



Appeal Decisions

Hearing Held on 13 April 2021

Site visit made on 15 April 2021

by Stephen Brown MA(Cantab) DipArch RIBA

an Inspector appointed by the Secretary of State

Decision date: 29th July 2021

Appeal A: ref. APP/M3645/X/20/3263603

Swallows End, Crab Hill Lane, South Nutfield RH1 5PG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is by Kelly Chambers against the decision of Tandridge District Council.
 - The application ref. TA/2020/1255, dated 26 June 2020, was refused by notice dated 3 November 2020.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is the stationing of a mobile home.
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Appeal B: ref. APP/M3645/C/19/3239090

Swallows End, Crab Hill Lane, South Nutfield RH1 5PG

- 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 by Kelly Elizabeth Chambers against an enforcement notice issued by Tandridge District Council.
- The enforcement notice, ref. ENF/2018/49, was issued on 5 September 2019.
- The breach of planning control alleged in the notice is:

The making of a material change of use of the land from agriculture to a mixed use for the stationing of residential caravans and touring caravans for a gypsy traveller site and for use as kennels (*sui generis*).
- The requirements of the notice are to:
 1. Cease the residential use of all caravans and permanently remove them from the land
 2. Cease the use of the land as kennels (*sui generis*).
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought under ground (a) an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal C: ref. APP/M3645/C/19/3239094

Swallows End, Crab Hill Lane, South Nutfield RH1 5PG

- 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 by Kelly Elizabeth Chambers against an enforcement notice issued by Tandridge District Council.
 - The enforcement notice, ref. ENF/2018/49, was issued on 5 September 2019.
 - The breach of planning control alleged in the notice is:
 - (i) The erection of outbuildings in the approximate positions marked with crosses on Plan B attached to the notice.
 - (ii) The installation of hard surface in the approximate area marked black on Plan C attached to the notice.
 - The requirements of the notice are to:
 - (i) Remove the outbuildings in the approximate locations marked with crosses on Plan B attached to the notice.
 - (ii) Remove the hard surface in the approximate area marked in black on Plan C attached to the notice.
 - (iii) Following compliance with step (i) above remove all resultant debris and unused materials from the land.
 - (iv) Following compliance with step (ii) above remove all resultant debris and unused materials from the land to an authorised place of disposal and reseed the land to grass.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (d) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought under ground (a) an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decisions

Appeal A: ref. APP/M3645/X/20/3263603

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is considered to be lawful (Appendix A to this decision).

Appeal B: ref. APP/M3645/C/19/3239090

2. I direct that the enforcement notice be varied by:

OMISSION of the words '*for a gypsy traveller site*' from the allegation in the notice.

The appeal is allowed on ground (g), and I direct that the notice be further varied by:

DELETION of '*three months*'; and,

SUBSTITUTION of '*six months*' as the period for compliance.

Subject to those variations the appeal is allowed on ground (d) insofar as it relates to one of the mobile homes on the appeal site, and on ground (a) insofar as it relates to the stable building used for utility purposes and the second mobile home on the appeal site. The enforcement notice is quashed in those regards, and planning permission subject to conditions is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for:

The use of the Land at Plot 1, Swallows End, Crab Hill Lane, South Nutfield RH1 5PG for the siting of one permanent residential mobile home and associated stable building for utility purposes, and one temporary residential mobile home, subject to the schedule of conditions in Appendix C to this decision.

3. The appeal is dismissed insofar as it relates to use of the land as kennels, the enforcement notice is upheld and planning permission refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal C: ref. APP/M3645/C/19/3239094

4. I direct the plan attached to the notice be varied by:

IDENTIFICATION OF:

The hard surfaced area granted a LDC under Council decision ref. TA/2019/1921 dated 3 June 2020, shown vertically hatched on the plan; and,

The hard surfaced area temporarily permitted under this appeal hatched in black, and the area refused planning permission under this appeal cross-hatched in black; and,

LABELLING OF the stable building associated with the residential mobile home permitted under Appeal B as outbuilding 'A' and of the kennels as outbuilding 'X'.

(Appendix B to this decision)

The appeal is allowed on ground (g), and I direct that the notice be further varied by:

DELETION of '*three months*'; and,

SUBSTITUTION of '*six months*' as the period for compliance.

Subject to these variations the appeal is allowed on ground (a) insofar as it relates to the outbuilding identified as 'A' and to the hard surfaced area hatched black on the plan attached to the enforcement plan as varied, the enforcement notice is quashed in those regards and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for:

The erection of an outbuilding and installation of hard surfacing on land at Plot 1, Swallows End, Crab Hill Lane, South Nutfield RH1 5PG referred to in the notice, subject to the schedule of conditions in Appendix D to this decision.

5. The appeal is dismissed insofar as it relates to the hard surfaced area cross-hatched black and the outbuilding labelled 'X' on the plan attached to the notice as varied. The enforcement notice is upheld in those regards and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary matters

6. For the sake of clarity I note that the appeal site address has appeared in a previous appeal – now withdrawn – as *Plot 1 The Paddocks, Crab Hill Lane*. I note that the address of a site in separate ownership and adjacent to the appeal site is *Plot 2 The Paddocks, Crab Hill Lane*.

7. I note that the ground (a) appeal in appeal B relates to only one of the two mobile homes, and that the appellant relies upon success on ground (d) in Appeal B, and/or in the LDC appeal in relation to the second mobile home.
8. The Statement of Common Ground records that in the ground (a) appeal against notice C (the operational development notice) the appellant agrees the kennel block will be removed.
9. In 2020 the appellant was granted a LDC¹ for part of the hardstanding on the site. It is the remainder of the hardstanding that is subject of Appeal C. It is suggested the plan attached to the notice should be varied to exclude the part of the hardstanding that has become lawful, and I shall vary the notice accordingly.
10. It is common ground that the appellant does not rely upon Gypsy or Traveller status as to why Appeals B and C should be allowed. It follows that national and development plan policy relating to Gypsies and Travellers is not relevant to my determinations. Furthermore, I consider the words '*for a gypsy traveller site*' should be omitted from the allegation in enforcement notice B, again I shall vary the notice accordingly. I am satisfied that no party would be substantially prejudiced by these variations.
11. I note that the main parties agree that if the enforcement appeals B and C are dismissed on the principal grounds then the compliance period in both notices should be extended from 3 months to 6 months.
12. For the avoidance of doubt, I should explain that in the context of Appeal A made under section 195 of the Act, which relates to an application for a lawful development certificate, the planning merits of the proposed development are not relevant, and they are not therefore an issue for me to consider. My decision will rest on the facts of the case, and on relevant planning law and judicial authority.

Background matters

13. The appeal site lies on the eastern side of Crab Hill Lane some 2 kilometres south of South Nutfield and about 5 kilometres to the south of Redhill. It is within the open countryside and within the Metropolitan Green Belt. To the north of the site is the 'Black Barn' – a former agricultural barn converted to a dwellinghouse following grant of planning permission in 2005 and an amendment granted in 2014². Between that building and the M23 is a separate site - Plot 2, The Paddocks - referred to above. Part of the eastern side of the site is bounded by the M23 motorway, and there is an open field to the north of that part, which is the same ownership as Plot 2. The appeal site, the Black Barn and Plot 2 are all accessed from a short drive off the Lane. In an indent in the south-western corner of the appeal site is the extensive plot occupied by a semi-detached pair of two-storey dwellings called Mountpleasant Cottages.
14. There is a substantial area of hardstanding forming the site access serving the Black Barn, and Plots 1 and 2 and extending into the appeal site. To the eastern side of the access is a vehicle parking area and towards the south a broader area where the two mobile homes and stable building are located. The principal areas of unlawful hardstanding are the parking area, and an extended area to the west of the mobile homes where the stable stands.

¹ Decision notice ref. TA/2019/1921 dated 3 June 2020.

² Decision notices ref. TA/2004/1597, dated 11 January 2005, and TA/2014/1328 dated November 2014.

15. The lane itself is rural in character, lined by rough grass verges to either side, drainage ditches, and hedges with numerous mature trees. These trees include two on the appeal site that are protected under a TPO³ which covers a wide area around the appeal site.
16. The appeal site, the Black Barn site and Plot 2 were previously in the ownership of the appellant's late father, who had bought it from the previous owners, Mr and Mrs King in 1996. It was he who implemented the 2005 planning permission. The development as a dwellinghouse was completed by the appellant and her then partner Tommy Love.

Appeal C on ground (b)

17. Appeal C relates to operational development on the site. Ground (b) is that there has been no breach of planning control as a matter of fact. The appellant argues that the stable building is a mobile structure that is ancillary to use of the caravan, and so not a breach.
18. Looking at the stable structure, it is of substantial timber construction standing on a concrete slab. A lean-to structure has been attached at one end. It has various sanitary fixtures and domestic washing equipment inside. In my opinion its erection would have entailed building operations carried out on site, to create a substantial building with a high degree of permanence. It is connected to water supplies. In my view its size and degree of permanence indicate that as a matter of fact and degree this cannot be regarded a mobile structure. Appeal C on ground (b) must therefore fail.

Appeal A and Appeals B and C on ground (d)

19. In Appeal A the main issue is whether the Council's decision to refuse to grant a LDC was well-founded. In that regard the primary question is whether at the date of application the use applied for had become immune from enforcement action as a result of being continuous for a period of 10 or more years.
20. In Appeals B and C on Ground (d) the question is similarly whether the matters enforced against are immune from enforcement action as a result of the passage of time – that is at least 10 years of continuous use before issue of the enforcement notice. In Appeal C the operational development must have been substantially complete at least 4 years before issue of Notice C.
21. Clearly, if the appellant can demonstrate that the use had been continuous for 10 years before the enforcement notice issue date of 5 September 2019 it would satisfy the later LDC application date of 26 June 2020 provided there had been no break in the intervening period.
22. In all three cases the burden of proof is on the appellant to show that on the balance of probabilities this is the case. It is then for the Council to show why they consider it not to be. Government guidance advises in cases of this type that if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make an appellant's version of events less than probable, there is no good reason to refuse the application, provided the appellant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability⁴.

³ The Godstone Rural District Council, Capenor Estate, Tree Preservation Order (TPO) no. 42, confirmed on 19 August 1960.

⁴ Planning Practice Guidance – 'Lawful Development Certificates' Paragraph 006 Reference ID: 17c-006-20140306.

23. Condition 2 on the 2005 planning permission for the Black Barn says '*On occupation of any part of the barn the residential touring caravan and mobile home shall be removed from the land*'. This was imposed so that the Black Barn would be the only residential unit on the site at that point. The appellant says the ground floor bedroom, en-suite bathroom, and kitchen in the barn were first occupied in April 2009 by a friend - Tony Simpson, cousin of Tommy Love - who acted as the nightwatchman. It is argued the touring caravan remained on the site and that the breach of condition occurred then. As a result by the 5 September 2019 it was too late to take enforcement action, and the use continued thereafter.
24. The Council do not dispute at any point that the touring caravan and the double-unit mobile homes come within the definition of a residential caravan as 'any structure designed or adapted for human habitation which is capable of being moved from one place to another', which is set out in s.29 of The Caravan Sites and Control of Development Act 1960 as amended.
25. The LDC application ref. 2019/1921 was allowed in respect of part of the area of hardstanding on the site but refused for the stationing of a mobile home in breach of Condition 2 of the 2005 planning permission. The Council say that temporary occupation of part of the barn by the nightwatchman did not constitute permanent residential accommodation but was incidental to the building works. Furthermore this temporary occupation was in any case interrupted in 2010 when the building became uninhabitable as a result of flooding.
26. Mr Simpson's sworn affidavit says that he lived in the Black Barn from April 2009 until February 2010 when he moved to other accommodation. He says he was aware at that time that Robert Wright was living in a caravan to the south of the barn. This is endorsed in the appellant's affidavit, where she also says Mr Love let a mobile home on the site to Mr Wright in or around 2009 when she moved to another property. She did not move back to the appeal site until February 2017.
27. Mr Wright largely confirms this chain of events in his affidavit, where he says he paid £50 per week to rent one of the two caravans then on the site. He has located these on a site plan. He does not give a date for when he first occupied the caravan, but says he first met Mr Simpson in late 2009 but did not get to know him until after he left soon after early 2010.
28. Mr Timms is a chartered architect who prepared construction/building regulations drawings for the Black Barn. In his affidavit he says he visited the site on 24 June 2009 and took photographs of the building, then substantially complete. His photographs show the hardstanding at the entrance and on Plot 1 beyond, as well as a mobile home which appears to be roughly in the position of the eastern of those now existing. A list of some 30 outstanding snags identified by the Building Control officer on 3 October 2009 shows there were only relatively minor items outstanding, with all but 9 resolved by April 2010. Mr Timms later dealt with the raising of the barn by a metre, which resulted from flooding problems. One of his photographs of 11 July 2014 shows a mobile home in what appears to be the same position as in 2009, with a dwarf brick wall just to the north.
29. From the architect's evidence it is apparent the barn was in a state such that it could be occupied at least by June 2009, and quite possibly earlier. Although the Council say it is not properly established that Mr Simpson took up

- occupation. However, he apparently worked on the building and needed short term accommodation. I find this coherent and plausible, and the Council do not have any evidence to counter his claim. I accept that on the balance of probabilities the barn was occupied at the date stated.
30. The relevant condition on the 2005 planning permission does not have any further requirement such as that occupation should be continuous after the initial occupation. Nor do I consider the later flooding and reconstruction episode nullified that first occupation – it was an unforeseen contingency arising from an act of god. It can be seen in the architect's photographs of June 2009 and July 2014 that there was a mobile home on the site on both occasions.
 31. Aerial photographs put in by the appellant show what is very probably a mobile home in the approximate position of one of those at present on the site in May 2009, March 2012, June 2013, July 2015 and September 2018. In most of those instances there are other substantial structures on the site that are no longer there, and their sizes and positions vary considerably. While these provide no more than snapshots, they point to the existence of a mobile home over a long period from May 2009 – more than 10 years before issue of the notice.
 32. The Council argue that there was a break in this of some five months between 23 September 2017 and 22 February 2018, a period when there were no caravans on the site. It would not have been possible for the Council to issue an enforcement notice in that period, so the 10 years continuous use had not been achieved.
 33. The Council's principal source of evidence for the break comes from observations made by the owners of Mountpleasant Cottages, who say that on 23 September 2017 they were told by Tommy Love that the one static caravan on the site would soon be removed, and that they saw this happening within 2 days, at which point there were no static caravans or mobile homes on any part of the site. Also, at that time Tommy Love and family continued to live in the barn. After an away break in February 2018 the neighbours returned on 3 March 2018 to find three mobile homes had been moved onto the site adjacent to their house.
 34. In a second sworn statement the appellant confirms she moved back to Swallows End in February 2017 with four of her children, when they moved in to the mobile home vacated by Robert Wright. It became apparent that the condition of the mobile home was poor, so she came to an arrangement with a traveller from Staplehurst to swap it for a substantial touring caravan – known as a 'VIP Coachman'. This was delivered to the site on 26 August 2017 and stationed on the hardstanding at a right angle to the then still present mobile home. The mobile home was then removed on a trailer at the end of September 2017 – as was witnessed by the neighbours.
 35. The Council say the VIP Coachman may not qualify as a mobile home, which they say is equivalent to a 'static caravan'. However, photographs indicate this model is well within the definition as 'a structure designed or adapted for human habitation and capable of being moved from one place to another'.
 36. Mrs Chambers says she had moved into the barn for a day or two before sale viewings to give it a 'lived in' feel. Her children stayed with her eldest son Danny in the tourer, which was occasionally moved to the side of the barn to

- give the appearance of an open field to its front. The tourer had however remained on the hardstanding for most of the time as evidenced when a lock was changed in December 2017, and the police raided on 6 February 2018. She had ordered two mobile homes on 6 February 2018. These were delivered at the end of that month and the tourer sold.
37. Evidence from the firm that moved the original mobile home, consisting of their invoice dated 27 September 2017, shows it was moved from Swallows End to Staplehurst. Other invoices show the connection of the electrical supply to the tourer on 26 August 2017 and changing the lock in December that year. A police record of 6 February 2018 reports a visit to the site when they saw the dog kennels and looked in the 'Coachman' caravan on the hardstanding.
38. The Council say the invoice dates do not necessarily record the actual dates when the works or services were provided. However, it can reasonably be expected as a matter of good business that the various firms or individuals providing their services would issue an invoice as soon as their works had been carried out – almost certainly no earlier – and more likely to be on the day or a very short time later.
39. Mrs Jenman says there was definitely no caravan on the site for the five month period. However, that is called into question most particularly by the police report.
40. Looked at as a whole, this evidence including the police visit supports the appellant's account of the timing. It is also largely consistent with the neighbours' account, except they claim they did not see the touring caravan at any point. However, although large, that part of the hardstanding is well screened on the road boundary, and from the extensive gardens of Mount Pleasant Cottages. Also, the tourer is relatively easily moved, and it is quite plausible that it was moved out of sight on occasions and could not be seen by the neighbours from their site. While this might be seen as a slightly misleading move by the appellant, that does not mean it did not happen.
41. There is a long planning history around the stationing of caravans on the larger site going back to the 1960s. In 1977 the Secretary of State – going against the recommendation of an Inspector – quashed an enforcement notice and granted planning permission for the siting of one caravan on the land for a temporary period and personal to Mr King the previous owner⁵. This was on the basis that the situation had existed at least since 1962. This permission was renewed in 1982, and in 1987 permanent permission was granted, again personal to Mr King⁶. When planning permission was originally granted at appeal for the Black Barn conversion in 1988 a condition was imposed requiring the residential caravan to be removed within 6 months of first occupation. This was renewed in 1993⁷, and a start sufficient to demonstrate implementation made in July 1998. This long history indicates there was no permanent permission granted for continued permanent stationing of a residential caravan as the appellant argues, and that any previous permission granted ceased to have effect after the barn was occupied.
42. There are numerous statutory declarations from friends and relations of the appellant, as well as from professional people, and a close neighbour who

⁵ Reports to the Secretary of State APP/5392/C/75/2684 & 2718 and APP/5392/A/75/7315.

⁶ Decision ref. 75/P/0225.

⁷ Decision ref. TA/87/P/730/R.

farmed nearby, evidence from tradesmen who have supplied services, as well as evidence of purchase and delivery of the mobile homes. These provide a remarkably coherent picture of what was on the site and when - both before and after sale of the barn and division of the larger site. On the other hand, evidence of the hiatus in siting of caravans between September 2017 and February/March 2018 is limited to a few observations of the site around that time.

43. The Council also argue there was a change in the planning status of the land on two counts. First, there had been intensification caused by extensions to the hardstanding and up to 4 mobile homes sited there, and second when the site was subdivided by sale of the barn and formation of a new planning unit. As a result the clock was stopped and a new chapter started. However, intensification did not change the character of the site as a place where mobile homes were located. Furthermore, the creation of an separate planning unit by sale of the Black Barn site did not cause the remainder of the site in Mrs Chambers' ownership to discontinue its use.
44. Overall I consider the appellant's evidence is adequately precise and free of significant ambiguities, and indeed exhibits considerable frankness in putting forward material many might want to withhold. I consider she has demonstrated that on the balance of probabilities one residential caravan was sited on her land for a continuous period of more than 10 years before issue of the material change of use enforcement notice on 5 September 2019. The appeal on ground (d) in Appeal B therefore succeeds in respect of one mobile home.
45. Regarding the LDC appeal, the application is for the stationing of a mobile home, which I note is in the singular. Nothing has been put forward to suggest any break between issue of the enforcement notice and 26 June 2020 the date of the application. It follows that a LDC should be granted, and that the Council's decision to refuse that grant was not well founded. Therefore Appeal A also succeeds, and I shall issue a Certificate accordingly.
46. As far as Appeal C is concerned, the appellant has agreed the kennel block will be removed and accepts that the additional area of hardstanding over and above the previously granted a LDC did not exist 4 or more years before 5 September 2019. Nor is any argument advanced that the stable block is immune from enforcement action. Although a ground (d) appeal was made in Appeal C, it does not succeed with regard to any of the elements.

Appeals B and C on ground (a)

47. This ground is that planning permission should be granted in respect of any breach of planning control which may be constituted by the matters stated in the notice. Under s.177(1)(a) of the Act planning permission may be granted whether in relation to the whole or any part of those matters.
48. In relation to Appeal B the appellant relies upon success on ground (d), and success in the LDC appeal to be allowed to retain one of the two mobile homes. It is agreed between the parties that ground (a) is only pleaded in respect of one of the two mobile homes on the site. It is also agreed that the kennel block is withdrawn from the appeal - nevertheless the requirement to remove the kennels must stand, otherwise under s.173(11)(a) of the Act planning permission would be granted for this element.

49. Regarding national policy, the National Planning Policy Framework (NPPF) was revised with effect from 21 July 2021. With regard to Green Belt policy the advice is essentially the same as in the previous edition, but paragraph numbers have changed. I have used the new paragraph numbers in this determination. In these circumstances I do not consider it necessary to request any further comments from the parties, or that this causes significant prejudice to them.
50. The appeal site is within the Metropolitan Green Belt and is outside any area designated for development. In section 13 of the revised NPPF – ‘Protecting Green Belt land’ - Paragraph 137 sets out the great importance the Government attaches to Green Belts; that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping the land permanently open, and that the essential characteristics of Green belts are their openness and permanence.
51. NPPF paragraphs 147 and 148 state that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances, and that substantial weight should be given to any harm to the Green Belt, and very special circumstances will not exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
52. NPPF paragraph 149 states that the construction of new buildings in the Green Belt should be regarded as inappropriate but sets out a number of exceptions including such things as buildings for agriculture or forestry, and appropriate facilities for outdoor sport and recreation.
53. NPPF paragraph 150 sets out other forms of development – such as mineral extraction and engineering operations - that are not inappropriate in the Green Belt, provided they preserve openness and do not conflict with the purposes of including land within it.
54. The adopted development plan is the Tandridge District Core Strategy of 2008 (the Core Strategy), and the Tandridge Local Plan: Part 2 – Detailed Policies of 2014 (LPDP). Emerging development plan policy is still at a relatively early stage and carries little weight. Of the policies before me, Core Strategy policies CSP 1 and CSP 21 are of a general nature and concern spatial strategy for location of development, including definition of Green Belt boundaries, and protection of character and distinctiveness of landscapes and the countryside for their own sakes. LPDP policies I consider of particular relevance here are LPDP DP1, which reflects NPPF policy on sustainable development; Policy DP10 which places strict control on inappropriate development in the Green Belt; Policy DP13 which restricts building development on the Green Belt unless very special circumstances indicate otherwise, and DP21 which promotes sustainable water management and includes support for proposals that re-establish areas of the functional floodplain. Overall, development plan policy accords with policy set out in the NPPF.
55. In the light of the foregoing I consider the main issues in these cases to be:
- The effect of the development upon Green Belt interests in the light of prevailing national and local planning policy.
 - The effect of the development upon the character and appearance of the countryside.

- Whether any harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
56. The appeal site is about 2 kilometres from South Nutfield, which appears to be a mainly dormitory village with few shops and services such as general practice surgeries and schools, or employment opportunities. The site is some 5 kilometres from Redhill which I saw is a busy town, where such services will be readily available. There is no public transport in the immediate area, and most travel to and from the site is along country lanes using private motor vehicles. This site cannot be regarded as being a sustainable location in terms of accessibility, and I do not consider it can be seen as a sustainable location for residential development socially, economically or environmentally.
57. Looking first at the mobile home, I have found one of the mobile homes on the site to be lawful, and in respect of Appeal B I am considering only the siting of a second mobile home. In terms of national and local Green Belt policy, siting of a residential mobile home does not come within any of the categories listed as appropriate development, nor is it one of the other forms of development that might be so considered. Furthermore, it introduces a structure of considerable size, relative prominence and of incongruous appearance into these generally rural surroundings. In my opinion it impinges significantly on the openness of the area both visually and spatially, as well as causing harm to the character and appearance of the countryside.
58. The outbuildings referred to in Notice C are the stable and the kennels. I have already noted how the kennels are to be treated, but I note that in that part of the site there has been an accretion of other sheds and structures that appear to be in connection with dog breeding but have not been enforced against. The kennels themselves are clearly integral to the alleged use of the site for the keeping and breeding of dogs that is subject of Appeal B, and that use should similarly be seen as an inappropriate activity in the Green Belt.
59. Regarding the stable, it is argued it is a utility building ancillary to the use of the mobile homes, not visible from outside the site, and not impacting on openness. However, although largely screened from view from the road the stable building is a sizeable and prominent feature of the site. It does not fall within any of the categories of that may not be inappropriate within the Green Belt. In my view it has a significant impact on openness both visually and spatially.
60. On the other hand, its materials, form and size are such that it is a type of building that is in my view an acceptable feature in this rural landscape and causes no significant harm in terms of landscape or the character and appearance of the appeal site and surroundings. In my opinion it has a neutral impact upon the countryside.
61. Turning to the hardstanding, outside the part that has been certified lawful under LDC ref. 2019/1921, this mainly comprises an approximately rectangular car parking area to the east of the entrance drive, and north of the low wall retaining the area where the mobile homes stand, as well as a piece to the west of that, where the stable building is. It can be seen that prior to becoming hard surfaced these were grassed areas and very much a part of the rural nature of the site.

62. The appellant argues that the additional hardstanding should be seen as an engineering operation and is not inappropriate in the Green Belt. It is not readily seen and has little impact on the countryside. The part where the stable stands is screened by the two protected trees. The car-parking area is accepted as being more noticeable but is necessary because she needs vehicle parking space, as do 4 of her 7 children.
63. The Council say the parking area is intrusive because there are vehicles parked there, it is inappropriate and has a significant impact upon openness. The area where the stable stands is similarly intrusive and is inappropriate.
64. While formation of the parking area may be an engineering operation, its presence is a factor in increasing activity on the site, particularly in terms of trips to and from the site by occupants and visitors and is likely to result in a significant number of vehicles being present at any time. Its layout as a parking area clearly facilitates the presence of significant numbers of vehicles, in addition to loss of green space, I consider this has a significant impact in terms of openness and causes significant harm to countryside interests. The part of the hardstanding where the stable stands enables an increase in the area readily available for development and has a harmful impact on openness.
65. Given the area already granted an LDC, which is considerably larger than necessary for the one lawful mobile home, I cannot see it as a necessary extension of hardstanding. Just as for the parking area it enables other activities that impact upon openness. Again, it encroaches upon the larger site, and causes significant harm to countryside interests.
66. I have come to the view that the second mobile home, the unlawful areas of hardstanding and the stable cause harm to openness, and that the second mobile home and unlawful areas of hardstanding cause harm to the rural character and appearance of the appeal site. Furthermore, these latter elements should be regarded as encroachments onto the countryside, which is contrary to one of the five purposes of maintaining the Green Belt.
67. I turn now to look at whether any harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
68. Regarding the second mobile home I can well understand that with 7 children, several of whom are of school age, more accommodation would be required than provided by the one caravan. It is already present on the site and in such use. There is a clear family need now and in the near future. I consider that if it remained there for a temporary period of three years it would provide accommodation for long enough, after that a single mobile home would be large enough to accommodate Mrs Chambers, her partner or spouse and any of those children still of school age.
69. Furthermore, as noted above, the appeal site has had many different structures sited there for almost 60 years. Aerial photographs indicate that at times there have been substantial buildings as well as caravans on the site, over which there appears to have been little control. I consider that bringing the site to a situation of circumscribed use would be a considerable improvement.
70. I consider the present need for two mobile homes is sufficient to outweigh the harm to countryside interests and to openness and constitutes the very special

circumstance necessary to justify the grant of planning permission for that element of the development. I therefore intend to grant planning permission for this second unit with conditions that it should be there for a temporary period, limiting use to Mrs Chambers, her partner or spouse and her children, and requiring removal of the second mobile home at the end of the temporary period.

71. Regarding the stable, I concur with the appellant that its use as a utility building is a necessary adjunct to the lawful mobile home - as well as for the second mobile home while it remains on the site. It does not in my opinion cause harm to the character and appearance of the site. Neither the stable nor that area of hardstanding cause any harm to the protected trees. Furthermore, although her status as a Gypsy or Traveller is not being argued for the purposes of these appeals, she is clearly well used to Gypsy traditions and ways of life, and I am well aware that a utility building separate from the caravan is a usual feature of a pitch and a necessary adjunct to a mobile home. I consider these factors are sufficient to outweigh the harm caused by inappropriateness and harm to openness, and amount to the very special circumstances necessary to justify the stable.
72. For similar reasons as for the second mobile home, I consider the area of hardstanding where the stable now stands is necessary to provide space for that building, but for only as long as the temporary personal planning permission for the second mobile home remains - after which the stable could be located on the existing lawful hardstanding. I intend to grant such a permission for the extended hardstanding, subject to a time limiting condition.
73. As for the parking area, this is substantial and provides space for many vehicles. I appreciate that some of the appellant's children have cars, and no doubt the younger ones will acquire them in due course. However, there is already a significant area of hardstanding that appears underused, including the part I am permitting on a temporary basis. The parking area could accommodate many more than 7 cars and in my view is excessive. Furthermore, if there are indeed so many cars in use this must contribute to the unsustainability of a relatively remote residential site such as this. I do not find the very special circumstances exist sufficient to outweigh the harm to the countryside and to Green Belt and sustainability interests.
74. Overall I conclude that Appeals B and C should succeed on ground (a) insofar as they relate to use for siting an additional mobile home to the one that has become immune from enforcement action, for the stable building and for the extended part of the hardstanding where the stable stands. Planning permission will be granted on the deemed applications for these elements subject to conditions. The notices will both be quashed insofar as they relate to these parts of the development.
75. Appeals A and B do not succeed on ground (a) insofar as they relate to the *sui generis* use for kennels, the erection of the outbuilding to the east of the site (the kennels), and to the vehicle parking area of hardstanding. The notices will both be upheld insofar as they relate to these elements and planning permission refused.
76. It is suggested that any planning permission for the immune mobile home should be subject to a condition imposing a personal use for the appellant, and for the site to be set up as for a gypsy pitch. However, she does not argue her gypsy status in these appeals, and the permission would be granted as for any

member of the public. I do not consider such a condition would be reasonable or properly related to planning.

77. It is also suggested there should be requirements for a drainage scheme, facilities for storage and collection of refuse and waste, details of external lighting, areas for parking and manoeuvring, provision of a fast charge socket, boundary treatment, landscaping and restoration of the land to open grassland.
78. Apart from the conditions I have previously referred to, I consider it would be reasonable and necessary to impose conditions on provision of details for foul and waste drainage, external lighting, vehicle parking and manoeuvring areas, and a fast charge electrical outlet, as well as an implementation programme. It is also agreed that there should be conditions preventing commercial activities on the site, and restriction of parking and vehicle sizes. I consider such conditions would be reasonable and necessary.
79. As to other conditions suggested, it appears to me that existing boundary treatments and landscaping are satisfactory. If the appellant wishes to carry out any further such works entailing acts of development it be necessary for her to obtain planning permission.
80. Other than the conditions restricting uses of the site, the conditions relate to operational development, and I have imposed them in Appeal C. To the extent that they refer to use of the site, they would apply with equal force to Appeal B.

Appeals B and C on ground (g)

81. As previously noted the parties agree the compliance periods for both notices should be extended from 3 to 6 months. Given the extent of works entailed I accept this to be necessary and reasonable. The appeals on ground (g) succeed and I will vary the notices accordingly.

Conclusions

82. For the reasons given above I intend to allow the LDC appeal and grant a certificate, to allow the appeals B and C on grounds (a) and (d) in part and refuse in part. Planning permission will be granted for the allowed parts, subject to conditions, and the enforcement notices quashed in those regards. Planning permission will be refused on the other parts, and the notices upheld. I will also allow the appeals on ground (g), vary the plan attached to the enforcement notices to exclude the area already found to be lawful, and vary the notices as referred to previously.

Stephen Brown

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Stephen Downes DipTP MRTPI	Chartered Town Planner The Downes Planning Partnership.
Tommy Love	The appellant's former partner, and former occupant of the appeal site.
Tony Simpson	Former nightwatchman, and friend of the appellant.

FOR THE LOCAL PLANNING AUTHORITY:

Georgina Betts BA(Hons) PgDipTP MRTPI	Principal Planning Officer Tandridge District Council
Fiona Lander BA MSc	Principal Planning Enforcement Officer Tandridge District Council
Cliff Thurlow	Planning Consultant to Tandridge District Council Specialist in Gypsy and Traveller matters

INTERESTED PARTIES:

Spencer Copping BA(Hons) DipTP MRTPI	Chartered Town Planner Director of WS Planning & Architecture Acting for Mr and Mrs Jenman 2 Mount Pleasant Cottages Crab Hill Lane.
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DOCUMENTS

- 1 Attendance list.
- 2 Statement of Common Ground.

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and SHOWN vertically hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

On the balance of probabilities, the use had subsisted continuously for a period of at least 10 (ten) years before the date of the LDC application (26 June 2020).

Signed:

Stephen Brown

INSPECTOR

Date: 29th July 2021

Reference: APP/M3645/X/20/3263603

First Schedule

The stationing of a mobile home.

Second Schedule

Land at Swallows End, Crab Hill Lane, South Nutfield RH1 5PG

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Plan

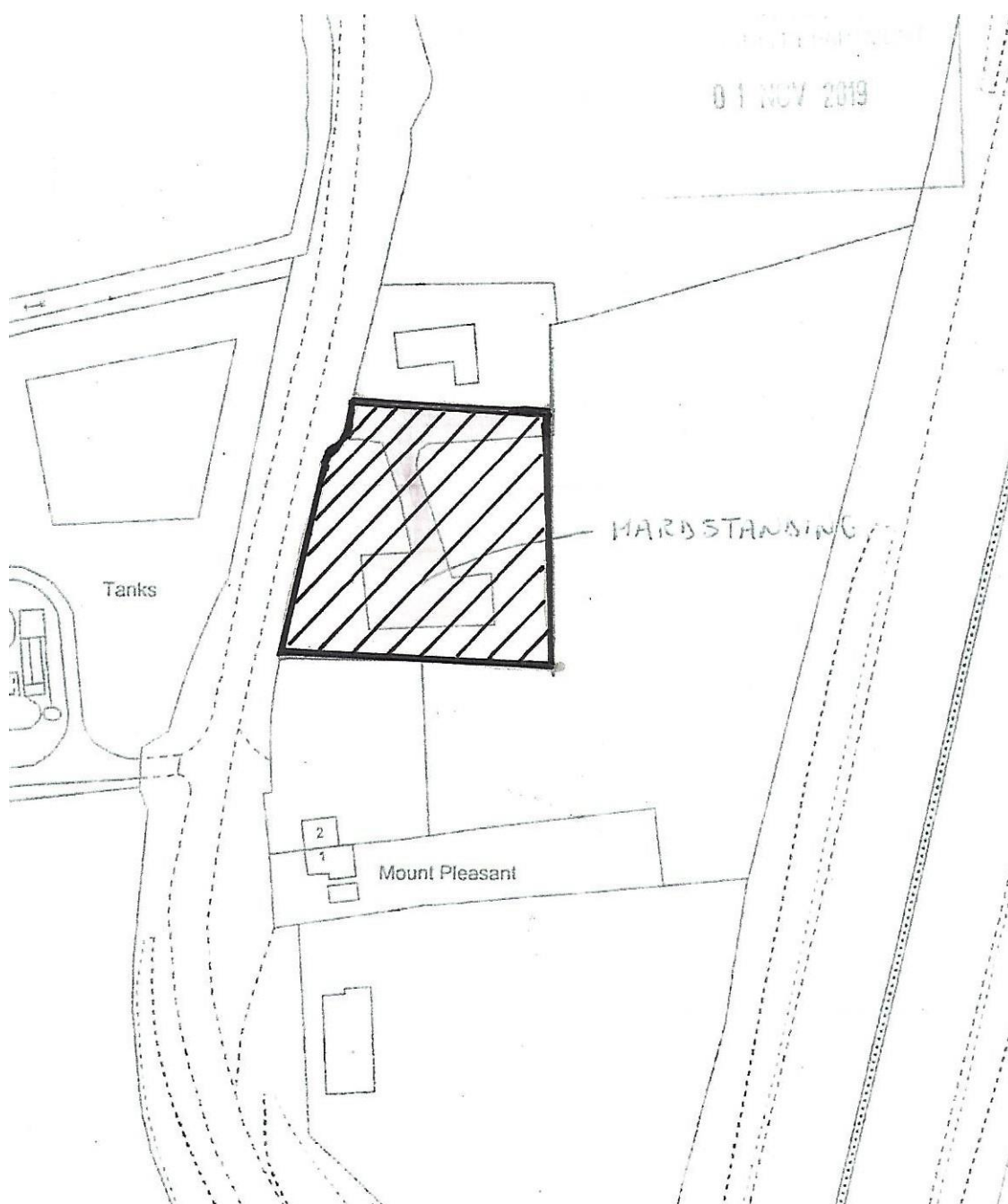
This is the plan referred to in the Lawful Development Certificate dated:

by Stephen Brown MA(Cantab) DipArch RIBA

Land at: Swallows End, Crab Hill Lane, South Nutfield RH1 5PG

Reference: APP/M3645/X/20/3263603

Scale: DO NOT SCALE



APPENDIX B



Plan

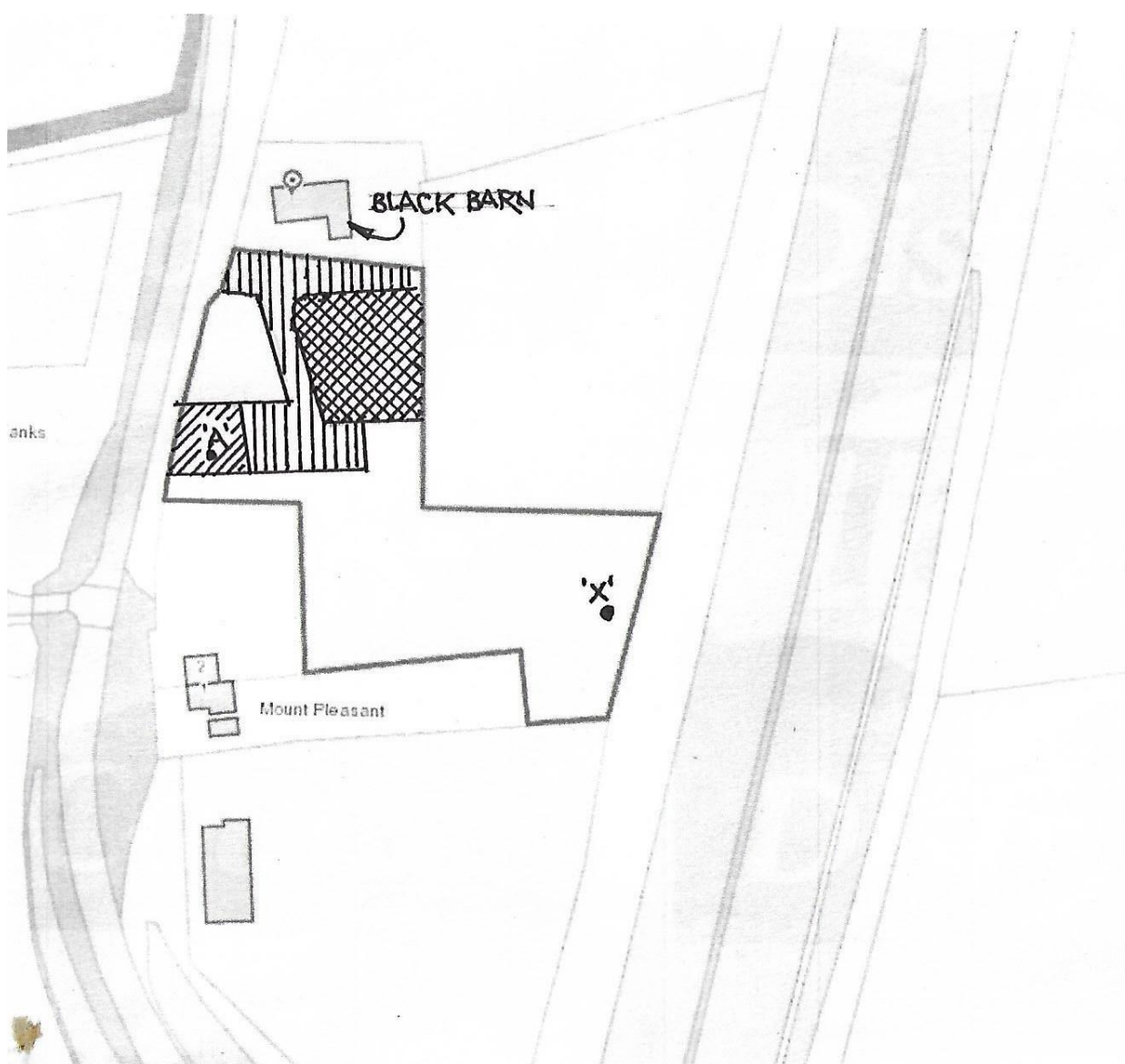
This is the plan referred to in my decisions and Lawful Development Certificate dated:

by Stephen Brown MA(Cantab) DipArch RIBA

Land at: Swallows End, Crab Hill Lane, South Nutfield RH1 5PG

References: APP/M3645/C/20/3239090 & 3209094

Scale: DO NOT SCALE



APPENDIX C

Appeal B: ref. APP/M3645/C/19/3239090

SCHEDULE OF CONDITIONS

- i) The land shall be used for the siting of one permanent residential mobile home and the associated stable building used for utility purposes, and for one additional residential mobile home for a temporary period and for no other purposes. No other residential caravans of any type shall be sited on the land, or any other structures or works of any kind shall be placed on the land unless permission has been granted in writing by the Local Planning Authority.
- ii) The use for siting the one permanent residential mobile home and associated stable building used for utility purposes hereby permitted shall be carried on only by Kelly Elizabeth Chambers, her partner or spouse and resident dependents. When the permanent mobile home, the associated stable building used for utility purposes and any other structures or works brought onto the land cease to be used by those named the use hereby permitted shall cease, the mobile home and stable building, materials, equipment, structures and works brought on to the land in connection with the use shall be removed, and the land returned to its former condition in accordance with a scheme of works that shall first have been submitted to and approved in writing by the Local Planning Authority.
- iii) The use for siting of the one additional residential mobile home hereby permitted shall be carried on only by Kelly Elizabeth Chambers her partner or spouse, and resident dependents for a limited period being the period of 3 years from the date of this decision. At the end of that period the use shall be discontinued and the land restored to its former condition in accordance with a scheme of works that shall first have been submitted to and approved in writing by the Local Planning Authority.

APPENDIX C

Appeal B: ref. APP/M3645/C/19/3239094

SCHEDULE OF CONDITIONS

- i) The outbuilding hereby permitted is to be used as a utility building associated with the use permitted under Appeal B for stationing a permanent residential mobile home on the land. Use of the outbuilding shall cease when Kelly Elizabeth Chambers, her partner or spouse and resident dependents cease use of the permanent mobile home, at which time the outbuilding shall be removed from the land and the land returned to its former condition in accordance with a scheme of works that shall first have been submitted to and approved in writing by the Local Planning Authority.
- ii) The hard surfaced area hatched black hereby permitted shall remain for a limited period being the period of 3 years from the date of this decision. At the end of that period the hard surfaced area shall be removed and the land restored to its former condition in accordance with a scheme of works that shall first have been submitted to and approved in writing by the Local Planning Authority.
- iii) No other structures or hard surfaces shall be placed on the land unless permission has been granted in writing by the Local Planning Authority.
- iv) Within 3 months of the date of this decision a site development scheme is to be submitted to the Council for their decision in writing showing details of the following:
 - the means of foul and surface water drainage of the site;
 - facilities for the storage and collection of refuse and waste;
 - details of external lighting;
 - the areas of the site to be reserved solely for the parking or turning of vehicles, so that they may enter and leave the site in forward gear, including details of the layout of any parking area or areas;
 - provision of a fast charge socket to at least the standard of the Council's minimum requirements.
 - a plan showing how the land is to be restored to open grassland either in the default of this condition or as required by other conditions of this permission.
 - a timetable for implementation

In default of this submission, and unless the approved scheme is implemented in accordance with the approved timetable, the use of the site for the stationing of mobile homes and associated structures and works shall cease and all associated buildings, structures and works brought onto the land for the purposes of such use shall be removed and the land restored to a condition suitable for reuse as open grassland within 28 days of the date of default.

If no scheme in accordance with this condition is approved within six months of the date of this decision, the use of the site for the stationing of a mobile home and touring caravan shall cease and all associated buildings, structures and works brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be permanently maintained, and the agreed parking spaces shall thereafter be kept available for the parking of vehicles at all times.

(continued.....)

Appeal B – Conditions

Condition (iv) continued

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.

- (v) No commercial activities shall take place on the land, including the storage of materials. plant or equipment.
- (vi) No vehicles over 3.5 tonnes in unladen weight shall be stationed, stored or parked on the site at any time.
- (vii) Other than private motor vehicles no more than 2 vehicles for each of the two permitted mobile homes may be parked on the site.
- (viii) Other than as provided pursuant to Condition (iv) above, no external lighting shall be put in place or used on the site.