
Appeal Decision

Inquiry Held on 12 and 15 October 2021

Accompanied site visit made on 14 October 2021

by Jessica Graham BA(Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 17 November 2021

Appeal Ref: APP/U1105/C/20/3248557

**Hawkwell Park (also known as Hunters and Stables Caravan Park),
Wareham Road, Hawkchurch, Axminster, Devon EX13 5RX**

- 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 Ms Charmaine Lee against an enforcement notice issued by East Devon District Council.
- The enforcement notice was issued on 5 February 2020.
- The breach of planning control as alleged in the notice is:
 - On 29 October 2007 planning permission was granted by the Council under reference number 07/1853/COU for residential gypsy caravan site of 2 pitches, 4 seasonal transit pitches and conversion of stables to amenity unit, subject to conditions.
 - One of those conditions, condition 2, states "The site hereby permitted shall not be occupied by any persons other than gypsies or travellers, as defined in paragraph 15 of ODPM Circular 01/2006."
 - On 5 July 2010 planning permission was granted by the Council under reference number 10/0368/VAR for removal of conditions 5, 6 and 7 of permission 07/1853/COU to allow permanent residential occupation, subject to conditions.
 - One of those conditions, condition 1, states "Conditions 5, 6 and 7 of permission 07/1853/COU are hereby removed but all other conditions on the original consent remain in place and must be complied with at all times."
 - It appears to the Council that the conditions have not been complied with, because the Land is being occupied by persons other than gypsies or travellers as defined in paragraph 15 of the ODPM Circular 01/2006.
- The requirements of the notice are:
 - Permanently cease the occupation of the Land by any persons other than gypsies and travellers.
 - Persons who are not gypsies or travellers must permanently cease occupying and vacate the static caravans located on the Land.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(d) 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 variation, in the terms set out below in the Formal Decision

Procedural matters

1. The appeal as originally made included a case on ground (a), but this ground of appeal was withdrawn before the Inquiry opened.

2. The inquiry was held as a “virtual” event, using the Microsoft *Teams* digital platform. All of the witnesses called to give oral evidence at the Inquiry gave that evidence either on oath or under affirmation.
3. In order to assist the proper consideration (and testing) of all the evidence presented in respect of the appeal on ground (d), I directed the Council to provide the Appellant with its reference table denoting previous occupiers, so that a joint table could be drawn up to provide an agreed reference for each occupier (Inquiry Document 4). The agreed references (“Occupier A”, “Occupier B” etc) were used at the Inquiry and appear in my decision, but in order to comply with the relevant Data Protection provisions, Inquiry Document 4 will not be made public.

Background

4. The appeal site is the southern half of Hawkwell Park, a caravan park which lies on the west side of Wareham Road about a mile from Hawkchurch. The northern half, which is also known as “Sunnyside Park” and contains five transit pitches for use by gypsies and travellers, does not form any part of the current proceedings.
5. The appeal site has been the subject of various planning applications and appeals. Of relevance to the current appeal are the 2007 Planning Permission¹, for two pitches (of two caravans each) on the appeal site for permanent residential use, limited by condition to occupation by gypsies and travellers; the 2010 Planning Permission², which increased provision on the appeal site to six pitches (of two caravans each) for permanent residential use, subject to the same occupancy restriction; and the 2011 appeal decision³, which removed two of the conditions imposed on the 2010 Planning Permission, such that each of the two caravans permitted on the six pitches may be a static caravan, and each may be occupied by unrelated households.
6. It is also relevant to note that an application for a Certificate of Lawfulness for the use of the appeal site in breach of the conditions restricting occupancy to gypsies and travellers was refused by the Council in 2019.⁴
7. The current position, then, is that the appeal site has permission for twelve static caravans for permanent residential occupation, with that occupation restricted to gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
8. Two points of clarification are needed here. Firstly, it is usual for pitches provided for use by gypsies and travellers to be occupied by a single family or household, with one static and one touring van. However, following the 2011 appeal decision, that is not the situation in this case. To avoid confusion I shall, as agreed at the inquiry, refer to individual caravans rather than to pitches. Secondly, the definition of gypsies and travellers set out in ODPM Circular 01/2006 has been superseded by that set out in Annex 1 of the government’s “Planning Policy for Traveller Sites” guidance. However, since the conditions at issue in this appeal did not contain provision for any amendments or updates to

¹ Ref 07/1853/COU dated 29 October 2007

² Ref 10/0368/VAR dated 5 July 2010

³ Ref APP/U1105/A/10/2136980, dated 22 March 2011

⁴ Ref 19/0999/CPE, dated 8 August 2019

the definition provided in ODPM Circular 01/2006, it is that definition which (as agreed in the Statement of Common Ground) must apply here. It reads:

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 or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such.

The appeal on ground (d)

9. The ground of appeal is that at the date when the enforcement notice was issued, no enforcement action could be taken in respect of the alleged breach of planning control. For the type of breach here alleged, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.⁵ The notice was issued on 5 February 2020, so to succeed on this ground, the Appellant would need to demonstrate that there has been a continuous breach of planning control over a ten year period commencing before 5 February 2010.
10. The burden of proof rests with the Appellant, and the test of evidence is the balance of probabilities.
11. The Appellant's case is, in summary, that throughout the whole of the ten-year period between 5 February 2010 and 5 February 2020 there were persons occupying caravans at the appeal site who did not meet the specified definition of gypsies or travellers. The Appellant contends that this amounted to a continuous breach of the relevant conditions, as applied to the appeal site in its entirety: in the circumstances of this particular case, having regard to the terms of the conditions and the wording of the enforcement notice, instances of occupation by non-gypsies and non-travellers should not be viewed as separate, or "partial", breaches of the conditions.
12. The Council's case, in summary, is that the Appellant has not demonstrated any breach which is more than 10 years old, and that while it is accepted that caravans at the appeal site have been occupied by persons who did not meet the specified definition of gypsies or travellers, each of those periods of occupation were separate breaches of the relevant conditions, which cannot be added together to establish a continuous breach over ten years. The Council further contends that if a continuous ten-year breach were found to have occurred, immunity from enforcement action would extend only to occupancy of the caravan(s) that were the subject of that breach, and not the appeal site as a whole.

The status of the occupiers

13. Most of the evidence presented to the inquiry related to the status of occupiers of the appeal site: that is, whether or not they met the specified definition of gypsies or travellers used in the relevant conditions. I also heard evidence that some of the occupiers were placed at the appeal site by the Council's Housing Department, but as I explained at the inquiry, while the extent to which the Council may itself have been involved in breaching the occupancy restrictions might be relevant in the context of other applications concerning the use of the site, it has no real bearing on the current grounds of this appeal.

⁵ S.171B(3) of the 1990 Act

14. All three of the witnesses who appeared for the Appellant came across as compassionate and honourable people, and I found their evidence entirely credible.
15. Ms Lee (the Appellant, and owner of the appeal site) and Mrs Wood (one of the two site wardens) both explained that while there is no "scientific" test, as Travellers themselves they are able to tell whether or not somebody is a gypsy or traveller through factors such as their demeanour, how they speak and answer questions, the job they do and their family name. Their view is that a person who is born a gypsy or traveller cannot just decide to stop being one, and equally, a person who is not born a gypsy or traveller cannot just decide to become one.
16. I accept that evidence, which was given in good faith. But importantly, for current purposes, the definition of who may occupy the caravans is not restricted to ethnic gypsies or travellers (that is, people who come from a gypsy or traveller family) but also includes "Persons of nomadic habit of life *whatever their race or origin*" (my emphasis). This is a crucial distinction: the question of whether or not somebody leads a nomadic habit of life is not the same test as whether they would be considered a gypsy or traveller by other gypsies and travellers, or by the public at large. Put another way, a person who is not an ethnic gypsy or traveller may nevertheless have a nomadic habit of life, and a person who is an ethnic gypsy or traveller may not necessarily have a nomadic lifestyle.
17. This point is recognised in the standard Rental Agreement made between tenants of the park and the Park Manager. This is a single-page document which sets out terms and conditions, including the weekly rent payable, and then has a section headed "details" with spaces for completion of the tenant's name, phone number and national insurance number. Below this, and above the signatures to be provided by the tenant and the Park Manager, is the statement "I understand that I must live a Nomadic lifestyle". Ms Lee said this was not a phrase she had consciously included in the Rental Agreement herself; she thought it may have been taken over from previous owners. Whatever its origin, it takes the right approach in terms of the occupancy restriction imposed on the appeal site. Tenants are not asked to confirm that they are ethnic gypsies or travellers, because this is not relevant to the definition used in the condition: what matters is simply that they have a nomadic habit of life, whatever their race or origin.
18. The Appellant contends that many of the occupiers who signed this Rental Agreement only did so because they were in need of housing, and would have signed anything to secure a place in which to stay. There is convincing evidence that a number of occupiers have been (and still are) vulnerable individuals in difficult circumstances, who have benefited greatly from living at the appeal site.
19. Mr Wood's evidence was that he himself is not and has never been a gypsy or traveller, and has not lived a nomadic lifestyle. He nevertheless signed the standard rental agreement, when he moved to the appeal site in 2014, because he needed a place to live. Mrs Wood explained that she has lived at Hawkwell Park since 15 October 2016, and together with her husband has been a site warden since July 2018. Both Mr and Mrs Wood gave evidence that for as long as they have lived at Hawkwell Park, there have been occupiers who were not

gypsies or travellers. They said that many tenants have told them that they only said they were gypsies and travellers in order to be able to live at the appeal site.

20. The Council asserts that it has made considerable efforts to investigate whether occupiers of the appeal site complied with the relevant conditions, including informal discussions and the service of a Planning Contravention Notice. In 2014 the Council commissioned an assessment to "quantify the accommodation and housing related support needs of Gypsies and Travellers". The report produced by the assessors noted that the lower than average response rate for East Devon was due to a site owner refusing interviewer access to a private site containing 12 pitches, although "he confirmed that the site contained a combination of private rental pitches and transit pitches, and that the permanent pitches are occupied by both English Romany Gypsies and New Travellers." The Appellant points out that the appeal site owner is "she" not "he" and did not speak to the assessor, but the Council asserts that the "he" may well have been the previous (male) site warden, who was replaced by Mr and Mrs Wood in 2018.
21. In mid-2015, the Devon County Council Gypsy Liaison Officer attempted to obtain answers to questionnaires from people occupying the 12 caravans on the appeal site, in order to determine whether they were gypsies or travellers. The questionnaires set out the relevant definition of gypsies and travellers (as at paragraph 8 above) and asked "Do you claim Gypsy status under this definition?" Of the four questionnaires that were completed, three answered "yes". The family who answered "no" had moved to the site in April 2014.

The extent to which a breach of planning control can be demonstrated

22. I appreciate that Mr and Mrs Wood only have first-hand knowledge of Hawkwell Park since they moved there in (respectively) 2014 and 2016, and that site records prior to their appointment as site wardens in 2018 were burnt by the previous warden. This clearly makes it difficult for the Appellant to establish who was living at the site in earlier days, and whether or not they complied with the conditions restricting occupancy.
23. Planning permission for the use of the land, subject to the current occupancy restriction, dates from 2007. Ms Lee bought Hawkwell Park in 2008 and became sole owner in 2012. She has never lived there, but has (in pre-pandemic times) visited every two to three months on average, involving a journey of around 2 hours. She stated that in 2008 there were already people living there who were not gypsies or travellers, but explained that it was the responsibility of the current and former site wardens to keep a log of who was staying at the site.
24. The Appellant has provided copies of letters from neighbouring residents which state that since the site opened in 2007 it has never been solely occupied by gypsies and travellers. Copies of letters from local residents commenting on the planning application made in March 2010, to permit permanent residential occupation of pitches at the appeal site, have also been provided. These set out a number of concerns about Hawkwell Park, including that pitches were not being occupied by gypsies or travellers. However, it is not clear whether the authors of these letters and comments had in mind the terms of the occupancy restriction – specifically, whether or not the occupiers were leading a nomadic lifestyle, which is nowhere mentioned – or were providing their view of the

- ethnicity of the occupiers. Given this lack of clarity and absence of detail, the letters and comments are of very little assistance for present purposes.
25. Ms Lee recalled that prior to the warden who preceded Mr and Mrs Wood, there had been a warden, Occupant C, who lived at the park in 2009/2010. She produced⁶ screenshots of "Facebook Chat" messages between Mrs Wood, and Occupant C's father. In response to Mrs Wood's query as to whether there were "any gypsy/traveller families living in the static mobile homes? 2008-2010ish" Occupant C's father said that he knew of a number of "local people" (including Occupant C) who moved there for the cheap housing costs, but there were also people from out of the area "who may well have identified as Gypsy or Traveller backgrounds." Importantly, he notes "I can't really help as I cannot say who the various residents over the years have been or indeed their respective ethnicities."
 26. In her oral evidence to the inquiry, Mrs Wood said that Occupant C's father had attended Parish Council meetings at which Hawkwell Park was discussed, and so knew exactly the terms of its occupancy restriction. However, it is clear from the terms used in his messages that he is addressing the question of whether or not any "gypsy/traveller families" (that is, ethnic gypsies or travellers) lived at the appeal site, rather than whether or not anyone of "nomadic habit of life" – irrespective of their ethnicity – lived there. Crucially there is no information, from Occupant C, Occupant C's father, or elsewhere, to show that Occupant C did not at that time live a nomadic lifestyle.
 27. A similar problem arises in respect of the screenshots of electronic messages between Mrs Wood and Occupants U and V.⁷ Mrs Wood asked Occupant U whether, during their time at Hawkwell Park, they were aware that "...any Gypsy/traveller families lived in the static mobile homes?...I have to prove that there were NON traveller families living in the statics". Occupant U's messages in response identify a number of other occupants as "travellers", "Irish gypsy" and "Roman gypsy", and a number of occupants who "weren't travellers/gypsy". In her oral evidence, Mrs Wood said that Occupant U had been the manager of the appeal site, so knew what she was being asked. However, the messages contain no reference to the terms of the occupancy restriction: the questions, and responses, appear to be concerned solely with the ethnicity of the occupiers, rather than whether or not their lifestyles were nomadic.
 28. In her message to Occupant V, Mrs Wood explains that she is trying "...to prove that there were NON traveller/gypsy families living in the static caravans before 2010". Occupant V states in their response that "to my knowledge none of the people in the rented vans ever claimed to be a traveller a gypsy or the like, we were all working people looking for a cheap rent option in the area." Again, this does not address the issue of whether Occupant V and the other occupiers referred to were at that time living a nomadic habit of life, regardless of whether or not they identified as, or even just claimed to be, from a gypsy or traveller family. I also note that while Occupant V does not specify the year in which they moved on to the appeal site, the Council Tax liability records provided by the Council⁸ give Occupant V's period of occupation as December 2010 to October 2011.

⁶ Appendix L to Ms Lee's Proof of Evidence

⁷ Appendices B and C to Mrs Wood's Proof of Evidence

⁸ Annexe 1 to Mr Crocker's Statement of Evidence

29. Copies of messages between Mrs Wood and other Occupants have been provided, but since their periods of occupancy began after the relevant date of February 2010, they are of little assistance for present purposes. One of the other occupiers mentioned in Occupant U's messages to Mrs Wood is Occupant L, whom Council Tax liability records confirm lived at the appeal site from January 2010 to December 2010. Occupant L is the subject of a local newspaper article, dated December 2010, provided by Ms Lee.⁹ I accept Ms Lee's evidence that Occupant L's name, and reported employment history, mean that despite not having met them she can tell this person is not an ethnic gypsy or traveller. However, there is no evidence as to whether Occupant L nevertheless had a nomadic habit of life; their reported employment history would not be inconsistent with travelling from place to place for work.
30. I have no doubt at all that Mrs Wood wrote to previous occupiers in good faith, seeking to obtain further information about the manner in which the appeal site was occupied before she moved there, with no intention of misleading or unduly influencing their responses. The difficulty is that the responses she obtained provide views about the status of occupiers as ethnic gypsies or travellers, but are silent as to whether or not they had a nomadic habit of life, which is the crucial question in terms of satisfying the occupancy restriction. This provides insufficient evidence for me to conclude that either Occupants C, L, U or V, or any of the other occupiers mentioned by Occupants U and V, lived at the appeal site in breach of the occupancy restriction prior to 5 February 2010.
31. There is, however, additional evidence available in respect of Occupant A. It is common ground that this occupier moved to the appeal site at some point during 2009, and left in June 2020.¹⁰ In May 2015 Occupant A completed the questionnaire circulated by the Council, which sought to establish whether occupiers of the caravans on the appeal site were, or were not, gypsies or travellers. One of the questions was "Do you claim Gypsy status under this definition?" (the definition used in the relevant condition having been set out in full above). Occupant A answered "Yes" to this question. The next question asked those who claimed Gypsy status, but had ceased to travel temporarily or permanently, to explain why. Occupant A responded "Ceased to travel due to age / van was very cold in winter and it was isolating." They stated that they had been living at the site for six years, prior to which they lived in a van on the side of the road in Cornwall.
32. All three of the witnesses who appeared for the Appellant disputed Occupant A's claimed status. Ms Lee (and Mrs Wood) explained in their oral evidence that they could tell from Occupant A's name, the way they lived, and certain things they did around the site that they were not an ethnic gypsy or traveller.
33. Ms Lee described Occupant A as "not very well, at times", and reported that they had said that they were a traveller at one point, but then changed their mind. Mrs Wood described Occupant A as "troubled", and likely to change their lifestyle to suit their own purposes. Mrs Wood reported that after she and Mr Wood took over as site wardens in 2018, and had built up trust with the occupiers, Occupant A often told her they had only said they were a traveller so that they could stay on the park. Mrs Wood also said that Occupant A told her they had lived at their parents' address before moving to Hawkwell Park, and

⁹ Appendix F to Ms Lee's Proof of Evidence

¹⁰ Paragraph 35 of the Statement of Common Ground

had moved out because they were not getting on with their father. Mrs Wood provided a (redacted) Bank Statement, which I understand to be for Occupant A's bank account, dated 7 May 2010 and bearing their parents' address.¹¹

34. I accept the evidence of Ms Lee and Mrs Wood that Occupant A was not an ethnic gypsy or traveller. But that does not amount to evidence that Occupant A did not lead a nomadic lifestyle. The Appellant rightly points out that living in a van on the side of the road does not make someone a gypsy or traveller. It does however accord with having a nomadic habit of life. Nor is it unusual, in my experience, for persons leading a nomadic existence to make use of a correspondence address (such as the house of a friend or family member) in order to meet the necessary requirements for setting up a bank account.
35. Mr and Mrs Wood pointed out that Occupant A gave their year of birth as 1968, which would mean they were 47 when they completed the Council's 2015 questionnaire; they suggested this refuted Occupant A's statement, in the questionnaire, to have ceased to travel due (in part) to "age". Even if I were to accept that somebody in their 40s with a nomadic habit of life is too young to cease travelling on grounds of "old age", Occupant A's response to the questionnaire gives no indication as to *when* they ceased to travel. This may have been when, or before, Occupant A moved to the appeal site in 2009 or it may have been at some point between moving in, and completing the 2015 questionnaire; the latter would accord with Ms Lee's evidence that Occupant A said they had "changed their mind" about being a traveller, but on the basis of the evidence currently available, there is simply no way of telling.
36. The Appellant contends that Occupant A's response to the 2015 questionnaire should carry minimal weight, because occupiers completing such responses were likely to have felt under considerable pressure: the Council's covering letter mentioned potential prosecutions, and one of the completed questionnaires indicates that the respondent had been under the impression that non-gypsies and non-travellers would have to leave the site within 48 hours. The Appellant also contends that people who were at the appeal site who were in fact gypsies and travellers would have seized the opportunity to them to make that clear once and for all. I accept that there is merit in both of those points: the problem here is establishing which of them applied to Occupant A. It is possible that they perhaps felt pressured into misrepresenting their status, but equally possible that they were perhaps glad of the opportunity to clarify their status. There is no evidence from Occupant A themselves to clarify the matter.
37. While I have no doubt that all three of the witnesses who appeared for the Appellant have accurately and fairly reported what Occupant A said to them, their own evidence is that Occupant A was a troubled individual who changed their mind about their own identity, and this limits the weight such reported comments can carry. In any event, this evidence is of limited assistance in establishing whether Occupant A actually met the relevant definition. No direct evidence has been provided as to whether or not Occupant A had a nomadic habit of life: for example, the extent to which they lived a settled existence at the appeal site; whether or not they had children who were registered at local schools; or the extent to which they travelled for work or other economic purposes.

¹¹ Appendix 1 to Mrs Wood's Rebuttal Proof of Evidence

38. In summary, the 2015 questionnaire response contains a written statement, signed and dated by Occupant A, to the effect that at that date they considered themselves to comply with the relevant definition of "gypsy or traveller". There is no further evidence from Occupant A themselves; only evidence from others which suggests they were a troubled individual who may have experienced confusion as to their own identity, changing their mind to suit the circumstances. In my judgment there is simply insufficient evidence to be satisfied that it was more likely than not that when Occupant A moved to the appeal site in 2009 they were not leading a nomadic lifestyle; or that they were, but had ceased to travel (for reasons other than their own or their family's or dependants' educational or health needs or old age) by 5 February 2010 at the latest.
39. As to the other evidence provided by the Appellant, it is clear that Mr Wood's occupation has been in breach of the relevant conditions, but this did not commence until 2014. There are two statutory declarations made by Occupant B and Occupant I, both of which state "I am not a gypsy or traveller". However, the statutory declarations do not provide any definition of what is meant by gypsy or traveller, or address the issue of whether these occupants (or the other unidentified occupants to whom they refer) lived a nomadic lifestyle. In any event, the statutory declarations confirm that Occupant B began living at the appeal site in May 2010 and Occupant I in 2017, so they do not establish that occupancy in breach of the conditions took place before 5 February 2010.

Conclusion on ground (d)

40. There is clear evidence, as acknowledged by the Council, that caravans at the appeal site have been occupied in breach of the relevant conditions in more recent years: for example by Mr Wood, who moved to the appeal site in 2014. But in order to argue successfully that the ten-year period available to the Council for taking enforcement action has expired, the Appellant needs to show that the breach commenced more than ten years before the date of the current notice; that is, by 5 February 2010.
41. The test of the evidence is the balance of probabilities: that is, whether something is more likely than not. In summary, the evidence that has been provided in the course of this appeal is sufficient to show that Occupiers A and L were living at the appeal site on and before the relevant date of 5 February 2010, but insufficient to demonstrate that they were not gypsies or travellers under the terms of the relevant definition. There is evidence to suggest that Occupiers C, U and V lived at the appeal site in or around 2010, but again, insufficient evidence to demonstrate that they were not gypsies or travellers under the terms of the relevant definition.
42. Letters written to the Appellant, messages sent to the current Site Warden and comments made on an earlier planning application contain a number of references to the site being occupied by people who are not gypsies or travellers, but for the reasons set out above the basis on which the various authors have reached their views as to the status of the occupiers is either unclear, or appears to relate solely to ethnicity. This means it can carry very little weight for the purposes of establishing whether, and when, the site was occupied in breach of the relevant conditions.

43. The statutory declarations completed by Occupants B and I are not entirely conclusive as to the status of those occupiers, but even if I were to interpret them in the way most favourable to the Appellant – that is, that the reference to “gypsy or traveller” is to the terms as defined in the ODPM Circular 1/2006 – they relate to periods of occupancy which began, at the earliest, in May 2010, three months later than the relevant date.
44. The evidence provided by the three witnesses who appeared for the Appellant was entirely credible, but limited by the absence of records for the site prior to 2018. I do not doubt their evidence as to what was said to them by other occupiers, but for the reasons set out above it is not sufficient, in my view, to demonstrate that (in particular) the signed statement made by Occupant A in response to the 2015 Questionnaire was untrue.
45. In conclusion, I find the evidence that has been provided in support of the Appellant’s case falls short of demonstrating that, on the balance of probabilities, there has been a continuous breach of planning control over a ten year period commencing before 5 February 2010, for either any of the individual caravans or the site as a whole. The appeal on ground (d) therefore fails.

The appeal on ground (g)

46. The ground of appeal is that the six-month compliance period specified by the notice falls short of what should reasonably be allowed, and should be extended to twelve months. Having previously contested this ground, the Council changed its position at the Inquiry and agreed with the Appellant that a compliance period of twelve months would be appropriate.
47. As noted above, there is convincing evidence that a number of the current occupiers of caravans are vulnerable individuals in difficult circumstances, who have benefited greatly from living at the appeal site. There is also persuasive evidence that the various complexities of their personal circumstances would make it more difficult than might ordinarily be expected for many of these individuals to find suitable alternative accommodation. The Appellant has provided undisputed evidence that the current average waiting times for social housing, even for the highest band, exceed the six month compliance period. In response to my question at the Inquiry, the Appellant confirmed that there are currently no children living at the appeal site.
48. Taking all of these considerations into account, I am satisfied that a compliance period of 12 months would strike the right balance between providing current residents who are in breach of the occupancy conditions a fair and reasonable amount of time in which to seek alternative places to live, and addressing, without undue delay, the harm identified by the Council in its reasons for issuing the notice.
49. I therefore conclude that the compliance period specified by the notice should be extended from six months to twelve, and the appeal on ground (g) succeeds to this extent.

Conclusion

50. I have found that the appeal on ground (d) should fail, and the appeal on ground (g) should succeed in that the notice should be varied to increase the compliance period from six months to twelve.

51. In circumstances where anyone stands to lose their home as the result of an appeal decision, as is the case here, there is likely to be a serious interference with their rights under Article 8 of the European Convention on Human Rights, as enacted through the Human Rights Act 1998 ("the HRA"). However, it does not necessarily follow that this would be a violation of their human rights.
52. Subject to the extension of the compliance period to twelve months I am satisfied that the requirements of the notice are not excessive, and the amount of time given to comply with them is adequate. In terms of the HRA I find that the requirements of the notice are not a disproportionate remedy when balanced against the need to regulate land use through the operation of development control measures, which are recognised as an important function of Government; this objective could not, in the circumstances of the current case, be achieved in any way which would cause less interference with the rights of the existing occupiers.
53. I conclude that the appeal on ground (d) must fail, but that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it.

Formal Decision

54. It is directed that the enforcement notice is varied by:

the deletion of the term "SIX (6) months" from paragraph 6, and its replacement with the term "TWELVE (12) months".

Subject to this variation, the enforcement notice is upheld.

Jessica Graham

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Christina Lienen	of Counsel, instructed by Ms Amy Cater of Tozers LLP
who called:	
Charmaine Lee	Appellant and Site Owner
Tony Wood	Site Warden
Emma Wood	Site Warden

FOR THE LOCAL PLANNING AUTHORITY

Sancho Brett	of Counsel, instructed by East Devon Council
who called:	
Gareth Stephenson BA(Hons) MA MRTPI	Principal Planning Officer
David Cocker	Planning Enforcement Officer

INTERESTED PERSONS

Paul Heyward	Councillor
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INQUIRY DOCUMENTS

- 1 Opening submissions on behalf of the Appellant
- 2 Opening submissions on behalf of the Council
- 3 Rebuttal Proof of Evidence: Emma Wood
- 4 Anonymisation Table setting out jointly agreed denominators for previous occupiers of caravans on the appeal site*
- 5 Closing submissions on behalf of the Council
- 6 Closing submissions on behalf of the Appellant
- 7 Jointly agreed plan identifying (by number) each of the caravans currently on the appeal site

***Inquiry Document 4 will not be made available for public viewing**