



**SOUTH STAFFORDSHIRE DISTRICT COUNCIL**

**TOWN AND COUNTRY PLANNING ACT 1990**

**TOWN AND COUNTRY PLANNING (ENFORCEMENT) (DETERMINATION BY INSPECTORS) (INQUIRIES**

**PROCEDURES) (ENGLAND) RULES 2002**

**PLANNING PROOF OF EVIDENCE FOR**

Paul Jonathan Turner, Planning Consultant

**Appeal Site:**

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

- i) 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:** Land south of New Acre Stables, Wolverhampton Road, Penkridge, Staffordshire. ST19 5PA.

**Appellant:** Mr John Ward

**Local Authority Reference:** 22/00239/UNCOU

**Planning Inspectorate Reference:** APP/C3430/C/24/3337033

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## Summary

The ground (a) case for the Local Authority is straightforward. The proposed existing, unauthorised development has multiple unacceptable harmful impacts upon the Green Belt, that outweigh factors in favour of the development in the planning balance.

The harms identified individually and cumulatively result in substantial and significant negative impacts on the Green Belt and local environment, contrary to the salient adopted Development Plan and NPPF planning policy.

The proposal is inappropriate development and is by definition harmful to the Green Belt. Substantial weight must be given to this harm.

The appeal development results in material harm to openness, the acknowledged fundamental important attribute of Green Belts. The circa. 10m x 3.5m footprint of the mobile home 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. Loss of openness should also be afforded significant, high-level weight.

The proposal also conflicts with one of the 5 main aims of Green Belt policy identified in the NPPF by causing encroachment. In this case the encroachment caused is also a significant negative factor that should be afforded a high level of weight in the circumstances of the subject appeal. The existing traveller site and associated development has only ever benefitted from temporary planning permission, with the previous use being as stables within a paddock for horse grazing. The site does not have the benefit of brownfield (PDL) status, because the existing development is on a temporary basis due to its Green Belt status. Stables/paddocks within the Green Belt are typical/characteristic features of the Green Belt landscape, and such use/associated ancillary development is not inappropriate development in the Green Belt.

The proposal is contrary to the relevant adopted Green Belt Protection Policy of the Core Strategy (GB1) which is consistent with the NPPF in respect of protecting Green Belt land.

Written Ministerial Statement – HLWS404 ‘Green Belt Protection and Intentional Unauthorised Development’ 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 in the public interest. The aims of this W.M.S. are pertinent to this appeal. In the circumstance of this case substantial harms are inflicted on the Green Belt and landscape by intentional unauthorised development and this is an additional significant negative factor that should be afforded high level weight.

The appeal proposal is contrary to criteria 8a) of adopted C.S. Policy H6 which states that “demonstrably harmful impact on the ‘openness’ of the Green Belt will be resisted”.

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).

A current shortfall in the supply of gypsy and traveller pitches is acknowledged in the District. All existing sites in South Staffordshire are privately owned, and it is also acknowledged that there may be no available alternative sites.

Personal circumstances including the best interests of the child have also been advanced and considered, although specific details have not been provided at the time of the drafting of this Proof.

P.P.T.S now in place clearly states at Policy E 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”.*

PPTS also makes it clear 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”.*

Whilst it is acknowledged that ‘failure of the development plan’ to meet identified need for pitches throughout the District 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 including Covid 19 and the necessary consideration of the revised NPPF including affirmation of Green Belt protection policy against inappropriate development.

Substantial progress has been made towards the delivery of Gypsy and Traveller Sites in accordance with Development Plan 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 by the Local Authority. This demonstrates the Local Authority’s pro-active and positive approach to the delivery of gypsy and traveller pitches despite extensive constraining Green Belt designation. Application of the preferred Plan Led approach is of great importance within an area that is predominantly Green Belt to ensure that only sites with relative low impact will be allocated and permitted.

The status and rights of the appellant and his immediate family as gypsy/travellers are acknowledged and undisputed, as are the best interests of the appellant’s dependent children, the family general health needs and personal circumstances, and the desirability of a settled base.

It is acknowledged that the ‘best interests of children’ are a primary consideration, and that no other consideration can be afforded greater weight in the planning balance of material considerations. The best interests of the child are an integral part of the proportionality assessment under Article 8 of the HRA. However, it is not considered that the interests put forward in this case outweigh the identified high level, substantial and significant harms that would be caused to the public interests of protection of the Green Belt.

In the circumstances of this case none of the issues weighing in favour of the appellant, whether individually or when combined, override the strong established presumption against inappropriate development within the Green Belt to tip the balance in favour of either temporary or permanent permission.

The decision to issue an Enforcement Notice to secure the removal of unauthorised, harmful development in the Green Belt is in accordance with the legitimate public interest aim of protecting the Green Belt against inappropriate development, that would also negatively impact upon its openness and cause encroachment. The decision and its consequences in the circumstances of this case are proportionate in relation to the rights of the appellants.

## **1. Introduction**

- 1.1 My name is Paul Jonathan Turner. I am a Chartered Town Planner and have 38 years' experience in Town & Country Planning practice. I was employed as Assistant Development Control Officer at South Staffordshire District Council from November 1986 – November 1995, when I was appointed by North Shropshire District Council as Principal Development Control Officer, a position which I held until December 2002, when I established my own Town Planning Consultancy practice.
- 1.2 My practice has public and voluntary sector clients including Local Authorities and Housing Associations. My ongoing caseload includes affordable and special needs housing delivery. I have acted as consultant to South Staffordshire Council in respect of Gypsy and Traveller applications and appeals for 14 years.
- 1.3 I hold an M.A. degree in Town Planning from the University of Central England (Birmingham - 1992). My Consultancy is affiliated to the Institute of Historic Buildings & Conservation (I.H.B.C. West Midlands Branch).
- 1.4 I am instructed by the Local Authority to provide evidence in the appeal. I am familiar with the appeal site and its surroundings, and relevant planning policies.
- 1.5 The evidence which I have prepared and provide for this appeal in this Proof of Evidence is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.
- 1.6 My Proof addresses the planning merits of the Appeal Proposal. This is relevant to both Ground (a) of the Enforcement appeal and the s.78 appeal.

It is to be read in conjunction with a separate Proof by Mark Bray in respect of Enforcement Matters. These Proofs combined comprise the Local Authority's case against the development.

- 1.7 This Proof has been prepared in accordance with PINS Procedural Guide: Planning Appeals – England (January 2024) that statements (inter alia) should be concise, and not repetitive nor overlap with other witnesses' evidence or previous Statements. I am the author of the LA Statement of Case and I rely on its contents as far as possible to avoid repetition within my Proof.

## **2. Site Description**

- 2.1 As set out in the LA Statement of Case.

### **3 Planning and Enforcement History**

3.1 As set out in the LA Statement of Case.

### **4 Case for the Local Planning Authority in respect of the Ground (a) deemed planning application.**

4.1 The ground (a) case for the Local Authority is straightforward. It is that the development subject to this 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.

Under paragraph 152 of the NPPF inappropriate development should not be approved except in 'Very Special Circumstances' ('VSC'). V.S.C. will only exist where other considerations clearly outweigh all harms identified (Green Belt and non-Green Belt). In this case there are no VSC either individually or when combined that outweigh the identified multiple significant and substantial material harms caused.

4.2 Four material harms are identified which individually (in the case of inappropriateness and loss of openness) and cumulatively result in substantial and significant negative impact, contrary to the salient adopted Development Plan Policy and the NPPF. The identified harms are considered under separate headings.

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

4.3 The proposed development is, by definition, inappropriate within the Green Belt and, as 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 its inappropriateness. This harm and the weight afforded to it in the decision-making process are not a matter in dispute with the appellant.

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

4.4 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).

4.5 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.

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

- 4.6 Additional Green Belt harm is caused by encroachment into Green Belt land beyond the limits of the extant temporary permission site (15/00001/FUL and 20/00243/VAR), which expire on 24<sup>th</sup> April 2025). To assist in safeguarding the countryside from encroachment is one of the 5 cornerstone purposes of designating land as Green Belt (para. 143 NPPF). The propped pitch and its associated physical development extend approximately 14m beyond the temporary permission site boundary representing a significant encroachment into the Green Belt.

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

- 4.7 Written Ministerial Statement – HLWS404 ‘Green Belt Protection and Intentional Unauthorised Development’ (Appendix 12 of LA SOC) 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.
- 4.8 The extension of the site beyond the limits of the extant temporary permission without the submission of a planning application to attempt to regularise the matter, exhibits disregard for the planning process that undermines public confidence, particularly in respect of the acknowledged need to protect the Green Belt.
- 4.9 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.
- 4.10 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. Policy H6, qualifying criteria 8a) 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:
- a) The Green Belt - where demonstrably harmful impact on the ‘openness’ of the Green Belt will be resisted”.
- 4.11 The appeal proposes a significant increase in the amount of development and spread of buildings/infrastructure across the site. The quantum of development proposed



with a circa. 10m x 3.5m footprint mobile home, associated domestic appurtenances, parking areas, screen fencing etc. has a significant negative impact on the openness of the Green Belt contrary to NPPF Green Belt Policy and Policy GB1 of the adopted Core Strategy. The 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.

## **5. The Planning Balance**

- 5.1 The relevant considerations for the planning balance are set out at 6.7 of the LPA's statement of case. I do not repeat that assessment here but set out below a summary of the material considerations and highlight further relevant considerations.
- 5.2 It is acknowledged that there is presently a significant 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. This position is supported by recent appeal decisions related to the current appeal site itself, at other sites in South Staffordshire, and in the Sykes v SoS High Court decision cited within and Appended to the LA Statement of Case related to the Ground a) appeal. Subsequent planning application decisions have also been solely on a temporary and personal basis based on the presumption against inappropriate development, loss of openness and encroachment in the Green Belt.
- 5.3 It must be borne in mind that the planning history and rationale for the existing site is based on temporary planning consent, originally granted by the then SoS called in appeal decision in 2014. The site should not be considered 'Brownfield' (PDL) due to its previous status/use as stables set within a paddock, which are a typical characteristic of Green Belt landscapes, and do not represent inappropriate development within the Green Belt.
- 5.4 Substantial progress has been made towards the delivery of Gypsy and Traveller Sites in accordance with adopted 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. 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.
- 5.5 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.

- 5.6 In such circumstances it is not considered that 'failure of the development plan process' should be material to a 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.
- 5.7 An existing shortfall of pitches 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, and an equivalent to the adopted C.S. Policy H6 criterion based Policy (Policy HC9 of the revised Publication Plan) will be carried forward in the ongoing Local Plan Review for the determination of planning applications on their merits.
- 5.8 The appellants personal circumstances, including the Best Interests of Children resident at the site must be afforded significant weight. However scant information has been provided to enable detailed assessment.
- 5.9 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). These rights are qualified however, and do not necessarily override the well established public interest, set in government policy by the presumption against inappropriate harmful development within the Green Belt, as upheld in the appeals cases cited within my Ground a) SOC and the relevant Sykes v SoC Judgment.
- 5.10 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.
- 5.11 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)"*. This policy requires, in the circumstances of the current appeal, the provision of a signed and agreed Unilateral Undertaking by the Appellant to make a proportionate contribution to the maintenance and management of the SAC. Relevant proforma have been provided by the LA, but not returned at the time of the drafting of this Proof. At this time therefore the appeal Ground a) proposal is in conflict with Policy EQ2 of the adopted Core Strategy.

### **Addendum to Planning Balance/Further Considerations.**

- 5.12 South Staffordshire Council commenced its 6 week consultation on its revised (in the light of emerging national planning policy reforms through the NPPF), Regulation 19 Publication Plan on 18<sup>th</sup> April 2024. There are no changes to policy that affect the consideration of this appeal. The revised Plan Period is 2023 – 2041. (Appendix 19 ).

Inter alia the document states:

“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)”. (para. 5.4.7) and;

“Through the 2024 GTAA update, the five year needs of families were reassessed, including the families on sites assessed as suitable for expansion, with the number of pitches proposed reflecting this latest evidence. Overall, it remains the case that 37 suitable pitch options for allocation are identified” (para. 6.4.0).

- 5.13 South Staffordshire Council has also issued its updated GTAA 2024 (Appendix 20) as evidence data accompanying and supporting the Local Plan Review and decisions related to Site Allocation, including the provision of Gypsy and Traveller pitches. The GTAA update (2024) has identified a need for 142 pitches to 2042 from families that meet the definition of a Gypsy and Traveller. However, assuming that 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.
- 5.14 It is acknowledged that South Staffordshire Council is unable to meet its 5 year supply requirement through Site Allocations due to its Green Belt status and other environmental and ownership constraints. The differential will rely on planning application submissions considered in accordance with criterion-based policy HC9 and other salient prevailing policy.

## **6 Conclusions**

- 6.1 The personal accommodation needs and personal circumstances of the appellant (including the primary consideration of the best interests of children), together with the acknowledged current lack of alternative sites and shortfall of pitches against the 5-year supply based on the G.T.T.A assessment, have been fully considered in the balancing exercise undertaken.
- 6.2 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 December 2023 NPPF revise) national and local planning policy presumption against inappropriate development within the Green Belt.
- 6.3 The VSC test requires that the material considerations in support of a proposal clearly outweigh the harms. I have identified the following material considerations which support the proposal.

- 6.3.1 The best interests of children are acknowledged as a primary consideration and that no other material consideration can individually carry more weight. No specific detailed information has been provided in respect of personal circumstances (including the best interests of the child). The desirability of a settled base for health and education services is acknowledged. It is also acknowledged that harm caused to the best interests of children carries as much weight, at a high level, as any individual harm identified. The needs expressed, including the best interests of children, attract substantial weight. However, it is contended that there is no exceptional justification made here to justify overriding the public interest of safeguarding the Green Belt against inappropriate development combined with all harms identified in this case.
- 6.3.2 Relevant Ministerial advice contained in PPTS is clear that a lack of a demonstrable 5-year supply of pitches does not override Green Belt harm. Accordingly limited weight should be given in favour of the development in this regard.
- 6.3.3 In terms of Development Plan failure to deliver an adequate supply of sites, the LA has demonstrated significant progress with the adoption of Policy through the Core Strategy and Site Allocations Document in 2018 and in the subsequent granting of planning permissions delivering pitches to address identified needs on the ground, despite constraining Green Belt Policy. The LA is making significant strides towards the delivery of sites to meet identified future needs through the on-going Local Plan Review and associated Evidence Base Review which will include the allocation of sites and criteria based Policy HC9 to address updated needs assessment.
- 6.4 As set out above I have identified the following harms (which I now ascribe a weight to).
- 6.4.1 The development is inappropriate within the Green Belt and harm caused by the inappropriateness is automatically afforded substantial weight under the terms of paragraphs 152 and 153 of the NPPF.
- 6.4.2 Significant and substantial harm would also be caused by loss of openness, the most important attribute of Green Belts, due to the quantum of development proposed. The provision of a 10m x 3.5m footprint mobile home structure, associated domestic appurtenances, parking areas, screen fencing etc, extending beyond the temporary permission site, significantly detracts from the openness of the Green Belt and accordingly should be afforded significant, high level, negative impact weight.
- 6.4.3 Additional significant harm would also be caused by encroachment of development by approximately 14m beyond the temporary permission site. In the circumstances of this case, harm caused by encroachment should be afforded significant level of negative impact weight.
- 6.4.4 Additional harm also results from the clear intentional unauthorised nature of the development which undermines public confidence in the planning system in a situation where there are clear harms caused to the acknowledged public interest of safeguarding the Green Belt against inappropriate development. In this case, where

there are clear significant and substantial harms to the Green Belt, the harm caused by intentional unauthorised development is also substantial.

- 6.4.5 There are material considerations which support the proposal as I have identified above. However, these supporting factors, whether considered individually or cumulatively, do not present Very Special Circumstances that could overcome the multiple substantial and significant harms (and the weight they carry) identified, including the need to protect the Green Belt against inappropriate and demonstrably harmful development.
- 6.5 Overall, on the above analysis, it is my expert professional judgment that the harms are not clearly outweighed by the material consideration in favour of the proposal. In line with paragraph 152 of the NPPF there are no Very Special Circumstances to justify this inappropriate development and therefore planning permission should be refused.
- 6.6 The protection of Green Belts is a crucial and fundamental aim of long established local and national planning policy and is therefore a legitimate objective in the public interest, based on both adopted Development Plan and Central Government Policy, with a clear basis in planning legislation. In such circumstances, some interference with Article 8 rights is permissible. The protection of the public interest, in this case the protection of the Green Belt, cannot be achieved by means which are less interfering than refusal of planning permission.
- 6.7 For all of the above reasons, the Local Authority's decision to take Enforcement Action to secure the removal of harmful inappropriate development in the Green Belt is justified and in accordance with the relevant prevailing national and local planning policies and guidance. It is therefore respectfully requested that the appeal be dismissed.

**7 Conditions – As set out in Para. 9 of the LA SOC.**