

MR M CARR PROOF OF EVIDENCE SUMMARY– 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)

1. INTRODUCTION

This is my summary attached to appeal APP/C3430/C/24/3337033 and should be considered in conjunction with my proof of evidence attached to the ground A, E & G appeals.

2. RELEVANT BACKGROUND INFORMATION AND PLANNING HISTORY

The background information and relevant planning history is set out in detail as part of the proof. Based on this evidence, we conclude that the appeal site is a brownfield parcel of land and that the appeal site, the wider New Acre Stables area and the personally circumstances have been considered several times since 2009, and for the most part the evidence has concluded the Very Special Circumstances clearly outweigh the harm to the openness of the green belt.

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

We consider that no proper account was taken as to the Very Special Personal Circumstances of the family group, which had been considered and tested over time, and that 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 for Ms Ward and her children.

In addition, there is a failed planning policy that has become considerably worse over the passage of time, and we say that there is also a failure of the LPA to carry out a suitable assessment of the change in Very

Special Personal Circumstances which ultimately resulted in the refusal of the planning application.

Furthermore, we also 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.

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.

5. SOUTH STAFFORDSHIRE COUNCIL PLANNING ENFORCEMENT POLICIES AND PROCEDURES

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.

To that end, there is no evidence in the LPA Statement of Case that they had carried out a reasonable and thorough 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

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

I conclude that when all the policy strands of H6 are considered, 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.

My assessment is therefore consistent with the appeal decisions that have gone before , along with the LPA's own assessment as to the less than demonstrable impact of this type of development on this part of the

Boroughs green belt in July 2021. Overall, we consider that the development that is the subject of this 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 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.

9. GREEN BELT OPENNESS

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

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

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.

We 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.

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..

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

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 that 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 appellants and the LPA.

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

We consider that the failure of the LPA to take account of the appeal decisions that have been made to policy failure over time is unreasonable, and that proper consideration of the overall and long terms failure of policy should have resulted in no enforcement action being taken at this time, given the new strategy that is identified in the 2022 and 2024 Publication Plans.

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

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

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

19. THE GROUND E APPEAL

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.

21. CONCLUSIONS AND COSTS

Overall, and based on the evidence that is provided 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.