



Appeal Decisions

Inquiry Held on 1,2 and 3 March 2022

Site visit made on 3 March 2022

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2022

Appeal A: APP/R0660/C/21/3268914

Land on the south side of Broadoak Lane, Mobberley, Knutsford, Cheshire WA16 7PR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Michael Maloney against an enforcement notice issued by Cheshire East Council.
- The enforcement notice was issued on 3 February 2021.
- The breach of planning control as alleged in the notice is Without planning permission, the unauthorised material change of use of land from equestrian use to a mixed use comprising equestrian use and a residential caravan site together with the associated formation of an area of hardstanding, installation of septic tanks, erection of gates, fences and timber buildings.
- The requirements of the notice are (a) Cease the use of the land as a residential caravan site; (b) Remove all caravans and motorhomes from the land; (c) Remove all vehicles, plant, machinery, materials, toilet blocks and any other paraphernalia unassociated with the equestrian use of the land; (d) Cease the use of the building shown in the approximate position shaded in pink on the attached plan marked 'Plan B' for purposes unassociated with the equestrian use of the land; (e) Remove all items from inside the building shown in the approximate position shaded in pink on the attached plan marked 'Plan B' that are unassociated with the use of the land for equestrian purposes; (f) Remove all services connected to the building shown in the approximate position shaded in pink on the attached plan marked 'Plan B'; (g) Remove each of the timber buildings shown in their approximate position and identified as A and B on the attached plan marked 'Plan B'; (h) Remove all services connected to the buildings shown in their approximate position and identified as A and B on the attached plan marked 'Plan B'; (i) Remove the gates and fencing shown in the approximate position edged in green on the attached plan marked 'Plan B' from the land; (j) Remove the septic tanks from the land and restore the land by covering with topsoil and seeding with grass seed; (k) Remove the hardstanding from the land shown in the approximate position shaded in yellow on the attached plan marked 'Plan B'; (l) Restore the land shown in the approximate position shaded in yellow on the attached plan marked 'Plan B' by covering with topsoil and seeding with grass seed; (m) Remove all resulting debris arising from steps c), e), f), g), h), i), j) and k) from the land. "
- The period for compliance with requirements (a)-(d) is 9 months and requirements (e)-(m) is 10 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and a variation in the terms set out below in the Formal Decision.

Appeal B: APP/R0660/W/20/3266143

Land at Broadoak Lane, Mobberley, Cheshire

- 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 Michael Maloney against the decision of Cheshire East Council.
- The application Ref 20/3462M, dated 7 August 2020, was refused by notice dated 18 December 2020.
- The development proposed is Change of use of land for the stationing of caravans for residential purposes for 3 no. gypsy pitches, associated hardstanding and formation of a pedestrian access.

Summary of Decision: The appeal is dismissed.

Preliminary Matters

1. The alleged breach of planning control in the enforcement notice refers to a material change of use to mixed use comprising equestrian use and a residential caravan site. The appellant disputes the existence of an equestrian use, and I am provided with no evidence that there is or has been such a use on the site. This was borne out by my site visit. I therefore propose to omit reference to the equestrian, and therefore mixed, use of the site. The requirements of the notice do not seek to attack this element and I conclude that no injustice would result from this omission.
2. It was also evident that the use, and associated operational developments on the site, had been depicted on 'Plan B' attached to the notice as extending further than was actually the case. The Council provided an amended plan at the Inquiry, in relation to which the appellant did not object. Again, I am satisfied that this plan may be substituted without resulting in injustice (the relevant plan is attached to this decision letter). For clarification the parties agreed that the reference to 'buildings' in paragraphs 3, 5(g) and 5(h) of the notice should be changed to 'sheds'. I have no reason to take a contrary view.
3. Whilst the description of development on the planning application form refers to the provision of three pitches on the site, the appellant has set out that he seeks permission for the siting of up to thirteen residential caravans. I have assessed the proposed development on this basis, which I am satisfied would not result in injustice to the parties.

Appeal A on ground (a) and Appeal B

Main Issues

4. The ground (a) appeal is that planning permission should be granted. The main issues are:
 - Whether the development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - The effect of the development on the openness of the Green Belt and the purposes of including land within the Green Belt;
 - The effect of the development on the character and appearance of the area;

- The effect of the development on the living conditions of occupiers of the site with specific regard to transport related noise;
- The personal circumstances of the appellant;
- The need for gypsy and traveller sites;
- If the development is inappropriate, whether the harm to the Green Belt by way of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Green Belt

5. Paragraph 137 of the Framework sets out that the essential characteristics of Green Belts are their openness and their permanence. It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 138 notes that the Green Belt has five purposes which include safeguarding the countryside from encroachment; checking the unrestricted sprawl of large built-up areas and preventing neighbouring towns from merging into one another. Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. There is no dispute between the parties that the proposal would amount to inappropriate development. Indeed the Government's Planning Policy for Traveller Sites 2015 (PPTS) expressly states that such sites in the Green Belt are inappropriate development.
7. The assessment of impact on openness is about considering the presence of the development in the context of national policy which seeks to keep Green Belt land permanently open, thus avoiding urban sprawl. This specific assessment is not about the quality of the development, including the suitability of materials used, in itself, or its effect on the character and appearance of the area.
8. The Court of Appeal has confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect¹. The various caravans, sheds and paraphernalia, both at the time the notice was served and in terms of what is proposed, would take up space which was previously free from development.
9. Aside from taking up space, it was apparent from my visit that the development, both as existing and proposed, would be highly visible from vantage points outside the site, notably from Knutsford Road and from a public right of way which passes close to the southwest of the site. I concur with the view that it results in encroachment into the countryside and is therefore in conflict with one of the aforementioned Green Belt purposes.
10. The Council referred in evidence to its Green Belt Assessment Update 2015 (GBA). This assessment classifies the significance of the contribution of various parcels of land to Green Belt purposes. The site falls within the parcel of land identified as that between Knutsford Road and the railway. That parcel is

¹ *Turner v SSCLG & East Dorset Council* [2016]

found to make a major contribution, both in terms of checking unrestricted sprawl and preventing neighbouring towns from merging with one another.

11. However, the developed part of the appeal site, although close to the edge of Mobberley does not adjoin the village. It does not seem to me that the development would result in the expansion of the village causing urban sprawl. Furthermore the site is within a relatively narrow gap separating Knutsford and Mobberley. However, I am not persuaded that the scale of development is such, or the edge of the built-up area of Knutsford close enough, that it gives rise to a sense of these settlements merging. Accordingly, despite the value of the parcel of Green Belt land, the development in itself does not, in my view, conflict with these specific Green Belt purposes.
12. Notwithstanding this, drawing the above considerations together, I conclude that both the existing and proposed development of the site would amount to inappropriate development, which in both forms results in significant harm to the openness of the Green Belt.

Character and Appearance

13. The Council alleges that the development, as existing and proposed, would result in both visual and landscape harm. From my visit it was apparent that the site is situated within a relatively flat landscape of agricultural fields, typically bounded by low fences, hedges and trees.
14. The site is close to the built-up area of Mobberley. It is essentially rectangular and enclosed by an existing line of mature trees along its northeastern boundary with Broadoak Lane. There is a short, informal post and rail fence along the southwest boundary, with the narrower southeast boundary of the developed part of the site open to a grassed paddock. The developed area is surfaced with a dark coloured hardstanding. At present there are several caravans on the site and a number of large construction related vehicles.
15. The key visual receptors for the site are short distance views from Knutsford Road to the south, from the public right of way running across fields to the southwest and from the railway bridge to the north. Whilst the site would be visible to users of the adjacent railway, its visibility would be fleeting, thus tempering its impact from this perspective. The visibility of the site to drivers along Broadoak Lane would also be mitigated to a degree by the presence of mature trees, which serve to screen or filter views along the site's northeastern boundary.
16. Its relatively flat landscape setting and lack of screening means that the site appears prominent in the aforementioned short distance views. The appellant suggests that the public right of way is little used. There is no evidence before me to confirm whether this is the case, but the route is nevertheless a key visual receptor and even if little used at present, this may not always be the case.
17. Though I have no reason to question the quality of the caravans, in their own right, they are typically rectangular and functional in appearance. The uncharacteristic light colouring of the structures ensures that they stand out and draw the eye as stark features, incongruous with their surroundings. The extensive use of hardstanding is also at odds with the greenery of the surrounding area. The effect would be exacerbated by the proposed addition of

further caravans and likely associated domestic paraphernalia, and also to a degree when external lighting is operational.

18. I have considered whether this harm could be mitigated by landscaping measures, recognising that there is no expectation within the PPTS that sites must be adequately landscaped from the outset. However, because of the degree of visibility of the site, it seems to me that despite the additional landscaping measures proposed, these would take considerable time to become effective in assimilating the development. As such the development, both as existing and proposed, results in significant visual harm to the character and appearance of the countryside.
19. The appeal site is within a landscape area characterised as 'Wooded Estates and Meres' within the Council's Cheshire East Landscape Character Assessment 2018, though falls outside the formal Local Landscape Designation for the Rostherne / Tatton Park area. The key landscape characteristics applicable to the site and its immediate surroundings are the flat landform, hedgerows, irregular fields and scattered farms.
20. The development, by its nature, impacts on the historic field pattern. However I am not persuaded that the site and its immediate surroundings are characterised by particularly distinctive landscape features and it therefore seems to me that any landscape harm, in itself, would be very limited.
21. Notwithstanding this, for the reasons set out above I conclude that the development results in harm to the character and appearance of the area. There is conflict with Policies SD 2, SC 7, SE 1 and SE 4 of the Cheshire East Local Plan 2017 (CELP) and with the Framework insofar as they emphasise the importance of good design and seek development to contribute positively to an area's character and protect landscape character.

Transport Noise

22. The appeal site is situated to the southwest of, and in relatively close proximity to, Manchester International Airport. It is in line with the centre line of Runway 2, some 2.5 kilometres away. The end of Runway 1 is approximately 4.5 kilometres away. The site is also adjacent to the Mid-Cheshire railway line, with hourly passenger services connecting Manchester and Chester in the daytime.
23. There is no dispute between the parties that the site would be significantly affected by aircraft noise. Data modelled by the airport in 2019, prior to the onset of the Covid 19 pandemic, indicates that the appeal site is located between the 63 and 66 dB LAeq contours for average daytime noise, and between the 57 and 60dB LAeq contours for average nighttime noise. It is undisputed that the findings of the noise assessment undertaken by the Council's acoustic consultant, Mr Raymond (which also allowed for passing trains) were broadly consistent with the data modelled by the airport. Unsurprisingly though, the current scenario was found to be a little less noisy as the airport continues to open up in the wake of the pandemic.
24. Having regard to guidance set out in BS 8233:2014 (Guidance on sound insulation and noise reduction for buildings), there is no dispute that noise experienced within the site would exceed guidelines regarding maximum desirable levels for indoor noise (40 dB LAeq for the daytime and 30 dB LAeq

- for the nighttime) and also for external amenity spaces, which ideally should not exceed 55 dB LAeq for noisier external environments.
25. With regard to national policy, the Framework states that new development should be appropriate for its location, taking into account the effects on health and living conditions. Unchallenged evidence was heard at the Inquiry that continuous exposure to excessive aircraft noise is associated with a greater risk of annoyance, sleep deprivation and impairment of learning in children and with serious long term physical and mental health disorders.
 26. The Noise Policy Statement for England (NPSE) sets out the aims of avoiding significant adverse impacts on health and quality of life and mitigating and minimising adverse impacts. It refers to the threshold points of the 'Significant Observed Adverse Effect Level' (SOAEL) and 'Lowest Observed Adverse Effect Level (LOAEL), with the aim of avoiding noise levels above the SOAEL and mitigating noise levels where possible between the LOAEL and SOAEL.
 27. Having regard to Mr. Raymond's and Ms Evan's acoustic evidence, a conservative reading would indicate that, in relation to aircraft noise, LOAEL equates to levels of 52dB LAeq (daytime) and 45dB LAeq (nighttime) and that SOAEL equates to 63dB LAeq (daytime) and 55dB LAeq (nighttime). I am also mindful of undisputed advice published by the World Health Organisation (WHO) that aircraft noise levels averaging above 45db, and above 40db specifically at nighttime, are respectively associated with adverse health effects and effects on sleep.
 28. Because of its nature it would not be possible to use acoustic screens to attenuate aircraft noise. Having regard to the above, the degree of impact is likely to be significantly adverse in terms of the use of external parts of the site, which would not benefit from insulation.
 29. There was also consensus that the insulation properties of the caravans would not be as effective as bricks and mortar. The appellant does not take issue with the reports of the Council's and Rule 6 party's acoustic expert witnesses, and there is a lack of evidence to persuade me that mechanical means can be relied on entirely to provide adequate ventilation. Therefore with windows open, in recognition of the likely need to provide effective ventilation within the caravans, whilst also having regard to BS 3632:2015 (Residential Park Homes Specification), the most conservative estimates provided by the acoustic experts at the Inquiry suggested attenuation of some 10.4db. This would not be sufficient to provide the requisite levels of noise inside the structures, in accordance with BS 8233:2014; in terms of WHO recommendations to avoid adverse health effects, both in the day and at night and also in recognition of the LOAEL threshold, at least when applied against the pre-Covid levels of daytime noise.
 30. The parties do not dispute that, having regard to the data before the Inquiry, the development would be in a location where noise levels would be likely to result in adverse effects on health and quality of life. The parties agreed that, on the basis of the noise data, the development would not be acceptable in this location, having regard to levels of aircraft activity both in the pre-Covid and present 'opening up' scenarios.
 31. I have had regard to the appellant's representations that they do not feel bothered by the presence of aircraft activity, and are comfortable living in that

environment; also that they feel parents know best for their children and that they would rather put up with aircraft noise than live on the roadside. I understand and sympathise with that sentiment, however I am mindful that, in light of the pandemic, the appellant has not yet been exposed to the airport returning to full operational capacity, and therefore increased levels of aviation noise. Furthermore, adverse health impacts can be gradual and progressive and are not always perceptible and I find no compelling reason to set aside and ignore the aforementioned link between excessive noise and long-term adverse health.

32. I conclude that the development would result in harm to the living conditions of the site occupiers in terms of the effect of transport noise within external and internal parts of the site. On the basis of the evidence before me I find that this impact is relevant both now, as airport activity continues to expand in the wake of the pandemic, and inevitably as the airport returns to full operating capacity, which I have no reason to doubt will be in the near future. Accordingly there is conflict with the Framework, the NPSE, Policy SE 12 of the CELP; with Saved Policies DC14 and T18 of the Macclesfield Borough Local Plan 2004 and with Policy ENV 13 of the Council's Draft Site Allocations and Development Policies Document (SADPD) insofar as they seek to safeguard living conditions and avoid the adverse impact of noise pollution where adequate mitigation cannot be provided.

Intentional Unauthorised Development

33. In accordance with government policy, 'Intentional unauthorised development' (IUD) is a material consideration to be weighed in the determination of planning applications. The Council has referred in its case to the appellant ignoring Court injunctions which sought to limit the unauthorised development on the site. It therefore considers that this factor should be afforded significant adverse weight. The appellant does not dispute that injunctions were ignored and that IUD has occurred. I have been provided with no compelling reason to give anything other than significant weight to this consideration.

Personal Circumstances

34. Article 8 of the Human Rights Act 1998 states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial.
35. I am also mindful that Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children.
36. Furthermore in exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity. The Act recognises that race constitutes a relevant protected characteristic for the purposes of PSED. Romany Gypsies and Irish Travellers are ethnic minorities and thus have the protected characteristic of race.
37. The appellant seeks to live on the site with his extended family. His immediate family are his wife and four children. The extended family would include his

- elderly mother and sister (who is the main carer for his mother), along with four other siblings and their respective families. There would be a significant number of children living on the site, related to the appellant and his various siblings, with a number having been offered school places in the local area.
38. From the evidence given to the Inquiry, the background to the appellant's arrival on the site was driven by very difficult personal circumstances which involved feuds between and within families. This has manifested itself in terms of personal conflict between individuals and damage and destruction to property.
39. The fact that a serious dispute with another traveller family led to the appellant losing his home and possessions at the site where he used to live in Essex is undisputed. This must have been a traumatic experience and it is understandable that the family has no desire to return to that site.
40. Whilst the appellant's brother's family were previously accommodated in traditional housing, it appears that this was more a matter of necessity rather than choice, because of a lack of available alternatives. It also appears that that family became victims of the same dispute, with the house in question subsequently being vandalised. It would be easy to say that part of the answer is for this family to return permanently to traditional housing. However, the Council confirmed at the Inquiry that the traveller status of the site occupiers is undisputed and Government policy as expressed within the PPTS is to facilitate the traditional and nomadic life of travellers. This would not be consistent with providing bricks and mortar accommodation. Evidence given to the Inquiry was that the family were not seeking to return to traditional housing.
41. I have no reason to doubt that two of the appellant's siblings and their immediate families, who are intending to join the appellant at this site are currently living in overcrowded conditions at a site in Romford; or that a further sibling has no desire to relocate to be with other family members in Ireland.
42. Notwithstanding these undoubted very difficult circumstances, when considering the bare facts, it is difficult to escape the conclusion that the development of the site in this case, insofar as it relates to the appellant's personal circumstances, is more a matter of personal preference than absolute necessity, understandable though the reasons behind this may be.
43. However undesirable a return to the appellant's Essex site may be, it seems to me that this site would at least provide a degree of security, arguably more so than the alternative of living on the roadside, and would appear to remain physically available for occupation. Furthermore, even having regard to the 'Threats to Life Warning Notice', submitted as supporting evidence, an argument that the existing site would be more secure than the Essex site, in the long-term, is not compelling.
44. In addition, the appellant's sisters, who propose to join the appellant at the appeal site with their respective families, are currently based at a site in Romford. I am unfamiliar with the detailed circumstances of that site, however whilst living conditions there may not be ideal, I have no reason to doubt that the site does at least provide a settled base and that there is no imminent threat of eviction.

45. It is also the case that whilst some of the site occupiers have adverse health issues and would require care, other than care administered by family members this appears to take the form of regular check-ups. There is no reason to believe that such levels of care would not be available in other locations or that there are any particular health benefits available from being located at this specific site. On the contrary, the aforementioned evidence with regard to the impact of aircraft noise leads to the conclusion that remaining on the site would be detrimental to health.
46. For this reason, and notwithstanding that there would be the benefits of a settled base for social and educational development and that some of the children are in school, on balance I consider that continuing to live on the site would not be in the best interests of the children.
47. However, turning to the circumstances of the appellant's brother's family, for the above reason I am not persuaded that a return to bricks and mortar is a realistic alternative solution in the long term. Furthermore, the argument that the appellant's sister could relocate to Ireland, albeit with relatives, when this would be against her wishes, is somewhat facile. A potential alternative site for the appellant's mother and her carer is also uncertain at this stage.
48. Notwithstanding the benefits of living together as a large extended family for mutual support, I am mindful that the various families proposing to occupy the site have not always lived as part of such a large cohesive group. Drawing the above considerations together I find that there is evidence of need for pitches to accommodate some, but not all, of the families either present on or proposing to occupy the site, when considering the circumstances of the extended family as a whole. This must temper the weight that I give to personal circumstances, in favour of the development, in this case.

Need for gypsy and traveller sites

49. Paragraph 7(b) of the PPTS states that local planning authorities should prepare and maintain an up-to-date understanding of the likely accommodation needs of their areas over the lifespan of the development plan. The PPTS states that local planning authorities should identify, and update annually, a 5-year supply of specific deliverable sites.
50. In terms of need, the Council's most recent Gypsy and Traveller Accommodation Assessment (GTAA) was produced in 2018. This identified a need for 32 additional permanent pitches in Cheshire East up to 2030, for those complying with the PPTS definition of gypsy and traveller status. The Council's SADPD makes provision for some 45 permanent pitches. Whilst the Council accepts that it is currently unable to demonstrate a 5-year supply of deliverable sites, it considers that this position is likely to be remediated in the short-term (coming months) following the forthcoming adoption of the SADPD.
51. The appellant raises the concern that the GTAA process overlooked a significant number of households who were not interviewed regarding need; also that other households currently occupy overcrowded sites in the District. He therefore disputes whether the true level of need has been identified correctly. He also states that there is an over-reliance on established sites in terms of where new pitches are proposed.

52. However, I have had regard to the Examining Inspector's post Hearing comments regarding key issues in relation to the emerging SADPD. This advice was issued in late January 2022. Therein the Inspector expressed the views that the 2018 GTAA provides a robust and up to date assessment of need in Cheshire East and that a small buffer in relation to the allocations and commitments, together with criteria-based policies, to provide for future unknown need appeared to be consistent with national policy. A supply of 40 permanent pitches for the period 2017 – 2030, comprising permissions granted since the baseline date of the GTAA and proposed allocations was identified.
53. When considering that the GTAA was carried out relatively recently, that the need for and supply of sites has been tested as part of the recent examination of the emerging SADPD, and also that I have not been presented with any better evidence of need, I consider the above to be a reasonable and robust expression of supply of and need for sites in the District.
54. Notwithstanding this, a suitable and available alternative site for those members of the appellant's family who I have found as being in need of one has not been identified at this time, whether in Cheshire East or elsewhere. Even if it might be possible to find a suitable site elsewhere, there is no evidence before me to suggest this is a probable outcome, and it therefore remains indicative of an immediate unmet need for sites in this District.
55. Whilst the Council confirmed at the Inquiry its intention to dispose of a site at Coppenhall Moss, at this stage it is unclear whether or when the appellant may have a chance of obtaining this as an alternative site. I have had regard to the forthcoming adoption of the Council's site allocations document, anticipated to be in the very near future. However, notwithstanding this, I have taken into account the time taken to reach this position and have concluded above that there is currently an unmet need for site provision and a lack of an alternative site(s) to ensure that all family members can be accommodated. Also at present a five-year supply of sites is lacking. These are all factors that weigh in favour of the development.

Other Matters

56. The appellant has referred to the constraint on the search for potential sites imposed by the high proportion of land in the District that is in the Green Belt, not disputed by the Council. However this underlines the fact that each site must be considered on its own merits and does not mean that further preferable sites outside the Green Belt will not be found. Even if Green Belt sites are required in future, it is possible that harm from development there will not be as great as that which I have identified in this case. The relatively high proportion of land that is in the Green Belt does not therefore, in itself, attract weight in the overall planning balance.
57. The appellant also makes the point that the appeal site is in a sustainable location. Whilst this is undisputed by the Council, a lack of harm would carry neutral weight in the planning balance and thus does not weigh in favour of the development.
58. The Parish Council raises the concern that the development has led to increased surface water run-off from the site, which has caused flooding on parts of Broadoak Lane. It is not disputed that water pools on the road, though the appellant refers to a lack of evidence that this is caused by the

development itself, and points to the potential for this to be caused by poor highway drainage maintenance instead.

59. Whilst I acknowledge the desire to resolve this problem, that it is not ideal and that it results in inconvenience to motorists, I am not persuaded that any danger arising from it cannot be resolved by drivers slowing down to address the conditions. Furthermore, had I been minded to grant planning permission, there is no evidence that surface water run-off could not be controlled by a suitably worded condition to address drainage measures. I am also mindful that the Council (Cheshire East) raises no objection to the development on highway safety grounds. I do not therefore accept that this would be a ground to refuse planning permission.
60. Concerns have been expressed about the ecological impact of the development. However I have not been presented with evidence that the development has caused any significant loss of habitat or has threatened any protected species.

Green Belt Balance

61. National planning policy attaches great importance to Green Belts. Therefore when considering any planning application substantial weight should be given to any harm to the Green Belt. The appeal proposals are inappropriate development in the Green Belt. In addition, the residential use and associated structures cause a loss of openness and harm to one of the purposes of including land in the Green Belt.
62. I have found that the development results in harm to the character and appearance of the area and that its unauthorised nature was intentional, both of which are matters attracting significant weight. The occupiers would be adversely affected by aircraft noise, in particular, to which I also attach significant weight.
63. There are considerations which support the appeal. Having regard to advice in the PPTS when considering sites in Green Belt locations, I attach moderate weight to present unmet need for sites including the lack of any alternative site being available now to certain families within the extended group; and also to the present lack of an up-to-date 5-year supply of deliverable sites in the District. I also attach moderate weight to the appellant's personal circumstances.
64. 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 so as to establish very special circumstances. I have balanced the harm to the Green Belt and the other harm identified against the other considerations referred to above. However for the reasons given, having regard to the PPTS, I find that they do not clearly outweigh the harm identified. This is even when considering the best interests of the children who, although benefitting from the advantages of a settled base, would still be adversely affected in terms of aircraft noise.
65. The very special circumstances necessary to justify the development have not therefore been demonstrated. Consequently the proposal conflicts with the Green Belt protection aims of the Framework and with Policy PG 3 of the CELP, which seek to resist inappropriate development in the Green Belt except in very special circumstances in accordance with national policy. On this basis it would

also be in conflict with Policy SC 7 of the CELP which requires the impact on the Green Belt of gypsy and traveller sites to be taken into account. The grant of a permanent planning permission would not therefore be appropriate. Even the appellant's advocate agreed that, in her professional view, a permanent permission could not be justified in this case.

66. For the avoidance of doubt, even if I had found that need for a site extended to the family group as whole, and not just to some of the component families, this would still not have been sufficient to weigh in favour of granting a permanent planning permission.
67. However I also need to consider, by way of alternatives, the possibility of temporary or personal planning permissions instead. I was invited, by the appellant, to consider a temporary permission for a period of 1-3 years. In principle, a temporary permission (personal to the appellant) would serve to reduce the severity of harm identified. This must be the case, because the generation of harmful impacts and duration of exposure to harm would be less than in the case of permanent occupation.
68. However, whilst a temporary permission might assist the family in relocating in the future to an alternative site within the District, by way of 'bridging the gap', I am mindful that the adoption of the Council's site allocations document is expected very shortly, in any event. Furthermore, in this context, it remains open to me to extend the compliance period, should I consider this to have merit. Given the circumstances, I conclude that this scenario still fails to clearly outweigh the harm identified and to justify quashing the notice. Therefore a personal planning permission, limited to a temporary period, would also not be an appropriate outcome.
69. It follows that a temporary planning permission, that was not personal to the appellant would also not be appropriate, as the grant of temporary permission cannot be justified even by the additional weight of the appellant's personal circumstances.

Appeal A on ground (f)

70. The appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. With regard to the unauthorised change of use, in broad terms the objectives of the notice are to discontinue the use of the land and to restore the land to its condition before the breach took place, by removing various works and items. It follows that the purpose of the notice is to remedy the breach in accordance with the provisions of section 173(4) of the Act.
71. The appellant raises the concern that some of the requirements do not tie in with, and appear to go further than simply remedying, the nature of the breach identified in the notice.
72. Firstly the concern is raised that the requirement to cease the use of the building for purposes, and remove materials, unassociated with the equestrian use would go further than what the notice is seeking to achieve. I agree, but consider this can be rectified easily, and without injustice to the appellant, by substituting wording that specifically targets the residential use of the land.
73. The second concern is that some of the requirements refer to removing items, such as materials and toilet blocks; also items inside and services to a pre-

existing building, that are not specifically referenced in the wording of the breach. However I do not consider this to be a significant issue, as it seems to me, without evidence to the contrary, that the items and services in question are connected with and facilitate the breach that has been specified, that is the unauthorised residential use of the land. Again, I am not persuaded that the exclusion of these references within the wording of the breach has caused any prejudice to the appellant's case.

74. Thirdly the appellant states that fencing and gates should be allowed to remain as they do not facilitate the unauthorised use, being similar to what was previously in place. However, the evidence before me does not serve to demonstrate the arrangement is sufficiently similar. The fencing and gates, the subject of the notice, are recessed into the site, and in their present form could be more prejudicial to some future lawful use of the land. The requirement is therefore part and parcel of remedying the breach of planning control.
75. Fourthly the appellant states that it would be unreasonable to require the application of topsoil, as none has been removed. However in this regard I also concur with the Council that the process of removing hardstanding will inevitably involve the loss of and the compaction of a degree of topsoil. It seems to me that some replacement would be necessary to ensure that the land is restored to its previous condition.
76. The ground (f) appeal therefore succeeds to a limited extent.

Appeal A on ground (g)

77. The appeal is that the compliance period falls short of what should reasonably be allowed. I need to balance the public interest in the notice being complied with expeditiously against the private interests bound up in the development. In this regard I am keen to ensure that the extended family are given the most reasonable opportunity to find an alternative solution, in the context of the harm identified. I consider that extending the compliance period to twelve months, with an additional two-month period for the remediation of residual works would amount to the optimum position. The ground (g) appeal therefore succeeds to this limited extent.

Conclusion

Appeal A

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

Appeal B

79. For the reasons given above I conclude that the appeal should be dismissed.

Formal Decision

Appeal A

80. It is directed that the enforcement notice be corrected by the deletion of all the wording describing the breach of planning control in **paragraph 3** and the substitution of the following wording instead: "Without planning permission,

the unauthorised material change of use of land to a residential caravan site together with the associated formation of an area of hardstanding, installation of septic tanks, erection of gates, fences and timber sheds.”; and

With regard to paragraph 5(c), deleting the words “unassociated with the equestrian use of the land” and substituting the words “associated with the residential use of the land” instead; and

With regard to paragraph 5(d), deleting the words “unassociated with the equestrian use of the land” and substituting the words “associated with the residential use of the land” instead; and

With regard to paragraph 5(e), deleting the words “unassociated with the use of the land for equestrian purposes” and substituting the words “associated with the residential use of the land” instead; and

With regard to paragraphs 5(g) and 5(h), deleting the word “buildings” and substituting the word “sheds” instead; and

Substituting the ‘Plan B’ appended to this decision notice.

81. It is directed that the notice be varied by deleting the wording at **paragraph 6** in its entirety and substituting the following wording instead:

“Requirements (a) – (d): 12months and Requirements (e) – (m): 14 months”

82. Subject to these corrections and variation the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

83. The appeal is dismissed.

Roy Merrett

INSPECTOR



Plan

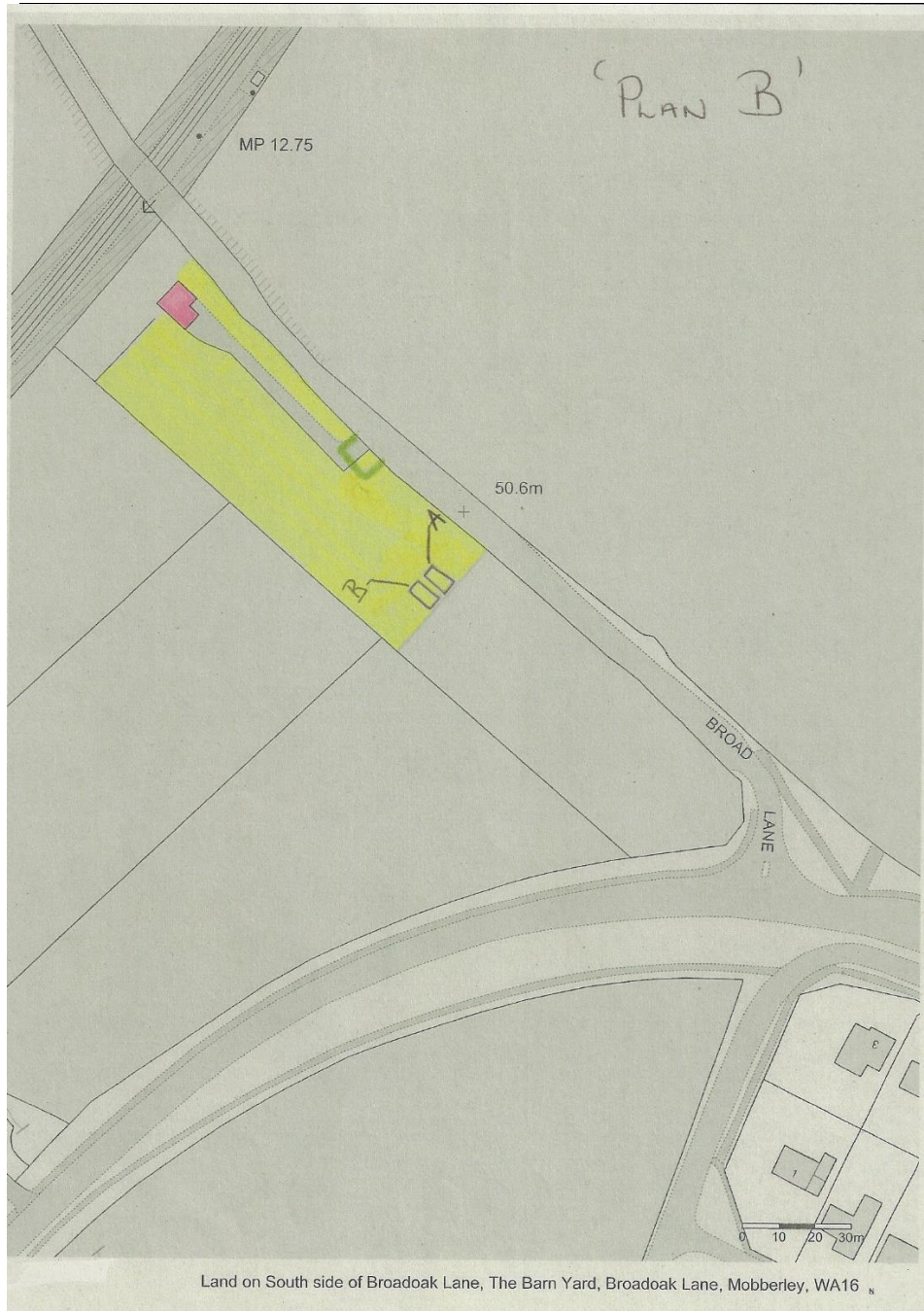
This is the plan referred to in my decision dated: 31 March 2022

by Roy Merrett Bsc(Hons) DipTP MRTPI

Land at: South side of Broadoak Lane, Mobberley, Knutsford, Cheshire WA16 7PR

Reference: APP/R0660/C/21/3268914

Scale: Not to scale



APPEARANCES

FOR THE APPELLANT:

Alison Heine (acting as advocate and witness)

She called:

Sheila Maloney – Appellant's wife

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Henderson of Counsel

He called:

Paul Wakefield – Planning Team Leader

Andrew Raymond – Acoustic Consultant

FOR THE RULE 6 PARTY (MOBBERLEY PARISH COUNCIL)

Freddie Humphreys of Counsel

He called:

Councillor Charlotte Leach

Helene Evans – Acoustic Consultant

INTERESTED PERSONS:

Sally Kendall (Local Resident)

Clive Meyers (Local Resident)

Documents submitted at the Inquiry:

1. Parties opening and closing statements.
2. Amended enforcement notice plan.
3. Cheshire East Local Plan – Policy SC 7 .
4. Letter from Council's Educational Family Support Division.
5. Statement of Common Ground.
6. Council's suggested conditions.

Document submitted following the Inquiry:

1. Gypsy and Traveller site provision note.