



Appeal Decisions

Hearing held on 22 February 2022

Site visit made on 23 February 2022

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2022

Appeal A Ref: APP/P0240/C/20/3248824

Land on the east side of Watling Street, (more commonly known as Land at Jockey Farm), Caddington, Dunstable, LU6 3QP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Bernard McCarthy against an enforcement notice issued by Central Bedfordshire Council.
- The notice, numbered CB/ENC/19/0192, was issued on 26 February 2020.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of paddock land to a residential caravan site and the associated siting of a container for use as amenity block.
- The requirements of the notice are to:
 - (i) Cease using the Land as part of a Gypsy and Traveller site
 - (ii) Remove from the Land all caravans and the container used as an amenity block and other items associated with the use of 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)(f) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal B Ref: APP/P0240/C/20/3248828

Land on the east side of Watling Street, (more commonly known as Land at Jockey Farm), Caddington, Dunstable, LU6 3QP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Bernard McCarthy against an enforcement notice issued by Central Bedfordshire Council.
- The notice, numbered CB/ENC/19/0192, was issued on 26 February 2020.
- The breach of planning control as alleged in the notice is without planning permission, the creation of an area of hardstanding on the Land.
- The requirements of the notice are to remove the hardstanding from the Land and restore the Land to its former condition.
- The period for compliance with the requirement is eight months.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal C Ref: APP/P0240/W/20/3254578

3 Jockey Farm Caravan Park, Watling Street, Dunstable, LU6 3QP

- 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 B McCarthy against the decision of Central Bedfordshire Council.
 - The application Ref CB/20/00671/FULL, dated 23 February 2020, was refused by notice dated 22 May 2020.
 - The development proposed is change of use of land on an existing Gypsy site, for residential and touring caravans, with hardstanding, parking and related infrastructural development.
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Decisions

Appeal A

1. It is directed that the enforcement notice is corrected in paragraph 5 by the deletion of the wording of the first requirement and the substitution of "Cease using the Land as a residential caravan site".
2. Subject to the correction, Appeal A is dismissed, and the enforcement notice is upheld.

Appeal B

3. Appeal B is dismissed, and the enforcement notice is upheld.

Appeal C

4. Appeal C is dismissed.

Preliminary Matters

Documents submitted during the Hearing

5. The appellant sought to submit a number of documents to the Hearing. These included an appeal decision from 2019 and a letter dated 2014 regarding the methodology used by Opinion Research Services Ltd. The Council were provided with these two documents and following a discussion between the parties and myself regarding their availability at the time when the appeal submissions had been made, the appellant decided that he would not submit them.
6. The other documents which were submitted by the appellant, and which are listed at the end of this decision letter, were not available during the timescales for the submission of information in respect of Appeal C. The Council had the opportunity to consider the documents and raised no objection to their submission to the Hearing. I considered that the documents could not have been submitted with the appeal statement and that no injustice would arise if I were to accept them as part of the appellant's case and refer to them where necessary.
7. Copies of the notification letters were provided by the Council to the Hearing confirming that interested parties had been notified of the appeal and the arrangements for the Hearing.

The Notices

8. I shall refer to the notice which is the subject of Appeal A as Notice A and that which is the subject of Appeal B as Notice B.
9. At section 3 of Notice A, the breach is referred to as 'the material change of use (MCU) of paddock land to a residential caravan site and associated siting of a container for use as amenity block'. The requirements of the notice should derive from the breach, however in this case the first requirement relates to the cessation of use of the land as part of a gypsy and traveller site.
10. I discussed this matter with the parties at the Hearing and neither had any objections to me correcting the notice so that the breach and the requirement are in alignment. I do not consider that any injustice would arise were I to

make the correction, therefore I shall amend the first requirement to read as follows:

- (i) Cease using the Land as a residential caravan site.

The second requirement aligns with the breach and does not require any correction.

11. The reasons for issuing both notices referred to policies but not the particular harms which arose as a result of the alleged breaches of planning control. The Council accepted that the notices could have been clearer but both parties agreed that the reasons were adequate, and the appellant understood the issues sufficiently. Furthermore, the Council agreed that there was a typographical error in Notice B. In the reasons the word 'use' in reason (b) should have been 'operational development'. In my view the notices do not need to be corrected or varied in respect of these matters.

The Development Plan

12. The Central Bedfordshire Plan 2015-2035 (the Local Plan) was adopted in July 2021. The courts have established that Inspectors need to make their decisions on planning appeals on the basis of the development plan which is in place at the time of their decision. Therefore, the Planning Inspectorate asked the Council to provide copies of all relevant policies and invited the parties to make submissions in the light of the adoption of the plan. The policies were submitted, and submissions made by the Council, and I have had regard to these in my determination of the appeals.

Appeal C

Background

13. The appeal site is currently in use as a residential caravan site and at the time of my site visit it was occupied by three touring caravans, which are the subject of Notice A. To that extent the use has commenced, and the planning application is retrospective. It was agreed by the parties at the Hearing that notwithstanding the current occupation of the site the appeal should be considered on the basis of the future occupants of the site being named individuals and their dependants.
14. Adjacent to the appeal site is an existing residential caravan site which benefits from planning permission granted in 2008. This permission was varied to allow occupation by different individuals and their dependants in 2014 (Council Ref CB/13/04264/VOC) (the 2014 consent).
15. Condition 6 of the 2014 consent required amongst other things the submission and approval of the layout, hardstanding and screen planting. Drawing number SD-06 was submitted to the Council and approved in response to condition 6. Drawing SD-06 includes a parking area and two planting belts which fall beyond the application site boundary of the 2014 consent. The parties agree that this land was in the same ownership and indicated as 'blue' land on the application site for the 2014 consent. Therefore, there was no impediment to the discharge of condition 6 despite part of the layout of the caravan site falling beyond the site boundary.

16. The Council accepted at the Hearing that there is an overlap between the current appeal site and the parking and screen planting area on drawing SD-06. However, in the context of the appeal it disputes whether following the discharge of condition 6 the land was laid out in accordance with drawing SD-06. The appellant says that he planted one of the two planting belts and there was evidence of this on site although the plants were not thriving. There was no evidence of the parking area, or the second planting belt and that part of the appeal site was mainly covered in hard core.
17. The Council refused planning permission for change of use of land on an existing gypsy site, for residential and touring caravans, with hardstanding, parking, and related infrastructural development. As I have set out above there is a dispute regarding the works shown on drawing SD-06 where it overlaps with the appeal site. However, the appellant accepted that prior to the development, which is the subject of the appeal, the appeal site was generally not in use as a gypsy and traveller site. I have therefore regarded the development as use of land for residential and touring caravans with related development without reference to any previous use of the land as an existing gypsy site.
18. The Council is agreed that the appellant is a gypsy. The appeal site is occupied by members of his family and the Council pointed out at the Hearing that there is no evidence to suggest that the occupiers of the site would not meet the definition of gypsies and travellers as set out in Planning policy for traveller sites (the PPTS). On that basis I have regarded the future occupiers of the site as members of a gypsy and traveller family and as meeting the definition in the PPTS.

Main Issues

19. There is no dispute between the parties that the site is in the Green Belt and, 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 the type of development, I also conclude that the appeal relates to inappropriate development in the Green Belt.
20. On this basis and given the reasons for refusal of planning permission, the main issues are:
 - The effect of the development on the openness of the Green Belt
 - The effect of the development on the Chilterns Area of Outstanding Natural Beauty and landscape character
 - Whether the development provides satisfactory living conditions for future residents with particular reference to the site layout and facilities
 - The effect of the development on surface water flooding
 - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the development, on either a permanent or temporary basis.

Reasons

The effect on the openness of the Green Belt

21. The National Planning Policy Framework (the Framework) identifies the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.
22. Policy SP4 of the Local Plan contains a general presumption against inappropriate development in the Green Belt and refers to government guidance contained in the Framework and Planning Policy Guidance. This policy is fully in accordance with the Framework and attracts full weight.
23. With the exception of the works shown on drawing SD-06, there is no dispute between the parties regarding the baseline condition of the land against which any impacts on the openness of the Green Belt should be assessed. The land was previously not in any active use and was overgrown.
24. The development involves the laying of hardstanding to facilitate the use of the site for stationing static caravans and a touring caravan. The submitted plans show this extending across the majority of the site with two areas annotated green which could indicate landscaping. The development which has been carried out on the site differs from that shown on the submitted plans in terms of the land at the front and back of the site which has not been landscaped and the caravans on site are tourers only. The appellant made the point that the site would be tidier in appearance were he to obtain planning permission for the use.
25. Notwithstanding the differences between the submitted plans and what has been carried out on site, the development as described in the submissions and as I observed on my site visit, demonstrates the visual impact on the site which results from the introduction of hardstanding and caravans.
26. The levels on the site have been adjusted to provide a useable space and the hardstanding and stationing of caravans extends further up the slope than the adjacent caravan site. Whilst this is not readily visible from Watling Street, because roadside development generally screens the site, from within the adjacent caravan site and other areas the touring caravans are visually prominent against the sloping open land which continues up the hill side.
27. The proposed static caravans would be larger than the existing tourers which are on the site and there would be four rather than three of them plus one tourer. In combination with car parking, commercial vehicle parking and the reasonable likelihood of domestic paraphernalia, the way in which the site is proposed to be used would have a significant visual impact in close proximity to the site. In that regard it would be visually harmful in comparison with the positive contribution which the previously undeveloped site made to the Green Belt.
28. The hardstanding and caravans, which would occupy the majority of the site, would also introduce a footprint and volume of development onto the site where previously there was none. This would lead to a loss of Green Belt in spatial terms and an encroachment of development into the countryside.

29. The Council is also concerned about the appearance of any amenity block on the site. I have found that the provision of hardstanding to support four static caravans is harmful in terms of its impact on the openness of the Green Belt, therefore, any further structures would only exaggerate that impact.
30. Drawing these points together the development would have a significant harmful effect on the openness of the Green Belt, which is also contrary to Policy SP4 of the Local Plan.

The Chilterns Area of Outstanding Natural Beauty and landscape character

31. The Council clarified that its reference to the Area of Great Landscape Value in its reason for refusal was no longer relevant because this designation no longer appears in the Local Plan. However, its objections in relation to the impact on the landscape remained unchanged in the context of current planning policy and the Central Bedfordshire Landscape Character Assessment (the LCA).
32. The site lies within the Chilterns Area of Outstanding Natural Beauty (AONB). Policy EE7 of the Local Plan, amongst other things, restricts development in the AONB to that which conserves and enhances its distinctive character. This accords with the Framework which requires that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which are included in those areas which have the highest status in relation to these attributes.
33. The site is also within Area 12B Ver Chalk Valley as defined by the LCA. Policy EE7 of the Local Plan also requires that development in the AONB responds to the landscape character including that established by the LCA. Policy EE5 of the Local Plan requires all development to respect, retain and enhance the character and distinctiveness of the local landscape.
34. Policy EE5 and EE7 are in accordance with the Framework, thus they attract full weight. The appellant does not dispute this, but he argues that neither these policies nor the Framework rule out the development of gypsy and traveller sites in an AONB and that the development should be seen in the context of the wider development on this stretch of Watling Street.
35. The Council refers to the LCA which it says describes the Ver Chalk Valley as forming part of a chalk landscape with dispersed development along the A5. It says that the guidelines for new development include seeking to conserve the open views across the undeveloped sloping valley sides.
36. I observed during my site visit that Watling Street is flanked on either side by gently sloping land which rises to a significant height framing the sweeping views of the landscape within the valley. There is limited development on the elevated parts of the slopes but there are sizeable pockets of development adjacent to the road which extend varying degrees up the slopes.
37. The appeal site lies adjacent to the largest area of development on this part of Watling Street which includes large scale commercial uses such as scaffolding storage, commercial vehicle storage and gypsy and traveller pitches. The appeal site shares its boundary to one side with a commercial use but to the other is an open paddock. The commercial uses occupy an extensive area and dominate the views from the road.

38. There is a network of footpaths in the area. The wider site is highly visible from a footpath which runs along field boundaries to the north, providing open views along the valley. However, development on the opposite side of the road and on the edge of Dunstable is also apparent from this footpath. The site is effectively screened from views from the footpath to the south by trees and shrubs along the field boundary. It is notable that when using this footpath another caravan site and a public house and hotel on Watling Street are prominent in views.
39. Although the pockets of existing development are prominent in views the predominant characteristic of the landscape is the general absence of development on the valley sides. The presence of the existing touring caravans on the appeal site which are facilitated by the hardstanding demonstrates the effect of the introduction of development onto a previously undeveloped part of the upper valley side.
40. In common with my consideration of the effect on the Green Belt, the proposed stationing of four static caravans, cars, commercial vehicles, and domestic paraphernalia would increase the harmful effect on the AONB and landscape character, in comparison with the current appearance of the site.
41. The appellant argues that the appearance of the development on the appeal site must be seen in the site context and the amount of development which the Council has permitted on adjacent sites. This argument has merit, and the development would have a different impact on landscape character were it to occupy a site surrounded by open land. Nevertheless, the effect of the consolidation of existing development is also harmful to the character of the area because it undermines the undeveloped characteristic of the upper slopes of the valley.
42. I conclude that the development would have a moderately harmful effect on the AONB and landscape character. Therefore, it would be contrary to Policies EE5 and EE7 of the Local Plan, Policy H7 which requires that the character and appearance of the wider landscape is not detrimentally affected by gypsy and traveller site development and Policy HQ1 which requires all development to respond positively to its context.

Living conditions

43. The Council clarified at the Hearing that its concerns related to the proposed layout of the site and its effect on the ability for vehicles to access and turn safely. It did not raise any concerns about the safety or convenience of access onto Watling Street.
44. The layout plan which accompanied the application shows four static caravans around the perimeter of the site and one touring caravan with space for eight vehicles between the caravans. There is no evidence before me in respect of how vehicles would manoeuvre within the site, but the layout plan shows clear space in the central part of the site which could be used for manoeuvring.
45. The Council made the point that the occupiers of the site would be likely to require more than one touring caravan between them and that additional tourers on the site would affect the layout. Furthermore, the Council argued that a lack of tourers could prevent the occupiers continuing to travel for work. This would be inconsistent with their status as gypsies. In response the

appellant argued that any additional tourers which were required may be stored off site. However, there were no details about where this storage may occur.

46. The Council also considered it likely that an amenity block would be introduced onto the site. However, it accepted the appellant's point that in general the Council views such development as permitted development for which planning permission would not be needed.
47. Drawing all of these strands together there is potential for the site layout to be more constrained than is shown on the layout plan. But, on the basis of the information before me it has not been shown that this would have a significantly adverse impact on living conditions. Furthermore, as the site would be occupied by family members as is the adjacent site, through which vehicles have to pass, it is reasonable to assume that drivers would have a heightened sense of awareness of who and where residents would be likely to be on the site.
48. With regard to the need to introduce an amenity block onto the site to provide adequate living conditions, the Council confirmed that its concern was around the visual and spatial impact of such a facility on the appearance and layout of the site. I have dealt with the layout point above and already addressed the visual and spatial impacts.
49. I conclude that the development would provide satisfactory living conditions for future residents with particular reference to the site layout and facilities. The development therefore accords with Policy H7 of the Local Plan which requires that the development of gypsy and traveller sites provides a good standard of amenity for occupants and that site design meets the needs of the occupants. I do not find Policy HQ1 of the Local Plan to be of direct relevance to this main issue.

Surface Water Flooding

50. The Council clarified at the Hearing that its concern regarding surface water flooding arises from the hardstanding of what had been an open site and the topography of the land which, in combination, could lead to run off to adjacent areas. The appellant did not think such run-off would arise because he said the hardstanding was permeable and he could install facilities for water harvesting for example. Both parties agreed that the matter could be addressed through the imposition of a suitably worded condition.
51. In the absence of any evidence before me that significant surface water flooding would arise which was not capable of being managed/mitigated by means of SUDS, I do not find that the development would have a harmful effect on surface water flooding.
52. I conclude that subject to the imposition and discharge of a suitably worded condition the development would be in accordance with Policies H7 and CC5 of the Local Plan. These policies require that suitable arrangements are made for drainage on gypsy and traveller sites and that SUDS are used to reduce surface runoff.

Other considerations

The need for and supply of gypsy and traveller sites

53. The Local Plan was adopted in July 2021, after the submission of Appeal C. Policy SP8 confirms that the Council has already approved a sufficient number of pitches to meet needs over the period 2015 to 2035. Thus according to the Council's monitoring data it has already exceeded the provision of new pitches to meet identified need, that a five year supply can be maintained over the plan period and that it is not necessary to allocate land for gypsy and traveller sites in the plan. The plan contains a policy (Policy H7) which enables the Council to deal with applications for windfall sites consistently.
54. The appellant acknowledged that compared to other areas the Council takes a positive and pragmatic approach to gypsy and traveller development. Nevertheless, he argues that the Council's monitoring methods are flawed, that there is an unmet need and that other Inspectors have not shared the Council's views on unmet need, leading to appeals being allowed.
55. It is reasonable to assume that the Local Plan Inspectors who reported on the Local Plan must have concluded that the Council's method of monitoring the need for gypsy and traveller sites was robust, otherwise they would have raised questions about it which the Council say they did not. There is no substantive information before me to dissuade me from reaching the same conclusion as the Local Plan Inspectors.
56. The appellant argues that there is evidence of unmet need within the Council's area because there are a number of undetermined planning applications and appeals. Of particular consequence is the site at Greenacres/The Stables which according to the appellant is for about 50 static caravans. That application has been considered by the Council and it has determined to approve it subject to further work and notification to the Secretary of State, who has call-in powers.
57. As stated by the appellant, there is no certainty that the Greenacres/The Stables development, or any other schemes, will be allowed. However, the Council has a robust position regarding its supply of sites given the recent adoption of the Local Plan, regardless of the outcome of these applications/appeals.
58. In respect of the appellant's reference to decisions made by other Inspectors regarding unmet need in the Council area, my attention has not been drawn to any such decisions which have been issued since the adoption of the Local Plan.
59. I conclude that in this case and on the basis of the information before me, the Council can demonstrate an up-to-date 5 year supply of deliverable sites and there is neither a need for nor the absence of a supply of gypsy and traveller sites which would weigh in favour of allowing the appeal.

Availability (or lack) of alternative accommodation

60. In terms of the specific needs of the appellant's family members who will occupy the site, he says that there is no alternative to occupation of the appeal site. He explained that this is principally because a large site was required to accommodate his family and such a site was not available.

61. The Council said that it was aware of one vacant pitch on a Council site. However as this is a mixed site the appellant said that it was not suitable. The appellant had also recently acquired a pitch on the neighbouring site, but another family member was occupying that. Thus, that pitch is not available.
62. Of the four families which are to be accommodated on the site, two include grandchildren of the appellant who lives on the adjacent site. They are effectively the result of household formation, and it is reasonable to conclude that they cannot return to and be accommodated on the adjacent site. The appellant said that another family used a roadside site before they came onto the appeal site. It is not clear where the fourth family is currently living.
63. Drawing all of these points together I find that there is a lack of available alternative accommodation for at least three of the families bearing in mind that it is unclear where the fourth family currently reside. This attracts substantial weight in favour of the appeal scheme.

Personal circumstances of the appellant

64. The development allows for the appellant's extended family to live together in close proximity to other family members on the adjacent site. This is acknowledged as being of importance to the Gypsy and Traveller community and enables mutual care and support.
65. The appellant has been diagnosed with a serious medical condition and, although he will not be living on the site, he says that he will benefit from having his family close by particularly as he gets older. Whilst appreciating the benefit of this arrangement for the appellant, the need for the particular residents on the appeal site to be available needs to be set in the context that other close family members are already resident on the adjacent site where the appellant lives.
66. The appellant acknowledged that the intended residents of the appeal site do not have any particular health issues but pointed out that they would still need access to healthcare. The appellant also confirmed that there would be one child of school age and one baby living on the site. However, it is not clear whether the child attends school locally which effects the importance of them being able to remain on this particular site.
67. In general terms it would be beneficial for the residents of the site to be able to access healthcare and education from a settled base. This is reflected in Policy H7 which requires that adequate schools, shops, healthcare, and other community facilities are within reasonable travelling distance of gypsy and traveller sites. On the basis of the lack of any identified available, alternative accommodation there is at least a possibility that families would have to resort to life on the road in the event that they were unable to stay on the site. Such an existence in itself presents challenges in terms of maintaining a good standard of health and wellbeing and is not in the best interests of the children.
68. Taking account of these factors, the personal circumstances of the future occupiers of the site, including the best interests of children, weigh significantly in favour of the development.

Intentional Unauthorised Development

69. The Council notes that the appellant allowed the site to be occupied and undertook operational development before planning permission had been granted. This is not disputed by the appellant and constitutes Intentional Unauthorised Development (IUD).
70. 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.
71. In this case the appellant's planning application is dated shortly before Notice A and Notice B were issued. The appellant says that he is not familiar with the planning system and that his actions were in response to the needs of his family. However, it is reasonable to assume that he had some knowledge of the need for planning permission because he is a named occupier of the adjacent site on the 2014 consent which was submitted by the same agent as he is using for this appeal.
72. The appellant also says that in general Planning Inspectors do not attach excessive weight to the matter of IUD. However, there is little substantive evidence of this and, in any case, the judgement of how much weight to attach to IUD, and any other matter, is dependent on the individual facts of each case.
73. I conclude that on the basis of the evidence before me, IUD has occurred, and I shall attach moderate weight to it taking into account the lack of alternatives available to the appellant's family members who are to be accommodated on the site.

Other appeal decisions

74. The appellant draws comparisons between the appeal scheme and that which was considered in appeal decisions dated 13 January 2022 which concerned a site in Pitsea near Basildon¹ (the Pitsea Appeals). There are some similarities between the two cases. However, the Pitsea Appeals were considered in the light of the Council not being able to address a significant shortfall between the need for and provision of gypsy and traveller sites and where the personal circumstances of the occupiers had been explained in more detail. As such the two cases are not directly comparable and the Pitsea appeal decision does not add any weight in favour of this appeal.

Green Belt balance

75. I have found significant harm to the Green Belt in relation to openness and that the development would have a moderately harmful effect on the AONB and landscape character contrary to Policies SP4, EE5, EE7, H7 and HQ1 of the Local Plan. I am mindful that, by virtue of paragraph 148 of the Framework substantial weight should be given to any harm to the Green Belt. Furthermore, in accordance with the WMS, I have also found that intentional unauthorised development (IUD) has taken place and I have concluded that in this case the IUD factor attracts moderate weight.

¹ Appeal Refs. APP/V1505/C/18/3200138, APP/V1505/C/18/3200139, APP/V1505/W/18/3200137

76. In favour of allowing the appeal, although I have found that the Council can demonstrate an up-to-date 5 year supply of deliverable sites, the particular circumstances of the appellant's family are such that there is a lack of alternative available accommodation. This matter attracts substantial weight in favour of the appeal.
77. In terms of their personal circumstances, including the best interest of children, the future occupiers of the site would benefit from a stable base from which to access health and education services. This matter attracts significant weight in favour of the appeal.
78. The best interests of the children are a primary consideration, and no other consideration is inherently more important, however, they are not a determinative factor.
79. The lack of harm I have found in terms of the living conditions for future occupiers and in relation to surface water drainage and my conclusions regarding the relevance of the Pitsea Appeals are neutral factors in the Green Belt balance.
80. The 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, unmet need (which I have not found in this case) and personal circumstances, are unlikely to clearly outweigh harm to the Green Belt and any other harm.
81. The Framework 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 find that although there are some matters which weigh in favour of the appellant, the cumulative weight of these other considerations does not clearly outweigh the substantial harm arising to the Green Belt in combination with the IUD and harm to the AONB and landscaped character.
82. Consequently, my initial conclusion is that the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist in this case. Accordingly, the development is contrary to Policy SP4 of the Local Plan.

Planning permission on a temporary and/or personal basis

83. The appellant made it clear that if I found a permanent planning permission could not be justified, he 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. In this case, given the Council's up-to-date position with regard to a five year supply of sites, the only issue which may be subject to change is the availability of an alternative site.
84. It is reasonable to assume that given that the appellant owns the site, and it sits adjacent to a site occupied by himself and other family members, he and his family are awaiting the outcome of these appeals before looking for an

alternative site. However, given the absence of any timescale during which it is likely that alternative accommodation can be sourced, it is not possible to establish an end point at which time the site would be returned to its previous condition and the harms which I have identified would cease. To that extent it is not possible to establish an appropriate duration for a temporary consent.

85. Notwithstanding the lack of clarity around the basis for a temporary consent, whilst the harm to the Green Belt would be moderated by the fact that it would be of limited duration, the harm would be apparent over that full time period. Furthermore, the benefits to the appellant's family in terms of having a stable base would also be reduced. The other matters in the balance would remain unchanged and, on that basis, the Green Belt harm would not be clearly outweighed by other considerations in this scenario either.
86. In respect of a personal consent limiting the occupiers of the appeal site, the needs of the individuals are not clear in this case. For instance, there is no information regarding whether the child attends school or whether it is anticipated that in time the baby will go to nursery/school in the area. In common with a temporary consent this makes it difficult to establish the duration of occupation of the site and this would result in the continuation of harm to the Green Belt and other harms.
87. 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.

Human Rights and the Best Interests of the Children

88. 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. Furthermore, if Appeals A and B are dismissed and the enforcement notices upheld as I have set out below, and in the absence of planning permission being granted in respect of Appeal C, members of the appellant's family would lose their home.
89. This would be a serious interference with their rights under Article 8 of the First Protocol to the European Convention on Human Rights, as incorporated by the Human Rights Act 1998, which is the right for respect for private and family life. Consequently, I must carry out a proportionality assessment to weigh up the relevant considerations relating to the appellant's family's rights to enjoyment of family life and a home and the best interests of the children against the public interest.
90. The occupiers of the site do not have alternative accommodation available, and it would be beneficial for them to have a stable base from which to access health services and other community facilities. The specific needs of the child and the baby are not set out in the submissions, but it is reasonable to conclude that they would benefit from being able to stay on the site to fulfil any current and future education needs.
91. On the other side of the balance, the protection of Green Belt is a matter of public and community interest, and the Government attaches great importance to it. Also, AONBs, along with National Parks and the Broads, are landscape designations of national importance and the Framework sets out that great

weight should be given to conserving and enhancing landscape and scenic beauty in such areas.

92. The planning policy objectives of the protection of the Green Belt from inappropriate development and the conservation of the landscape character of the AONB cannot be overcome by the imposition of planning conditions or the securing of any mitigation measures. For instance, it will be seen from the foregoing that I am not satisfied that a temporary or time limited condition via a personal consent would be appropriate in this case.
93. My overall conclusion on the proportionality balance is that the relevant policy objectives cannot be achieved by means which interfere less with the individual's rights. Thus, dismissing the appeal and refusing planning permission is a necessary and proportionate response to the policy objective of the protection of the Green Belt and conservation of the AONB.

Conclusion on Appeal C

94. For the reasons set out above I conclude that the development is contrary to the development plan when read as a whole and that Appeal C should be dismissed. Furthermore, planning permission, whether permanent or temporary ought not to be granted. This action would not unacceptably violate the family's human rights and the protection of the public interest cannot be achieved by means that are less interfering of their rights.

Appeal B – Ground (b) and Ground (c)

95. An appeal under ground (b) is that the matters to which the notice relates have not occurred and ground (c) is on the basis that the matters alleged in the notice do not constitute a breach of planning control. These are both legal grounds of appeal, and the onus of proof lies with the appellant. The evidence must be sufficiently precise and unambiguous, and the standard of proof is the balance of probabilities.
96. The breach as set out in the notice is the creation of an area of hardstanding on the Land. The appellant argues under both grounds that permission has already been established for hardstanding on part of the site. The part of the site in question is that shown as a parking area and two planting belts on drawing number SD-06 which I have referred to in paragraphs 15,16 and 17 above.
97. The appellant accepts that hardstanding has been created on the site, consequently the appeal on ground (b) fails.
98. In order to achieve success on ground (c) the appellant must show that either there has been no development, or that planning permission is not required for whatever reason, or that what is alleged complies with the terms and conditions of a planning permission. The appellant argues that part of the hardstanding is shown on drawing SD-06, in this respect hardstanding in this area could be said to comply with the terms and conditions of the 2014 consent for example if it formed part of the agreed parking area.
99. However, as I have set out in paragraph 16, there is no evidence on the site that the parking area was laid out in accordance with drawing SD-06. For that reason, I do not find that any part of the hardstanding on the appeal site complies with the terms and conditions of the 2014 consent.

100. The appellant has not put forward any other arguments in relation to ground (c), therefore on the basis of the evidence before me, the appeal on ground (c) also fails.

Appeal B – Ground (d)

101. An appeal on ground (d) is on the basis that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. This is also a legal ground of appeal, and the onus of proof lies with the appellant. The evidence must be sufficiently precise and unambiguous, and the standard of proof is the balance of probabilities.
102. This ground of appeal accepts that at some stage there has been a breach of planning control, but that it is immune from enforcement action, having subsisted for a four-year period in the case of operational development such as the hardstanding which is the subject of Notice B.
103. In common with his arguments on grounds (b) and (c) the appellant refers to an area of the hardstanding having been part of the works shown on drawing SD-06 i.e. the parking area. However, there is no evidence before me to demonstrate that the hardstanding on that part of the appeal site was laid and subsequently in situ for four years and has subsisted since then.
104. For the reasons set out above the appeal under ground (d) fails.

Appeals A and B – ground (f)

105. An appeal under ground (f) is on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters.
106. The requirements in respect of Notice A, as corrected, are to cease the use of the land as a residential caravan site and remove caravans, a container and other items from the site. In respect of Notice B they are to remove the hardstanding and restore the site to its previous condition.
107. The appellant considers that the requirements are excessive because they do not take into account the area of land shown on drawing SD-06 which overlaps the appeal site and which in his view benefits from the 2014 consent. It will be seen from my conclusion in respect of ground (c) that I have not found that the hardstanding benefits from consent under the terms of the 2014 consent. It follows that I do not accept that the 2014 consent has been implemented so as to allow use of that part of the site as a caravan site or the creation of hardstanding.
108. For the reasons set out above I do not consider that the requirements are excessive in as much as they relate to the whole site including that shown on drawing SD-06. Neither has the appellant shown that there is an obvious alternative or lesser step which would achieve the purpose of the notice.
109. I conclude that both appeals fail on ground (f)

Appeals A and B - Ground (g)

110. 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 6 months in respect of Notice A and 8 months in relation to Notice B is too short. He cites a shortage of gypsy and traveller sites, the Covid pandemic and danger to the health of residents as justifications for a longer compliance period, which he considers should be 3 years.
111. Since the notices were served the Local Plan has been adopted and now attracts full weight. It will be seen from my consideration of Appeal C that the Council is addressing the general need for and supply of gypsy and traveller sites such that it can demonstrate an up-to-date 5 year supply of deliverable sites.
112. With regard to the lack of suitable alternative accommodation to meet the needs of the appellant's family, there is no evidence before me to provide any certainty that the future residents would be unable to find alternative accommodation within the 6 month compliance period.
113. With respect to the effects of the Covid pandemic, these have eased considerably since the appeals were submitted. Although the future is uncertain as the Council has pointed out it has discretionary powers to extend the compliance periods of both notices should this be justified.
114. In relation to the effects on the health of the residents, there is limited information before me to suggest that any of the residents have particular health issues which would be aggravated as a result of compliance with the notices.
115. For the reasons set out above I find that the 6 month and 8 month compliance periods afforded by the notices do not fall short of what is reasonable, and I conclude that the appeals on ground (g) should fail.

Conclusions on Appeals A and B

116. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold Notice A with a correction and uphold Notice B.

Sarah Dyer

Inspector

APPEARANCES

FOR THE APPELLANTS:

Mr Joseph Jones	Representing the appellant
Mr Bernard McCarthy	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Phillip Hughes	Representing the Council
Mr Steve Jarman	Opinion Research Services Ltd
Mr Peter Vosper	Central Bedfordshire Council
Mr David Hale	Central Bedfordshire Council
Ms Helen Heanes	Central Bedfordshire Council
Mr Edward Gummery	Central Bedfordshire Council

DOCUMENTS

Submitted to the Hearing by the Appellant:

Count of Traveller Caravans July 2021

Unmet need CBC February 2022 document

Aerial photos

Information about Hermitage Lane site including aerial photo

Copy of letter dated November 2021 regarding Greenacres and The Stables Gypsy and Traveller sites

Email dated 6 January 2022 regarding pitch availability in Hertfordshire

Appeal Decision – Land to the West of Church Road, Pitsea, Basildon, Essex (Appeal Refs: APP/V1505/C/18/3200138, 3200139 and 3200137)

Submitted to the Hearing by the Council:

Copy of notification letter sent to interested parties notifying them about Appeal A dated 27 October 2020.

Copy of notification letter sent to interested parties notifying them about the Hearing dated 8 February 2022.