



Appeal Decisions

Site visit made on 25 June 2021

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2021

Appeal A: APP/U1620/C/20/3255865

Land on the north east side of Walham Lane, Gloucester,

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Raymond Nelmes against an enforcement notice issued by Gloucester City Council.
- The enforcement notice was issued on 17 June 2020.
- The breach of planning control as alleged in the notice is Without the benefit of planning permission, the unauthorised change of use of the land from agricultural land to residential pitches, sheds and associated residential paraphernalia for the Gypsy/Traveller community.
- The requirements of the notice are Remove any static caravans and associated residential paraphernalia from the site; Remove all touring caravans and associated residential paraphernalia from the site; Remove all sheds from the site; Remove all the fencing that has been erected from around the site and remove from the site; Remove the septic tank, pipelines and all other utility connections that have been installed to facilitate the use from the site; Make good the land after the removal of all caravans and materials.
- The period for compliance with the requirements is 9 months.
- The appeal 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.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and a temporary personal planning permission is granted in the terms set out below in the Formal Decision.

Appeal B: APP/U1620/C/20/3255867

Land on the north east side of Walham Lane, Gloucester,

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Raymond Nelmes against an enforcement notice issued by Gloucester City Council.
 - The enforcement notice was issued on 17 June 2020.
 - The breach of planning control as alleged in the notice is Without the benefit of planning permission, the unauthorised importation of material to increase the levels across the site amount to an engineering operation requiring planning permission.
 - The requirements of the notice are Remove all the material that was deposited on the site to raise and level the site, which is suggested to be between 80-100 tonnes of material and restore the site back to its condition prior to work commencing.
 - The period for compliance with the requirements is 12 months.
 - The appeal 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.
 - **Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.**
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Preliminary Matters

1. It was agreed at the Hearing that the enforcement notice 'attacking' the use of the appeal site, which is the subject of Appeal A, should be corrected so that the requirements specifically include reference to ceasing the residential use of the land. I am satisfied that this correction can be made without resulting in injustice to the parties.
2. With regard to Appeal A, the appeal is lodged on grounds which include (a), that planning permission should be granted. Section 173(3) of the Act says an enforcement notice shall specify steps in order to achieve wholly or partly, any of the purposes set out in Section 173(4). These include, remedying the breach by making any development comply with the terms, including conditions, of any planning permission that has been granted in respect of the land.
3. In the event that I decide that planning permission ought not to be granted for the development, the appellant has suggested as an alternative that the caravans could be raised on blocks to ensure that they are free from flood risk.
4. This proposal does not benefit from planning permission. Accordingly, in the event that I find the development as alleged to be unsatisfactory, in order to give proper consideration to this alternative I need to deal with it under ground (a) and amongst other things consider whether this outcome could be achieved by granting planning permission "in relation to the whole or any part" of the matters alleged in the notice, either with or without conditions.

The appeals on ground (a)

Main Issues

5. The main issues are i) the effect of the developments on flood risk to the site and elsewhere; ii) the effect of the use of the land on highway and pedestrian safety; iii) the significance of the need for gypsy / traveller sites and iv) the personal circumstances of the site occupiers.

Reasons

Flood Risk

6. I have had regard to the flood risk policies as set out in the National Planning Policy Framework (the Framework) and the Government's Planning Practice Guidance in relation to flood risk and coastal change (PPG). The Framework is clear that caravans and mobile homes intended for residential use are to be regarded as 'highly vulnerable' to flood risk¹.
7. In terms of that risk, land is classified into flood zones 1, 2 or 3 which relates to the probability of flooding. Flood zone (FZ) 2 is defined as having between a 1 in 100 & 1 in 1000 annual probability of river flooding or between a 1 in 200 & 1 in 1000 annual probability of sea flooding; FZ 3a as having a 1 in 100 or greater annual probability of river flooding or a 1 in 200 or greater annual probability of sea flooding; FZ 3b is the area where water is stored or flows in times of flood.

¹ See Annex 3

8. The site is in close proximity to the River Twyver, which runs parallel to the western side of Walham Lane, from where access to the site is taken. Four pitches are proposed on the site. There is no dispute between the parties that the appeal site is shown on Environment Agency mapping as falling within FZs 2 and 3. However the appellant's flood risk assessment (FRA) challenges this classification in respect of the appeal site, their consultant maintaining at the Hearing that, in reality, the appeal site lies within FZ 1. I shall refer to this dispute in more detail later, however I need to begin with the assumption that FZs 2 and 3 are applicable, based on official flood mapping.
9. Where development is proposed in FZs 2 or 3 it is necessary to apply a so-called 'Sequential test' (ST). As set out in the Framework the aim of the ST is to steer new development to areas with the lowest risk of flooding. Under the ST development should not be permitted in areas known to be at risk now or in the future from any form of flooding, if appropriate sites are reasonably available in areas with a lower risk of flooding.
10. Neither of the parties were able to identify the availability of a potential alternative site anywhere within the City Council area, let alone in an area at lower risk of flooding. Whilst the Council suggested that it may be possible to identify a suitable alternative site within an adjoining Council area it could not be certain about this. I can only conclude from the information available that the ST would be passed.
11. Where a site falls within FZ 3a or 3b, the PPG advises that 'highly vulnerable development' should not be permitted even if the ST is passed, although paragraph 159 of the Framework states that where development is necessary in areas at the highest risk of flooding, it should be made safe for its lifetime without increasing flood risk elsewhere.
12. For land in FZ 2, and following the application of the ST, highly vulnerable development is required to meet an Exception Test. For the Exception Test to be passed it needs to be demonstrated firstly that the development would provide wider sustainability benefits to the community that outweigh the flood risk and secondly that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
13. The appellant's FRA sets out a table of estimated flood depths at the site. A design flood level of some 10.74mAOD is relied on which is based on a 200 year tidal event, whilst allowing for climate change, in combination with a 5 year fluvial event.
14. However, having regard to the same table, it seems to me that to be in accordance with the PPG, the higher 100-year fluvial level (including allowance for climate change) of 11.09mAOD should be considered as forming the boundary between FZs 2 and 3 and the 1000 year fluvial level of 11.41mAOD taken as forming the boundary between FZs 1 and 2. Put another way, ground levels below 11.09mAOD would fall within FZ 3, with levels between 11.09 and 11.41mAOD falling within FZ 2.
15. I acknowledge that the Council consider the appropriate 100-year fluvial level to be higher than that identified in the FRA, having regard to local knowledge and its experience of previous assessments. However, even if the appellant's data is accepted as robust and having regard to the topographical information

- submitted, and undisputed by the Council, the site levels are shown in several locations in the southern portion of the site to be within FZ 3, with a substantial part of the remaining area falling within FZ 2. It therefore seems to me, on this basis, that there would be a 1 in 100 or greater annual probability of a flood event effecting limited parts of the site to a depth of up to around 0.5 metres.
16. From the information provided, whilst there would be less likelihood of a substantial part of the site experiencing a flood event, this substantial part still falls within FZ 2, by reference to the appellant's own data, and as such, and notwithstanding anecdotal evidence from local residents, the risk cannot be discounted.
 17. Furthermore, substantial parts of Walham Lane itself, which facilitates access to the site are shown to be situated in FZ 3, and would therefore be at greater risk of flooding. Indeed the vulnerability of Walham Lane to flooding was accepted by the appellant at the Hearing. I have also had regard to the aerial photograph of the site provided by the Council, which shows the site and its surroundings during the 2007 flood event. This appears to show flood water covering Walham Lane itself and potentially also encroaching within the site.
 18. It is not sufficient to simply consider concentrating development in less vulnerable parts of the site, because, in keeping with the PPG, access and egress arrangements are a key consideration during a flood event. Having regard to undisputed data presented in the Council's flood risk statement², I consider that flooding on Walham Lane could pose a danger for at least some people, even if a more flexible approach is taken such that the velocity of flood water is assumed to be low.
 19. The appellant proposes that in a flood scenario, an emergency plan would be implemented to ensure early evacuation of the site. However I am mindful that site occupiers may be disinclined to leave the site on a precautionary basis if a suitable temporary alternative site was not perceived to be available. On this basis, even if the appeal site could be regarded as providing wider sustainability benefits to the community, I am not persuaded that it can be regarded as safe for its lifetime.
 20. The suggestion of physically raising the caravans in order to overcome the risk of being flooded would not overcome the aforementioned issue regarding the need for satisfactory access and egress arrangements.
 21. Turning to the matter of flood risk elsewhere, the appellant confirms that ground levels have been raised, since the site was occupied, estimated to be on average in the order of some 45mm. He also previously indicated, within a Planning Contravention Notice (PCN), that ground levels were raised in 2017, although was unsure by how much at that time. The latest changes were therefore adding to an original phase of ground level works.
 22. Whilst the appellant has since sought to retract the PCN admission, comparative data provided by the Council from 2009 and 2019 shows ground levels on the site to have increased between these times³ (the Council says on average between 130mm and 800mm). Although the Council concede that the

² DEFRA / Environment Agency Flood Risk Assessment Guidance for New Developments – Danger to people for different combinations of depth and velocity

³ LIDAR ground level data

data provided may not be entirely accurate, I noted during my visit that the appeal site levels were noticeably higher than Walham Lane and also when compared to the land levels immediately to the north and south of the site. In the absence of evidence to the contrary, I consider, on the balance of probability, that the phases of ground level raising are likely to have removed flood storage capacity from parts of the site.

23. Though I acknowledge that there is no information before me to indicate that the appellant was responsible for the original phase of ground level changes, the fact remains that the FRA does not consider the effect of level changes on the surrounding area. Even when setting aside the original ground works, I am unable to conclude that the risk to flooding elsewhere will not have been increased when simply considering the importation of material to bring about the latest phase of changes. The appellant regards the recent increase in the level of the site as trivial. Whilst the level change may seem to be relatively small, its effect is not necessarily insignificant when applied across the site as a whole.
24. Therefore, even if it could be accepted, as suggested by the appellant, that a satisfactory evacuation plan could be devised to cope with an emergency situation, I am unable to conclude that the development will not have resulted in increased flood risk elsewhere. Accordingly, the development would not be able to satisfy the Exception Test in its entirety.
25. I conclude that the developments mean that site residents would be at risk from flooding and that a material impact on flooding elsewhere cannot be ruled out. The same conclusion applies regardless of whether or not the caravans are raised. The developments would therefore be in conflict with Policies SD13 and INF2 of the Gloucester, Cheltenham and Tewksbury Joint Core Strategy 2017 (JCS) and with Policy E6 of the emerging Gloucester City Plan (GCP), which amongst other things require development to avoid areas at risk of flooding and not to cause flooding elsewhere. They would also be at odds with guidance in the Planning Policy for Traveller Sites 2015 (PPTS) which states that sites should not be located in areas at high risk of flooding, given the particular vulnerability of caravans.

Highway and Pedestrian Safety

26. The appeal site is served by Walham Lane, a relatively informal track and cul de sac, which apart from the four pitches on the appeal site, also serves an established gypsy site further to the north west, in relation to which it was confirmed by the appellant that there are eight pitches present. Walham Lane joins the dual carriageway, known as St. Oswalds Road, a little way to the south east of the appeal site, with the roads being aligned at an oblique angle to one another. Traffic flows into and out of Walham Lane are restricted to left turning manoeuvres only.
27. The Council is concerned that the development, when considering the width and alignment of Walham Lane, will result in vehicles unable to pass one another and therefore forced to carry out unsafe reversing manoeuvres to the detriment of driver and pedestrian safety. The entrance to Walham Lane is itself relatively wide but thereafter the lane narrows to a width of around 5 metres towards the appeal site. It was agreed by the parties at the site visit that an area of grass verge had recently been removed and resurfaced with

road planings, with the apparent intention of increasing the width of the lane. Nearer to the site entrance the lane appears to widen considerably.

28. In terms of vehicle conflict, I consider that with the present condition of the access road, non-commercial vehicles would be unlikely to have difficulty passing one another between the site and the junction with St Oswalds Road. Whilst conflict would be more likely if the grass verge remained in place, when taking into account the limited use of Walham Lane by pedestrians and other vehicle users, I consider reversing a vehicle towards the site to allow for passing would be unlikely to result in a complicated or unsafe manoeuvre. It seems to me that this would be a more logical action as it would eliminate the need and desirability for a driver to reverse in the opposite direction, onto the dual carriageway, which I agree would potentially amount to a dangerous manoeuvre. Given the short distance to the site along Walham Lane and the alignment of that road it is likely that vehicles would be travelling relatively slowly, also that the ability to see any approaching pedestrians or cyclists would not be unduly restricted, such that they would be able to pass one another safely. I do not therefore consider that the development would serve to deter the use of Walham Lane by pedestrians.
29. I agree that the alignment of the roads would make access to Walham Lane a less than straight forward manoeuvre. However there is nothing to persuade me that this would be dangerous if taken slowly.
30. I consider the chances of a meeting at the junction involving a larger commercial / refuse vehicle or a vehicle(s) pulling a caravan, which might present a more difficult manoeuvring challenge, to be relatively low, even when considering the vehicular use of Walham Lane could be around 50 percent busier as a result of the development. However were this to happen, as set out above I consider that reversing a vehicle towards the site to allow for passing would be unlikely to be unduly complicated or unsafe and would remain a possibility. Whilst access to the site for emergency service vehicles may not be easy, should attendance ever be required, I have not been provided with evidence to persuade me that such a manoeuvre would not be possible.
31. I accept it is possible that in a worst-case scenario vehicles may be forced to wait on the dual carriageway before being able to enter Walham Lane. However in my judgement such occurrences are likely to be rare given the amount of development in question. Furthermore the speed of traffic on St. Oswalds Road is restricted to 40mph and I am not persuaded that in such circumstances there would be any significant disruption to the safety or free flow of traffic. In addition I give weight to the consideration that an absence of any serious traffic accidents associated with the use of the junction, including during the time that the appeal site has been operational, is undisputed by the parties.
32. It was apparent from my visit that despite the presence of a large tree situated near to the junction, the visibility of on-coming traffic for drivers joining St Oswalds Road from Walham Lane was of a high standard and would not be a cause for concern.
33. Drawing the above considerations together, I conclude that the use of the site does not result in harm to highway and pedestrian safety. It therefore accords with Policies INF1 and SD13 of the JCS and Policy G1 of the GCP insofar as

they seek to achieve safe and accessible connections to the transport network for vehicles and pedestrians.

Need for Gypsy and Traveller sites

34. Paragraph 7(b) of the PPTS states that local planning authorities should prepare and maintain an up-to-date understanding of the likely accommodation needs of their areas over the lifespan of the development plan. The PPTS also states that local planning authorities should identify a 5-year supply of specific deliverable sites.
35. Based on the Gypsy and Traveller Accommodation Assessment 2017 (GTAA), the Council's JCS sets out the requirement for traveller pitches in the Boroughs of Gloucester, Cheltenham and Tewksbury until the plan end date in 2031. With regard to Gloucester City, a need for two pitches for non-travelling households was identified. However, no additional need for travelling households was identified over this period, that is to say those who would meet the definition of gypsies and travellers as set out in the PPTS.
36. It is undisputed that the appellant and the site occupiers are travellers. The Council said at the Hearing that it regards the four pitches that are the subject of this appeal as evidence of demand for, rather than need for, additional sites. Whilst each of the pitches appear to be occupied by members of the same extended family, related to the appellant, I have no reason to doubt, based on information provided at the Hearing, that each of the pitches accommodates a distinct household which would translate as need for a site.
37. When also considering that the baseline data upon which the GTAA is based is now several years old, I consider that the circumstances of the travellers in this case are indicative of unmet need for sites. The Council is unable to identify an alternative site which might be utilised instead. Whilst I acknowledge the Council's representations regarding constraints on land availability in the Borough, because of factors such as flood risk, it confirmed that the duty to cooperate exercise with other Council's in this regard has not to date yielded any possible alternative sites within neighbouring authorities. I am not persuaded that neighbouring authorities can be relied on to satisfy the need for sites.
38. Had a more recent GTAA exercise been conducted by the Council I cannot rule out that this would have identified the need for the four pitches that are the subject of this deemed application, and that as such the need for traveller pitches would no longer continue to be regarded as zero. This therefore leads me to conclude that the Council's GTAA is out of date and that the Council is unable to demonstrate a 5-year supply of deliverable sites. Together with unmet need these factors attract significant weight in support of the development in the overall planning balance.

Personal Circumstances

39. Article 8 of the Human Rights Act 1998 states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. Article 8(2) provides that interference may be justified where it is in the interests of, amongst other things, the economic well-being of the country, which has been held to include the

protection of the environment and upholding planning policies. I am also mindful that 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.

40. Furthermore in exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity. The Act recognises that race constitutes a relevant protected characteristic for the purposes of PSED. Romany Gypsies and Irish Travellers are ethnic minorities and thus have the protected characteristic of race.
41. It is undisputed by the Council that one of the households present on the site includes three young children aged five years, three years and one year respectively. Reference was made at the Hearing to the children being walked to the local primary and nursery school at Kingsholm, which is a relatively short distance from the site.
42. There can be no doubt that if the appeal was unsuccessful it would take away a settled base for that household, who may potentially need to resort to living on the roadside and face disruption to the children's educational provision as a result. I am mindful that it may be difficult to enrol children in school and /or maintain the children's attendance if they have no fixed address. I consider that because there would be a clear benefit to the children of remaining on site, as part of a settled base, that this should attract significant weight in the planning balance.
43. It is also undisputed that the children's mother is a main carer for her brother who suffers from mental health issues. The brother lives a short distance from the site. It is necessary for daily visits to be made in order for essential medication to be administered and also for medical related visits to be organised.
44. It would appear that in relation to a second household on the site, the occupier is visited on a weekly basis by his teenage children. It seems to me that a settled base at which to visit their father would be beneficial to their social development. The failure of the appeal could mean that it would be more difficult to meet up in future.
45. Drawing the above considerations together I attach significant weight to personal circumstances in this case.

Other Matters

46. There have been a number of further representations received from third parties. Some residents have raised the concern that they are disturbed by the noise of a power generator operating on the site. This impact has been acknowledged by the appellant who confirms the intention to connect to mains electricity. I am satisfied that in the event of a successful appeal a condition could be imposed to secure adequate noise attenuation measures in the interests of protecting living conditions.
47. The site is substantially set back from the main road and also benefits from a significant degree of screening, due to perimeter fencing and the presence of mature trees. The development does not therefore result in visual harm.

48. There is no evidence to persuade me that waste cannot be managed or that wildlife would be harmed.
49. With regard to concerns raised about the impact of the development on property value and the availability of house insurance, it is not the purpose of the planning system to protect the private interests of individual parties, and as such this consideration would not attract weight in the planning balance.

Planning Balance

50. The site is at risk from flooding and of causing flooding elsewhere. For the above reasons I give very significant weight to this consideration, as a reason to resist the development.
51. The development would cause no unacceptable harm to highway and pedestrian safety. This 'absence of harm' does not, however, weigh in favour of the appeal.
52. I am not persuaded, on the evidence before me, that the requirement to remove the deposited material would make the site more unsightly or any future use there less viable.
53. However, there are considerations which support the appeal. I attach significant weight to the need for and under-supply of traveller sites in the Borough, including the lack of any available, suitable alternative site. I also attach significant weight to personal circumstances.
54. However for the reasons given, having regard to the PPTS and even when considering the best interests of the children, I find that these considerations do not outweigh the harm identified. The grant of a permanent planning permission would not therefore be appropriate.
55. I also need to consider, by way of alternatives, the possibility of temporary or personal planning permissions instead. In principle I consider that a temporary permission (personal to the occupiers) would serve to reduce the severity of harm identified because the risk of flood related issues would be significantly reduced. It would also allow for an increased possibility of alternative suitable sites becoming available within the Borough or neighbouring Boroughs and would result in reduced impact in terms of personal circumstances. On this basis I consider that a personal planning permission, limited to a temporary two-year period would be appropriate. For the avoidance of doubt I would have arrived at the same conclusion even if I had found there to be an up to date 5-year supply of deliverable sites, because of the present situation regarding immediate unmet need.
56. By contrast a temporary planning permission, that was not personal to the occupiers would not be appropriate, as the grant of temporary permission can only be justified by the additional weight of the personal circumstances attributable to some of the households on the site, when also considering the benefits of the four households living in an extended family group for mutual care and support.

Conditions

57. I have considered the suggested conditions contained in the Statement of Common Ground as discussed with the parties at the Hearing. Conditions

confirming that planning permission is granted for a temporary period of two years only; that occupation is restricted to site occupiers and resident dependants and requiring remediation of the site following the expiry of the temporary permission or prior cessation of use, are necessary in the interests of environmental protection and mitigating flood risk. I have excepted the removal of perimeter fencing and gates from this condition, as I consider this measure to be unnecessary in order to restore the site to an acceptable level.

58. Conditions limiting the number of pitches and caravans stationed and commercial vehicles parked and preventing commercial activity on the site are all required in the interests of helping to safeguard the character and appearance of the area and the living conditions of residents.
59. Conditions confirming the loss of the permission unless details are submitted for approval (including a timetable for implementation) concerning foul and surface water drainage, external lighting, the internal site layout, noise attenuation measures and flood evacuation arrangements and withdrawing permitted development rights for future means of enclosure are required in order to ensure the site is serviced with adequate infrastructure and to help safeguard the character and appearance of the area and the living conditions of residents.

Conclusion

Appeal A

60. For the reasons given above I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the development as described in the notice, subject to conditions.
61. The appeals on grounds (f) and (g) do not therefore fall to be considered.

Appeal B

62. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B on ground (f)

63. The appeal is that the steps required to comply with the requirements of the notice exceed what is necessary to remedy the breach of planning control. The notice requires the removal of material deposited on the site which has resulted in the level of the site being raised. I have already concluded as part of the ground (a) appeal that the material in question cannot be ruled out as contributing to increased flood risk elsewhere.
64. Given that the purpose of the notice is to remedy the breach of planning control, this can only be achieved by the removal of the deposited material. To require that does not, therefore, exceed what is necessary and the appeal on this ground must fail.

Appeal B on ground (g)

65. The appeal on ground (g) is that the time given to comply with the requirements is too short and that more time should be allowed to remove the

deposited material. I have set out above that in relation to the use of land I intend to grant temporary planning permission for a two-year period. Logically the removal of the deposited material would follow the use ceasing and the site being vacated.

66. The appellant accepted at the Hearing that once the use of the site had ceased, a three to four-month period for the material to be removed would be acceptable. On this basis I propose to vary the notice accordingly. The ground (g) appeal succeeds to this extent.

Formal Decisions

Appeal A

67. It is directed that the enforcement notice be corrected by inserting the wording "Cease the residential use of the land" as the first bullet point in paragraph 5.
68. Subject to this correction the appeal is allowed, the enforcement notice is quashed 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 development already carried out, namely the unauthorised change of use of the land from agricultural land to residential pitches, sheds and associated residential paraphernalia for the Gypsy/Traveller community at Land on the north east side of Walham Lane, Gloucester as shown on the plan attached to the notice and subject to the conditions in the schedule below.

Appeal B

69. It is directed that the enforcement notice be varied by the deletion of the words "12 months" in paragraph 6 and the substitution of the words "28 months" instead.
70. Subject to this variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Roy Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The use hereby permitted shall be carried on only by the following: Pitch 1: Raymond Nelmes; Pitch 2: Wayne Nelmes; Pitch 3: Billy Dean Nelmes; Pitch 4: John Nelmes and their resident dependants, and shall be for a limited period being the period of two years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.
- 2) When the premises cease to be occupied by those named in condition 1 above, or at the end of two years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought onto, or erected on the land, or works undertaken to it in connection with the use (with the exception of perimeter fencing and gates),

shall be removed and the land restored to its condition before the development took place.

- 3) There shall be no more than four pitches on the site. Each pitch shall comprise no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, stationed on the site at any time (of which no more than one shall be a static caravan).
- 4) No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the respective caravans hereby permitted, and it shall not exceed 3.5 tonnes in weight.
- 5) No commercial activities shall take place on the land, 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 **28 days** of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within **three months** of the date of this decision a scheme for the means of foul and surface water drainage of the site; proposed and existing lighting on the boundary of and within the site; the internal layout of the site including the siting of caravans, individual pitches to be identified by numbers 1 to 4, hardstanding, parking and amenity areas; noise attenuation measures; a flood warning and evacuation plan (hereafter referred to as the 'site development scheme') shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation;
 - ii) If within **nine months** of the date of this decision the local planning authority refuse to approve the site development 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 site development scheme shall have been approved by the Secretary of State;
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable and shall thereafter be retained for the lifetime of the development.

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.

- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the site, with the exception of the fencing and gates already erected around the perimeter of the site and any boundary treatment approved under condition 6 above.

END OF SCHEDULE OF CONDITIONS

APPEARANCES

FOR THE APPELLANT:

Brian Griffin – Agent

David Eggleton – Flood Risk consultant

Raymond Nelmes – Appellant

Cathleen Nelmes – Appellant’s family

John Nelmes – Appellant’s family

FOR THE LOCAL PLANNING AUTHORITY:

Paul Smith – Planning Evidence

Tom Hitchen – Environment Officer - Flood Management

Stephen Hawley – Highways Development Management