
Appeal Decisions

Inquiry Held on 19 October 2021

Site visit made on 20 October 2021

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2021

Appeal A Ref: APP/X0415/C/20/3255353

Land Lying to the East Side of Lodge Lane, Little Chalfont, Buckinghamshire

- 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 Mrs Lorna Walley against an enforcement notice issued by Buckinghamshire Council.
 - The enforcement notice, numbered EN/20/0223/EN/1, was issued on 5 June 2020.
 - The breach of planning control as alleged in the notice is without planning permission:-
 - (1) The material change of use of the Land to a caravan site for residential purposes ("the Unauthorised Use"); and
 - (2) integral to the Unauthorised Use, the stationing of mobile homes and caravans and the laying of hardstanding in the approximate position shown cross-hatched on the Plan.
 - The requirements of the notice are:
 - Cease the Unauthorised Use of the Land as a caravan site and cease all residential use of the Land;
 - Remove from the Land all caravans, mobile homes, any associated bases, skirts or screens and other domestic paraphernalia brought onto the Land in connection with the Unauthorised Use;
 - Rip up and remove the said hardstanding;
 - Remove from the Land all debris and materials arising as a result of compliance with the steps above.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Appeal B Ref: APP/X0415/W/20/3264579

1 The Burrows (aka Land East of Lodge Lane), Lodge Lane, Little Chalfont, HP8 4AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs Walley against the decision of Buckinghamshire Council.
- The application Ref PL/20/1771/FA, dated 8 June 2020, was refused by notice dated 3 September 2020.
- The development proposed is change of use of land for the provision of 2 no. Gypsy/Traveller pitches comprising the siting of 2 mobile homes, 2 touring caravans, and the erection of 2 dayrooms.

Decisions

1. Appeal A 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.
2. Appeal B is dismissed.

Application for costs

3. An application for costs has been made by Buckinghamshire Council against the appellants. This will be the subject of a separate decision by the Secretary of State.

Procedural Matters

The appellants' lack of attendance at the Inquiry

4. The agents who submitted the appeals on behalf of the appellants advised on 30 June 2021 that they had been unable to obtain instructions from their clients and for that reason they no longer acted for them. The Planning Inspectorate sought to obtain the contact details for the appellants from the agents, but they could not supply any contact information. The agents confirmed that their contact with the appellants was all through telephone and that the phone number for the appellants no longer works. They also confirmed that the only address they had for the appellants was that appeal site and that they did not have an email address for the appellants.
5. The Planning Inspectorate also sent a letter to the appeal site address and letters to the other parties on whom the enforcement notice had been served, requesting information regarding how the appellants might be contacted. The Planning Inspectorate did not receive any response to its letters.
6. The Council sets out in its evidence the actions which it has taken to contact the appellants, which included site visits, contacting the schools which were attended by the appellants' children and confirming that the appellants have not relocated to their former known address. In response to questions during the Inquiry the Council's Enforcement Officer confirmed the actions which the Council had taken.
7. The appellants did not attend the Inquiry; however, I am satisfied, on the basis of the foregoing, that all reasonable measures have been taken to ensure that they were aware of the Inquiry date and that they had the opportunity to attend. Because the appellants did not attend the Inquiry, they were not able to clarify or provide extra information, to challenge the Council's evidence through cross examination or answer any questions which I may have had.
8. I formally opened the Inquiry, the Council presented its case, and I asked the Council's witnesses questions. The Council provided opening submissions and it submitted closing submissions in writing, after which the Inquiry was closed in writing.
9. I have before me the appellants' grounds of appeal, the planning statement submitted in support of the planning application which is the subject of Appeal B, the Planning Statement of Case, and the Personal Statement by the appellant for Appeal B. The appellants did not produce any Proofs of Evidence and as a consequence of their absence they did not present their case to the

Inquiry and nor did they test the evidence provided by the Council through cross examination.

10. I carried out a site visit on the second day of the Inquiry. I was accompanied by the Council's Enforcement Officer. Whilst I allowed the officer to point out features of the site and the surrounding area which had been raised in the Council's submissions, there was no discussion about the merits of the case.
11. Drawing all of the above points together I do not consider that either party would be prejudiced by my determination of the appeals on the basis of the written submissions and the presentation of its case by the Council at the Inquiry.

Other procedural matters

12. The Council advised at the Inquiry that it has recently become aware that the site was sold in April this year. It provided a HM Land Registry Official copy of register of title. On the basis that it relates to their ownership or interest in the land I consider it reasonable to assume that the appellants are aware of the change of ownership. Consequently, I do not consider that either party would be prejudiced if I were to have regard to the HM Land Registry information in my determination of the appeals.
13. The Council also submitted an extract from Manual for Streets 2 (MfS2) to the Inquiry. MfS2 was referred to by the Council's witness and the extract clarified a point in his Proof of Evidence.
14. On 20 July 2021 the Government published its revised National Planning Policy Framework (the revised Framework). The revised Framework replaces the previous version published in February 2019. Policies within the revised Framework are material considerations which should be taken into account for decision-making from the day of its publication. The Council was able to refer to the revised Framework in its Proofs of Evidence. I have also attempted to give the appellants the opportunity to make comments on the relevance of the revised Framework to the matters which have been raised by the appeals.
15. The Council refers to policies in the draft Chiltern and South Bucks Local Plan (the Draft Local Plan) in its decision notice. However, the Council has confirmed that this plan was withdrawn in October 2020 and I concur with its view that the policies in the Draft Local Plan attract no weight in the determination of the appeals.
16. The Council confirmed at the Inquiry that the reference to Policy LB2 of the Chiltern District Local Plan (1997) (the Local Plan) in its Decision Notice was an error.
17. The Council accept that the site would accommodate people who meet the definition of gypsies and travellers as set out in the Planning Policy for Traveller Sites (PPTS). The PPTS is therefore material to the consideration of the appeals.

Appeal B

Main Issues

18. There is no dispute between the parties that the site is within the Green Belt and the Chilterns Area of Outstanding Natural Beauty (the AONB) nor that, in accordance with Policy E of the PPTS, the development is of a form which constitutes inappropriate development in the Green Belt. Given the evidence before me in respect of the location of the site and their nomadic way of life that the appellants describe, I also conclude that the appeal relates to inappropriate development in the Green Belt. Therefore, the main issues are:

- The effect of the development on the openness and purposes of the Green Belt
- The effect of the development on the character and appearance of the area, which forms part of the Chilterns Area of Outstanding Natural Beauty (the AONB)
- Whether the site provides a suitable location for a gypsy and traveller site in relation to its accessibility to shops, services and amenities
- The effect of the use of the existing access on the safety and convenience of users of Lodge Lane
- The effect of the development on biodiversity and the safeguarding of protected species
- Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Background

19. The Council refused planning permission for the change of use of the land for the provision of two gypsy/traveller pitches comprising the siting of two mobile homes, two touring caravans and the erection of two day rooms. From my observations during my site visit, although the change of use had taken place, albeit that there was nobody present on the site at the time, there was only one mobile home on the site.

20. There were also two storage containers one of which had been partially converted to provide day room facilities and a Portaloo. The paddock which is shown on the submitted plan has been fenced off and there is a fence across the site which separates the existing hardstanding area from a grassed area to the rear of the site.

The effect on the Green Belt

21. The revised Framework identifies that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence. The openness of the Green Belt can have a visual as well as a spatial aspect.

22. The Council points to the importance of the narrow margin of open countryside which provides separation between the settlements of Little Chalfont and

Chorleywood Bottom. During my site visit I was able to appreciate the function of this part of the Green Belt in preventing the coalescence of these two settlements and safeguarding the countryside from encroachment.

23. The view of the appellants is that the mature tree screen which surrounds the site mitigates the harm to the openness of the Green Belt. On the other hand, the Council consider that the tree screen is itself harmful to openness. I concur with the Council's view that the tree screen itself has an adverse impact on openness given its dense coniferous nature. However, the planting of trees in this context does not amount to development and there are no proposals to remove the tree screen as part of the appeal scheme.
24. The tree screen which is made up of closely planted evergreen trees would effectively screen the development which is the subject of the planning application from all views save from that directly off the access which serves the site. Consequently, the introduction of two mobile homes, two tourers and two day rooms would have a very limited visual impact on openness.
25. There is no information before me to suggest that the site was anything other than an open, undeveloped site surrounded by trees prior to the alleged unauthorised development being carried out. Therefore, the introduction of caravans and buildings onto the site which is proposed by the planning application would introduce a footprint and volume of development onto the site where previously there was none. In doing so the development, which would occupy a substantial area of the site, would have a significant harmful effect on the openness of the Green Belt in spatial terms.
26. From my consideration of the evidence provided by the appellants and to the Inquiry by the Council, and my observations during my site visit, I conclude that the development would have a significantly harmful effect on the openness of the Green Belt. For these reasons the development is contrary to Policy GB2 of the Local Plan which contains a general presumption against inappropriate development in the Green Belt.

The effect on the AONB

27. The appellants accept that the development would harm the AONB, but in common with their views on the impact on the Green Belt they consider that the existing vegetation minimises the visual impact on the AONB.
28. At the Inquiry the Council's witness described the site as within a part of the AONB which had experienced some change in terms of the loss of field boundaries. However, he also highlighted the importance of the transition between the village settlement of Little Chalfont and the open countryside and that the site and surrounding area are sensitive to development. I was able to experience the changing nature of the landscape during my site visit, observing the high native hedges on the roadside in Little Chalfont and the contrast with views of open countryside closer to the appeal site.
29. The tree screen around the appeal site is a dominant feature in the landscape. Given its evergreen nature it will appear at odds with the changing colour of foliage and loss of leaves of the native species which predominately mark boundaries and form patches of woodland in the area. However, whilst there is no evidence to suggest that the tree screen serves any other purpose than to

provide screening and a level of privacy necessary for residential occupation, the tree screen now forms part of the baseline condition of the landscape.

30. Given the effectiveness of the tree screen the development itself would have a very limited impact on the character of the landscape. Nevertheless, the urbanisation of the character of the site which is referred to by the Council would be evident from the increased comings and goings to the site, features such as letter boxes on the entrance gates and the potential for services such as refuse collection, necessitating the setting out of refuse bins on collection day. These consequences would also contribute to the impact of the other development which has taken place off the access road serving the site.
31. Drawing all these strands together whilst the impact of the development would be reduced by the presence of the tree screen, there will be some degree of harm to the AONB arising from it. This is accepted by the appellants.
32. I conclude that the development would be harmful to the AONB. Therefore, the development would be contrary to Policy LSQ1 of the Local Plan and Policy CS22 of the Core Strategy for Chiltern District (2011) (the Core Strategy) which require that development should conserve and where appropriate enhance the special landscape character of the AONB.
33. On the basis that it would result in harm to the AONB the development would also be contrary to the policies contained in the revised Framework which establish that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB which has the highest status of protection in relation to these issues.
34. I do not find Policy CS4 of the Core Strategy which is referred to in the Council's reasons for refusal to be directly relevant to this main issue.

Access to shops and services

35. The appellants cite the proximity of the site to Little Chalfont and Chorleywood which in their view results in the site being in a reasonably sustainable location. Whilst they have not referred to the nature of the shops and services the Council has done so.
36. Policy CS4 of the Core Strategy seeks to ensure that new development has regard to sustainable development principles including being in locations which are easily accessible by public transport, walking and cycling. Access to Little Chalfont and Chorleywood by foot or cycle would be via, at least in part, unlit roads with no pavements, which would not make these forms of transport attractive particularly for less mobile people and young children. There is no evidence before me of the accessibility of bus services serving the site and surrounding villages. It follows that new development in this location does not accord with Policy CS4.
37. The appellants refer to an appeal decision relating to a site in Little Hadham (Appeal Ref. APP/J1915/W/19/3234671) (the Little Hadham appeal). They reflect on the Inspector's conclusions in that case which they have taken to be that the same sustainability criteria that is applied to the settled population should not be applied to gypsies and travellers. I concur with that approach given that the more general aim in the PPTS is the provision of suitable accommodation from which travellers can access education, welfare and employment infrastructure.

38. The Inspector in the Little Hadham case also referred to relevant national policy in the form of the National Planning Policy Framework, which although now replaced by the revised Framework still sets out that the opportunities to maximise sustainable transport will vary between urban and rural areas.
39. The Council argues that the distances to shops and services were shorter in the Little Hadham appeal. However, on the basis of the evidence before me access to such facilities by the residents of the appeal site would involve trips of a short duration. Such trips would be comparable to those undertaken by the settled population in a rural area and would render the site a suitable location from which travellers could access necessary facilities.
40. I conclude that the site is not in a location that is easily accessible by public transport, walking and cycling and hence the development fails to comply with a principle identified by Policy CS4. However, taking account of the PPTS and the Framework, which are both material considerations, I do not find that the limitations on the accessibility of shops and services in this case render the site unsuitable as a gypsy and traveller site.

Effect on the users of Lodge Lane

41. A track off Lodge Lane provides access to the site and to other plots which accommodate caravans. This part of Lodge Lane is subject to the national speed limit, but a 30 mph limit is present further along the road where it begins to serve houses in Little Chalfont.
42. The Council confirmed during the Inquiry that its concerns were regarding the impact of vehicles accessing Lodge Lane from the track and the effect that this would have on traffic already using the lane, in the context of substandard visibility at the junction.
43. To the right of the access Lodge Lane curves gently and the level of planting is such that it is possible to see some distance up the road towards the 30mph limit. Visibility is aided by works which have been carried out to provide a new access off Lodge Lane. However, these works do not form part of the appeal development.
44. To the left of the access track Lodge Lane curves away more rapidly than to the right and the national speed limit applies. There is hedging up to the boundary of the adjacent property and this significantly hampers visibility.
45. The alignment of the junction of the access track with Lodge Lane is such that in order to enter the carriageway vehicles have to edge out into the road in order that drivers can check for oncoming traffic. At this point users of Lodge Lane have either just left the 30 mph speed limit and are likely to be speeding up or, given the distance and road alignment have not yet slowed down in response to the 30 mph signage. Thus, any vehicle edging out from the track would come as a surprise to drivers on Lodge Lane, resulting in at best inconvenience and potentially hazardous driving conditions.
46. The appellants consider that the necessary visibility splay, of 2.4m x 151m is achievable in one direction and that planting on third party land can be maintained to retain that splay. However, there is no information to secure long term maintenance and the appellants do not appear to have any control over the land within the splay.

47. The appellants also refer to the erection of a fence which obscures visibility at the main road and is critical of the Council for not taking action in relation to it. The Council said at the Inquiry that the fence in question has been reduced in height. However, the appellants were not present to put forward their point of view.
48. Drawing these points together and having regard to my own observations during the site visit, the development does not make satisfactory provision for safe access from the access track onto Lodge Lane. It follows that the manoeuvres by vehicles leaving the site would be likely to have an adverse effect on the safety and convenience of users of Lodge Lane.
49. I conclude that the use of the access track to serve the development would have a harmful effect on the safety and convenience of users of Lodge Lane. The development is therefore contrary to Policies TR2 and TR3 of the Local Plan which require that satisfactory access onto the existing highway network be provided in relation to proposed development, including the provision of off-site improvements as may be required.

Biodiversity and Protected Species

50. The Council says that the planning application was not supported by any detailed information which has assessed the biodiversity value of the site or the presence of protected species. The Council confirmed at the Inquiry that it is adopting a precautionary approach with regard to these matters.
51. The works which have taken place on the site already are likely to have had an effect on its ecological value given the previous state of the site as undeveloped land. A large part of the site has been retained as a paddock and this is shown on the plans which accompanied the planning application. The paddock is similar in nature to the surrounding farmland thus it is reasonable to assume that the ecological value of this part of the site has not altered significantly. However, where hardstanding has been introduced in lieu of grass, this would have been likely to have had an adverse ecological effect.
52. The Council says that trees and hedges were removed when the development was carried out. Although trees have been planted in the form of the tree screen there is no information regarding the effect that this change has had on biodiversity.
53. In the statement of case the appellants indicated their intention to instruct an Ecologist to undertake a Phase 1 walkover survey. However, such a document has not been submitted. Furthermore, in the absence of such a document I cannot be sure that protected species are not present on the site and without survey evidence no informed conclusions can be made.
54. I find that the appellants have failed to demonstrate that the development would not have an adverse impact on the biodiversity or the site and/or protected species. The development is therefore contrary to Policies CS4 and CS24 of the Core Strategy which establish the importance of the District's biodiversity resources, seek to protect biodiversity and where possible enhance ecological interest.

Other considerations

The need for and supply of gypsy and traveller sites

55. The PPTS states that, in producing their Local Plans, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets.
56. The Council accepts that there is a need for gypsy and traveller sites in the area and that there remains an outstanding need for five pitches in the period 2021 to 2026. The Council also says that there is currently no available supply of sites and acknowledges that it cannot presently show a five year supply in respect of all travellers.
57. The evidence which the Council has provided leads me to concur with its view. Whilst the number of sites which are needed is low, the absence of a supply of deliverable sites nevertheless weighs significantly in favour of the development.

The availability (or lack) of alternative accommodation

58. The appellants say that their family has lived in bricks and mortar houses for short periods and that at other times they have 'doubled up' on sites used by other family members. They also confirm that they have not found it necessary to place the family on a waiting list for a Council pitch. Whilst these statements point to the appellants having alternatives to adopting a roadside existence, doubling up is not an acceptable alternative. Therefore, the alternatives which the appellants refer to do not pass the test of an alternative site which should be available, affordable, suitable and acceptable.
59. The current location of the appellants and their family is not known therefore I cannot be sure whether or not they have found suitable alternative accommodation. There is also no update to the personal statement which is dated June regarding the availability of alternative accommodation. However, the Council did not identify any alternative accommodation which would be available to the appellants.
60. Drawing these points together I find that the lack of alternative accommodation attracts moderate weight in favour of the appellants in this case.

The personal circumstances of the appellants

61. The development would allow for the appellants and their family, including their son and his family, to live together and in close proximity to other family members. This is acknowledged of importance to the gypsy and traveller community and enables mutual support and sharing of wider family responsibilities.
62. Some of the appellants' children are of school age and the appellants are keen that they should resume their education. However, with the exception of one child, there are no details of where schools would be located relative to the site. One child who has special needs was enrolled at a school in Quinton at the time when the appellant prepared her personal statement. In response to a question from me I was able to ascertain from the Council that Quinton is located approximately one hours drive from the site. It may be that this is the nearest school available to meet the needs of this child, but this could not be verified by the appellants.

63. The appellant did not refer to any particular health needs of her family in her personal statement with the exception of her husband who may need more support as he gets older as a consequence of an injury. However, she acknowledges the importance of having a settled base to access the healthcare system.
64. In this case, whilst it can be acknowledged that a settled base is preferable from which to access education and health care, the appellants have been unable to establish that there is an ongoing need which can only be fulfilled by allowing them and the family to remain on this site. There is no information to clarify where the appellants and the family are and to what extent they are able to access facilities currently to meet their personal needs.
65. Taking account of all these factors and what is known about the appellant and her family from the time when her personal statement was prepared, including the best interests of the children, personal circumstances attract only moderate weight in favour of the development in this case.

Intentional Unauthorised Development (IUD)

66. A Written Ministerial Statement (WMS) dating from August 2015 establishes that IUD is a material consideration to be weighed in the determination of planning applications and appeals. The WMS relates to all forms of development not just that relating to gypsy and traveller sites and places particular emphasis on IUD in the Green Belt.
67. The Council says, and this is corroborated by the views of interested parties, that the works were undertaken over a bank holiday weekend. Furthermore the works continued even after a stop notice and the enforcement notice was served.
68. The Council argues that the appellants were fully aware of the need for planning permission for the development because of her connection to the occupiers of other plots which were being developed off Lodge Lane. Although the appellants submitted a planning application this action was not taken until after the service of the enforcement notice. The appellants do not provide any explanation as to why the development was carried out before planning permission was obtained or evidence that they had no alternative to occupation of the site in advance of making a planning application.
69. In this case I conclude that IUD has occurred, which has caused significant harm to the Green Belt and that it attracts significant weight against the appeal scheme.

Other Matters including the issues raised by Interested Parties

70. A significant number of local residents wrote to the Council in relation to the application for planning permission and the Planning Inspectorate received letters in response to the appeal notification letter sent out by the Council.
71. I have already addressed some of the issues raised by interested parties in terms of the effect of the development on the Green Belt, the AONB and biodiversity and the use of the access. Other matters raised by local residents in terms of impacts on residential amenity could be controlled by planning conditions. I do not find that such matters attract weight either for or against the proposal.

Green Belt balance

72. The revised Framework establishes that substantial weight should be given to any harm to the Green Belt and that inappropriate development, such as the appeal scheme, is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Policy E of the PPTS states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm.
73. I have found significant harm to the Green Belt in relation to openness and I am mindful that, by virtue of paragraph 148 of the revised Framework substantial weight should be given to any harm to the Green Belt. I have also concluded that IUD has taken place in the Green Belt and this also attracts significant weight in terms of harm to the Green Belt.
74. The revised Framework also makes it clear that the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the development must be clearly outweighed by other considerations for planning permission to be granted. In this case I have also found harm in terms of the impact of the development on the AONB and the users of Lodge Lane in relation to highway safety and convenience. Furthermore, the appellants have failed to demonstrate that the development would not have an adverse effect on biodiversity and/or protected species.
75. In favour of allowing Appeal B, I attach significant weight individually to the need for gypsy and traveller sites and the lack of supply of such sites. I also attach moderate weight to the accessibility to health and education services which a stable base provides, to the suitability of the site in terms of access to shops and services and to the lack of alternative accommodation available to the appellants.
76. Taking the case as a whole I find that the combined weight of the other considerations which are in favour of the development do not clearly outweigh the totality of the harm, such that very special circumstances do not exist in this case which leads me to consider that Appeal B should be dismissed.

Planning permission on a temporary and/or personal basis

77. The appellants request that if I found a permanent planning permission could not be justified, they wished me to consider if a temporary and/or personal permission would be acceptable. Planning Practice Guidance establishes that amongst other circumstances where a temporary permission may be appropriate are where it is expected that the planning circumstances will change in a particular way at the end of that period.
78. In this case the appellants have not provided any indication of the necessary duration of any temporary consent and there is no certainty about when a new local plan will be adopted which will need to address the provision of traveller sites. The harm to the Green Belt and some of the other harms which I have identified would be moderated by the fact that a temporary consent would be of limited duration. However, I have identified a harmful effect on the users of Lodge Lane in terms of highway safety which would be ongoing and have no less weight if permission was given for a temporary period. Also, the benefits to the appellants and the family in terms of having a stable base from which to

access education and healthcare would be reduced. On that basis the Green Belt harm and the other harm would not be clearly outweighed in this scenario either.

79. A personal consent limited to the appellants and their dependants would address the particular needs of the family. However, there is limited information before me regarding what these needs are save for the special needs of one of the children and a general need for access to education and health facilities. The expected duration of these needs is therefore unclear and in common with the effect of a temporary consent a personal permission would result in the continuation of harm to the Green Belt, the AONB and highway safety over an unacceptable period.
80. I conclude that granting permission on a temporary and/or personal basis does not change the Green Belt balance such that planning permission should be granted on either or both of these bases. This conclusion also does not change my view that dismissing the appeal and refusing planning permission is a necessary and proportionate response to the policy objective of the protection of the Green Belt.

Conclusion on Appeal B

81. For the reasons set out above I conclude that Appeal B should be dismissed and planning permission, whether permanent or temporary ought not to be granted. I have dealt with matters pertaining to human rights more fully in my consideration of Appeal A. However, in reaching my decision on Appeal B I do not find that dismissal would violate the appellants rights.

Appeal A - Ground (a) and the Deemed Planning application (DPA)

82. An appeal under ground (a) is on the basis that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to have been granted. The DPA is derived from the breach of planning control as set out in the notice. If I were to allow Appeal A and grant the associated DPA, planning permission would be granted for the following development:

The material change of use of the Land to a caravan site for residential purposes and integral to the use, the stationing of mobile homes and caravans and the laying of hardstanding in the approximate position shown cross-hatched on the Plan.

83. With the exception of the omission of two dayrooms and the reference to hardstanding, the description of development which is the subject of Appeal A is the same as that which I considered under Appeal B. The Council's reasons for serving the notice reflect the main issues which I have identified in relation to Appeal B with the exception of the impact of the breach of planning control on biodiversity and the safeguard of protected species. Therefore, with the exception of that matter I have considered Appeal A against the same main issues as Appeal B.

Reasons

The effect on the Green Belt

84. The omission of the day room buildings from the Appeal A development reduces the spatial and visual impact on the Green Belt to a limited degree compared with the Appeal B scheme. However, the introduction of the hardstanding element would result in a further loss of the spatial aspect of the Green Belt. Therefore, I adopt the same reasoning set out above in relation to Appeal B. It follows that the Appeal A development, by virtue of the fact that it would introduce mobile homes and caravans and the laying of hardstanding onto a previously undeveloped natural appearing site, would have a significantly harmful effect on the openness of the Green Belt.

The effect on the AONB

85. The Appeal A development is screened from the wider landscape by the tree screen which surrounds the site. Nevertheless, the urbanisation of the site is a consequence of the Appeal A scheme in the same way as the Appeal B scheme. Consequently, I adopt the same reasoning as set out above in relation to the effect on the AONB and conclude that the effect would be harmful.

Access to shops, services and amenities/Effect on the users of Lodge Lane

86. The omission of the two day rooms and the introduction of the hardstanding has no implications for the location of the site relative to the shops and services and amenities which the appellant and her family would access or to the means of access to the site. Therefore, I adopt the same reasoning set out above in respect of Appeal B and conclude that the limitations on the accessibility of shops and services in this case do not result in the site unsuitable as a gypsy and traveller site. However, in terms of access to the site, the development has a harmful effect on the safety and convenience of the users of Lodge Lane.

Other considerations

87. The other considerations which were before me in terms of my determination of Appeal B apply equally to my consideration of Appeal A.

Conclusion

88. I adopt the same outcome in relation to the Green Belt balance as I did on Appeal B and conclude that, in respect of Appeal A, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist in this case. Similarly, my consideration of the appropriateness of a temporary or permanent consent are equally relevant to the appeal A scheme.

Human Rights and the Best Interests of the Children

89. The occupiers of the caravans would be members of the Gypsy and Traveller community which is recognised as having special needs which are protected through positive obligations in terms of their human rights. However, it is not clear that the appellant and her family are currently occupying the site or that it is occupied by another gypsy and traveller group. Consequently, there is no certainty that if both Appeal A and B is dismissed the appellant and her family or another group would lose their home.

90. In this context it has not been shown that there would be any interference with the rights of the appellant and her family under Article 8 of the Human Rights Act 1998, which is the right for respect for private and family life. In any event Article 8 is a qualified right and the concept of proportionality is critical, and I find that dismissing Appeal A and Appeal B is necessary in the public interest.

Conclusion on Appeal A – Ground (a) and the DPA

91. For the reasons given above, I conclude that Appeal A should not succeed on ground (a) and that planning permission should not be granted in respect of the DPA.

Appeal A – Ground (g)

92. Ground (g) is that the period specified for compliance with the notice falls short of what should reasonably be allowed. The appellant considers that the compliance period of 3 months is too short and seeks a period of 12 months to comply with the requirements of the notice.

93. The Council considers that the compliance period is reasonable given that it is much longer than the time it took for the unauthorised development to be carried out. Furthermore, whilst the Council acknowledges that time would be required to address family, employment, educational and health needs, it argues that the appellant has been aware of the enforcement notice for over a year.

94. In terms of her actions prior to the outcome of the appeal, it is reasonable for the appellant to assume success. However, no information was brought forward to substantiate her case that the compliance period should be extended to 12 months. On this basis and in the absence of other evidence I find that the 3-month period afforded by the notice does not fall short of what is reasonable.

95. For the reasons set out above I conclude that Appeal A fails on ground (g).

Conclusion on Appeal A

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

Sarah Dyer

Inspector

APPEARANCES

For the Council:

Sarah Sackman	Barrister instructed by Rachel Steele of Buckinghamshire Council
Rachel Steele	Buckinghamshire Council
Philippa Jarvis	Buckinghamshire Council
Chris Kennett	Buckinghamshire Council
Selina Islam	Buckinghamshire Council

DOCUMENTS SUBMITTED TO THE INQUIRY

By the local planning authority

1. HM Land Registry – Official copy of register of title
2. Extract from Manual for Streets 2 – 10_Visibility
3. Suggested conditions of the LPA
4. Opening submissions
5. Closing submissions (in writing)
6. Application for costs (in writing)