
Appeal Decisions

Hearing held on 23 May 2017

Site visit made on 31 May 2017

by Andrew R Hammond MSc MA CEng MIET MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 04 August 2017

Appeal A Ref: APP/X0360/C/3157598

Land adjacent to Model Farm Cottages, Bath Road, Berkshire RG4 6TD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Jade Nolan against an enforcement notice issued by Wokingham Borough Council.
 - The enforcement notice, numbered 170166, was issued on 1 August 2016.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the land to a caravan site for the stationing of mobile homes for human habitation.
 - The requirements of the notice are
 1. Cease the use of the land for the stationing of caravans for residential purposes;
 2. Remove all mobile homes, touring caravans and all associated residential paraphernalia from the land;
 3. Remove all vehicles and trailers from the land;
 4. Excavate all hardsurfaces (except that which existed prior to November 2015 as shown in the area shown hatched in blue on Plan 2 attached to this notice) and completely remove all resultant material from the land;
 5. Remove and infill the cess pit including any pipework from the land;
 6. Disconnect the water supply and remove connections from the land;
 7. Disconnect the electricity supply and remove connections from the land;
 8. Demolish all brick skirts and steps and completely remove all resultant materials from the land;
 9. Dig up and remove the laurel hedge and other shrubs from the land shown in the approximate location hatched in black on Plan 2 attached to the notice;
 10. Remove the fence shown in yellow on the attached Plan 2 between points A and B and remove it from the site.
 - The period for compliance with the requirements is nine months from the date the date the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) & (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/X0360/W/3157465

Land adjacent to Model Farm Cottages, Bath Road, Berkshire RG4 6TD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Jade Nolan against the decision of Wokingham Borough Council.
 - The application Ref 161165, dated 8 December 2015, was refused by notice dated 1 August 2016.
 - The development proposed is the use of the land for the stationing of caravans for residential purposes for 2 no. gypsy pitches together with the formation of utility/dayrooms and hardstanding ancillary to that use.
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Decision Appeal B

1. The appeal is dismissed.

Decision Appeal A

2. The appeal is dismissed and the enforcement notice is upheld.

Reasons Appeal B

Main Issues

3. The main issues in this appeal are:-
 - The sustainability of the appeal location;
 - The effect of the proposed development on the character and appearance of the area;
 - The impact of the proposed development on the residential amenity of neighbouring residents; and
 - Whether other considerations, including the personal circumstances of the occupiers of the appeal site, outweigh any identified harm so as to justify any conflict with national and development plan policy.

Policy

4. The development plan includes the Wokingham Borough Core Strategy (2010) (CS) and the Wokingham Borough Managing Development Delivery Local Plan (2014) (MDD).
5. The appellant argues that the Council cannot demonstrate a 5 year supply of housing land and that therefore housing policies are out of date. It is also argued that other policies are inconsistent with the National Planning Policy Framework (The Framework) and/or Planning Policy for Traveller Sites (PPTS).
6. The Council maintains that it can demonstrate a five year supply of housing but, in any event, even were housing policies out of date it is not the case that they would carry no weight, merely that the weight to be attached would be reduced.
7. Furthermore with regard to housing supply policies and following Mark Wenman v SSCLG [2015] EWHC 925 (Admin)¹³, the Government in a Written Ministerial Statement of 22 July 2015 (WMS) made a technical adjustment to paragraphs 49 and 159 of the Framework:

'Paragraph 49

From today [22 July 2015], those persons who fall within the definition of 'traveller' under the Planning Policy for Traveller Sites, cannot rely on the lack of a five year supply of deliverable housing sites under the National Planning Policy Framework to show that relevant policies for the supply of housing are not up to date. Such persons should have the lack of a five year supply of deliverable traveller sites considered in accordance with Planning Policy for Traveller Sites.

Paragraph 159

Planning Policy for Traveller Sites sets out how travellers' (as defined in Annex A of that document) accommodation needs should also be assessed. Those who do not fall under that definition should have their accommodation needs addressed under the provisions of the National Planning Policy Framework.'

8. The appellant argues that the technical adjustment does not refer to '*applications for gypsy and traveller sites*' or even '*to sites for persons who fall within the definition in PPTS*'. It refers only to '*those persons who fall within the definition*'. Therefore, it is argued, this component of paragraph 49 would only be engaged in a section 78 application/appeal if the status and personal circumstances of the site residents need to be considered. It is suggested that Planning Policy for Traveller Sites (PPTS) offers no mechanism of dictating what should happen if there is an absence of a five year supply of gypsy and traveller sites and a permanent permission is being considered, and if the outcome disadvantages someone who is ethnically a Romany Gypsy or Irish Traveller then the decision maker will have breached their Public Sector Equality Duty. However, it is clear that the status of an appellant or occupier of a site has to be a material consideration in any appeal invoking the provisions of PPTS.
9. PPTS should be read in conjunction with the Framework and makes specific provisions for gypsy and traveller sites. The Technical Adjustment makes clear that those meeting the definition of 'traveller' within PPTS cannot rely on a lack of a 5 year supply of deliverable housing sites to show that relevant policies for the supply of housing are not up to date. Local Authorities differentiate between the supply of general housing, including any provision of residential caravan sites for those not meeting the definition, and the supply of housing through the provision of gypsy and traveller sites. Paragraph 9 of PPTS states that local planning authorities should, in producing their Local Plan: a) identify and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of gypsy and traveller sites against their locally set targets.
10. Paragraph 25 of PPTS states that if a local planning authority cannot demonstrate an up-to-date five-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. However, paragraph 24 lists a number of issues which local planning authorities should consider when considering planning applications for traveller sites, amongst other matters. These include the existing level of local provision and need for sites, the availability (or lack) of alternative accommodation for the applicants and other personal circumstances of the applicant. Locally specific criteria which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites. Local Planning Authorities should determine applications for sites from any travellers and not just those with local connections.
11. A lack of a five year supply of deliverable gypsy and traveller sites would therefore indicate a level of local need which would be a material consideration when considering a permanent permission. Indeed the appellant's statement reaches the same conclusion at paragraph 347.
12. CS Policy CP1 is a general policy seeking sustainable development. The appellant argues that CS policy is not in step with the Framework in respect of CP1(1), CP1(3) and CP1(8) which state that planning permission will be

granted for development proposals that maintain or enhance the high quality of the environment; avoid areas where pollution (including noise) may impact upon the amenity of future occupiers; and demonstrate how they support opportunities for reducing the need to travel, particularly by private car. These are all general principles in line with the overall aims of the Framework, albeit that specific policies within the Framework and PPTS may lessen the weight attached may lessen the weight attached to CS policies in certain circumstances where there is conflict with those policies.

13. CS Policy CP2 (d) deals with the provision of gypsy and traveller sites. The appellant argues that this policy is inconsistent with PPTS as it attempts to limit all gypsy and traveller development outside settlement limits whereas PPTS states that LPAs should very strictly limit new traveller site development in open countryside that is away from existing settlements. CP Policy CP2 requires sites for gypsies, travellers and travelling showpeople to be located within or close to the development limits of a settlement in Policy CP9. This is entirely consistent with the requirements in paragraphs 24 and 13 of PPTS. CS Policy CP2 is also consistent with PPTS in that it requires proposed sites to be not disproportionate to the scale of the existing settlement, which the policy accepts that it may be close to, as compared with PPTS which states, in paragraph 14, that local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and, in paragraph 13, requires that they should avoid placing an undue pressure on the local infrastructure.
14. CS Policy CP3 is not inconsistent with the Framework merely because it sets out general principles for development in different terms to those in paragraph 109 of the Framework. Both seek to conserve and enhance the natural environment. Furthermore the lack of any definition of 'important' in 'have no detrimental impact upon important ecological heritage, landscape or ecological features or water courses' does not lessen the applicability of the policy. The degree of importance is rightly left to the decision taker.
15. CS Policy CP6 is not inconsistent with the Framework and the appellant's suggestion is that it is based on the reading of one sentence in paragraph 29 in isolation. That sentence "*However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.*" follows "*The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.*" which is the precise gist of the first criteria of CS Policy CP6. Paragraph 30 of the Framework reads "Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. In preparing Local Plans, local planning authorities should therefore support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport." The second criterion of CS Policy CP6 which seeks to locate development where a choice of modes of transport is available and which minimises the distance people need to travel is in line with this paragraph.
16. The appellant suggests that CS Policy CP9 is inconsistent with both the Framework and PPTS. The thrust of the policy is expressed in the first sentence which reads "*The scale of development proposals in Wokingham Borough must reflect the existing and proposed levels of facilities and services at or in the*

location.” With regard to gypsy and traveller sites this is consistent with PPTS which notes that sites in rural areas should respect the scale of, and not dominate the nearest settled community, and should avoid placing an undue pressure on the local infrastructure.

17. The appellant claims that, in addition to being ‘out of date’ due to the claimed failure to demonstrate a 5 year supply of deliverable housing sites, CS Policy CP11 is in conflict with paragraph 55 of the Framework which states that local planning authorities should avoid new isolated homes in the countryside, in that the policy adopts a stricter approach. Again the quoted section of paragraph 55 has been taken out of context. The paragraph reads *“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances...”*
18. The Managing Development Delivery Local Plan document (MDD) adopted February 2014 provides greater detail on how the CS will be delivered in practice. The Council refer to MDD Policies TB10, TB21 and CC02.
19. The appellant suggests that PPTS paragraph 25, by stating that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements, imposes two tests; it is claimed that for the paragraph to apply the new sites should be in the open countryside and away from existing settlements. MDD Policy TB10 requires gypsy and traveller pitches to be in or adjacent to an existing settlement and the appellant argues that this is more restrictive than PPTS paragraph 25. However, to be away from existing settlements a site would, almost without exception, be in the open countryside. There is no inconsistency.
20. The appellant argues that MDD Policy TB21 seeks to provide a level of protection to all landscapes that the Framework reserves for valued landscapes in paragraph 109. MDD Policy TB21 states that proposals must demonstrate how they have addressed the requirements of the Council’s Landscape Character Assessment, including the landscape quality; landscape strategy; landscape sensitivity and key issues and that proposals shall retain or enhance the condition, character and features that contribute to the landscape. Whilst the Framework does afford the greatest weight to designated landscapes (paragraph 115) the term ‘valued’ in paragraph 109 and the MDD policy, by reference to the Landscape Character Assessment ensures that protection is commensurate with the status of the particular landscape and gives appropriate weight to its importance as required by paragraph 113 of the Framework.
21. MDD Policy CC02 refers to development limits for each settlement being defined on the Policies Map. The appellant again uses the argument that this applies a much stricter approach to new homes in the countryside than the Framework. MDD Policy CC02 refers only to development on the edge of settlements and does not preclude any development outside settlement boundaries. It is not in conflict with paragraph 55 of the Framework.
22. The Council also refer to the Borough Design Guide (2012) but the appellant again claims inconsistency with the Framework, drawing attention to page 35

where the Guide states in relation to residential development that “*Designers should make sure that development creates a sense of place that is distinctive and memorable and helps to enhance the character of the surrounding area.*” It is difficult to see how this is inconsistent with one of the core principles in the Framework, namely that planning should not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives.

The Sustainability of the Appeal Location and the Impact on the Character of the Area

23. The appeal site is located adjacent to a pair of semi-detached cottages which sit within a modest group of buildings including a number of small commercial units within a converted barn and a more substantial unit used for the storage of grounds maintenance equipment for the adjacent Sonning Golf Course. The entire group is accessed by a single private drive off the A4 Bath Road, a dual carriageway. The Sonning Golf Club is accessed separately from Duffield Road to the south west.
24. The appeal site sits approximately in the centre of a ‘green gap’ of around 1km between Sonning, located on the outskirts of Reading, and Charvil, with the golf course and the Redingensians Rugby Club to the south of the A4 and open agricultural land to the north. Although the area has no official designation, either local or national, it forms an important and distinct interval between built up areas, preserving their separate characters.
25. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.
26. PPTS sets out criteria, at paragraph 11, to ensure that traveller sites are sustainable economically, socially and environmentally.
27. The appeal site, albeit outside both settlements of Charvil and Sonning is within an acceptable distance from services in both settlements and there is a regular bus service along the Bath Road past the appeal site. In that respect it would meet requirements b) to h) of paragraph 11 from an environmental sustainability perspective.
28. However, the Framework also refers to the environmental role of the planning system in contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity.
29. There is considerable planning history for the immediate vicinity of the appeal site. The existing cottages are a replacement pair of semi-detached cottages of the same built form as those replaced. The former barn complex, now the commercial units known as Model Farm Barn, was extended without the benefit of planning permission and a subsequent appeal, ref. APP/X0360/C/09/2113410, was dismissed. A subsequent ‘retrospective’ planning application, ref. F/2009/1371, was refused and dismissed on appeal with the Inspector reasoning that “*the appeal location is particularly sensitive, representing an open green lung between the settlements of Sonning and Charvil. Further development in this area could quickly erode its semi-rural character to the general detriment of the visual qualities of this part of the borough.*” Whilst these appeals pre-date the Framework they are indicative of

- the value previous Inspectors have placed on the importance of the character of the area.
30. Although the existing development adjacent to the appeal site does intrude into the 'green lung' as the previous Inspector described the gap between Sonning and Charvil, it is clear that the relatively small gap, despite not being designated, performs an important role in maintaining the separate identities of the two settlements.
 31. The appellant argues that the previous appeal decision, and other planning applications on neighbouring sites, which were refused due to further encroachment away from the original buildings, did not relate to gypsy and traveller pitches where different considerations and case law apply. Whilst it is acknowledged that there are considerations and case law that may weigh in favour of the appeal, there is nothing that which indicates that environmental detriment resulting from gypsy and traveller development should carry less weight or be ignored. There is no reason, therefore, to consider that the development of the appeal site as a gypsy and traveller site does not similarly cause erosion of the semi-rural character to the general detriment of the visual character, as described by the previous Inspector.
 32. Whilst the appeal site is substantially screened from Bath Road, the appeal development has introduced a significant area of hardstanding, caravans and motor vehicles and residential paraphernalia, extending the built form of the Model Farm complex towards Charvil, between the open golf course and the Bath Road, causing detriment to the character of the landscape.
 33. In terms of environmental sustainability the appeal development is, therefore contrary to development plan policies aimed at ensuring sustainable development which, despite the arguments put forward by the appellant, carry substantial weight as reasoned above.
 34. Whilst the appeal site is within around 0.5km from the edges of both Charvil and Sonning, it forms part of an isolated development accessed by private drive from the Bath Road at Model Farm. Therefore the nearest settled community can be said to that immediately adjacent, namely the two Model Farm Cottages. The footprint of the appeal site is comparable with the total footprint of the cottages and the adjacent commercial units at Model Farm Barn. All traffic to and from the appeal site passes in front of the cottages.
 35. The scale of the appeal development, at two pitches, each with one residential caravan and one touring caravan, is comparable to that of the two modest cottages , thereby with the potential to dominate the existing immediate settled community so as to be socially unsustainable.
 36. In conclusion on sustainability, the appeal development results in detriment to the character of the landscape and to the important role of the area in providing a physical break between Sonning and Charvil which preserves their separate identities. As such the development fails to fulfil the environmental role of sustainability. By potentially dominating the local settled community the development also fails to promote peaceful and integrated co-existence contrary to the social role of sustainability, contrary to development plan policy and paragraphs 11 and 12 of PPTS.

Residential Amenity

37. Although not included in the Council's Reasons for Refusal, third parties, including Sonning Parish Council and Charvil Parish Council, have raised the effect on the living conditions of existing residents with particular respect to noise, disturbance and overlooking.
38. Although the precise layout of the site could be controlled by condition, with the closest residential caravan/mobile home being moved further from the boundary with the adjacent dwelling (as proposed in the application), the proposed day room being located behind the adjacent garage building and strengthened landscaping along the boundary, the physical proximity of the appeal proposal to the private rear garden would nevertheless lead to a degree of overlooking and loss of privacy.
39. Evidence was provided by third parties of the site being used by commercial vehicles. A condition could be imposed on any grant of planning permission restricting the size and number of commercial vehicles parked on the site. Nevertheless, the passage of vehicles in close proximity to the front of Model Farm Cottages would result in a degree of disturbance. I consider that, taken together, the loss of privacy and additional disturbance would be unacceptable.
40. The appeal proposals are therefore in conflict with MDD Policy TB10 which requires new gypsy and traveller sites to not result in an unacceptable loss of amenity of neighbouring land uses.

Loss of Habitat

41. The Council contend that the unauthorised development has resulted in a loss of habitat suitable for Slow Worms and Grass Snakes, protected species, and other reptiles. Whilst it is apparent that the appeal site comprised rough grassland and gorse, a favourable reptile habitat, there is no formal record of either species on the site. The development was carried out without authorisation and hence the Council did not have the opportunity to require an ecological survey.
42. The Planning Practice Guidance (PPG) does state that "*local planning authorities should only require ecological surveys where clearly justified, for example where there is a reasonable likelihood of a protected species being present and affected by development.*" (Emphasis added). (016 Reference ID: 8-016-20140612) It is reasonable to consider that the appeal site, prior to the development, was at least a suitable habitat for Slow Worms and Grass Snakes.
43. On 17 December 2015 the Minister of State for Housing and Planning made a Written Ministerial Statement including the following;

"The Government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place. Such cases can involve local planning authorities having to take expensive and time consuming enforcement action.

For these reasons, we introduced a planning policy to make intentional unauthorised development a material consideration that would be weighed in

the determination of planning applications and appeals. This policy applies to all new planning applications and appeals received since 31 August 2015."

44. The development was unauthorised and clearly intentional. The opportunity for a survey to establish the ecological status of the site and to mitigate potential harm was therefore denied. This is a material consideration in the determination of the appeal.

Contaminated Land

45. The Council's fourth Reason for Refusal relates to the potential for ground contamination. The Council, however, have no evidence that there has been any contamination of the site other than uncorroborated assertions that asbestos was dumped on the site prior to the unauthorised development. Very little weight has been afforded to this matter in the determination of the appeal.

Other matters raised by 3rd Parties.

Highway Access

46. Concern was expressed regarding the adequacy of the vehicular access from the Bath Road. The Highway Authority has expressed no concerns or objection and there is no reason to believe that the use of the access would be detrimental to highway safety.
47. Concern was also expressed with regard to damage caused to the private access by large vehicles and with regard to breaches of covenants favouring Sonning Golf Club. These are not planning considerations and cannot be taken into account in the determination of the appeal.

Removal of Trees

48. The removal of trees, other than any which are the subject of a TPO or planning condition is not a material planning consideration.

Impact on living conditions.

49. This has been dealt with above. The effect on property values, also raised, is not a planning consideration.

Adequacy of Foul Drainage, Commercial Activity and Floodlighting

50. These are all matters which could be addressed by planning conditions.

Potential for Archaeology

51. There is no reason to believe that there are significant archaeological remains on the site.

Road Noise

52. There is nothing to suggest that the levels of road noise from the A4 would result in unacceptable living conditions for the occupiers of the appeal site.

Number of Occupants

53. The number of residential caravans and hence, in practice, the number of occupants of the appeal site could be restricted by condition.

Behavioural Matters

54. The alleged use of neighbouring addresses for correspondence; antisocial behaviour and criminal activity are matters which, even if proven, are not planning considerations which can be taken into account in the determination of the appeal.

High Fence

55. The erection of a fence in excess of 2m in height is a matter pursued separately by the Council.

Other Considerations

56. The Council accept that the appellant and other occupiers of the site meet the definition of a gypsy or traveller in Annex 1 of PPTS. There is no reason to dispute this.

Gypsy and Traveller Accommodation Needs Assessment

57. At the Hearing the Council produced an updated analysis of pitch requirements 2017/18 to 2035/36 based on the Wokingham Borough Gypsy and Traveller and Travelling Showpeople Accommodation Assessment 2017 published in May 2017 (GTAA 2017). The GTAA and the analysis apply the definition of gypsies and travellers in Annex 1 of PPTS and differentiate between 'cultural need' and PPTS need, the former being the need for all persons who are culturally gypsies and travellers and the latter those meeting the more restricted definition in PPTS. The analysis demonstrates that as of 31 March 2017 the Council can demonstrate a 22.5 year land supply to meet the 'PPTS' need and a 6.4 year supply to meet the wider cultural need were this required.
58. The appellant's case is that the evidence used to produce the GTAA is not robust and that errors in the methodology have resulted in an underestimation of the level of need in the Borough.
59. However, none of the evidence presented by the appellant provides a convincing argument that the results of the GTAA 2017 are not robust. Of course any such assessment can only provide an estimation based on reasonable assumptions and the available data, which will be within a range of certainty. There is no reason, therefore, to dismiss the Council's figures of a cultural 5 year need for 14 pitches and a 'PPTS definition' 5 year need for 4 pitches.
60. With regard to supply, the appellant challenges the Council's figures, in particular, for example, suggesting that some planning permissions will not be implemented. The appellant draws particular attention to a site which is currently occupied by non gypsies/travellers but which has been granted permission for a larger number of pitches subject to a gypsy and traveller occupancy condition. The appellant's argument appears to be that the owner of the site could increase the number of pitches by sub-division without planning permission and with no restriction on occupancy, the premise being that each sub-divided plot would benefit from the original planning permission for use as a residential caravan site. This is an erroneous argument. The pre-existing permission covers the site and the number of pitches is conditioned.

61. The Council's figures demonstrate a total 5 year supply of 18 pitches against the identified need and show that the Council can demonstrate a five year supply of pitches for both the PPTS need and the wider cultural need, even taking into account a degree of uncertainty in the figures.
62. There is, on the evidence available, no unmet need weighing in favour of the appeal and a probability that an alternative site would be available.
63. Whilst there may, or may not, have been a failure of policy in addressing future need in the past, the figures in the current GTAA are robust and there is no current failure of policy.

Personal Need

64. Whilst the appellant has a personal need for a permanent base which weighs in favour of the appeal, that need could be met by a site elsewhere and, therefore, the weight attached needs to be balanced against the harm arising from the development.

Health

65. The appellant's mother-in-law, resident on the appeal site, is in need of on-going medical care and day to day care provided by the appellant. The appellant's father-in-law is also now resident on the appeal site and in need of medical care and support.
66. The support available from the appellant and the access to GPs and hospitals which occupation of the site facilitates is clearly a material consideration of some weight in the determination of the appeal.

Education and the Best Interests of Children

67. The appellant has two children, the elder being of school age and attending the local primary school. Clearly it is in the best interests of the children to be at a settled base where they have access to education and health care. The children's' best interests are a primary consideration and no other consideration must be given greater weight than the interests of the child.

Temporary Permission

68. The appellant argues that should permanent permission not be forthcoming a temporary permission for a period sufficient to give certainty of alternative suitable and lawful accommodation being secured should be granted.
69. The Council have demonstrated that they can provide a five year supply of gypsy and traveller sites to meet identified need. A temporary permission would not result in any increase in availability of suitable sites. A temporary planning permission is not justified.

Conclusions on Appeal B

70. The development causes significant harm by the erosion of the 'green gap' and, despite the landscape not being designated, to the character of the landscape. It is, therefore, unsustainable from an environmental perspective and contrary to the key principles of the Framework and to Development Plan policies aimed at environmental sustainability as listed above under 'policy'.

71. The development also fails to promote peaceful and integrated co-existence in that it would potentially dominate the adjacent settled community in Model Farm Cottages, contrary to the provisions of PPTS. The development is also detrimental to the living conditions of the occupiers of the adjacent dwellings with particular regard to noise, disturbance and overlooking in conflict with MDD Policy TB10.
72. The fact that the development was intentional and unauthorised is also a material consideration which adds weight to the substantial harm resulting from environmental unsustainability; harm to the character of the landscape; and harm resulting from detriment to the living conditions of neighbouring residents.
73. Whilst none of these considerations can be afforded greater weight than the best interest of the children, which would be served by the provision of a settled base, cumulatively they are of substantial weight, confirming that the appeal site is not a suitable or appropriate location for development as a gypsy and traveller site and outweighing the totality of the matters in favour of the appeal including not only the best interests of the children but also the personal needs and circumstances including health and care issues of the occupiers of the appeal site.
74. The need to maintain a gypsy lifestyle is an important factor in the decision making process. Those gypsies without an authorised site face difficulties in endeavouring to continue their traditional way of life within the law. The appellant claims that there is no alternative site available but the Council have identified a number of sites within Wokingham with planning permission.
75. As regards Article 8 of the European Convention on Human Rights the appellant and her family are currently living on the appeal site, albeit without the benefit of planning permission, and dismissal of the appeals would be likely to result in their removal from the site and interference with their home and private and family life. It is necessary to consider whether it would be proportionate to refuse planning permission in all the circumstances of the case.
76. That interference must be balanced against the wider public interest in pursuing the legitimate aims stated in Article 8, particularly the economic well-being of the country (which includes the preservation of the environment). The objections to the development are serious and the harm could not be overcome by planning conditions. In all the circumstances of this appeal the interference with the human rights of the occupiers of the site, including the children, resulting from dismissing the appeal would not be disproportionate.
77. The appellant provided details of a number of appeal decisions and planning permissions. None of these are directly comparable to the appeal under consideration.
78. For the reasons given above I conclude that the appeal should be dismissed.

Appeal A

Ground (f)

79. The appellant pleads under ground (f) that the requirements to remove all vehicles from the land; to disconnect water supply and remove connections from the land; to disconnect the electricity supply; and to remove the fence are

excessive. It is submitted that vehicles related to lawful agricultural use of the land could be parked on the site; the water supply could be necessitated by lawful agricultural use as could the electricity supply; and the fence could be constructed under permitted development rights.

80. There is no suggestion that any of the vehicles on the appeal site are used for agriculture. It is trite law that an enforcement notice can require the removal of development and services which facilitated the breach, even those which would otherwise benefit from permitted development rights.
81. The requirements of the notice claimed to be excessive all relate to matters which facilitated the breach of planning control and the appeal on ground (f) fails.

Ground (g)

82. Under ground (g) the appellant pleads that 9 months is insufficient time to comply with the requirements of the notice given that there is a lack of alternative sites and a period of two years is sought.
83. As reasoned above, the Council can demonstrate a five year supply of gypsy and traveller sites and a nine month compliance period is sufficient to comply with the requirements and secure an alternative site.
84. For that reason the appeal on ground (g) fails.

Overall conclusion on Appeal B

85. For the reasons given above I consider that the appeal should not succeed.

Andrew Hammond

Inspector

APPEARANCES

FOR THE APPELLANT:

Matthew Green (Green Planning Solutions)

Jade Nolan

Alex Nolan

FOR THE LOCAL PLANNING AUTHORITY:

James McCabe (Wokingham BC)

Chris Broughton (arc⁴)

INTERESTED PERSONS:

Kirsty Lowne

Tamsin Runnalls

Cllr Kate Haines

DOCUMENTS

1. Details of five year land supply based on 2017 GTAA provided by the Council
2. Rebuttal by arc⁴ to need statement on behalf of the appellant, provided by the Council
3. Signed witness statement of Alex Nolan provided by the appellant
4. Appeal decision APP/Xo360/W/15/3130829 provided by the appellant