

Appeal Decisions

Date of Hearing 1 October 2019

Site visit made on 1 October 2019

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

an Inspector appointed by the Secretary of State

Decision date: 3 February 2020

Appeal A: APP/Z2260/C/19/3219882

Appeal B: APP/Z2260/C/19/3219883

Land on the North East Side of Newlands Lane, Ramsgate, Kent CT12 6RJ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Ms Mary McGinley and Appeal B is made by Mr B Doherty against an enforcement notice issued by Thanet District Council.
- The notice was issued on 5 December 2018.
- The breach of planning control as alleged in the notice is: without planning permission the change of use of Land for the siting of caravans for residential purposes comprising 1no. mobile home, 1no. touring caravan together with the formation of hardstanding.
- The requirements of the notice are: Remove the unauthorised touring caravan and the mobile home from the land and return the land back to its previous condition prior to the hardstanding being laid.
- The period for compliance with the requirements is: 3 months after this Notice takes effect.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Appeal B is proceeding on the grounds set out in section 174(2)(f) and (g) of the 1990 Act.

Summary of Decisions:

Appeal A: The appeal is allowed subject to the enforcement notice being corrected in the terms set out below in the Formal Decision.

Appeal B: As the enforcement notice is quashed Appeal B cannot proceed further.

Appeal C: APP/Z2260/W/18/3209424

Land off Newlands Lane, Ramsgate CT12 6RJ

- 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 Ms Mary McGinley against the decision of Thanet District Council.
- The application Ref F/TH/18/0323, dated 7 March 2018, was refused by notice dated 13 June 2018.
- The development proposed is the use of land for the siting of caravans for residential purposes for 1no. residential family gypsy pitch comprising caravan site for one gypsy family comprising 1no. mobile home, 1no. touring caravan together with the erection of a single storey building to provide ancillary utility /dayrooms and formation of hardstanding.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Matters concerning the enforcement notice

1. Both parties agreed that it would be appropriate to insert the word “material” before “change” in the description of the breach of planning control and I concur. Also, the appellant had no objection to the Council’s request to include in that same description, an “ISO”¹ type shipping container that it was agreed was sited on the land before the notice was issued.
2. As to do so would not cause injustice to either party, I will amend the notice accordingly by using the powers of correction under s176(1)(a) of the Act. In light of my decision on Appeal A it is not necessary to amend the requirements of the notice in respect of the container.

Appeal A on ground (a) and Appeal C

Preliminary matters and main issues

3. It is not in dispute that the appellant and his family meet the definition of gypsies/travellers as set out in the Planning Policy for Traveller Sites (PPTS).
4. The difference in substance between the s78 appealed application and the deemed planning application made under s177(5) is the addition, in the former case, of a single storey amenity building to be erected on the appeal site. Also, as no application was made to amend the s78 application to include the storage container, that is also a difference in substance, however the main issues are the same in both appeals. The developments comprised in the appeals could, if granted permission, be implemented together at the same time, therefore I should also consider the effect of the container and amenity building together.
5. The main issues are:
 - a. The principle of development in the Green Wedge and the effect of the development on the character and appearance of the surrounding area;
 - b. Availability of accommodation for gypsies and travellers and the appellants’ personal circumstances; and
 - c. The weight to be attached to the unauthorised nature of the development.

Principle of development and its effect on the character and appearance of the area

6. Thanet Local Plan 2006 (TLP) contains several relevant “saved” policies whose life is extended beyond the normal expiry date of the plan of 2009. They remain part of the development plan until replaced in a new local plan.
7. Policy CC1 states that the need for development in the open countryside must outweigh the need to protect the countryside. Also relevant in this context is Paragraph 25 of PPTS which advises that new traveller sites in the open countryside, away from existing settlements, or outside areas allocated in the development plan, should be very strictly limited. These policies do not in principle preclude gypsy and traveller sites being located in the countryside.
8. The site is in the Green Wedge (GW) between Northwood and Broadstairs, bounded by open fields and on the north side of Newlands Lane. It is subject to TLP Policy CC5 which does not permit development, including a change of

¹ International Standards Organisation

use of land, unless it *"is not detrimental or contrary to the stated aims of the policy; or is essential...to be located within the Green Wedges."*

9. The key stated aims of Policy CC5 appear from the supporting text to be primarily to halt coalescence by preventing: the further growth of urban areas, the consolidation of development between built-up areas and the open countryside; by protecting the rural and distinctive landscape qualities of the countryside and by prohibiting all but essential development or that which does not detract from local character and appearance.
10. "Essential" for these purposes is not defined but the supporting text to Policy CC1 explains that it is "general policy" to locate all but "essential rural development (as indicated in Structure Plan Policy) in the Thanet towns". It is generally accepted that the public should be able to rely on a policy as it stands without having to investigate its provenance and evolution. The Council asserts that the lack of sites in the area and the appellants' personal circumstances are relevant to establishing whether development is "essential" for these purposes, adding that essential development could be located on other brownfield sites outside the GW. However these matters are not alluded to in the context of the policy documents I have been given. Previous appeal decisions² have found certain forms of development non-essential for the purposes of the GW policy but they did not concern gypsy and traveller sites. The availability of sites and alternative provision, together with the appellants' circumstances are in any event material considerations in their own right, dealt with separately below.
11. The Landscape Character Assessment 2017 describes the area in which the site lies as undulating chalk farmland and an isolated semi-rural landscape with strongly defined urban boundaries. There are long open views across it to adjoining urban areas. The appeal site is also in the Central Chalk Plateau landscape character area whose character is also defined by the proximity of the edges of urban areas and where Policy TLP CC2 advises against skyline intrusion, should development be permitted by other plan policies.
12. The caravans conform to the definition in Part I of the Caravan Sites and Control of Development Act 1960 and Section 13 of the Caravan Sites Act 1968 (as amended). They are restricted by definition to a floor to ceiling height of 3.048m. The proposed single storey amenity building would measure 8m x 5m with a pitched roof and a total height of about 4.5m. Concern was expressed over the materials used for the roof and the brick type for the elevations, however as the Council suggested, these could be effectively secured by condition to avoid incongruity with local dwellings and outbuildings nearby.
13. The container is of the standard ISO type and is used for the storage of domestic items. Although positioned against the boundary fence and painted a subdued colour it has a utilitarian and industrial appearance, militating against a residential use of the site. Its appearance would be unacceptable without a wooden or other cladding material that could lessen its impact considerably, therefore if it remains a condition would be necessary to this effect.

² APP/Z2260/W/18/3217276, dated 23.8.2019; APP/Z2260/W/19/3229301, dated 26.9.2019

14. The public perception of space, openness and separation is largely gained from roads and paths through or alongside the GWs in undeveloped frontages. A public footpath runs east to west along Newlands Lane and a bridleway going north to south. Newlands Lane and the bridleway cross close to the appeal site. The absence of boundaries creates a sense of openness, but the appeal site has a high fence around it that has been in position for several years.
15. The Council agrees that the fence is now immune from enforcement. As such it significantly mitigates a sense of openness around the site. Also, a water tower situated a short distance beyond the nearby industrial estate forms a vertical element on the skyline. In any event views of the area that include the appeal site, including from Bridleway Gardens, Vine Close and Pysons Road, are mostly against the backdrop of the adjacent existing school development, the two dwellings nearby, Sunray and Little Newlands (which are opposite the school and share the same access off Newlands Lane) or the wooded area to the south that bounds further built development at Newlands Farm.
16. The enclosed nature of the appeal site makes it distinguishable from the adjoining fields and its environmental value as land within the GW is considerably lessened as a result. Furthermore the area to the front of the site will change with the formation of a new access for school playing field facilities recently approved and the character of this part of the GW will change with it. Hardstanding, fencing, structures and paraphernalia associated with this school extension, as shown on the approved plans would not be significantly different in character and appearance from the vans, mobile home and other structures the subject of these appeals. The plans show, for example, 2.4m steel palisade fencing and gates around the pavilion and horticultural area, storage containers, sheds and 1.8m weld mesh fencing with steel posts around the playing field site.
17. I accept that attempts to screen sites in the open can make a site incongruous in its appearance, as has occurred to some degree in the case of the plots of the two dwellings nearby which intrude into the open fields. The tops of the vans and the container are, and the amenity building would be, partially visible when approaching from public viewpoints. Nevertheless the visual intrusion that would result from the development could in my view be minimised by appropriate structural vegetation. The steel mesh fence in situ is proposed to be removed after allowing time for native hedge and tree planting to grow and replacement of internal wood panel fencing, and this could be ensured by condition. I am satisfied that the development would be largely enclosed and unseen from public views. The overall effect would mitigate any visual harm caused to an acceptable degree.
18. The development is relatively small scale, self-contained, fairly close to existing buildings and in an essentially edge of settlement location. It would not dominate the nearest settled community or place undue pressure on local infrastructure. The loss of openness is not serious and occurs only to a limited extent. Paragraph 26 (d) of PPTS implies that sites should not be completely hidden and therefore some degree of visibility is to be expected. Nevertheless in terms of location, nature and scale of the development, it would be mostly well screened and whilst there would be limited visual intrusion this would not amount to harm that would undermine any of the essential aims of Policy CC5 or amount to unacceptable intrusion upon the skyline under Policy CC2.

19. Overall I find that the development comprised in the appeals complies with the development plan. In particular it would comply with TLP Policies CC2 and CC5 in not undermining the essential aim of preventing coalescence or causing an unacceptable level of visual intrusion, subject to conditions to ensure the development, including the proposed amenity block, is appropriately screened and has an acceptable layout, design, and use of materials. Such a site development condition would also ensure the appropriate standard of quality and design to meet the aims of TLP Policy D1.
20. Draft Policy HO22 sets out criteria for gypsy and traveller accommodation. It is specific to the type of development at issue and as such I accord it some weight. It would permit caravan sites that are close to local services, can be screened, comply with other policies such as agricultural and countryside, do not impact on agricultural or residents' interests, and have suitable utilities and access. The draft policy does not exclude gypsy and traveller sites from GWs.
21. There is a school and bus stop within walking distance and a supermarket some 1.6km away from the appeal site. No objection is taken grounds of locational sustainability. Matters relating to screening and compliance with other policies are covered by adopted development plan policies as discussed. Overall I am satisfied that the development comprised in the appeals would comply with draft Policy HO 22.

Other matter: whether previously developed land

22. The use of previously developed land (PDF)³ where suitable opportunities exist is encouraged by National Planning Policy Framework (NPPF) paragraph 84. The remains of a building on the site, as I saw, formed a small but prominent feature. As such I disagree that the land must be excluded from the definition PDL by dint of it being "*land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape*". The site was known as Little Newlands Piggery. The remains of a former agricultural use would also be excluded from the definition of PDL. However the site appears to have been used recently as a contractor's yard, albeit an application for a lawful development certificate for such use was refused. Given the foregoing, the evidence as to whether the land is PDL according to the NPPF is uncertain and no weight can be attached to this factor. Nevertheless the remains and the pre-existing hardstanding as seen from the aerial images negatively affect the assessment of the site as open in character.

Need for gypsy and traveller accommodation and appellants' circumstances

23. The Thanet Council Gypsy and Traveller Accommodation Assessment, December 2018 (GTAA) used evidence up to July 2017 and found a need for the 5 year period 2017/18 to 2012/22 for 1 further pitch for a household that meets the planning definition⁴. The total need for this period is 5 pitches taking into account the cultural definition⁵. It also found a total need for 7 additional pitches in the district over the period to 2030/2031, of which 3 are

³ Previously developed land is defined in the NPPF as including land "*which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.*"

⁴ "*Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily...*"

⁵ The 'cultural definition' is wider, in that it includes anyone who has stopped travelling on a permanent basis.

needed for gypsy and traveller households who fall within the planning definition. Given the increasing and unauthorised encampment activity, the GTAA advised the Council to consider developing a transit or temporary stop-over site, stating a site of 5 pitches would be sufficient to accommodate up to 10 caravans.

24. PPTS at Paragraph 10 expects Councils to identify 5 years' supply of specific deliverable sites against their locally set targets, as well as a supply of specific, developable sites, or broad locations for growth, for years 6 to 10 and, where possible, for years 11-15. The Council states that under the current draft local plan the need for the unknown households is likely to be met via a criteria-based policy as well as for households who prove they meet the planning definition.
25. The relatively low level of identified need might indicate that a criteria based policy may be appropriate. However the guidance in PPTS is that the government clearly expects that the need arising from households that meet the planning definition should be addressed through site allocation in a local plan. Furthermore the GTAA does not take account of unauthorised encampments since 2017. These were agreed by both main parties as 7 unauthorised vans in January 2018, 11 in July 2018 and 19 in January 2019. Indeed judging from the comments made in response to draft policy HO22 and the Position Statement of May/June 2019 on gypsy and traveller provision in the district, these figures significantly underestimate the level of illegal encampments that may be found throughout the Council's area.
26. The contentious nature of gypsy and traveller provision is well known, and I note that the RTPI, quoted in the Council's GTAA at page 52, consider that a criteria based approach to selecting development sites is unlikely to succeed where (as happens to be the case here) considerable public opposition to the development is evident and that as a result it is inappropriate to rely solely on criteria as an alternative to site allocations where there is an identified need. Paragraph 5.43 of the GTAA records that several stakeholders felt that local plans should identify sites to meet local need, rather than putting this off.
27. Local planning authorities must prepare, maintain and publish a Local Development Scheme (LDS) which informs the process and timetable for preparation and review of local development documents. The Council uses it to help plan resources and work streams, but I was told that the LDS had never included proposals to include site allocations in development plan documents.
28. I was also told that the advanced stage of the draft Local Plan meant that the Council could not practicably identify sites within it, but Councils are not prevented from setting out such provision at any time in a separate development plan document. It is not for me to say whether sites would be allocated within the GW or elsewhere (although I note that a specific policy exception to this part of the GW exists in the form of Policy CF6 for the new education site close to the appeal site), but I have not been given any good reason why, in accordance with government guidance, proper site allocations should not be made for gypsies and travellers.
29. The Council accepted that at least one site must be provided within the next 5 years and during the hearing it gave some details of 3 sites said to be suitable for gypsy and traveller accommodation. However on closer examination it

- transpired that these sites were not immediately available nor otherwise deliverable or developable, in the sense that there was no clear evidence that they offered a suitable location for development with a realistic prospect that they would be viably developed within 5 years.
30. The availability (or lack) of alternative accommodation is among the PPTS criteria (Paragraph 24) of relevant matters in deciding applications.
31. Mr Doherty is a builder who also breeds and sells horses away from the site. As noted above, the Council accepts that he and Ms McGinley have gypsy status within the planning definition set out in PPTS. Their five children, whose ages range from 14 months, 5, 11, 13 to 14 plus a newly born baby, are their dependents and as such they should be generally also regarded as gypsies and travellers for planning purposes. The family used to travel with their extended family, stopping in car parks, including next to Dreamland and prior to that on several other unauthorised encampments in Thanet. The Council had taken steps to move them on. Faced with the continued prospect of being on the roadside, I was told that a permanent place for them to stay during the winter would give some stability for the family and schooling opportunities for their children, in particular one of their children who attends a local primary school. In addition Ms McGinley suffers from a number of health issues. She and the baby are registered with a local GP.
32. The appeal site is registered in the name of a cousin and arrangements are being made for its transfer to the appellants. Paragraph 4 of PPTS makes it an explicit aim of government policy to promote more private traveller site provision while recognising that there will always those travellers who cannot provide their own sites. The lack of explicit provision for sites in the development plan to meet identified need points up the relevance of this aim.
33. I recognise from the Council's Position Statement handed in during the hearing that the Council intends to work with families to identify suitable sites for the longer term. The Inspector examining the draft local plan asked it to identify sites required to meet total provision in a planned early review. However the latest iteration of the draft plan that I was given contains no commitment to include specific site allocation. It seems unlikely that even if sites were identified, they would be available for several years to come.
34. If removed from the appeal site then in all likelihood the appellants would go back to temporary and illegal stops in places such as the roadside, seaside and supermarket car parks and the like, as they have done in the past. The possible environmental damage caused by the growing number of unauthorised encampments is also a factor to consider.
35. The unmet need for a site and the lack of alternative provision are factors that carry significant weight in these appeals, as do the health circumstances of Ms McGinley and what I consider to be in the best interests of the younger children in the family, namely their need, as expressed by their parents, for a base which gives them some stability in attending school or receiving regular home tuition and from which they can still continue their lifestyle according to their own cultural traditions.
36. There is a positive obligation imposed by Article 8 ECHR to facilitate the gypsy way of life. I also keep in mind that childrens' best interests are a primary

consideration⁶ in that no other consideration is inherently more important, but they are not necessarily determinative of the planning issues and must be considered alongside other material considerations in the planning balance.

Intentional unauthorised development

37. The government's policy since the written ministerial statement of 31 August 2015 is to make intentional unauthorised development a material consideration in determining all new planning applications and appeals from that date. It applies equally to settled and traveller communities. The rationale of the policy is that if land is developed before obtaining permission there is no opportunity to appropriately limit or mitigate any harm that may have occurred as a result.
38. The lack of respect for due process was emphasised by Councillor Piper who advised me that the appellants' behaviour was a flagrant abuse of planning law and of the rights of residents. The application was made before the proposed development took place on the appeal site, but when it was refused the appellants moved onto the site. Mr Doherty points out that in effect they were forced to live there for want of any other suitable accommodation. Indeed the lack of alternatives to life on the roadside other than the appeal site is not disputed by the Council. Clearly from what I was told and have read, the appellants are genuinely culturally averse to living in a bricks and mortar home. Given the lack of explanation from the government as to how intentionality is to be assessed in such cases, I find it difficult to regard the actions of the appellant group as intentional unauthorised development, but if it were so, and given the lack of realistic alternative accommodation, it would not have been a matter to which I would have accorded any significant weight.

Other matters

39. As noted above, several objections were received relating to the appeals. Other than the main issues discussed, concern was expressed about rubbish around the site and on adjoining farmland. However no information was provided to support these claims. I saw nothing in or around the site that would justify such concerns. The site is separated from the adjoining fields and I see no reason to suppose that the use of this site has led or would lead to the spoliation of adjoining farm land.
40. Foreland Fields School, the nearby school that provides for special educational needs, objected that the proposed development would impact negatively on the local community and the health and safety of vulnerable pupils. Many travellers' children also have special needs and, once settled, they can also benefit from the support provided by specialist schools. The concerns of the school are not supported by any statements from the Police, Environmental Health or Education Services. Its concern as to the safety of children relating to the entrance to the site is noted but is unsubstantiated and there is no objection from the local highway authority. Therefore no significant weight is attached to these matters.
41. Other concerns related to the precedent effect of allowing further development in the GW. Whilst I agree that the GW policy generally performs a highly significant function in preventing coalescence between settlements, it does not

⁶ Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children.

impose a blanket ban on development which, if proposed must always be considered against relevant policies and the factual circumstances of the case.

42. Some comments include that the gypsy lifestyle inherent in the development "would not be cohesive with the local surroundings", citing stereotypical examples of alleged adverse effects of the manner in which travellers are educated and employed. Possibly the objectors have in mind PPTS at paragraph 13 where Councils are exhorted to conceive plans that "*promote peaceful and integrated co-existence between the site and the local community*", however there is no evidence that the development would undermine that objective. Other comments raise the poor state of encampments as a precedent effect, but the examples are temporary and unauthorised. In my view a more settled existence can be of benefit not only environmentally, but in terms of access to health and education services and contribute to greater integration and social inclusion within local communities.
43. Council Piper referred to reports made to him of alleged incidents of intimidation and harassment of school children, but could not provide any evidence in support of these unfounded allegations. Unjustified fear motivated by stereotypical assumptions is an irrelevant consideration in these appeals.
44. Possible intensification of the use of the appeal site was a further concern, however I am satisfied that a condition could effectively restrict the scale of any development permitted.

Planning Balance

45. The appeal site is in the countryside, not the Green Belt, at the edge of an existing settlement where PPTS expects gypsy and traveller sites to be found. Support is rightly given to the GW policy, however the extended sports campus will make a significant impact on this part of the GW, and the established enclosed nature of the appeal site itself compromises such long-range views as there are of the area. The development is relatively small scale and would not be entirely concealed, but gypsy and traveller sites should not be so enclosed as to give the impression of deliberate isolation. Subject to a condition providing for an appropriately high standard of design and layout, this single pitch site could be integrated into the landscape without unacceptably eroding its rural character, undermining views across the GW or the essential aim of preventing coalescence between settlements. It would thus comply with the objectives of TLP Policies CC1, CC2, CC5, D1 and draft Policy HO22.
46. The Council cannot demonstrate a 5-year deliverable supply of pitches to meet the need for travellers in the district. There is a small but unmet need identified, to which the appellant's needs are additional, which should be given significant weight. The appellants were faced with a situation where they had nowhere else to live and no option but to move onto the site with their five young children. They meet the planning definition of a gypsy family. There is no clear indication that alternative provision would come about within the next three years or indeed at any particular time. I accord significant weight to all these matters.
47. The personal circumstances of the appellant group carry additional weight since the appeal site would provide a stable base particularly during the winter season and to provide for the ongoing health and educational needs of six

young children on a regular and predictable basis which I find is in their best interests. Without a settled base the adverse impacts on the education of the children and access to health provision for the youngest and for Ms McGinley, would be serious and engage the operation of their Article 8 human rights to respect for private and family life and the home, as well as by reference to the family unit as a whole. Also, a private site may in practice restrict occupancy to close family or friends but would provide for emerging needs given the ages of the children. Very significant weight should be attached to these matters.

48. On the Council's own analysis, the lack of sites in the area and the appellants' personal circumstances are relevant to an "essential" need to have a gypsy site within the GW. There is a lack of clarity in Policy CC5 on this matter and these factors fall to be weighed in any event as other material considerations in line with s70(2) of the 1990 Act and s38(6) Planning and Compulsory Purchase Act 2004. However on the basis that the proper interpretation of the policy is that such matters are capable of constituting an essential need, and the aims of Policy CC5 cannot be met otherwise, then I conclude this strand of the policy is complied with, given the considerable weight I have attached to the lack of available sites in the area.
49. I give little weight to the unauthorised nature of the development given the lack of guidance as to assessing intentionality in these circumstances, but also since I have not found harm that conflicts with any relevant planning policies.
50. The development comprised in both appeals is in overall compliance with the development plan. Although now of some age the relevant policies examined are broadly consistent with the NPPF and there is no reason not to decide the appeals other than in accordance with it. Consequently there is no justification to withhold a permanent planning permission.

Conditions

51. The Council proposed a personal condition limited for a period of five years. However as I have decided that a permanent permission is appropriate it will not be necessary to attach a personal condition, however a condition would be appropriate to ensure that the site is retained for travellers who meet the definition of travellers set out in Annex 1 to PPTS.
52. A condition specifying the maximum number of caravans is necessary to limit the scale of the development, and to meet concerns about possible intensification of the residential use. Also, in the interests of the character and appearance of the site, a condition should restrict parking of vehicles over 3.5 tonnes and commercial activity on the site, including the storage of materials.
53. In relation to the s78 appeal a condition should ensure that the materials used in the construction of the amenity building are submitted for approval in the interests of the character and appearance of the area. For both appeals a site development condition should be submitted to the Council for approval to protect the character of the area and, in the interests of the occupants' living conditions and pollution prevention, should include details of measures to drain the site and dispose of foul sewage. In relation to the s174 appeal this should provide for the cladding of the container. I am unconvinced of the need for a SUDS scheme, requested by the Council, given the previous use of the land and scale of the development involved.

54. No issue is taken with the archaeological sensitivity of the site and as the delegated report notes this is not an area of archaeological importance, a condition is unnecessary to provide for an archaeological watching brief.
55. As development has begun the condition requiring the submission of details requires strict time limits for compliance to ensure that if there is non-compliance, the development becomes unauthorised and can be enforced against. A reasonable period within which to require submission of such details is three months.

Conclusion on Appeal A

56. It is clear from the representations, and from my inspection of the site, that the description of the development in the enforcement notice is incorrect in that it would be appropriate to insert the word "material" before "change" in the description of the breach of planning control, and to include in that same description, a shipping container that has been placed on the land before the notice was issued. The appellant and the local planning authority agreed at the hearing that it was open to me so to correct the allegation in the notice. I am satisfied that no injustice will be caused by this and I will therefore correct the enforcement notice in those two respects, in order to clarify the terms of the deemed application under section 177(5) of the 1990 Act as amended.
57. For the reasons given above I conclude that the appeal should succeed on ground (a) and I will grant planning permission in accordance with the application deemed to have been made under section 177(5) of the 1990 Act as amended, which will now relate to the corrected allegation. As the notice will be quashed there is no need to consider (f) and (g) grounds of appeal.

Conclusion on Appeal B

58. Since the enforcement notice is quashed following the grant of planning permission under Appeal A, grounds (f) and (g) in Appeal B no longer fall to be considered. No further action is taken on Appeal B.

Conclusion on Appeal C

59. For the reasons given above I conclude that the appeal should be allowed.

Formal Decisions

Appeal A

60. It is directed that the enforcement notice be corrected: by inserting the word "material" before "change" in the description of the breach of planning control, and to include in that same description, the words "and a shipping container" after "touring caravan".
61. Subject to these corrections the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the material change of use of land for the siting of caravans for residential purposes comprising 1no. mobile home, 1no. touring caravan and a shipping container together with the formation of hardstanding on the land as shown on the plan annexed to the notice, subject to the following conditions:

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 2) There shall be no more than 1 pitch on the site, and on the pitch hereby approved no more than 2 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended) shall be stationed at any time, of which only 1 caravan shall be a static caravan.
- 3) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 4) No commercial activities shall take place on the site, including the storage of materials.
- 5) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i. within 3 months of the date of this decision, details of: a) any external lighting on the boundary of and within the site; b) the internal layout of the site, including the siting of caravans, cladding of the container, hardstanding, parking, bin storage and amenity areas; c) means of enclosure; d) drainage and disposal of foul sewage; and e) tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities, shall have been submitted for the written approval of the local planning authority and the said schemes shall include timetables for implementation.
 - ii. within 11 months of the date of this decision, the details and schemes submitted in pursuance of (i) above shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, a valid appeal shall have been made to the Secretary of State.
 - iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv. the approved schemes shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Appeal B

62. No action is taken.

Appeal C

63. The appeal is allowed and planning permission is granted for the use of land for the siting of caravans for residential purposes for 1no. residential family gypsy pitch comprising caravan site for one gypsy family comprising 1no. mobile home, 1no. touring caravan together with the erection of a single storey building to provide ancillary utility /dayrooms and formation of hardstanding, at Land off Newlands Lane, Ramsgate CT12 6RJ in accordance with the terms of the application Ref F/TH/18/0323, dated 7 March 2018, subject to the following conditions:

- 1) The development hereby permitted shall, subject to compliance with Condition 6) be in accordance with the submitted drawings numbered 17_835A_001, 17_835A_003, Rev A and 17_835A_004 received 07/03/2018. Notwithstanding the materials proposed to be used for the single storey building as shown in drawing 17_835A_004, details of the roof materials and the brick type for the elevations of this building shall be submitted to and approved by the local planning authority before its construction is begun.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 3) There shall be no more than 1 pitch on the site, and on the pitch hereby approved no more than 2 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended) shall be stationed at any time, of which only 1 caravan shall be a static caravan.
- 4) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) No commercial activities shall take place on the site, including the storage of materials.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i. within 3 months of the date of this decision, details of: a) any external lighting on the boundary of and within the site; b) the internal layout of the site, including the siting of caravans, hardstanding, parking, bin storage and amenity areas; c) means of enclosure; d) drainage and disposal of foul sewage; and e) tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities, shall have been submitted for the written approval of the local planning authority and the said schemes shall include timetables for implementation.
 - ii. within 11 months of the date of this decision, the details and schemes submitted in pursuance of (i) above shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, a valid appeal shall have been made to the Secretary of State.

iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

iv. the approved schemes shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Grahame Kean

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Alison Heine	Heine Planning
Mary McGinley	Appellant
Bernard Doherty	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Izindi Visagie	Solicitor, Ivy Legal
Adrian Verrall	Thanet Council
Victoria Kendell	Thanet Council

INTERESTED PERSONS:

Councillor Stuart Piper	Thanet Council
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ADDITIONAL DOCUMENTS SUBMITTED AT THE HEARING:

1. Aerial photographs (colour versions)
2. Rights of Way Plan
3. Appeal decision APP/Z2260/W/18/3217276
4. Appeal decision APP/Z2260/W/19/3229301
5. Approved Plan for school extension
6. Position statement on gypsy and traveller provision
7. Extract from Proposals Map
8. Comments on draft Policy HO22
9. Policy CF6: new education site