

MR M CARR PROOF OF EVIDENCE – NEW ACRE STABLES – APPEAL APP/C3430/C/24/3337033

APPEAL SITE: NEW ACRE STABLES, WOLVERHAMPTON ROAD, PENKRIDGE. ST19 5PA.

APPELLANT: MR J WARD/MS D WARD

ENFORCEMENT NOTICE BREACH: 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.

PLANNING AGENT: MR MIKE CARR MSc MRTPI – MAT DESIGN LIMITED

DATE: APRIL 2024 (FINAL VERSION)

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1. INTRODUCTION/ QUALIFICATIONS & EXPERIENCE

My Name is Michael Carr and I am a Chartered Town Planner. I have a Master's degree in Environmental Planning and have been a member of the Royal Town Planning Institute since 1996. I am an independent Town Planning Consultant, providing a range of planning, building control and architectural design services. I also provide expert witness statements and provide oral evidence in relation to a wide range of planning matters, particularly in relation to traveller site development, green belt, and enforcement notices. I have been the Ward family representative since late December 2023.

This is my proof of evidence attached to the ground A, E & G appeals.

2. RELEVANT BACKGROUND INFORMATION AND PLANNING HISTORY

I was initially contacted and then employed by the Ward family in mid-December 2023, which includes Donna Ward, to the prepare an appeal against the refusal of planning application 23/00066/FUL, which was refused by the Local Planning Authority (LPA) on 25/8/2023. There was a 6-month window to prepare and present the appeal.

The proposals attached to planning application 23/00066/FUL sought to extend the existing site for 3 additional pitches to meet the changing personal circumstances of the family, which included the growth of the family over time and the on-going health issues of Mr Ward who has prostate cancer.

The LPA decided to refuse the planning application for 3 reasons, which are set out in the case officer report and the decision notice.

Copies of the decision notice and case officer report attached to refused planning application 23/00066/FUL are attached as **Appendix 1 and 2 to this proof of evidence.**

Despite their being a 6-month window (up to 24/2/2024) in which to submit a Section 78 appeal the LPA served an enforcement notice, which was dated 15/12/2023. A copy of the enforcement notice is attached as **Appendix 3 to this proof of evidence.**

The reasons as to why the LPA considered was expedient to serve the enforcement are set out in section 4 of the notice, which amongst other matters, states that in June 2022 the LPA received a complaint relating to an unauthorised use of the land taking place for the stationing of a caravan for residential purposes.

The LPA were fully aware of the use of the site through their planning history checks that are set out in their Statement of Case. They should also have been aware of the personal circumstances that are set out in the adopted Enforcement Procedure Policy (**see Appendix 13**) and **particularly paragraph 4.9 of that policy** which sets out that Human Rights is an important consideration that will be considered and balanced with any action taken.

Further to the above Google Earth and Google Street scene imagery of the appeal site shows the following:

- Apart from a small window in time between 2016 and 2018, the use of the appeal site and its surround for Gypsy and Traveller development has been consistent since at least September 2011. Google Earth and Google Street Scene imagery of the appeal site and its surrounds are shown in **Appendix 4 (New Acre Stables Enforcement Notice Appeal Photographs - May 2024)**.

The service of the enforcement notice therefore prevented a S78 appeal being made against the refusal of planning application 23/00066/FUL and forced us to become involved in this enforcement notice appeal process.

As will be set out in this proof of evidence, we consider that this appeal process could have been avoided in its entirety, if the LPA had reasonably considered and recognised the following material considerations:

- The lengthy planning history associated with the appeal site,
- That Ms Ward is a named dependent on planning permission 20/00243/VAR, **a copy of which his attached at Appendix 5 to this proof of evidence**. Ms Ward has occupied the New Acre Stables site since 2017 and she moved onto the site that is the subject of this appeal following the arrival of her first child in 2018. She has lived on the appeal site continuously since that time and now occupies the site with her 3 children. The aerial photographs at **Appendix 4 of this proof**, provide evidence that the appeal site has been occupied since that time,
- The Very Special Circumstances, including personal circumstances that are clearly set out in the case officer report attached to the consideration of planning permission 20/00243/VAR, **which his attached at Appendix 6 to this proof of evidence**,
- The overall failure of planning policy in the South Staffordshire Borough, which was first identified during the allowed appeal APP/C3430/A/102127110, **which his attached at Appendix 7 to this proof of evidence**,

- That the appeal site falls within the red line boundary attached to APP/C3430/A/102127110. A copy of that plan is attached as **Appendix 8 to this proof of evidence,**
- That the Very Special Circumstances and the failure of planning policy were considered, confirmed, and re-enforced as part of allowed appeals APP/C3430/W/18/3214818 and APP/ C3430/W/15/3033377. **Copies of those appeal decisions are attached at Appendix 9 and 10 to this proof of evidence,**
- That the 2022 Publications Plan (Regulation 19) at paragraphs 5.51 – 5.53 sets out the new strategy for the delivery of Gypsy and Traveller pitches to include (at 5.53) “to deliver privately owned sites/pitches **to meet the needs of existing families**. The evidence supports an approach therefore of looking to allocate existing temporary or unauthorised sites to permanent (subject to other planning considerations) and looking to intensify and **extend existing sites to meet identified family need**”. **A copy of the 2022 Publication Plan is attached as Appendix 11 to this proof of evidence,**
- That the 2024 Publications Plan (Regulation 19) at paragraphs 5.46 – 5.49, which mirrors the 2022 Publications Plan. **A copy of the 2024 Publication Plan is attached as Appendix 12 to this proof of evidence and,**
- That all the Very Special Circumstances and failings in planning policy overtime and attached to the New Acre Stable site and the named residents/dependents were accepted by the LPA themselves on 8/7/2021, as clearly outweighing the harm to the openness of the green belt in the part of the Borough.

Furthermore, and at the time the enforcement notice was served, the LPA must reasonably have recognised the progress of their own Publications Plan strategy and the enormous level of need that was identifies in the 2021 GTAA, which has now increased further following the publication of the 2024 GTAA that is also referred to in the 2024 Publications Plan.

Overall, my conclusions are that whilst we recognise that the appeal site is not lawfully part of the New Acre Stables site, we consider that if the LPA had recognised all of the material planning matters (considered over time), and including the Very Special Personal Circumstances pf Ms Ward and her children, any reasonable conclusion should have been that it was not expedient to serve this enforcement notice and that the actual service of the enforcement notice breached the adopted South Staffordshire Enforcement Notice Policy. **A copy of the South Staffordshire Enforcement Notice Policy is attached as Appendix 13 to this proof of evidence.**

The reasons for my conclusions will be considered later in this proof of evidence.

3. THE REFUSAL OF PLANNING APPLCIATION 23/00066/FUL

I have considered the case officer report and the reasons for refusal and whilst I accept that the agent who submitted that planning application did not set out any additional personal circumstances, it is clear to me that the LPA themselves failed to make any sort of suitable or reasonable assessment attached to the application site, all the material considerations identified in section 2 of this proof of evidence, the overall growth of the Ward family, including Ms Ward and her 3 children. As I understand it, there was no communication between the LPA and the applicant as part of this planning application process, and certainly no understanding or consideration of the additional Very Special Personal Circumstances attached to Ms Ward and her 3 children.

Taking this into account, the LPA may well say that every application is considered on its own merits. However, we consider such an analogy would be wholly inappropriate in this case, given the detailed knowledge that the LPA have about the New Acre Stables site and its immediate surrounds.

I cannot explain why that did not happen, but I consider that this is a substantial failing on the part of the LPA, particularly when one considers the detailed planning history associated with the New Acre Stable site, along with the new strategy for the delivery of Gypsy and Traveller pitches that has taken around 14 years to evolve and reach public consultations.

At the time the planning application was refused, the 2022 Publications Plan had been available for around 18 months.

It is also clear to me from this refusal of planning permission, that the weight distribution in favour of the development was wholly inconsistent with the material planning considerations that had been public information since 2010, along with the case officer report attached to the approval of planning application 20-00243-VAR on 8/7/2021.

Taking this int account, when the LPA considered and approved planning application 20-00243-VAR, they highlighted the following material considerations:

- ***The Planning agent at the time clearly identifies at Page 5 paragraphs 2, 3 and 4 set out that-*** "The Local Plan review is at an early stage and is unlikely to be adopted until 2023. There has been slippage since the LDS was published April 2019. The needs of Gypsy Travellers will not be consulted on until the Preferred Option stage which was to take place summer 2020 but has already been pushed back. They

were not considered as part of the Spatial Housing Strategy consultation even though the needs of Gypsy Travellers not meeting the PPTS definition fall to be considered as part of housing allocations.

- Most if not all new Gypsy Traveller pitches are likely to be in the Green Belt as some 80% of the district is Green Belt and most of the district outside built up areas is Green Belt. It is unlikely many sites will be so well located to a main service village as this site. There are no towns in this district. Penkridge is in the highest settlement tier in the Local Plan. It would be difficult to find a more sustainable location than this.
- Since the 2017 appeal new housing developments have been completed on the south side of Penkridge with no provision for any Traveller pitches. This location has long been occupied by Travellers. As the 2019 appeal decision notes the decision to refuse consent to vary a personal condition when it had no additional impact on the Green Belt was without justification as the change had a neutral impact on the Green Belt.
- The continued failure of policy to find suitable alternative sites within the district weighs heavily in support of this application.
- ***The Planning Agent at Page 6 paragraph 3*** also sets out that- "The repeated renewal of temporary permissions also raises issues of human rights considerations, as a requirement to leave land that has been their home for several years would constitute an interference in the site occupants' rights under Article 8. I acknowledge that they have known that the permissions were temporary. However, it is the period that has elapsed and failure of the Council to secure suitable alternative provision during this period that suggests this interference should be given some weight, particularly as there has been expectation from previous Inspectors and the Council itself that the situation would be resolved far more speedily than it has been".
- ***Further to the above and at Page 20 (7.5) the LPA acknowledge that:*** "On balance it is concluded that the acknowledged shortfall in pitch provision to meet 5-year supply, the lack of alternative available sites to meet the family's needs, together with the position/timing of the Development Plan Review to meet needs throughout the District warrants a further temporary consent on a personal basis in relation to the best interests of the children on site in particular that attend Penkridge Middle and Primary schools.
- There is a tangible and realistic prospect of sites becoming available through the on-going Local Plan Review to address identified need for pitches.

- Given the current lack of available sites to meet the needs of the applicant families, a further temporary term would provide a realistic timeframe for the Allocation of sites through the Local Plan Review and subsequent consideration of planning applications. This approach will enable the most appropriate sites, in terms of relative sustainability, Green Belt and Landscape impact and overall compliance with Core Strategy Policy H6 to come forward. This is especially important to a District that is predominantly Green Belt and where the Green Belt landscape is such a crucial defining characteristic of area.

Copies of the decision notice and case officer report attached to refused planning application 20-00243-VAR are attached as **Appendix 1 and 2 to this proof of evidence.**

My view is that the decision to refuse planning application 23/00066/FUL was fundamentally flawed when one considers the Very Special Circumstances test and the Very Special Circumstances that were weighted in favour of the approval of planning application 20-00243-VAR.

In saying this, I consider that no proper account was taken as to the Very Special Personal Circumstances of the family group, which the LPA were aware of and had been considered and tested over time. In addition, the growth of the family group was not properly accounted for in the planning balance, when it must have been clear to the LPA that there were no suitable or available alternative pitches anywhere in the Borough.

We also say that the failed planning policy in the Borough attached to Gypsy and Traveller development, which had become considerably worse over the passage of time, was not properly accounted for as part of the refusal of planning permission.

In conclusion, we consider that the planning application should have at the very least received a temporary planning permission, given the stage of the Local Plan review and the clear directions and strategy that was set out in the Publications Plan 2022.

Overall, whilst there was a refusal of planning permission in place which we can do nothing about, we say that the service of the enforcement notice in this case appears to have been issued with some haste, without any proper assessment of the Human rights of the occupiers, which the adopted Enforcement Procedure Policy states that the LPA must do.

If such an assessment had been carried out as to Ms Ward and her children and that the results of the enforcement notice may see Ms Ward and her children on the side of the road, we say that the enforcement notice should not have been served in the first place.

4. THE ENFORCEMENT NOTICE

The LPA enforcement notice identifies all the matters that the LPA consider appropriate to the notice. We have no real issues with the structure and content of the enforcement notice, other than to say that the red line plan attached to the enforcement notice makes it clear that the appeal site falls within the red line plan attached to appeal decision APP/C3430/A/10/2127110 and d that the land is brownfield land for the purposes of planning. **See Appendices 7 and 8 attached to this proof of evidence.**

5. SOUTH STAFFORDSHIRE COUNCIL PLANNING ENFORCEMENT POLICIES AND PROCEDURES

The LPA have an adopted planning enforcement policy which was adopted in July 2020. **A copy of that policy is attached as Appendix 13 to this proof.** This policy sets out how the LPA will approach investigations and prepare enforcement notices and tells us how they will prioritise complaints (section 7), whilst Section 4 sets out the LPA's own Overview of Planning Enforcement.

Paragraph 4.9 identifies that "As part of the enforcement process, Human Rights is also an important consideration that will be considered and balanced with any action taken. The relevant elements of the Human Rights Act, 1998, are:

- Article 6 – Right to a fair trial
- Article 8 – Right to respect for private and family life; and
- Article 1 of the First Protocol – Protection of property. (This is under review due to Brexit).

Ms Ward has been resident on the appeal site since 2018 and she is a named occupant of the wider New Acre Stable site. Her 3 children are therefore dependent residents.

In terms of the necessity and expediency to serve the enforcement notice, we can find no reasonable evidence that provides any sort of mitigation as to how and when the LPA decided to serve the enforcement notice, and certainly no assessment of how the service of such a notice positively takes account of Ms Ward and her children's Human Rights.

We consider that this is a substantial material consideration in this case, given that the LPA know and have known for many years, that there is no alternative pitch accommodation.

The LPA also failed to account for and to recognise the planning history associated with the New Acre Stables site, on which the Government Office, 3 Planning Inspectors and the LPA themselves, considered that the

that the significant unmet need, the policy failings overtime an the Very Special Circumstances of the family group and the needs of the growing family.

To that end, the 2022 Publication Plan, and the 2024 Publications Plan, both seek to identify how the LPA will deal with Gypsy and Traveller development moving forward.

When this strategy, the planning history of the site, the policy failings and the Very Special personal Circumstances are considered, we believe that the LPA have breached their own adopted Enforcement Policy, the result of which has demonstrably harmed the human rights and welfare of Ms Ward and the 3 children.

To that end, there is no evidence in the LPA Statement of Case that they had carried out a reasonable and through investigation (of which proof is normally required at appeal stage), into what they alleged was a “new” breach of planning control then we consider that there would have been no reasonable reason to serve the enforcement notice in this case, thereby avoiding to totality of this appeal process and the costs that are associated with it.

6. THE PLANNING POLICY FOR TRAVELELR SITES (PPTS) – DECEMBER 2023

Paragraph 26 of the most up to date PPTS sets out that amongst other matters and when considering planning applications, local planning authorities should attach weight to the following:

- a) (To make) effective use of previously developed (brownfield), untidy or derelict land.

We do not consider that the attached any weight at all to the use of the land, despite the basis of the Publications Plan strategy and the provisions of the PPTS.

Further to the above, when one considers the provisions that are set out in the PPTS Policy H: Determining planning applications for traveller sites, we consider that the proposed development is compatible with these policy provisions.

7. CORE STRATEGY POLICY H6: GYPSIES, TRAVELLERS AND TRAVELLING SHOWPEOPLE

Core Strategy Policy H6 is the only local policy that we are ware of that deals specifically with Gypsy and Traveller development in the Borough. Whilst out position is that there is a long terms failure of planning policy in the Borough, Policy H6 provides the adopted local planning framework for the assessment of planning application, including this ground A appeal. **A copy of the South Staffordshire Core Strategy is at Appendix 15 to this proof of evidence.**

When considering this ground, A appeal against the provisions of Policy H6, we say the following:

- It is common ground that the proposed development would comply with Policy H6, bullet points 1, 2, 3, 6, 7 and 9. Bullet points 4 and 5 re not relevant to this appeal.
- Bullet point 8 has 4 strands, with strands a and b being relevant to this appeal.
- In terms of strand b, we have entered a commitment with the LPA to sign the Unilateral Undertaking, which would make the proposed development comply with Policy H6 8(b).
- Policy H6 8(a) sets out 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:
 - a) The Green Belt - where demonstrably harmful impact on the ‘openness’ of the Green Belt will be resisted.

Overall, we consider that the proposed development complies in principle with bullet points 1, 2, 3, 6, 7, which would be consistent with earlier planning permissions and appeal decisions.

In terms of bullet point 8(a), the test here is that the where the proposed development **would have a demonstrably harmful impact on the ‘openness’** of the Green Belt, the development will be resisted (Not unacceptable in principle).

The wording of this policy confirms to me that if the level of harm is less than significant/not demonstrable, then subject to the compliance of the proposed development with the other elements of Policy H6, then the development would comply with the provisions of Policy H6 8(a).

Taking this further, it is clear to me that once all the material considerations are considered, including all the planning assessments made before, including the LPA approval of the 2021 planning application and that the land is brownfield land, then the proposed development would cause only minimal harm to the openness of the green belt.

Therefore, I conclude that there would be only minimal harm to the openness of the green belt, which would not result in demonstrable harm to the openness of the green belt in this case.

I consider that my assessment of Policy H6 is therefore consistent with the appeal decisions that have gone before and is also consistent with the LPA' own assessment of this part of the Boroughs green belt in July 2021.

As such, we consider that the development that is the subject of this ground A appeal complies with the provisions set out in Core Strategy Policy H6.

8. INAPPROPRIATE DEVELOPMENT IN THE GREEN BELT AND VERY SEPCIAL CIRCUMSTANCES (VSC)

We accept that the proposed development is an inappropriate form of development in the green belt, and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in Very Special Circumstances (VSC) (NPPF para 152). NPPF paragraph 153 advises that when considering any planning application, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt, and that VSC will not exist unless the potential harm to the Green 5 Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

We consider that when a reasonable level of weight is attributed individually to each of the VSC, and then considered as a bundle of VSC, it is clear to me that the VSC in this case would clearly outweigh the harm caused to the openness of the green belt in this part of the Borough. This would be consistent with the 3 appeal decisions that have been previously allowed, as well as the approval of planning permission 20-00243-VAR.

9. GREEN BELT AND OPENNESS

There is no definition of "openness" within the Framework; however, the issue has been considered many times by the courts.

In the judgment in *Timmins v Gedling BC* (2014 EWHC 654(Admin)) "openness" was said simply to mean "***an absence of any buildings or development***" (paragraph 26). ***It was held (with reference to use of land) that: "Any development constitutes an impairment of openness, at least to some degree."***

The issue of openness is considered further in the judgment of *Turner v Secretary of State for Communities and Local Government and East Dorset Council* ([2016] EWCA Civ 466). In the judgment of Turner, it is clarified that the "openness of the Green Belt" is not narrowly limited to a volumetric approach. The word

“openness” is open-textured, and several factors are capable of being relevant when it comes to applying it to the particular facts of a specific case.

Prominent among these will be factors relevant to ***how built up the Green Belt is now and how built up the Green Belt would be if redevelopment occurs*** (in the context of which, volumetric matters may be a material concern, but are by no means the only one) and factors relevant to the visual impact on the aspect of openness which the Green Belt presents.

In short, the Court of Appeal’s judgment in Turner supports the need to take a wider view of the impact on openness in rejecting the view that a ‘narrow volumetric’ approach is what is required and instead drawing particular attention to the question of how built up the Green Belt is and how built up it would be if redevelopment occurs, as well as the visual impact on the perception of openness.

In terms of the character of this part of the South Staffordshire Green Belt, this is my starting points for the appeal site and the level of harm caused to the openness of this part of the green belt when one factors in the planning history, the brownfield nature of the site and the surrounding Gypsy and Traveller use.

Taking these factors into account, I consider that the openness of the Green Belt in this part of the Borough is both visually and spatially impaired by earlier developments and the adjacent development. This is also true when one considered the numerous non-agricultural buildings that are locally located along this part of the Wolverhampton Road

In its local context, I consider that the proposed development would result in an increase in floorspace and volume and include domestic paraphernalia at the site. However, whilst accepting that there would be some minimal harm to the openness of the green belt, I consider that there is strong justification for the proposed development being acceptable for the purposes of the Green Belt balancing exercise.

There is also the question of whether there would be an increase in traffic movements associated with the proposed use of the site, when compared to wider related activities. Ms Ward is a named person on the planning permission for New Acre Stables so it is reasonable to accept that there would be no additional traffic movements associated with the development.

As such, when one considers the Green Belt balancing exercise further (to include all the other VSC associated with this development) it is clear to me that the use of the site would not be significantly or demonstrably more harmful than the wider use of the New Acre Stables site.

Overall, we consider that the Very Special Circumstances that are presented to support this appeal would clearly outweigh any harm caused to the Green Belt by reason of inappropriateness.

10. ANY OTHER HARM AS A RESULT OF THE PROPOSED DEVELOPMENT

In terms of any other harm resulting from the proposed development, I consider that when assessed against the policy directions set out in Core Strategy Policy H6

Overall, given that the appeal site is a sustainable edge of settlement site, that there are no flood risk or highways safety issues and that the site would be suitably screened, I consider that the development would cause no other harm to the site or its surrounds. When the VSC and the proposed developments compliance with H6 8(a) are positively considered together, I consider that the Ground A appeal should succeed.

11. Ms DONNA WARD PERSONAL CIRCUMSTANCES AND THE BEST INTEREST OF HER CHILDREN

Donna Ward and her children are Romany Gypsy Travellers by birth, culture and decent, having been brought up in the traditional way of life and satisfy the definition of a Gypsy and Traveller for the purposes of Annex 1 Planning Policy for Traveller Site 2015 (Updated December 2023). This was recognised by the LPA when she was added as a named person to planning permission 20/00243/VAR. Prior to that Donna Ward had been a dependent child/person before that and occupied the New Acre Stable site since 2015, when she was 14/15. Her 3 children are therefore dependent residents.

As we understand it, and despite the provisions of the adopted Enforcement Notice Policy, no checks were made by the LPA towards Donna Wards personal circumstances.

A proof of evidence have been prepared by Ms Ward as part of this appeal, and this sets out family's background, and personal circumstances of the family including and reasons as to why the family purchased and occupied the appeal site.

In addition, Ms Ward will highlight the importance she attaches to having a settled family base, so that the family can care for and support each other and the to continue to travel for work and cultural reasons. She will also say how important it is for the children to remain as part of the family group as well as the importance of family bonds and the friendships that have developed with the children.

I would highlight that Ms Ward also places considerable emphasis on the education and life chances of her 3 children, one of who attends Primary School in Penkridge. In her conversations with me, Ms Ward stresses

how important access to education is for the Gypsy and Traveller community moving forward, and how the community has been disadvantaged in the past through a lack of even the most basic education.

It is clear to me that if this appeal fails and given the substantial lack of alternative pitch accommodation on any Council site, a roadside existence would be the only alternative, and this would a substantial adverse impact on the children's well-being.

There are currently no available sites or pitches in the Borough, nor are there any planned for by the LPA. There has been no positive planning for Gypsies and Travellers in the Borough since at least 2009. That said, Publications plan from 2022 and the recently published 2024 Plan, does provide a new strategy that would clearly take account of her personal circumstances and allow her to live on the appeal site permanently.

The lack of any alternative, available or suitable site for the family to move to, the education needs of the children and the long-term well-being of all the family members should in my view attract substantial weight in favour of the development.

I am certain that the LPA would agree that a roadside existence would be likely to cause substantially greater harm, although they clearly failed to recognise this when they refused planning permission and serve the enforcement notice.

I consider that the personal circumstances and needs of the family children should attract substantial weight in favour of this appeal.

Paragraph 16 of the current PPTS 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.

Taking these directions into account, it is clear that a permanent address is advantageous for the general well-being and state of mind of Ms Ward, in being settled and providing a stable home, access to basic amenities and a secure living environment for the children. Similar benefits could be achieved on another settled site, but no suitable alternatives are available and none are planned for (see the 2024 Publications Plan).

My conclusions is that having a settled base would be in the best interests of all the children that live on the site, regardless of whether they attend school or not. In stark contrast the alternative of a life on the road would be damaging to the education, health, and well-being of them. The consequence of dismissing this appeal is likely to result in the family having to leave the site and lead a roadside existence moving from place to place.

I consider that the needs of the family children should attract substantial weight in favour of this appeal, and when I consider the advice set out in the PPTS my conclusions are that the best interests of the child, personal circumstances and unmet need are highly likely to clearly outweigh harm to the Green Belt

12. THE GYPSY, TRAVELLER AND TRAVELLING SHOWPEOPLE ACCOMMODATION ASSESSMENT (THE GTAA AUGUST 2024)

The newly published 2024 South Staffordshire GTAA identifies that there is a **minimum** for 142 pitches to 2042 from families that meet the definition of a Gypsy and Traveller. However, if 84% of 'undetermined household' (where interviews were not secured) would need a pitch, then this requirement could rise to 162 pitches up to 2042. The GTAA update identified a 5-year need (2024-2028) of 92 pitches.

The new 2024 GTAA replaces the South Staffordshire Council Gypsy and Traveller Accommodation Assessment Final Report was published in August 2021, with Figure 9 on page 43 (Need for Gypsy and Traveller households in South Staffordshire that met the Planning Definition) identifying that there was a need for at least 121 pitches from 2021 – 2038.

At the time the enforcement notice was served, the LPA knew that there was a substantial unmet need of approximately 121 pitches.

A copy of the 2024 GTAA is attached at Appendix 16 to this proof of evidence.

13. NEED FOR SITE/PITCH ACCOMMODATION IN THE BOROUGH

The 2024 identifies that there is a substantial need for pitch accommodation in the Borough and the number in need have increased since the last GTAA. However, and what is consistent, is that the need for pitches in the Borough has been a substantial material consideration for many, many years and is a material consideration that the LPA ignored when they decided to serve the enforcement notice.

14. NPPF SECTION 5 (DELIVERING A SUFFICIENT SUPPLY OF HOMES)

NPPF Paragraph 60 advises that in order to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

Paragraph 3 of the PPTS 2015 advises that the Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.

Furthermore, NPPF paragraph 63 sets out that 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.

In addition, NPPF paragraph 75 advises that strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirements set out in adopted strategic policies.

Paragraph 77 is also noted (41) that For the avoidance of doubt, a five year supply of deliverable sites for travellers – as defined in Annex 1 to Planning Policy for Traveller Sites – should be assessed separately, in line with the policy in that document.

The appellants, Ms Ward and the rest of the family are Gypsies and Travellers and would occupy the site as Gypsies and Travellers within the meaning set out in Annex 1 of the Planning Policy for Traveller Sites (PPTS), in that they are persons of nomadic habit travelling for the purposes of employment.

Taking this into account, the LPA's current and long term position is that it does not have a 5 year supply of Gypsy and Traveller sites, which is a significant material factor in the consideration of this appeal. The alternative would be that Ms Ward and her children are forced into roadside camps, because the LPA have failed in their statutory responsibilities to comply with the provisions of all versions of the NPPF and the PPTS in terms of the delivery of sites.

We consider that this failure to properly and reasonably deal with planning for and delivering a suitable supply of sites and pitches for the Gypsy and Travelling community breaches the Equality Duty that the LPA must abide by, and that their own failures are the root cause of unauthorised development such as this, given the personal circumstances that the Gypsy and Travelling community find themselves in.

15. AVAILABILITY OF ALTERNATIVE SITES

There are no alternative or available sites in the Borough. This is common ground between the appellant and the LPA.

16. THE LONG TERM FAILURE OF POLICY IN THE SOUTH STAFFORDSHIRE BOROUGH

Since at least 2009, when appeal APP/C3430/A/10/2127110 (see LPA Appendix 7) was called in, there have been various planning appeal decisions and decisions made by the LPA, which recognise that there has and continues to be a failure of planning policy relating to Gypsy and Traveller development in the Borough, particularly in relation to future planning for desperately needed pitches.

We consider that this failure of policy in the Borough is a substantial material planning consideration that weighs heavily in favour of this appeal.

Bearing this in mind we consider that the little weight that has been afforded to the overall and long term failure of policy, and we therefore consider that the decision to take enforcement action and then to pursue this appeal to the bitter end, substantially conflicts with the decisions that have been made before this process and the new strategy that is promoted through the 2022 and 2024 Publications Plans.

We also consider that if proper consideration had been given to the long standing policy failure and the direction of policy travel at the local Plan Regulation 19 stage, then this should have resulted in no enforcement action being taken in this case.

17. THE PROPOSED DEVELOPMENT – THE GROUND A APPEAL AND VERY SPECIAL CIRCUMSTANCES

The test attached to Very Special Circumstances to clearly outweigh the harm to the openness of the green belt is a particularly high bar. This is increased further when one recognises the provisions of paragraph 16 of the PPTS.

However, and in this case, Core Strategy Policy H6 provides a slightly less robust threshold, and it is clear to me (with the evidence from all the appeal decisions that have gone before), that the Very Special Circumstances attached to all the factors set out in this proof of evidence, clearly outweigh the harm to the openness of the green belt.

I consider that these Very Special Circumstances carry even greater weight in the planning balance, when one considers that Ms Ward is a named person on the New Acre Stables and that her 3 children are now resident

dependents. She is simply seeking to provide her family with a suitable and reasonable place to live as an extension to the New Acre Stables development.

Effectively, such an approach to the extension of the New Acre Stables site for Ms Ward and her children, would be consistent with the provisions of the 2024 Publications Plan. Given that there are absolutely no other alternative policy provisions that are planned for the Council, we consider that the provisions of the 2024 Publications Plan should attract substantial weight in support of this appeal.

Furthermore, when one considers that the 2024 Publications Plan and then compares it to the 2022 Publications Plan, it is clear to me that the LPA clearly knew the direction of policy travel when they refused planning application 23/00066/FUL. That decision was flawed in my view for the same reasons.

Overall, my conclusions are that the Very Special Circumstances attached to this case provide sufficient evidence for the Planning Inspector to allow this appeal.

18. A FALLBACK TEMPORARY PLANNING PERMISSON

The LPA has no up to date development plan in place or means of site delivery that would provide available and/or suitable alternative sites over the forthcoming plan period. Furthermore, the LPA accepted at page 5, paragraph 4 of the case officer report attached to the consideration of planning application 20/00243/VAR states that “the continued failure of policy to find suitable alternative sites within the district weighs heavily in support of this application. Historic failure to deliver sites also weighs heavily in support of this application”.

To that end, we would also highlight the approach taken by various Planning Insoectors and the LPA, who recognised the policy failings in the Borough and that a grant of temporary planning permission would be reaonable.

Taking this into account, and whilst the grant of another temprary planning permission for the New Acre Stables ite would be wholly inconsistent with the provisions of Paragraph: 014 Reference ID: 21a-014-20140306 of the current National Planning Practice Guidance, there is now light at the end of the tunnel, given the LPA’s proposed new strategy for meeting the significant unmet need for Gypsy and Travller pitches in the Borough.

We would therefore request that a temporary planning permission for a period of 3 years would provide ample time for the LPA to reach a conclusion were the new development plan becomes adopted. At that stage, given that one of the stated objectives that are set out in paragraph 5.47 and 5.48 of the 2024 Publications Plan (repeated from the 2022 Publications Plan).

For the avoidance of doubt, paragraphs 5.47 and 5.48 confirm that:

- "In line with national policy, the needs for families have been assessed through the Gypsy and Traveller Accommodation Assessment (GTAA) update 2024 and Pitch Deliverability Study (2021). This evidence demonstrates that need is being generated by existing families. Some of this is current need as a result of being on an unauthorised pitch and overcrowding. However, the vast majority of need is generated through household formation derived from the demographics of residents and teenagers on sites needing a pitch of their own within the next five years.
- Due to this, the council's strategy for new Gypsy, Traveller and Travelling Showperson provision will be to continue to deliver privately owned sites/pitches to meet the needs of existing families. The evidence supports an approach therefore of to intensify and extend existing sites to meet identified family need, rather than allocating wholly new sites that may have been suggested by landowners without any connection or agreement to meet local needs, and where deliverability is more uncertain. This approach will see the continued concentration of traveller pitches where sites have historically been consented on appeal in the north of the district predominantly along the A449 and A5 transport corridors. It is currently not possible to test an alternative distribution of traveller pitches that would disperse pitches more widely across the district due to a lack of deliverable alternative pitch options elsewhere in the district.

This is precisely the case here and goes to the heart of the Ground A appeal.

19. THE GROUND E APPEAL

As set out earlier in this proof of evidence and as confirmed in Ms Ward's proof of evidence, Ms Ward has occupied the appeal site for at least 6 years, thereby confirming that she has a substantial material interest in the land and how the requirements of the enforcement notice would materially affect herself and her 3 children.

Planning law requires that a copy of the enforcement notice should be served on ALL persons with a reasonable interest in the land. To that end, whilst we recognise that Ms Ward has not been prejudiced by not receiving a copy of the notice (given this appeal), her rights and those of her children have been prejudiced

because the LPA did not carry out a reasonable or through investigation, which would have uncovered that Ms Ward and her children did have a significant material interests in the land as they were the residents of the appeal site.

To that end, if the LPA had carried out a reasonable and through investigation (of which proof is normally required at appeal stage), into who owned and had a material interest in the land, we consider that there would have been no reasonable reason to serve the enforcement notice in this case, thereby avoiding to totality of this appeal process and the costs that are associated with it.

We would therefore request that the Inspector allows this Ground E appeal.

20. THE GROUND G APPEAL

The time for compliance with the notice is set down as 6 months.

Whilst this may appear to be a reasonable length of time to comply with the requirements of the notice, the appeal site is the appellants home and there is no alternative private or public pitches in the Borough, which is either available or deliverable.

Furthermore, it is also clear from all the planning decisions that are attached to the New Acre Stable development and the appeal site, that there is no adopted development plan in place or means of site delivery that would provide available and/or deliver suitably alternative sites.

As such, it is reasonable for us to consider that until such a time that the LPA can deliver their statutory and legal responsibilities in terms of a five year supply of deliverable sites, it is considered that the 6 month compliance period would be prejudicial to Ms Wards human rights and the impacts on having to move in such a short period of time would have an unreasonable and unacceptable imp[act ion the best interests of her 3 children, given that there live chances and opportunities for access to education and other welfare facilities would be taken away.

Taking these factors into account, the period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed. We would therefore ask the Inspector to allow the Ground G appeal and extend the time for compliance to the point were the LPA's new Development Plan is adopted, so that the strategy for Gypsy and Traveller development in the Borough can take shape and provide the essential facilities that Ms Ward and her children need.

We consider that such an approach would be entirely reasonable in this case, should the appellants ground A appeal for a full planning permission not be allowed.

21. CONCLUSIONS AND COSTS

My assessment of this appeal and all the relevant material considerations that are set out through this proof, lead me to conclude that the LPA decided to serve this enforcement notice for no justifiable or reasonable reasons,

We consider that this assessment is robust when once accepts the long running history of the site and its surround, the failure to properly plan for and deliver Gypsy and Traveller pitches and the clear direction no travel that is set out in the 2022 and 2024 Publications Plans. This conclusion which is consistent with decisions overtime and recognises that there are substantial Very Special Circumstances that clearly outweigh the harm to the openness of the green belt in this case.

It seems to me that most of the Very Special Circumstances and other material planning considerations were ignored by the LPA when decided to serve the enforcement notice, whilst no considerations seem to have been given to the Human rights of Ms Ward and her children. This approach taken by the LPA conflicts with its own adopted Enforcement Procedure Policy.

The appeal site is in the green belt, and we have concluded that harm to the openness of the green belt would not be demonstrable harm to the openness of the green belt, and certainly not to harmful to the extent that would warrant the service of such a draconian enforcement notice, given the potential impacts of that enforcement notice on the Human Rights of Ms Ward and her children.

Overall, and based on the evidence that is provided by us in this case, we would ask that the planning Inspector allows these appeals.

Furthermore, and based on what is seems to be a clear breach of their own Enforcement Policy and the failure of the LPA to make a suitable and reasonable assessment of all the material planning considerations before it served the enforcement notice, we consider that this appeal could have and should have been avoided in its entirety. As such, we would reserve the right to make a claim for costs at the Inquiry.