



SOUTH STAFFORDSHIRE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (ENFORCEMENT) (DETERMINATION BY INSPECTORS) (INQUIRIES
PROCEDURES) (ENGLAND) RULES 2002

PROOF OF EVIDENCE FOR

Mark Andrew Bray, Planning Enforcement Consultant

Appeal Site: Land south of New Acre Stables, Wolverhampton Road, Penkridge,
Staffordshire ST19 5PA.

Appeal by: Mr John Ward on behalf of Donna Ward against the Enforcement Notice issued by South
Staffordshire District Council alleging:

***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.***

Address: South Staffordshire Council
Wolverhampton Road, Codsall,
WV8 1PX

Appellant: Mr John Ward
Local Authority Reference: 22/00239/UNCOU
Planning Inspectorate Reference: APP/C3430/C/24/3337033

1. Introduction

- 1.1 My name is Mark Andrew Bray. I have worked in planning enforcement for ten years. For the last eight year I have been providing professional planning enforcement consultative services as a practitioner to local authorities on a contract basis and I am an associate member of the Royal Town Planning Institute. At the time of the issuing of the Enforcement Notice subject of this appeal, I was engaged as a Planning Enforcement Consultant for South Staffordshire District Council and I am currently retained by them to provide planning enforcement services as an independent contractor.
- 1.2 I can confirm that my evidence is true and represents my professional opinion regardless of who I am instructed by.
- 1.3 The appellant has appealed the Enforcement Notice (“the Notice”) on the following grounds-
- Ground (a)** - That planning permission should be granted for what is alleged in the notice;
- Ground (e)** - The notice was not properly served on everyone with an interest in the land;
- Ground (g)** The time given to comply with the notice is too short. Please state what you consider to be a reasonable compliance period.
- My evidence will deal with grounds e and g only.
- 1.4 Reference to appendices that I have produced match the corresponding appendices in the Council’s statement of case.

2. Site Description

- 2.1 The Land is located to the south of an existing gypsy traveller site and forms an extension to the existing site. The site itself is located to the western side of the A449, approximately 100m south of the village boundary of Penkridge and within the West Midlands Green Belt. It is bounded by the main West Coast railway line to the west, the former mineral railway line to the north and the A449 to the east.

3. Enforcement Notice

- 3.1 This appeal relates to an Enforcement Notice issued on 15th December 2023, as a result of the following 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.*
- 3.1 The Notice required the following steps to be taken to remedy the breach in planning control:

- 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.
- 3.2 I can produce the Notice at Appendix 1 and the Land Registry Title Register and Plan Reference SF280148 and SF280140 in respect of the Land at Appendix 2.
- 3.3 I produce a copy of Policies GB1, EQ2 and H6 of the South Staffordshire Core Strategy adopted in December 2012 at Appendix 18 which provides the policy context.

4. Planning and Enforcement 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.

5. Case for the Local Planning Authority

- 5.1 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.
- 5.2 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. Photographs from the site visit are produced at Appendix 3.
- 5.3 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).
- 5.4 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.*
- 5.5 The decision notice is produced at Appendix 4.
- 5.6 On 1st September 2023, following the Council's decision to refuse the retrospective planning application, an e-mail before action was sent to the applicant's agent informing them of the Council's intention to proceed with formal enforcement action unless a commitment was received to remove the caravan within 28 days and cease the use of the land. No response was received.
- 5.7 The use of the Land is continuing, and the Caravan remains in situ.

6. Grounds of Appeal – Grounds (e) and (g)

6.1 Response to Grounds of Appeal Under Ground e

- 6.2 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.
- 6.3 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 had an interest in the Land.
- 6.4 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.
- 6.5 As a result of the PCN's served, dated 26th October 2023 I had telephone conversations with both John McCarthy's son, (John Joeseeph 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.
- 6.6 John Joseph McCarty informed me that 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, I agreed that he was not required to complete the PCN as I had obtained the information I required to serve the Notice.

- 6.7 John Ward informed me 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 said to me that the Notice should be served on him only. This confirmed to me that I had the required level of information to serve the Notice.
- 6.8 Aside from the fact that on behalf of the Council I had 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 it is my view that the Ground E appeal must, therefore, fail.
- 6.9 **Response to Grounds of Appeal Under Ground g**
- 6.10 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, not only once the Council issued its enforcement notice on 18th January 2024, but since they were alerted to the Council's investigation as far back as October 2022 when Council officer's visited the site. Tentative enquiries can be made to ascertain what options are available to relocate from the site until the appeal decision is issued so that, in the event the appeal is dismissed, six months is more than adequate to comply with the requirements of the notice.