need in Shropshire, the views of the officer interviewed were as follows:

- Since the last GTAA, Shropshire Council have reviewed the Council land portfolio and undertaken Gypsy and Traveller community consultation to find new sites. A permanent yard for Travelling Showpeople has been identified and currently being progressed.
- There is a mixture of private and public sites in Shropshire. The Council has provided new pitches and redeveloped a number of existing sites in recent years in order to improve the overall accommodation on offer.
- There is currently 1 tolerated site and 1 temporary Travelling Showpeople yard. A private unauthorised site identified in the last GTAA no longer exists.
- The 2017 Shropshire GTAA has been updated. The 2019 GTAA – published in February 2020 reaffirms position that there is no strategic need for additional general pitches.
- Unauthorised short-term encampments in Shropshire have increased despite provision of transit sites in adjoining areas. Permission has been granted for 3 transit pitches on a private site. However, currently there is no public transit provision available for encampments, although there is positive engagement between them and the Gypsy Liaison Team, with enforcement action being a last resort. Provision of a public transit site remains a priority to provide an appropriately located facility

with amenities. A public consultation is to take place on a proposed location for a temporary transit site on the outskirts of Shrewsbury.

5.23 With regard to the subject of cross border issues and the Duty to Cooperate, the views of the officer interviewed were as follows:

- It is considered that adjoining areas are generally meeting their identified need.
- Shropshire Council liaise with Gypsy and Traveller colleagues on a regular basis as part of the National Association of Gypsy and Traveller Officers. They also have regular communications with neighbouring authorities and seek to respond and engage in Duty to Cooperate requests. Therefore, Shropshire and neighbouring authorities were all suggested to be complying with the Duty to Cooperate.

Stafford Borough Council

5.24 With regard to overall accommodation need in Stafford, the views of the officer interviewed were as follows:

- Since the last GTAA, Stafford Council adopted the Local Plan Part 2 in January 2017 and the Council have been looking to identify a suitable site to cover the new plan period. The Council have also been receiving sites through the Strategic Housing and Employment Land Availability Assessment which was published in December 2018.
- There is a current need of 43 pitches and there is provision for 36. Finding the pitches to account for the outstanding need will be part of the work for the new Local Plan, meaning that Stafford have five-year supply. ORS are currently in the process of completing a new GTAA for Stafford and it is expected to be published later in 2020.
- Stafford experience unauthorised encampments throughout the year but the volume was not thought to be enough to require large transit sites. However, it was noted that safe stopping places are needed as the only locations available to mobile groups are potentially hazardous.

5.25 With regard to the subject of cross border issues and the Duty to Cooperate, the views of the officer interviewed were as follows:

- Stafford have received requests from neighbouring authorities asking to help meet the identified need within those authorities; suggesting that some neighbouring authorities cannot fully meet their need.
- Stafford have previously engaged in cross-border work with neighbouring authorities to produce joint GTAA's. Stafford Council remain open to working with neighbouring authorities in the future.
- If was felt that Stafford Borough Council and the neighbouring authorities are all complying with the Duty to Cooperate.

Walsall Metropolitan Borough Council

5.26 With regard to overall accommodation need in Walsall, the views of the officer interviewed were as follows:

- Since the last GTAA, Walsall have adopted a Site Allocation Document which safeguards existing sites and allocates new ones in order to meet any identified need to the end of the plan period in 2026.
- The requirement for additional Travelling Showpeople sites identified both in the 2008 and 2017 GTAAs would appear to exceed need. Walsall has a large population of Showpeople, although many are retired and are therefore unlikely to generate significant household growth. The Showmen's Guild have indicated that they have no interest in at least two of the potential new sites identified in the Site Allocation Document.
- Over the period 2015-2019 there have been between 50 and 100 unauthorised encampments per year. Most of these have been short term transit encampments.

5.27 With regard to the subject of cross border issues and the Duty to Cooperate, the views of the officer interviewed were as follows:

- No specific cross-border issues with neighbouring authorities in relation to Gypsies and Travellers were identified.
- Walsall and the other Black Country authorities are facing a shortfall of land for general housing as they are constrained by most of the undeveloped land comprising of Green Belt. Walsall are therefore seeking to export some of their housing need to neighbouring authorities. As Gypsy and Traveller sites form a sub-set of the housing need, Walsall would therefore welcome support from neighbours in accommodating some of that need.

Wolverhampton City Council

5.28 With regard to overall accommodation need in Wolverhampton, the views of the officer interviewed were as follows:

- As set out in the Black Country & South Staffordshire GTAA, the main provision for Gypsies and Travellers is a large site owned by Wolverhampton Council, and managed by the Gypsy Council, which provides 40 pitches. There is also one Travelling Showperson's yard which is sufficient to meet current needs.
- Since the last GTAA, the Council have added to accommodation provision for Gypsies and Travellers through allocating a site in the Stafford Road Corridor. A site and the necessary funding have also been identified to deliver a transit site in central Wolverhampton. Permission has also been granted for an extension of the existing Travelling Showpeople yard in central Wolverhampton.
- Wolverhampton has enough low-cost land for small windfall sites to be brought forward in the future, as and when they are required by the Gypsy and Traveller community.

5.29 With regard to the subject of cross border issues and the Duty to Cooperate, the views of the officer interviewed were as follows:

- No specific cross-border issues with neighbouring authorities in relation to Gypsies and Travellers were identified.
- It was thought that Wolverhampton and all neighbouring authorities are complying with the Duty to Cooperate
- The Black Country authorities have not yet been requested to address Gypsy and Traveller accommodation issues through the Duty to Cooperate process.

6. Survey of Travelling Communities

Interviews with Gypsies and Travellers

6.1 One of the major components of this study was a detailed survey of the Gypsy and Traveller population living in the study area, and also efforts to engage with the bricks and mortar community.

6.2 Through the desk-based research and stakeholder interviews ORS identified no public sites; 20 private sites with permanent planning permission; 3 private sites with temporary planning permission; 1 site that is tolerated for planning purposes; 10 unauthorised sites or unauthorised pitches on sites with planning permission; and 1 Travelling Showman's Yard.

6.3 The table below sets out the number of pitches/plots, the number of interviews that were completed, and the reasons why interviews were not completed.

6.4 It should be noted that there was 1 vacant pitch, 8 unimplemented and some double pitches. This gives an adjusted response rate of 79%.

6.5 During the period between commencing the GTAA and reporting no further transient households were identified to interview other than those who were interviewed.

Figure 7 – Sites and yards visited in South Staffordshire

Site Status	Pitches/Plots	Interviews	Reasons for not completing interviews/additional interviews
Public Sites			
None	-	-	-
Private Sites			
Anvil Park (The Paddock)	2	2	-
Brickyard Cottage	10	10	-
Brinsford Bridge	2	2	-
Clee Park	15	7	1 x double pitch, 6 x no contact, 1 x vacant
Fishponds Caravan Park	5	0	5 x no contact
Glenside	2	2	-
Granary Cottage	1	2	-
High House	5	5	-
Hospital Lane Site	10	0	10 x no contact
Kingswood Colliery	14	14	-
Land off Malthouse Lane	6	0	6 x unimplemented
Land at rear of Hordon Park	2	2	-
Long Lane	4	5	-
New Stables	1	1	-
Oak Tree Caravan Park	23	15	8 x no contact
Pool House Barn	7	1	6 x no contact
St. James Caravan Park	9	9	-
The Bungalow	6	4	2 x not built

The Spinney	1	1	-
The Stables	4	6	6 x households
Temporary Sites			
59a Long Lane	1	1	-
Fair Haven	4	4	-
New Acres Stables	5	5	-
Tolerated Sites			
1a Stafford Road	1	1	-
Unauthorised Sites/Pitches			
Brinsford Bridge	1	1	-
Glenside	1	1	-
Granary Cottage	1	1	-
High House	1	0	1 x no contact
Land rear of Squirrels Rest	1	1	-
New Stables	4	4	-
Park Lodge	1	1	-
Rear of 122 Streets Lane	4	4	-
Rose Meadow Farm	2	2	-
The Spinney	2	2	-
Bricks and Mortar			
Brickyard Cottage	1	1	-
Granary Cottage	1	1	-
Roadside			
Various	2	2	-
Travelling Showpeople			
Dobson's Yard	6	6	-
TOTAL	**168**	**126**	

Interviews with Gypsies and Travellers in Bricks and Mortar

6.6 Following all of the efforts that were made it was possible to identify and interview 4 households living in bricks and mortar. One was at Granary Cottage included in the table above, one was at Brickyard Cottage included in the table above, and two were through proxy interviews.

7. Current and Future Pitch Provision

Introduction

7.1 This section focuses on the pitch provision which is needed in the study area currently and to 2038. This includes both current unmet need and need which is likely to arise in the future[10]. This time period allows for robust forecasts of the requirements for future provision, based upon the evidence contained within this study and also secondary data sources. Whilst the difficultly in making accurate assessments beyond 5 years has been highlighted in previous studies, the approach taken in this study to estimate new household formation has been accepted by Planning Inspectors as the most appropriate methodology to use.

7.2 We would note that this section is based upon a combination of the on-site surveys, planning records and stakeholder interviews. In many cases, the survey data is not used in isolation, but instead is used to validate information from planning records or other sources.

7.3 This section concentrates not only upon the total provision which is required in the area, but also whether there is a need for any transit sites and/or emergency stopping place provision.

New Household Formation Rates

7.4 Nationally, a household formation and growth rate of 3.00% net per annum[11] has been commonly assumed and widely used in local Gypsy and Traveller assessments, even though there is no statistical evidence of households growing so quickly. The result has been to inflate both national and local requirements for pitches unrealistically. In this context, ORS prepared a *Technical Note on Gypsy and Traveller Household Formation and Growth Rates* in 2015 and updated the Note in June 2020. The main conclusions are set out here and the full paper is in **Appendix F**.

7.5 Those seeking to provide evidence of high annual net household growth rates for Gypsies and Travellers have sometimes sought to rely on increases in the number of caravans, as reflected in caravan counts. However, caravan count data is unreliable and erratic – so the only proper way to project future population and household growth is through demographic analysis.

7.6 The Technical Note concludes that in fact, the growth in the national Gypsy and Traveller population may be as low as 1.25% per annum – much less than the 3.00% per annum often assumed, but still greater than in the settled community. Even using extreme and unrealistic assumptions, it is hard to find evidence that net Gypsy and Traveller population and household growth rates are above 2.00% per annum nationally.

7.7 The often assumed 3.00% per annum net household growth rate is unrealistic and would require clear statistical evidence before being used for planning purposes. In practice, the best available evidence supports a national net household growth rate of 1.50% per annum for Gypsies and

[10] See Paragraphs 3.41 and 3.42 for details of components on current and future need.
[11] Page 25, Gypsy and Traveller Accommodation Needs Assessments – Guidance (DCLG – 2007) *Now withdrawn*.

Travellers (in addition research by ORS has identified a national growth rate of 1.00% for Travelling Showpeople) and this has also been adjusted locally based on site demographics.

7.8 This view has been supported by Planning Inspectors in a number of Decision Notices. The Inspector for an appeal in Doncaster that was issued in November 2016 (Ref: APP/F4410/W/15/3133490) where the agent acting on behalf of the appellant claimed that a rate closer to 3.00% should be used concluded:

> *In assessing need account also needs to be taken of likely household growth over the coming years. In determining an annual household growth rate, the Council relies on the work of Opinions Research Services (ORS), part of Swansea University. ORS's research considers migration, population profiles, births & fertility rates, death rates, household size data and household dissolution rates to determine average household growth rates for gypsies and travellers. The findings indicate that the average annual growth rate is in the order of 1.50% but that a 2.50% figure could be used if local data suggest a relatively youthful population. As the Council has found a strong correlation between Doncaster's gypsy and traveller population age profile and the national picture, a 1.50% annual household growth rate has been used in its 2016 GTANA. Given the rigour of ORS's research and the Council's application of its findings to the local area I accept that a 1.50% figure is justified in the case of Doncaster.*

7.9 Another more recent was in relation to an appeal in Guildford that was issued in March 2018 (Ref: APP/W/16/3165526) where the agent acting on behalf of the appellant again claimed that a rate closer to 3.00% should be used. The Inspector concluded:

> *There is significant debate about household formation rates and the need to meet future growth in the district. The obvious point to make is that this issue is likely to be debated at the local-plan examination. In my opinion, projecting growth rates is not an exact science and the debate demonstrates some divergence of opinion between the experts. Different methodologies could be applied producing a wide range of data. However, on the available evidence it seems to me that the figures used in the GTAA are probably appropriate given that they are derived by using local demographic evidence. In my opinion, the use of a national growth rate and its adaptation to suit local or regional variation, or the use of local base data to refine the figure, is a reasonable approach.*

7.10 In addition, the Technical Note has recently been accepted as a robust academic evidence base and has been published by the Social Research Association in its journal Social Research Practice in December 2017. The overall purpose of the journal is to encourage and promote high standards of social research for public benefit.

7.11 ORS assessments take full account of the net local household growth rate per annum calculated on the basis of demographic evidence from the site surveys, and the 'baseline' includes all current authorised households, all households identified as in current need (including concealed households, movement from bricks and mortar and those on waiting lists not currently living on a pitch or plot), as well as households living on tolerated unauthorised pitches or plots who are not included as current need. The assessments of future need also take account of modelling projections based on birth and death rates, household dissolution, and in-/out-migration.

7.12 Overall, the household growth rate used for the assessment of future needs has been informed by local evidence. This demographic evidence has been used to adjust the national growth rate

of 1.50% up or down based on the proportion of those aged under 18 (by planning status). In South Staffordshire this approach has been taken to determine the new household formation rate for households that did not meet the planning definition. 35% of residents were aged under 18. This demographic evidence is slightly lower than the ORS national growth rate of 1.50% (which is based on 36% aged under 18). Therefore, an adjusted rate of 1.45% has been used based on the proportion of those aged under 18 in households that did not meet the planning definition in South Staffordshire.

7.13 In certain circumstances where the numbers of households and children are low, or the population age structure is skewed by certain age groups, it is not appropriate to apply a percentage rate for new household formation. In these cases, a judgement has been made on likely new household formation based on the age and gender of the children. This is based on the assumption that 50% of households likely to form will stay in the area - based on evidence from other GTAAs that ORS have completed across England and Wales. This approach has been taken to determine levels of new household formation for households that met the planning definition. This is due to a significantly higher number of children aged between 3 and 7 in households in South Staffordshire that met the planning definition. This approach has also been used for Travelling Showmen due to very low number of children.

7.14 The ORS national formation rate of 1.50% has been applied to undetermined households in the absence of any demographic data for these households.

7.15 Overall new household formation for those that met and did not meet the planning definition has also been adjusted to take account of teenagers in need of a pitch in the next 5 years who have already been identified as components of need. This eliminates any double counting in the assessment of need.

Breakdown by 5 Year Bands

7.16 In addition to tables which set out the overall need for Gypsies and Travellers, the overall need has also been broken down by 5-year bands as required by PPTS (2015). The way that this is calculated is by including all current need (from unauthorised pitches, pitches with temporary planning permission, concealed and doubled-up households, 5 year need from teenage children, and net movement from bricks and mortar) in the first 5 years. In addition, the total net new household formation is split across the GTAA period based on the compound rate of growth that was applied rather than being split equally over time.

Applying the Planning Definition

7.17 The outcomes from the household interviews were used to determine the status of each household against the planning definition in PPTS (2015). This assessment was based on the responses to the questions given to Researchers. Only those households that met the planning definition, in that they were able to provide information during the household interview that household members travel for work purposes, or for seeking work, and stay away from their usual place of residence when doing so – or that they have ceased to travel temporarily due to education, ill health or old age, form the components of need that will form the baseline of need in the GTAA. Households where an interview was not completed who may meet the planning definition have also been included as a potential additional component of need from undetermined households. Whilst they do not need to be formally considered in the GTAA, need

from households that did not meet the planning definition has also been assessed to provide the Councils with information on levels of need that will have to be considered as part of the wider housing needs of the area and through separate Local Plan Policies.

7.18 The information used to assess households against the planning definition included information on whether households have ever travelled; why they have stopped travelling; the reasons that they travel; and whether they plan to travel again in the future and for what reasons. The table below sets out the planning status of households that were interviewed for the South Staffordshire GTAA. This includes any hidden households that were identified during the household interviews including concealed and doubled-up households or single adults and accepted in-migration. It is important to note that this is a table setting out household numbers and not pitch numbers.

Figure 8 – Planning status of households in South Staffordshire

Status	Meet Planning Definition	Undetermined	Do Not Meet Planning Definition
Gypsies and Travellers			
Public Sites	0	0	0
Private Sites	89	27	27
Temporary	12	0	3
Tolerated	1	0	0
Unauthorised	17	1	0
Bricks and Mortar	3	0	2
Roadside	2	0	0
Sub-Total	**124**	**28**	**32**
Travelling Showpeople	6	0	0
Sub-Total	**6**	**0**	**0**
TOTAL	**130**	**28**	**32**

7.19 Figure 8 shows that for Gypsies and Travellers, 124 households met the planning definition of a Traveller, and for Travelling Showpeople 6 households met the planning definition in that ORS were able to determine that household members travel for work purposes, or for seeking work, and stay away from their usual place of residence or have ceased to travel temporarily.

7.20 A total of 32 Gypsy and Traveller households did not meet the planning definition as they were not able to demonstrate that they travel away from their usual place of residence for the purpose of work, or that they have ceased to travel temporarily due to children in education, ill health, or old age. Some did travel for cultural reasons, to visit relatives or friends, and others had ceased to travel permanently.

7.21 It was not possible to make contact with 28 households as they were not present during the extended fieldwork period. However, the majority of those who were not present during the fieldwork period were in areas where high numbers of non-Travellers were found to be living, or on sites where the pitches may have been used as transit pitches.

Interviews with Gypsies and Travellers in Bricks and Mortar

7.22 Following all of the efforts that were made, it was possible to identify and interview 4 households living in bricks and mortar.

Migration/Roadside

7.23 The study has also sought to address in-migration (households requiring accommodation who move into the study area from outside) and out-migration (households moving away from the study area). Site surveys typically identify only small numbers of in-migrant and out-migrant households and the data is not normally robust enough to extrapolate long-term trends. At the national level, there is nil net migration of Gypsies and Travellers across the UK, but the assessment has taken into account local migration effects on the basis of the best evidence available.

7.24 Evidence drawn from stakeholder and household interviews has been considered alongside assessments of need that have been completed in other nearby local authorities. The household interviews identified 1 household living in another local authority who need to move back to a family site in South Staffordshire: and 2 households living on the roadside in South Staffordshire due to a lack of space on a family site.

7.25 The household interviews also identified a total of 36 households who are currently living in other local authorities who have a desire to move to a site in South Staffordshire. However, as no need was identified, these households have not been included as components of demand in this assessment.

7.26 ORS have found no firm evidence from other local studies that have been completed recently of any additional households wishing to move to South Staffordshire. Therefore, apart from the identified in-migration and roadside need, net migration to the sum of zero has been assumed for the GTAA – which means that net pitch requirements are driven by locally identifiable need rather than speculative modelling assumptions.

7.27 It is important to note that any future demand for new sites or additional pitches as a result of in-migration should be seen as windfall need and should be dealt with by a criteria-based development management policy. This additional need should not be assessed against levels of need identified in the GTAA or to contribute towards 5-year supply to meet this need.

Pitch Needs – Gypsies and Travellers that meet the Planning Definition

7.28 The 124 households that met the planning definition were found on private, temporary, tolerated, and unauthorised sites, as well as living in bricks and mortar and living on the roadside. Analysis of the household interviews indicated that there is a current need from 16 unauthorised pitches; and for 25 pitches from concealed or doubled-up households or adults. Future need has been identified for 21 pitches for teenage children who are in need of a pitch of their own in the next 5 years; from 7 households on temporary pitches; for 3 households from in-migration/roadside; and for 49 pitches as a result of new household formation, derived from the demographics of the residents. Therefore, the overall level of need for those households who met the planning definition of a Gypsy or Traveller is for **121 pitches** over the GTAA period.

7.29 Whilst there were a total of 9 pitches on sites with permanent planning permission that were either vacant, unimplemented or under development, these were all on private sites and are not considered to be available supply as required by the PPTS. However, it is anticipated that these pitches will meet some of the current and future need identified from these sites.

Figure 9 – Need for Gypsy and Traveller households in South Staffordshire that met the Planning Definition (2021-38)

Gypsies and Travellers - Meeting Planning Definition	Pitches
Supply of Pitches	
Supply from vacant public and private pitches	0
Supply from pitches on new sites	0
Pitches vacated by households moving to bricks and mortar	0
Pitches vacated by households moving away from the study area	0
Total Supply	**0**
Current Need	
Households on unauthorised developments	16
Households on unauthorised encampments	0
Concealed households/Doubling-up/Over-crowding	25
Movement from bricks and mortar	0
Households on waiting lists for public sites	0
Total Current Need	**41**
Future Need	
5 year need from teenage children	21
Households on sites with temporary planning permission	7
In-migration/roadside	3
New household formation	49
(Formation from household demographics)	
Total Future Needs	**80**
Net Pitch Need = (Current and Future Need – Total Supply)	**121**

Figure 10 – Need for Gypsy and Traveller households in South Staffordshire that met the Planning Definition by 5-year periods

Years	0-5	6-10	11-15	16-18	Total
	2021-25	2026-30	2031-35	2036-38	
	72	11	24	14	**121**

Pitch Needs – Undetermined Gypsies and Travellers

7.30 Whilst it was not possible to determine the planning status of a total of 28 households as they were not on site at the time of the fieldwork, the needs of these households still need to be recognised by the GTAA as they are believed to be Gypsies and Travellers and may meet the planning definition.

7.31 ORS are of the opinion that it would not be appropriate when producing a robust assessment of need to make any firm assumptions about whether or not households where an interview was not completed meet the planning definition based on the outcomes of households in that local authority where an interview was completed.

7.32 However, data that has been collected from over 5,000 household interviews that have been completed by ORS since the changes to PPTS in 2015 suggests that nationally approximately 30% of households that have been interviewed meet the planning definition.

7.33 This would suggest that it is likely that only a proportion of the potential need identified from these undetermined households will need conditioned Gypsy and Traveller pitches, and that the needs of the majority will need to be addressed through other means.

7.34 Should further information be made available to the Council that will allow for the planning definition to be applied to the undetermined households, the overall level of need could rise by up to 1 from unauthorised pitches and by up to 8 from new household formation (this uses a base of the 28 households and the ORS national net growth rate of 1.50%[12]). Therefore, **need could increase by up to a further 9 pitches**, plus any concealed adult households or 5-year need arising from teenagers living in these households if all 28 undetermined pitches are deemed to meet the planning definition. However, as an illustration, if the ORS national average of 30% were to be applied this could be as few as 3 pitches. If the locally derived proportion of households that met the planning definition (79%) were to be applied this could rise to 7 pitches.

7.35 Tables setting out the components of need for undetermined households can be found in **Appendix B**.

Pitch Needs - Gypsies and Travellers that do not meet the Planning Definition

7.36 It is not now a requirement for a GTAA to include an assessment of need for households that did not meet the planning definition. However, this assessment is included for illustrative purposes, to help fulfil the requirements of the Housing Act (1985)[13] and to provide the Council with information on levels of need that will have to be addressed through separate Local Plan Policies. On this basis, it is evident that whilst the needs of the 32 households who did not meet the planning definition will represent only a very small proportion of the overall housing need, the Council will still need to ensure that arrangements are in place to properly address these needs

[12] The ORS *Technical Note on Population and Household Growth (2020)* has identified a national growth rate of 1.50% for Gypsies and Travellers which has been applied in the absence of further demographic information about these households.

[13] See Paragraph 3.34 for details.

– especially as many identified as Irish and Romany Gypsies and may claim that the Council should meet their housing needs through culturally appropriate housing.

7.37 Analysis of the household interviews indicated that there is a current need from 8 concealed or doubled-up households or single adults; and 2 movement from bricks and mortar. The future need identified is for 5 from teenagers who will need a pitch of their own in the next 5 years; 2 from households on sites with temporary planning permission; and 7 from new household formation using a rate of 1.45% derived from the household demographics. Therefore, the overall level of need for those households who did not meet the planning definition of a Gypsy or Traveller is for **24 pitches** over the GTAA period. A summary of this need for households that did not meet the planning definition can be found in **Appendix C**.

Travelling Showpeople Needs

Plot Needs – Travelling Showpeople

7.38 There was 1 Travelling Showperson's yard identified in South Staffordshire and interviews were completed with all 6 of the households – all met the planning definition.

7.39 Analysis of the household interviews for households that met the planning definition indicated that there is a need for 3 plots from new household formation derived from the household demographics. Therefore, the overall level of need for those households who met the planning definition of a Travelling Showperson is for **3 plots** over the GTAA period.

Figure 11 – Need for Travelling Showpeople households in South Staffordshire that met the Planning Definition (2021-38)

Travelling Showpeople - Meeting Planning Definition	Pitches
Supply of Plots	
Supply from vacant public and private plots	0
Supply from pitches on new yards	0
Plots vacated by households moving to bricks and mortar	0
Plots vacated by households moving away from the study area	0
Total Supply	**0**
Current Need	
Households on unauthorised developments	0
Households on unauthorised encampments	0
Concealed households/Doubling-up/Over-crowding	0
Movement from bricks and mortar	0
Total Current Need	**0**
Future Need	
5 year need from teenage children	0
Households on yards with temporary planning permission	0
In-migration	0
New household formation	3
(Formation from household demographics)	
Total Future Needs	**3**
Net Plot Need = (Current and Future Need – Total Supply)	**3**

Figure 12 – Need for Travelling Showpeople households in South Staffordshire that met the Planning Definition by 5-year periods

Years	0-5	6-10	11-15	16-18	Total
	2021-25	2026-30	2031-35	2036-38	
	0	0	2	1	**3**

Transit Requirements

7.40 When determining the potential need for transit provision the assessment has looked at data from the MHCLG Traveller Caravan Count, the outcomes of the stakeholder interviews and records on numbers of unauthorised encampments, and the potential wider issues related to changes made to PPTS in 2015.

MHCLG Traveller Caravan Count

7.41 Whilst it is considered to be a comprehensive national dataset on numbers of authorised and unauthorised caravans across England, it is acknowledged that the Traveller Caravan Count is a count of caravans and not households. It also does not record the reasons for unauthorised caravans. This makes it very difficult to interpret in relation to assessing future need because it does not count pitches or resident households. The count is also only a twice yearly (January and July) 'snapshot in time' conducted by local authorities on a specific day, and any caravans on unauthorised sites or encampments which occur on other dates are not recorded. Likewise, any caravans that are away from sites on the day of the count are not included. As such it is not considered appropriate to use the outcomes from the Traveller Caravan Count in the assessment of future transit provision. It does however provide valuable historic and trend data on whether there are instances of unauthorised caravans in local authority areas.

7.42 Data from the Traveller Caravan Count shows that there have been no non-tolerated unauthorised caravans on land not owned by Travellers recorded in the study area in recent years.

Stakeholder Interviews and Local Data

7.43 Whilst there is currently no public transit provision in South Staffordshire, the fieldwork identified a small number of private sites where there are private transit pitches.

7.44 Information from the stakeholder interviews identified that there are occasional encampments, but that these are household passing through and that they are dealt with effectively by the Councils Enforcement Team.

Transit Recommendations

7.45 Due to low historic low numbers of unauthorised encampments, and the existence of private transit pitches, it is not recommended that there is a need for a formal public transit site in South Staffordshire at this time.

7.46 The situation relating to levels of unauthorised encampments should be monitored whilst any potential changes associated with PPTS (2015) develop – for example a potential increase in the number of households travelling to seek to meet the current planning definition.

7.47 As well as information on the size and duration of the encampments, this monitoring should also seek to gather information from residents on the reasons for their stay in the local area; whether they have a permanent base or where they have travelled from; whether they have any need or preference to settle permanently in the local area; and whether their travelling is a result of

changes to PPTS (2015). This information could be collected as part of a Welfare Assessment (or similar).

7.48 It is recommended that a review of the evidence base relating to unauthorised encampments, including the monitoring referred to above, should be undertaken on a Staffordshire-wide basis. This will establish whether there is a need for investment in any new transit provision or emergency stopping places, or whether a managed approach is preferable.

7.49 In the short-term the Council should continue to use its current approach when dealing with unauthorised encampments and management-based approaches such as negotiated stopping agreements could also be considered.

7.50 The term 'negotiated stopping' is used to describe agreed short-term provision for Gypsy and Traveller caravans. It does not describe permanent 'built' transit sites but negotiated agreements which allow caravans to be sited on suitable specific pieces of ground for an agreed and limited period of time, with the provision of limited services such as water, waste disposal and toilets. Agreements are made between the Council and the (temporary) residents regarding expectations on both sides. See www.leedsgate.co.uk for further information.

7.51 Temporary stopping places can be made available at times of increased demand due to fairs or cultural celebrations that are attended by Gypsies and Travellers. A charge may be levied as determined by the local authority although they only need to provide basic facilities including: a cold-water supply; portaloos; sewerage disposal point and refuse disposal facilities.

8. Conclusions

8.1 This study provides a robust evidence base to enable the Council to assess the housing needs of the Travelling Community as well as complying with their requirements towards Gypsies, Travellers and Travelling Showpeople under the Housing Act 1985, Planning Policy for Traveller Sites (PPTS) 2015, the Housing and Planning Act 2016, the revised National Planning Policy Framework (NPPF) 2021, and Planning Practice Guidance (PPG) 2021. It also provides the evidence base which can be used to support Local Plan Policies.

Gypsies and Travellers

8.2 In summary there is a need for:

- 121 pitches in South Staffordshire over the GTAA period to 2038 for Gypsy and Traveller households that met the planning definition.
- 9 pitches for undetermined Gypsy and Traveller households that may meet the planning definition.
- 24 pitches for Gypsy and Traveller households who did not meet the planning definition.

8.3 In general terms need identified in a GTAA is seen as need for pitches. As set out in Chapter 4 of this report, the now withdrawn *Government Guidance on Designing Gypsy and Traveller Sites* recommended that, as a general guide, an average family pitch must be capable of accommodating an amenity building, a large trailer and touring caravan, parking space for two vehicles and a small garden area.

8.4 It is recommended that alternative approaches should be considered when seeking to address the levels of need identified in this GTAA, especially when seeking to meet the need through the intensification or expansion of existing sites.

8.5 The first approach to consider is in relation to single concealed or doubled-up adults and teenagers who will be in need of a pitch of their own in the next 5 years. In the short to medium term it is likely that the accommodation need of these individuals could be met through additional touring caravans on existing sites which are, generally, each equivalent to the provision of a pitch, as opposed to more formally set out pitches.

8.6 The second approach to consider is for sites occupied by larger extended family groups. Again, sites like this may be able to meet the overall accommodation needs through a combination of shared static caravans, tourers and dayrooms on existing sites which are, generally, each equivalent to the provision of a pitch – as opposed to more formally set out sites with separate pitches. It is common for conditions in Decision Notices for Travellers sites to simply place limits on the numbers and types of caravans as opposed to placing limits on the number of pitches.

8.7 Future need from new household formation could also be met through natural turnover of pitches over time.

8.8 It is recommended that need for households that met the PPTS planning definition is addressed through new pitch allocations and the intensification or expansion of existing sites – considering some of the alternative approaches set out above. Given that all of identified need comes from

households living on private sites it is likely that it will need to be addressed through the provision of private pitches or sites.

8.9 The Council will need to carefully consider how to address any needs from undetermined households, from households seeking to move to South Staffordshire (in-migration), or from households currently living in bricks and mortar. In terms of Local Plan Policies, the Council should consider the use of a criteria-based policy (as suggested in PPTS).

8.10 In general terms, it is the Government's intention that the need for those households who do not fall within the PPTS planning definition should be met as part of general housing need and through separate Local Plan Housing Policies – this is consistent with the revised NPPF.

8.11 It is recognised that the Council already has in place an adopted Local Plan that sets out overall housing need. As this plan is reviewed the findings of this report should be considered as part of future housing mix and type within the context of the assessment of overall housing need in relation to Gypsies and Travellers. Whilst the findings in this report are aggregated totals for the whole of South Staffordshire due to data protection issues, the Council have more detailed data to enable accurate Local Plan allocation to be made.

Travelling Showpeople

8.12 The GTAA identifies a need for 3 plots for households that met the planning definition. There was no need identified for undermined households or households that do not meet the definition.

Transit Provision

8.13 Due to low historic low numbers of unauthorised encampments, and the existence of private transit pitches, it is not recommended that there is a need for a formal public transit site in South Staffordshire at this time. However, there is a need for a more strategic approach to transit provision across Staffordshire to consider the establishment of a network of emergency stopping places to enable the Police to use their powers to move household on.

8.14 In the short-term the Council should continue to use its current approach when dealing with unauthorised encampments and management-based approaches such as negotiated stopping agreements could also be considered.

Summary of Need to be Addressed – Gypsies and Travellers

8.15 Taking into consideration all of the elements of need that have been assessed, together with the assumptions on the proportion of undetermined households that are likely to meet the planning definition, the table below sets out the likely number of pitches that will need to be addressed either as a result of the GTAA, or through the Councils Housing Need Assessment (HNA) process and through separate Local Plan Policies.

8.16 Total need from Gypsies and Travellers in South Staffordshire that met the planning definition, from undetermined households that may meet the planning definition; and from households that did not meet the planning definition is for 154 pitches.

8.17 The tables below break total need down by:

» The number that met the planning definition.

» The likely proportion of need from undetermined households that will meet the planning definition. It does this by taking 30% (the ORS national average of Gypsies and Travellers that meet the planning definition) of need from undetermined households and 79% (the locally derived proportion that met the planning definition).

» The number that did not meet the planning definition.

» The likely proportion of need from undetermined households that will not meet the planning definition. It does this by taking 70% (the ORS national average of Gypsies and Travellers that do not meet the planning definition) of need from undetermined households and 21% (the locally derived proportion that did not met the planning definition).

8.18 Need from households that meet or are likely to meet the planning definition will need to be addressed through a Gypsy and Traveller Local Plan Policy through a combination of pitch allocations and through a Criteria-Based Policy.

8.19 Need for households that did not meet the planning definition will need to be met through other Local Plan Housing Policies.

Figure 13 – Need for Gypsy and Traveller households broken down by Local Plan Policy Type – ORS National %

Delivery Status	Gypsy & Traveller Policy	Housing Policy	TOTAL
Meet Planning Definition[14]	121	-	**121**
30% Undetermined Need[15]	3	-	**3**
Do Not Meet Planning Definition	-	24	**24**
70% Undetermined Need	-	6	**6**
TOTAL	**124**	**30**	**154**

Figure 14 – Need for Gypsy and Traveller households broken down by Local Plan Policy Type – Local %

Delivery Status	Gypsy & Traveller Policy	Housing Policy	TOTAL
Meet Planning Definition[14]	121	-	**121**
79% Undetermined Need[15]	7	-	**7**
Do Not Meet Planning Definition	-	24	**24**
21% Undetermined Need	-	2	**2**
TOTAL	**128**	**26**	**154**

[14] Site Allocations.
[15] Address through a Criteria-Based Policy.

List of Figures

Appendix A: Glossary of Terms / Acronyms used

Amenity block/shed	A building where basic plumbing amenities (bath/shower, WC, sink) are provided.
Bricks and mortar	Mainstream housing.
Caravan	Mobile living vehicle used by Gypsies and Travellers. Also referred to as trailers.
Chalet	A single storey residential unit which can be dismantled. Sometimes referred to as mobile homes.
Concealed household	Households, living within other households, who are unable to set up separate family units.
Doubling-Up	Where there are more than the permitted number of caravans on a pitch or plot.
Emergency Stopping Place	A temporary site with limited facilities to be occupied by Gypsies and Travellers while they travel.
Green Belt	A land use designation used to check the unrestricted sprawl of large built-up areas; prevent neighbouring towns from merging into one another; assist in safeguarding the countryside from encroachment; preserve the setting and special character of historic towns; and assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
Household formation	The process where individuals form separate households. This is normally through adult children setting up their own household.
In-migration	Movement of households into a region or community
Local Plans	Local Authority spatial planning documents that can include specific policies and/or site allocations for Gypsies, Travellers and Travelling Showpeople.
Out-migration	Movement from one region or community in order to settle in another.
Personal planning permission	A private site where the planning permission specifies who can occupy the site and doesn't allow transfer of ownership.
Pitch/plot	Area of land on a site/development generally home to one household. Can be varying sizes and have varying caravan numbers. Pitches refer to Gypsy and Traveller sites and Plots to Travelling Showpeople yards.
Private site	An authorised site owned privately. Can be owner-occupied, rented or a mixture of owner-occupied and rented pitches.

Site	An area of land on which Gypsies, Travellers and Travelling Showpeople are accommodated in caravans/chalets/vehicles. Can contain one or multiple pitches/plots.
Social/Public/Council Site	An authorised site owned by either the local authority or a Registered Housing Provider.
Temporary planning permission	A private site with planning permission for a fixed period of time.
Tolerated site/yard	Long-term tolerated sites or yards where enforcement action is not expedient, and a certificate of lawful use would be granted if sought.
Transit provision	Site intended for short stays and containing a range of facilities. There is normally a limit on the length of time residents can stay.
Unauthorised Development	Caravans on land owned by Gypsies and Travellers and without planning permission.
Unauthorised Encampment	Caravans on land not owned by Gypsies and Travellers and without planning permission.
Waiting list	Record held by the local authority or site managers of applications to live on a site.
Yard	A name often used by Travelling Showpeople to refer to a site.

GTAA	Gypsy and Traveller Accommodation Assessment
GTANA	Gypsy and Traveller Accommodation Needs Assessment
HEDNA	Housing and Economic Development Needs Assessment
HMA	Housing Market Assessment
LPA	Local Planning Authority
MHCLG	Ministry of Housing, Communities and Local Government
NPPF	National Planning Policy Framework
ORS	Opinion Research Services
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
SHMA	Strategic Housing Market Assessment
TSP	Travelling Showpeople

Appendix B: Undetermined Households

Figure 15 - Need for undetermined Gypsy and Traveller households in South Staffordshire (2021-38)

Gypsies and Travellers – Undetermined	Pitches
Supply of Pitches	
Supply from vacant public and private pitches	0
Supply from pitches on new sites	0
Pitches vacated by households moving to bricks and mortar	0
Pitches vacated by households moving away from the study area	0
Total Supply	**0**
Current Need	
Households on unauthorised developments	1
Households on unauthorised encampments	0
Concealed households/Doubling-up/Over-crowding	0
Movement from bricks and mortar	0
Households on waiting lists for public sites	0
Total Current Need	**1**
Future Need	
5 year need from teenage children	0
Households on sites with temporary planning permission	0
In-migration	0
New household formation	8
(Household base 28 and formation rate 1.50%)	
Total Future Needs	**8**
Net Pitch Need = (Current and Future Need – Total Supply)	**9**

Figure 16 – Need for undetermined Gypsy and Traveller households in South Staffordshire by 5-year periods

Years	0-5	6-10	11-15	16-18	Total
	2021-25	2026-30	2031-35	2036-38	
	3	2	3	1	**9**

Figure 17 - Need for undetermined Travelling Showpeople households in South Staffordshire (2021-38)

Travelling Showpeople – Undetermined	Plots
Supply of Plots	
Supply from vacant public and private plots	0
Supply from plots on new yards	0
Plots vacated by households moving to bricks and mortar	0
Plots vacated by households moving away from the study area	0
Total Supply	**0**
Current Need	
Households on unauthorised developments	0
Households on unauthorised encampments	0
Concealed households/Doubling-up/Over-crowding	0
Movement from bricks and mortar	0
Total Current Need	**0**
Future Need	
5 year need from teenage children	0
Households on yards with temporary planning permission	0
In-migration	0
New household formation	0
(No undetermined Travelling Showpeople)	
Total Future Needs	**0**
Net Plot Need = (Current and Future Need – Total Supply)	**0**

Figure 18 – Need for undetermined Travelling Showpeople households in South Staffordshire by 5-year periods

Years	0-5	6-10	11-15	16-18	Total
	2021-25	2026-30	2031-35	2036-38	
	0	0	0	0	**0**

Appendix C: Households that did not meet the Planning Definition

Figure 19 - Need for Gypsy and Traveller households in South Staffordshire that did not meet the Planning Definition (2021-38)

Gypsies and Travellers - Not Meeting Planning Definition	Pitches
Supply of Pitches	
Supply from vacant public and private pitches	0
Supply from pitches on new sites	0
Pitches vacated by households moving to bricks and mortar	0
Pitches vacated by households moving away from the study area	0
Total Supply	**0**
Current Need	
Households on unauthorised developments	0
Households on unauthorised encampments	0
Concealed households/Doubling-up/Over-crowding	8
Movement from bricks and mortar	2
Households on waiting lists for public sites	0
Total Current Need	**10**
Future Need	
5 year need from teenage children	5
Households on sites with temporary planning permission	2
In-migration	0
New household formation	7
(Household base 32 and formation rate 1.45%)	
Total Future Needs	**14**
Net Pitch Need = (Current and Future Need – Total Supply)	**24**

Figure 20 – Need for Gypsy and Traveller households in South Staffordshire that did not meet the Planning Definition by 5-year periods

Years	0-5	6-10	11-15	16-18	Total
	2021-25	2026-30	2031-35	2036-38	
	17	3	3	1	**24**

Figure 21 - Need for Travelling Showpeople households in South Staffordshire that did not meet the planning definition (2021-38)

Travelling Showpeople - Not Meeting Planning Definition	Plots
Supply of Plots	
Supply from vacant public and private plots	0
Supply from plots on new yards	0
Plots vacated by households moving to bricks and mortar	0
Plots vacated by households moving away from the study area	0
Total Supply	**0**
Current Need	
Households on unauthorised developments	0
Households on unauthorised encampments	0
Concealed households/Doubling-up/Over-crowding	0
Movement from bricks and mortar	0
Total Current Need	**0**
Future Need	
5 year need from teenage children	0
Households on yards with temporary planning permission	0
In-migration	0
New household formation	0
(No Travelling Showpeople that did not meet the planning definition)	
Total Future Needs	**0**
Net Plot Need = (Current and Future Need – Total Supply)	**0**

Figure 22 – Need for Travelling Showpeople households in South Staffordshire that did not meet the Planning Definition by 5-year periods

Years	0-5	6-10	11-15	16-18	Total
	2021-25	2026-30	2031-35	2036-38	
	0	0	0	0	**0**

Appendix D: Site and Yard Lists (August 2021)

Site/Yard	Authorised Pitches or Plots	Unauthorised Pitches or Plots
Public Sites		
None	-	-
Private Sites with Permanent Permission		
Anvil Park (The Paddock)	2	-
Brickyard Cottage, Essington	10	-
Brinsford Bridge, Coven Heath	2	
Clee Park, Newtown	15	-
Fishponds Caravan Park, Featherstone	5	-
Glenside, Cross Green	2	-
Granary Cottage, Slade Heath	1	-
High House, Hatherton	5	-
Hospital Lane Site, Cheslyn Hay	10	-
Kingswood Colliery, Great Wyrley	14	-
Land off Malthouse Lane, Calf Heath	6	-
Land at rear of Hordon Park, Coven Heath	2	-
Long Lane, Newtown	4	-
New Stables, Hatherton	1	-
Oak Tree Caravan Park, Featherstone	23	-
Pool House Barn, Slade Heath	7	-
St. James Caravan Park, Featherstone	9	-
The Bungalow, Coven	6	-
The Spinney, Slade Heath	1	-
The Stables, Upper Landywood	4	-
Private Sites with Temporary Permission		
59a Long Lane	1	-
Fair Haven, Coven Heath	4	-
New Acres Stables, Penkridge	5	
Tolerated Sites – Long-term without Planning Permission		
1a Stafford Road, Coven Heath	-	1
Unauthorised Developments		
Brinsford Bridge, Coven Heath	-	1
Glenside, Cross Green	-	1
Granary Cottage, Slade Heath	-	1
High House, Hatherton	-	1
Land rear of Squirrels Rest	-	1
New Stables, Hatherton	-	4
Park Lodge, Wombourne	-	1
Rear of 122 Streets Lane	-	4
Rose Meadow Farm, Prestwood	-	2
The Spinney, Slade Heath	-	2
TOTAL PITCHES	**139**	**19**
Travelling Showpeople Yards		
Dobsons Yard, Featherstone	6	-
TOTAL PLOTS	**6**	-
TOTAL	**145**	**19**

Appendix E: Household Interview Questions

GTAA Questionnaire 2019

INTERVIEWER: Good Morning/afternoon/evening. My name is < > from Opinion Research Services, working on behalf of XXXX Council.

The Council are undertaking a study of Gypsy, Traveller and Travelling Showpeople accommodation needs assessment in this area. This is needed to make sure that accommodation needs are properly assessed and to get a better understanding of the needs of the Travelling Community.

The Council need to try and speak with every Gypsy, Traveller and Travelling Showpeople household in the area to make sure that the assessment of need is accurate.

Your household will not be identified and all the information collected will be anonymous and will only be used to help understand the needs of Gypsy, Traveller and Travelling Showpeople households.

ORS is registered under the Data Protection Act 1998. Your responses will be stored and processed electronically and securely. This paper form will be securely destroyed after processing. Your household will not be identified to the council and only anonymous data and results will be submitted, though verbatim comments may be reported in full, and the data from this survey will only be used to help understand the needs of Gypsy, Traveller and Travelling Showpeople households

A General Information

A1 Name of planning authority:
INTERVIEWER please write in

A2 Date/time of site visit(s):
INTERVIEWER please write in
DD/MM/YY | TIME

A3 Name of interviewer:
INTERVIEWER please write in

A4 Address and pitch number:
INTERVIEWER please write in

A5 Type of accommodation: *INTERVIEWER please cross one box only*

Council	Private rented	Private owned	Unauthorised	Bricks and Mortar
☐	☐	☐	☐	☐

A6 Name of Family:
INTERVIEWER please write in

A7 Ethnicity of Family:
INTERVIEWER please cross one box only

Romany Gypsy	Irish Traveller	Scots Gypsy or Traveller	Show Person
☐	☐	☐	☐
New Traveller	**English Traveller**	**Welsh Gypsy**	**Non-Traveller**
☐	☐	☐	☐

Other *(please specify)*

A8 Number of units on the pitch:
INTERVIEWER please write in

Mobile homes	Touring Caravans	Day Rooms	Other *(please specify)*

A9 **Is this site your main place of residence? If not where is?**
INTERVIEWER: Please cross one box only

Yes ☐ No ☐ If not main place of residence where is (please specify)

A10 **How long have you lived here? If you have moved in the past 5 years, where did you move from?** *INTERVIEWER: Please write in below*

Years	Months	If you have moved in the past 5 years, where did you move from? Include ALL moves

A11 **Did you live here out of your own choice or because there was no other option? If there was no other option, why?** *INTERVIEWER: Please cross one box only*

Choice ☐ No option ☐ If no option, why?

A12 **Is this site suitable for your household? If so why and if not why not? (For example close to schools, work, healthcare, family and friends etc.)**
INTERVIEWER: Please cross one box only

Yes ☐ No ☐ Reasons (please specify)

A13 **How many separate families or unmarried adults live on this pitch?**
INTERVIEWER: Please cross one box only

1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10 ☐

B Demographics

B1 **Demographics — Household 1** *INTERVIEWER: Please write-in*

Person 1		Person 2		Person 3	
Sex	Age	Sex	Age	Sex	Age

Complete additional forms for each household on pitch *INTERVIEWER: Please write-in*

Person 4		Person 5		Person 6		Person 7		Person 8	
Sex	Age	Sex	Age	Sex	Age	Sex	Age	Sex	Age

C Accommodation Needs

C1 **How many families or unmarried adults living on this pitch are in need of a pitch of their own in the next 5 years?** *INTERVIEWER: Please cross one box only*

INTERVIEWER: AN ADULT IS DEFINED AS 16+

1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10 ☐

Other *Please specify*

C2 **How many of your children will need a home of their own in the next 5 years? If they live here now, will they want to stay on this site? If not, where would they wish to move? (e.g. other site, in bricks and mortar etc.) If they do not live on this site, where do they currently live and would they want to move on to this site or another local site if they could get a pitch?** *INTERVIEWER: Please cross one box only*

1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10 ☐

Other *Please specify* ☐

Details (Please specify)

D Waiting List

D1 **Is anyone living here on the waiting list for a pitch in this area?**
INTERVIEWER: Please cross one box only

Yes ☐ → *Continue to D2*
No ☐ → *Go to D4*

D2 **How many people living here are on the waiting list for a pitch in this area?**
INTERVIEWER: Please cross one box only

1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10 ☐

Other *(Please specify)* ☐

Details (Please specify)

D3 **How long have they been on the waiting list?** *INTERVIEWER: Please cross one box only*

0-3 months ☐ 3-6 months ☐ 6-12 months ☐ 1-2 years ☐ 2+ years ☐

Other (Please specify) ☐

Details (Please specify)

D4 **If they are not on the waiting list, do any of the people living here want to be on the waiting list? (INTERVIEWER if they do - please take their contact details)**
INTERVIEWER: Please cross one box only

1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10 ☐

No ☐ Other *(Please specify)* ☐

Details (Please specify) and take contact details

E Future Accommodation Needs

E1 Do you plan to move from this site in the next 5 years? If so, why?

INTERVIEWER: Please cross one box only

Yes ☐ *If yes* → *Continue to E2*

No ☐ *If no* → *Go to E5*

If so, why? (please specify)

E2 Where would you move to? *INTERVIEWER: Please cross one box only*

Another site in this area *(specify where)*	A site in another council area *(specify where)*	Bricks and mortar in this area *(specify where)*	Bricks and mortar in another council area *(specify where)*	Other (e.g. land they own elsewhere) *(Please specify)*
☐	☐	☐	☐	☐

Please specify where they would move to
If they own land elsewhere - probe for details

E3 If you want to move would you prefer to buy a private pitch or site. or rent a pitch on a public or private site? *INTERVIEWER: Please cross one box only*

Private buy	Private rent	Public rent
☐	☐	☐

E4 Can you afford to buy a private pitch or site? *INTERVIEWER: Please cross one box only*

Yes	No
☐	☐

E5 Are you aware of, or do you own any land that could have potential for new pitches? *INTERVIEWER: Please cross one box only*

Yes	No
☐	☐

Please ask for details on where land/site is located and who owns the land/site?

F Travelling

F1 **How many trips, living in a caravan or trailer, have you or members of your family made away from your permanent base in the last 12 months?**
INTERVIEWER: Please cross one box only

0	1	2	3	4	5+
☐	☐	☐	☐	☐	☐

Go to F6a — *Continue to F2*

F2 **If you or members of your family have travelled in the last 12 months, which family members travelled?** *INTERVIEWER: Please cross one box only*

All the family ☐ Adult males ☐ Other ☐ If other, please specify

F3 **What were the reasons for travelling?** *INTERVIEWER: Please cross all that apply*

Work ☐ Holidays ☐ Visiting family ☐ Fairs ☐ Other ☐

Details / specify if necessary. If fairs—probe for whether this is involves work

F4 **At what time of year do you or family members usually travel? And for how long?**
INTERVIEWER: Please cross one box only

All year ☐ Summer ☐ Winter ☐

And for how long?

F5 **Where do you or family members usually stay when they are travelling?**
INTERVIEWER: Please cross all boxes that apply

LA transit sites ☐ Private transit sites ☐ Roadside ☐ Friends/ family ☐ Other ☐ If other, please specify

INTERVIEWER: Ask F6a — F8 ONLY if F1 = 0. Otherwise, go to F9

F6a **Are there any reasons why you don't you travel at the moment?**

Details

F6b **Have you or family members ever travelled?** *INTERVIEWER: Please cross one box only*

Yes ☐ → *Continue to F7*
No ☐ → *Go to F9*

F7a **When did you or family members last travel?** *INTERVIEWER: Please write in*

Details

F7b **What were the reasons for travelling?** *INTERVIEWER: Please cross all that apply*

Work ☐ Holidays ☐ Visiting family ☐ Fairs ☐ Other ☐

Details / specify if necessary. If fairs—probe for whether this is involves work

F8 **Why do you not travel anymore?** *INTERVIEWER: Cross all boxes that apply & probe for details*

Children in school	Ill health	Old age	Settled now	Nowhere to stop	No work opportunities	Other
☐	☐	☐	☐	☐	☐	☐

If other, please specify

Details about children in school, types of ill health, or looking after relative with poor health, and specific problems/issues relating to old age

F9 **Do you or other family members plan to travel in the future?**
INTERVIEWER: Please cross one box only

Yes	☐	→ *Continue to F10*
No	☐	→ *Go to G1*
Don't know	☐	→ *Go to G1*

F10 **When, and for what purpose do you/they plan to travel?**

Details

F11 **Is there anything else you would like to tell us about your travelling patterns?**

Details

G Any other information

G1 **Any other information about this site or your accommodation needs?** *INTERVIEWER: Please write in*

Details (e.g. can current and future needs be met by extending or intensifying the existing site?

G2 **Site/Pitch plan? Any concerns?** *INTERVIEWER: Please sketch & write in*

Sketch of Site/Pitch — any concerns?

Are any adaptations needed?

Why does the current accommodation not meet the household's needs, and could their needs could be addressed in situ e.g. extra caravans. This could cover people wanting to live with that household but who cannot currently

H Bricks & Mortar Contacts

H1 Contacts for Bricks and Mortar interviews? *INTERVIEWER: Please write in*

Council contact?

Would you like the council to contact you about any of the issues raised in this interview? Please note that although ORS will pass on your contact details to the Council we cannot guarantee when they will contact you?

INTERVIEWER: Please cross one box only

Yes ☐ No ☐

INTERVIEWER: Can I confirm your name and telephone number so that we can pass them on to the Council for this purpose only. Your details will only be used for this purpose and will not be passed onto anyone else.

Respondent's Name.....

Respondent's Telephone.....

Respondent's Email.....

Interview log

INTERVIEWER: Please record the date and time that the interview was carried out

Date.....

Time of interview.....

Appendix F: Technical Note on Gypsy and Traveller Household Formation and Growth Rates

Technical Note

Gypsy and Traveller Household Formation and Growth Rates

June 2020

Opinion Research Services

Contents

Household Growth Rates

Abstract and Conclusions

1. National and local household formation and growth rates are important components of Gypsy and Traveller accommodation assessments, but until 2013 little detailed work had been done to assess their likely scale. ORS undertook work in 2013 to assess the likely rate of demographic growth for the Gypsy and Traveller population and concluded that the figure could be as low 1.25% per annum, but that best available evidence supports a national net household growth rate of 1.50% per annum.

2. This analysis was produced as a separate document in 2013 and then updated in 2015 (www.opinionresearch.co.uk/formation2015) in light of comments from academics, planning agents and local authorities. The 2015 document was complex because there was still serious dispute as to the level of demographic growth for Gypsies and Travellers in 2015. However, ORS now consider these disputes have largely been resolved at Planning Appeals and Local Plan Examinations, so we consider that much of the supporting evidence is now no longer required to be in the document.

3. This current document represents a shortened re-statement to our findings in 2015 to allow for easier comprehension of the issues involved. It contains no new research and if reader wishes to see further details of the supporting information, they should review the more detailed 2015 report.

Introduction

4. Compared with the general population, the relative youthfulness of many Gypsy and Traveller populations means that their birth rates are likely to generate higher-than-average population growth, and proportionately higher *gross* household formation rates. However, while their *gross* rate of household growth might be high, Gypsy and Traveller communities' future accommodation needs are, in practice, affected by any reduction in the number of households due to dissolution and/or by movements in/out of the area and/or by transfers into other forms of housing. Therefore, the *net* rate of household growth is the *gross* rate of formation *minus* any reductions in households due to such factors.

Modelling Population and Household Growth Rates

5. The basic equation for calculating the rate of Gypsy and Traveller population growth seems simple: start with the base population and then calculate the average increase/decrease by allowing for births, deaths, in-/out-migration and household dissolution. Nevertheless, deriving satisfactory estimates is difficult because the evidence is often tenuous – so, in this context in 2013, ORS modelled the growth of the national Gypsy and Traveller population based on the most likely birth and death rates, and by using PopGroup (the leading software for population and household forecasting). To do so, we supplemented the available national statistical sources with data derived from our own surveys.

Migration Effects

6. Population growth is affected by national net migration and local migration (as Gypsies and Travellers move from one area to another). In terms of national migration, the population of Gypsies and Travellers is relatively fixed, with little international migration. It is in principle possible for Irish Travellers (based in Ireland) to move to the UK, but there is no evidence of this happening to a significant extent and the vast majority of Irish Travellers were born in the UK or are long-term residents.

Population Profile

7. The main source for the rate of Gypsy and Traveller population growth is the UK 2011 Census. The ethnicity question in the 2011 Census included for the first time 'Gypsy and Irish Traveller' as a specific category. While non-response bias probably means that the size of the population was underestimated, the age profile the Census provides is not necessarily distorted and matches the profile derived from ORS's extensive household surveys.

Table 1 - Age Profile for the Gypsy and Traveller Community in England (Source: UK Census of Population 2011)

Age Group	Number of People	Cumulative Percentage
Age 0 to 4	5,725	10.4
Age 5 to 7	3,219	16.3
Age 8 to 9	2,006	19.9
Age 10 to 14	5,431	29.8
Age 15	1,089	31.8
Age 16 to 17	2,145	35.7
Age 18 to 19	1,750	38.9
Age 20 to 24	4,464	47.1
Age 25 to 29	4,189	54.7
Age 30 to 34	3,833	61.7
Age 35 to 39	3,779	68.5
Age 40 to 44	3,828	75.5
Age 45 to 49	3,547	82.0
Age 50 to 54	2,811	87.1
Age 55 to 59	2,074	90.9
Age 60 to 64	1,758	94.1
Age 65 to 69	1,215	96.3
Age 70 to 74	905	97.9
Age 75 to 79	594	99.0
Age 80 to 84	303	99.6
Age 85 and over	230	100.0

Birth and Fertility Rates

8. The table above provides a way of understanding the rate of population growth through births. The table shows that surviving children aged 0-4 years comprise 10.4% of the Gypsy and Traveller population – which means that, on average, 2.1% of the total population was born each year (over the last 5 years). The same estimate is confirmed if we consider that those aged 0-14 comprise 29.8% of the Gypsy and Traveller population – which also means that almost exactly 2% of the population was born each year.

9. The total fertility rate (TFR) for the whole UK population is just below 2 – which means that on average each woman can be expected to have just less than two children who reach adulthood. We know of only one estimate of fertility rates of the UK Gypsy and Traveller community, in '*Ethnic identity and inequalities in*

Britain: The dynamics of diversity' by Dr Stephen Jivraj and Professor Ludi Simpson (published May 2015). The authors use the 2011 Census data to estimate the TFR for the Gypsy and Traveller community as 2.75.

10. ORS used our own multiple survey data to investigate the fertility rates of Gypsy and Traveller women. The ORS data shows that on average Gypsy and Traveller women aged 32 years have 2.5 children (but, because the children of mothers above this age point tend to leave home progressively, full TFRs were not completed). On this basis it is reasonable to infer an average of 3 children per woman during her lifetime, which is broadly consistent with the estimate of 2.75 children per woman derived from the 2011 Census.

Death Rates

11. Although the above data imply an annual growth rate through births of about 2%, the death rate has also to be taken into account. Whereas the average life expectancy across the whole population of the UK is currently just over 80 years, a Sheffield University study found that Gypsy and Traveller life expectancy is about 10-12 years less than average (Parry et al (2004) '*The Health Status of Gypsies and Travellers: Report of Department of Health Inequalities in Health Research Initiative*', University of Sheffield).

12. Therefore, in our population growth modelling we used a conservative estimate of average life expectancy as 72 years – which is entirely consistent with the lower-than-average number of Gypsies and Travellers aged over 70 years in the 2011 Census (and also in ORS's own survey data).

Modelling Outputs

13. If we assume a TFR of 3 and an average life expectancy of 72 years for Gypsies and Travellers, then the modelling, undertaken in PopGroup, projects the population to increase by 66% over the next 40 years – implying a population compound growth rate of 1.25% per annum. If we assume that Gypsy and Traveller life expectancy increases to 77 years by 2050, then the projected population growth rate rises to nearly 1.50% per annum. To generate an 'upper range' rate of population growth, we assumed an implausible TFR of 4 and an average life expectancy rising to 77 over the next 40 years – which then yields an 'upper range' growth rate of 1.90% per annum.

Household Growth

14. In addition to population growth influencing the number of households, the size of households also affects the number. Hence, population and household growth rates do not necessarily match directly, mainly due to the current tendency for people to live in smaller childless or single person households.

15. Because the Gypsy and Traveller population is relatively young and has many single parent households, a 1.25%-1.50% annual population growth could yield higher-than-average household growth rates, particularly if average household sizes fall or if younger-than-average households form. However, while there is evidence that Gypsy and Traveller households already form at an earlier age than in the general population, the scope for a more rapid rate of growth, through even earlier household formation, is limited.

16. Based on the 2011 Census, the table below compares the age of household representatives in English households with those in Gypsy and Traveller households – showing that the latter has many more household representatives aged under-25 years. In the general English population 3.60% of household representatives are aged 16-24, compared with 8.70% in the Gypsy and Traveller population. ORS's survey data shows that about 10% of Gypsy and Traveller households have household representatives aged under-25 years.

Table 2 - Age of Head of Household (Source: UK Census of Population 2011)

Age of household representative	All households in England		Gypsy and Traveller households in England	
	Number of households	Percentage of households	Number of households	Percentage households
Age 24 and under	790,974	3.6%	1,698	8.7%
Age 25 to 34	3,158,258	14.3%	4,232	21.7%
Age 35 to 49	6,563,651	29.7%	6,899	35.5%
Age 50 to 64	5,828,761	26.4%	4,310	22.2%
Age 65 to 74	2,764,474	12.5%	1,473	7.6%
Age 75 to 84	2,097,807	9.5%	682	3.5%
Age 85 and over	859,443	3.9%	164	0.8%
Total	**22,063,368**	**100%**	**19,458**	**100%**

17. The following table shows that the proportion of single person Gypsy and Traveller households is not dissimilar to the wider population of England; but there are more lone parents, fewer couples without children, and fewer households with non-dependent children amongst Gypsies and Travellers

Table 3 - Household Type (Source: UK Census of Population 2011)

Household Type	All households in England		Gypsy and Traveller households in England	
	Number of households	Percentage of households	Number of households	Percentage households
Single person	6,666,493	30.3%	5,741	29.5%
Couple with no children	5,681,847	25.7%	2345	12.1%
Couple with dependent children	4,266,670	19.3%	3683	18.9%
Couple with non-dependent children	1,342,841	6.1%	822	4.2%
Lone parent: Dependent children	1,573,255	7.1%	3,949	20.3%
Lone parent: All children non-dependent	766,569	3.5%	795	4.1%
Other households	1,765,693	8.0%	2,123	10.9%
Total	**22,063,368**	**100%**	**19,458**	**100%**

18. The key point, though, is that since 20% of Gypsy and Traveller households are lone parents with dependent children, and up to 30% are single persons, there is limited potential for further reductions in average household size to increase current household formation rates significantly – and there is no reason to think that earlier household formations or increasing divorce rates will in the medium term affect household formation rates. While there are differences with the general population, a 1.25%-1.50% per annum Gypsy and Traveller population growth rate is likely to lead to a household growth rate of 1.25%-1.50% per annum

Summary Conclusions

19. The best available evidence suggests that the net annual Gypsy and Traveller household growth rate is 1.50% per annum. Some local authorities might allow for a household growth rate of up to 2.50% per annum, to provide a 'margin' if their populations are relatively youthful; but in areas where on-site surveys indicate that there are fewer children in the Gypsy and Traveller population, lower estimates should be used.

20. The outcomes of this Technical Note can be used to provide an estimate of local new household formation rates by adjusting the upper national growth rate of 1.50% based on local demographic characteristics.

21. In addition, in certain circumstances where the numbers of households and children are higher or lower than national data has identified, or the population age structure is skewed by certain age groups, it may not be appropriate to apply a percentage rate for new household formation. In these cases, a judgement should be made on likely new household formation based on the age and gender of the children identified in local household interviews. This should be based on the assumption that 50% of households likely to form will stay in any given area and that 50% will pair up and move to another area, while still considering the impact of dissolution. This is based on evidence from over 140 GTAAs that ORS have completed across England and Wales involving over 4,300 household interviews.

APPENDIX 18

South Staffordshire Council

Core Strategy

December 2012

Further information can be found at
www.sstaffs.gov.uk

A Local Plan for
South Staffordshire

Core Strategy Development Plan Document

Adopted 11th December 2012

South Staffordshire Council

Policy GB1: Development in the Green Belt

Within the South Staffordshire portion of the West Midlands Green Belt as defined on the Policies Map, development acceptable within the terms of national planning policy set out in the NPPF will normally be permitted where the proposed development is for either:

A. A new or extended building, provided it is for:

a) purposes directly related to agriculture or forestry; or

b) appropriate small-scale facilities for outdoor sport or recreation, nature conservation, cemeteries and for other uses of land which preserve the openness of the Green Belt and which do not conflict with its purposes; or

c) affordable housing where there is a proven local need in accordance with Policy H2; or

d) limited infilling* and limited extension(s), alteration or replacement of an existing building where the extension(s) or alterations are not disproportionate to the size of the original building, and in the case of a replacement building the new building is not materially larger than the building it replaces. Guidance in these matters will be contained in the Green Belt and Open Countryside Supplementary Planning Document (SPD).

B. The re-use of a building provided that:

e) the proposed use of any building (taking into account the size of any extensions, rebuilding or required alterations), would not harm the openness of the Green Belt or the fulfilment of its purposes.

C. Changes of Use of Land:

f) the carrying out of engineering or other operations, or the making of a material change of use of land, where the works or use proposed would have no material effect on the openness of the Green Belt, or the fulfilment of its purposes.

D. Development brought forward under a Community Right to Build Order.

Development proposals should be consistent with other local planning policies.

**Footnote: Limited infilling is defined as the filling of small gaps (1 or 2 buildings) within a built up frontage of development which would not exceed the height of the existing buildings, not lead to a major increase in the developed proportion of the site, or have a greater impact on the openness of the Green Belt and the purpose of including land within it.*

Extra Care bed spaces. The Council will continue to work closely with the County Council for the provision of Extra Care facilities in the District to ensure that we are directing our efforts and resources to where they are most needed. Deficits in provision will be identified in the Infrastructure Delivery Plan (IDP).

8.31 In the Site Allocations DPD each site will have an individual development brief to identify the housing mix required, which will be informed by viability assessments to ensure that the requirements are achievable. This will be evidenced through the completion of a refreshed Housing Market Assessment. Local housing market studies will also underpin the consideration of housing mix on planning applications through the Development Management process.

Key Evidence

Sustainable Community Strategy 2008 - 2020
LSP Housing Strategy 2009 - 2012
Older Persons Strategy 2007
Staffordshire Flexi Care Strategy 2010 - 2015

Delivery and Monitoring

Through the Development Management process
LSP Housing Strategy Delivery Plan
Working with the County Council and other partners
Infrastructure Delivery Plan

The monitoring arrangements are set out in the Monitoring Framework in Appendix 1.

Policy H6: Gypsies, Travellers and Travelling Showpeople

The Council will meet the accommodation needs of Gypsies, Travellers & Travelling Showpeople as set out in the Gypsy and Traveller Accommodation Assessment 2008 GTAA and seek to maintain a 5 year supply of specific deliverable sites identified on an annual basis: -

Accommodation	2007-2012	2012-2016	2016-2021	2021-2026	2026-2028
Residential Pitches	32	15	17	15	6
Transit Pitches	5	NA	NA	NA	NA
Travelling Showpeople plots	13	1	2	2	1
Total	50	16	19	17	7

The Council will grant planning permission in suitable locations for additional pitches and allocate suitable sites in the Site Allocations DPD in accordance with the National Planning Policy for Traveller Sites, the NPPF and the following criteria:

1. The intended occupants must meet the definition of Gypsies & Travellers or Travelling Showpeople as set out in Annex 1 of National Planning Policy for Traveller Sites; and

2. Essential services such as power, water sewerage, drainage and waste disposal are either available or can be provided to service the site; and

3. The site will be well designed and landscaped to give privacy between pitches; for the occupiers of the site and between the site and adjacent users to protect the amenities of the occupiers of the site and the amenities of neighbouring residential properties, including 'boaters'; and

4. Transit sites should have good access to the strategic highway network; and

5. Sites for Travelling Showpeople will be large enough to accommodate ancillary yards for business uses and be located in areas where there is no unacceptable impact on neighbouring residential properties, including 'boaters', by reason of air pollution, noise or risk to the health and safety of local residents arising from the storage of large items of mobile equipment; and

6. The site can adequately and safely be accessed by vehicles towing caravans, is well related to the established local highway network and adequate space within the site to accommodate vehicle parking, turning space and to accommodate the occupants of the site having regard to the provision of adequate amenity space and play space for children; and

7. The proposal, either in itself or cumulatively having regard to existing neighbouring sites, must be of an appropriate size so as to not put unacceptable strain on infrastructure or dominate the nearest settled communities to avoid problems of community safety arising from poor social cohesion with existing families; and

8. Proposals shall be sited and landscaped to ensure that any impact on the character and landscape of the locality is minimised, including impacts on biodiversity and nature conservation. In areas of nationally, sub-nationally or locally recognised designations planning permission will only be granted where the objectives of designation would not be compromised by the development – examples will include:

   a) The Green Belt - where demonstrably harmful impact on the 'openness' of the Green Belt will be resisted;

   b) Cannock Chase Area of Outstanding Natural Beauty (AONB) – where proposals that will harm the setting, function and integrity of

Cannock Chase will be resisted;

c) Sites of Special Scientific Interest (SSSI), including Kinver Edge, Conservation Areas, Special Areas of Conservation (SAC), including Mottey Meadows near Wheaton Aston, Local Nature Reserves (LNR), including Shoal Hill Common, or any other protected sites - where proposals that will harm the setting, function and integrity of these areas will be resisted;

d) Recognised tourism and heritage assets of South Staffordshire, including historic parks and gardens and the environs of the canal network within the District – where proposals that could undermine the economic vibrancy of South Staffordshire, by harming the aims, objectives and planned actions within the Council's Tourism Strategy, will be resisted; and

9. Proposals must not be located in areas at high risk of flooding including functional floodplains (flood zones 3a and 3b).

The Council will monitor and manage the provision of additional pitches within South Staffordshire against the phased provision set out above. Where there is no shortfall against the phased provision within each phased time-frame, in determining planning applications for additional pitches the Council will firmly resist any proposals within the Green Belt or the open countryside within South Staffordshire or proposals in locations that could introduce problems of social cohesion with the settled community or with the occupants of authorised sites for Gypsies, Travellers and Travelling Showpeople.

The Council will not tolerate the occupation by Gypsies and Travellers of unlawful sites and will seek the assistance of the Courts to remove them from such sites and recover the costs of such removal and the cost of restoring the site to its original state.

The Council anticipates that the requirements to meet the needs of Gypsies, Travellers & Travelling Showpeople in South Staffordshire will be met through the provision of private sites. However, the Council will monitor the situation locally and liaise with the local Gypsy & Traveller Communities (including Travelling Showpeople), and seek to secure the provision of a suitably located public site(s) if there is a proven need for such provision having regard to the health, welfare and educational needs of the local travelling communities.

The Council will engage with the occupiers and owners of existing Gypsy & Traveller sites and sites of Travelling Showpeople in order to consider the capacity within existing sites and, where justified and subject to the criteria set out above, will consider the appropriate extension of existing sites.

Explanation

8.32 The housing needs of Gypsy and Traveller communities, including Travelling Showpeople is an important issue to be addressed. South Staffordshire Council, in partnership with Cannock Chase District Council, Lichfield District Council, Tamworth Borough Council, Nuneaton and Bedworth Borough Council, Rugby Borough Council and North Warwickshire Borough Council commissioned a Gypsy and Traveller Accommodation Assessment (GTAA) in 2007 and which was completed in February 2008.

8.33 The GTAA identified a need for additional permanent residential pitches for Gypsies and Travellers and plots for Travelling Showpeople within the District to 2026. In order to meet the requirements of NPPF, the GTAA pitch requirements have been increased by a further two years' supply to ensure that there will be a continuous delivery of pitches for at least 15 years from the date of the adoption of the Core Strategy DPD.

8.34 The Policy sets out the criteria for the delivery of additional residential pitches and transit pitches for Gypsies and Travellers and plots for Travelling Showpeople based on the evidence in the GTAA. It is intended that sites will be identified through the Site Allocations DPD.

8.35 Applications for new sites and the refurbishment of existing sites will normally be expected to meet the design guidelines detailed in National Guidance (Designing Gypsy and Traveller Sites, Good Practice Guide).

Key Evidence

LSP Housing Strategy 2009 - 2012
Gypsy and Traveller Accommodation Assessment 2008
Gypsy and Traveller Site Data
WMRSS Evidence Base
WMRSS Interim Policy Statement 2010

Delivery and Monitoring

Through the Development Management process
Working with Gypsy and Traveller communities
Site Allocations DPD

The monitoring arrangements are set out in the Monitoring Framework in Appendix 1.

Management Plans for Local Nature Reserves
Management Plans for major open spaces
Cannock Chase AONB Management Plan
LSP Environmental Quality Delivery Plan
Biodiversity and Geodiversity Action Plans
Biodiversity SPD

The monitoring arrangements are set out in the Monitoring Framework in Appendix 1.

Policy EQ2: Cannock Chase Special Area of Conservation

Development will only be permitted where it can be demonstrated that it will not be likely to lead directly or indirectly to an adverse effect upon the integrity of the Cannock Chase Special Area of Conservation (SAC).

A net increase of housing development within the areas of South Staffordshire that fall within the Zone of Influence around Cannock Chase SAC (as identified by current evidence and subject to further research) that is likely to have an adverse impact upon Cannock Chase SAC should mitigate for such effects, in line with the ongoing work to outline the pressures on the SAC caused by recreation and visitor pressure. This may include contributions to habitat management, access management and visitor infrastructure, publicity, education and awareness raising; and provision of suitable alternative natural green recreational space, within development sites where they can be accommodated and where they cannot by contributions to offsite alternative green space.

The effective avoidance of and/or mitigation for any identified adverse effects on the Cannock Chase SAC must be demonstrated to the Council as the Competent Authority and Natural England and secured prior to the Council giving approval of development. This Policy has jurisdiction over developments within South Staffordshire only; however it will be implemented jointly with neighbouring authorities via the application of complementary policies in partner Local Plans.

Development proposals should be consistent with other local planning policies.

Explanation

7.13 South Staffordshire Council has worked jointly with Staffordshire County Council, Cannock Chase District Council, Lichfield District Council and Stafford Borough Council on a Study to look at the Evidence Base relating to Cannock Chase SAC and the Appropriate Assessment of Local Authority Core Strategies Appropriate Assessment in relation to Cannock Chase SAC (as per the Habitats Directive 92/43/EEC). The Study highlights that increased development within a certain distance of the SAC could result in increased pressures placed on the integrity of the SAC, from increased visitor numbers

and trampling, and also potential increases in road traffic air pollution. As it is paramount for the responsible authorities to protect the integrity of all European sites, the Council must ensure that the site is not harmed as a result of additional development in the District. The Study demonstrates that in order to maintain the integrity of the SAC, there is a need to provide additional recreation spaces in the District, alongside other mitigation measures e.g. developer contributions to positive habitat management.

7.14 The Study also considered the impact of water use on the SAC but demonstrated that there are unlikely to be any significant impacts arising from increased water use and abstraction in this District (although this is an issue for some neighbouring authorities). By implementing the Cannock Chase Visitor Impact Mitigation Strategy and relevant policies in the relevant Core Strategies, suitable mitigation measures will be in place to overcome possible adverse impacts affecting the integrity of the SAC. Cross-boundary working will be supported in order to ensure strategic sites, such as the AONB and Cannock Chase SAC, are protected and enhanced. Implementation of the Visitor Impact Mitigation Strategy for Cannock Chase SAC requires the provision of additional recreation space within the SAC Zone of Influence. Such measures will be progressed on a cross-boundary basis and through a Supplementary Planning Document (SPD). The proposed SPD will not be a cross-boundary document. The SAC policy has been informed by evidence which is based on a visitor survey carried out in 2000. It has been recognised that further work is needed on the visitor use of the SAC and research is ongoing on a new visitor survey involving a partnership of local authorities, including the Black Country authorities, and an up-to-date impact assessment will be produced based on this new survey information.

Key Evidence

Evidence Base relating to Cannock Chase SAC and the Appropriate Assessment of Local Authority Core Strategies 2010
Cannock Chase Visitor Impact Mitigation Strategy 2010
Habitats Regulation Assessment Review of the Core Strategy 2010

Delivery and Monitoring

Through the Development Management process in consultation with Natural England and other partners
Cannock Chase AONB Management Plan

The monitoring arrangements are set out in the Monitoring Framework in Appendix 1.