The Planning Inspectorate

Appeal Decisions

Hearing Held on 12 & 13 October 2021

Site visit made on 13 October 2021

by R J Perrins MA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 April 2022

Appeal Refs: APP/W3570/C/3238578/579/580/581/582
Woodview, Brockford Road, Mendlesham, Suffolk

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Ms C Gatehouse, Mr T Gaskin, Ms T Gaskin, Mr J Gatehouse, and Mr S Barr against an enforcement notice issued by Mid Suffolk District Council.
- The enforcement notice was issued on 6 September 2019.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of agricultural land for the stationing of a caravan for residential occupation; laying of hardstanding; erection of buildings, siting of a container and formation of new vehicular access off Brockford Road.
- The requirements of the notice are:
  1. Remove the caravans and associated materials and domestic paraphernalia from the land edged red on the attached plan.
  2. Remove the hardstanding and resultant material from the land edged red on the attached plan and the land restored to its former condition as agricultural land.
  3. Remove the buildings and container and all resultant debris from the land edged red on the attached plan.
  4. Permanently 'stop up' the vehicular access on the land edged red on the attached plan by removing the fence, gates and lights from the land and planting a native hedgerow comprising a mixture of hawthorn, hazel, blackthorn and field maple in a double staggered row at a minimum distance of 60mm between the rows; and a maximum of 450mm between the plants; and protected with a spiral guard; supported with a bamboo cane; and planted through a mulch mat.
- The period for compliance with the requirements is 3 months.
- The appeal by Ms C Gatehouse 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. The appeals by Mr T Gaskin, Ms T Gaskin, Mr J Gatehouse and Mr S Barr are proceeding on the same grounds save for ground (a); as the prescribed fees for ground (a) have not been paid within the specified period, in respect of those appeals, the applications for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Decisions

1. It is directed that the enforcement notice be corrected; by the substitution of the plan annexed to this decision for the plan attached to the enforcement notice; by the addition of the words "used for residential occupation" after the words "Remove the caravans" in requirement 1 of the notice; and by deletion of the words "the land restored" from requirement 2 of the notice and the substitution therefor of the words "restore the land". Subject to these corrections the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made

under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the change of use of agricultural land for the stationing of a caravan for residential occupation; laying of hardstanding; erection of buildings, siting of a container and formation of new vehicular access off Brockford Road, on the land shown edged red on the plan annexed to this decision, and subject to the conditions set out in Annex A to this decision.

2. No further action is required in respect of the appeals on grounds (f) and (g).

Preliminary & Procedural Matters

3. Woodview is one of a several Gypsy and Traveller sites along this section of Brockford Road near the village of Mendlesham. The Council have served eight enforcement notices which have resulted in numerous appeals[1] concerning eight adjoining plots where occupants and owners are either related or are well known to one another and, save for one appellant, have employed and retained the same planning agent. With agreement of the parties, all the appeals were heard at the same time with generic issues being dealt with together.

4. I visited all of the sites on the second day with the parties. I also took the opportunity to view the site from the public domain prior to the Hearings and following the Hearings during the hours of darkness. Separate appeal decisions will be issued for each site. Nevertheless, these preliminary matters apply to all the appeals save for where I have set out any particular issues relating to individual plots. Subsequent to the Hearings, the appeal that was not heard along with the others, was withdrawn.

5. Initially appeals were being advanced on all grounds of appeal for all of the sites (save for where particular circumstances are highlighted in the respective decisions). However, it was agreed at the Hearings that the appeals on grounds (b), (c), (d) and (e) were generally founded on the growing of grass. That matter had arisen largely because of previous, and now withdrawn, enforcement notices that were served on the same plots and referred to the growing of grass.

6. Although, save for one of the notices, the reference to growing of grass has been removed. The parties agreed, in respect of Two Oaks and the plot known as One Acre Stables, where reference to removal of grass in the requirements subsists, that if I were to amend the notices to delete the reference to growing of grass no prejudice would occur. I saw no reason to disagree with that view and informed the Hearings that I would proceed on that basis. In that light all of the appeals on grounds (b), (c), (d) and (e) were withdrawn.

7. In addition, given the time that has passed since the enforcement notices were served, it was agreed that the plans attached to the notices were generally inaccurate. Given the lack of mapping data available for the plots, erection of fences and movements of boundaries between plots over time, the lack of accuracy cannot be criticised. It is nevertheless incumbent upon me to ensure the notices are right. The parties agreed that new plans were required, and the Council submitted an agreed new plan for each plot. I am satisfied that correcting the notices by replacing the plans would also not lead to any prejudice. In the interest of accuracy, I shall also add reference to the residential use of the caravans in requirement 1 of the notice, to reflect the use

[1]APP/W3520/C/19/3238574/575/576/577/578/579/580/581/582/589/590/591/593/594/595/596/597/ 598/600 & 601

alleged and amend the wording in requirement 2 of the notice such that it is grammatically correct. To do so would also not lead to nay prejudice.

8. The appellant has expressed concerns regarding the Council's Scheme of Delegation and the service of the previous notice. However, as set out in my first pre-hearing note, the appeals before me are in respect of the September 2019 notices, not those withdrawn. Moreover, and in any event, the judgment in *Britannia Assets (UK) Ltd v SSCLG* [2011] EWHC 1980 (Admin) sets out that the proper course to challenge the issue of an enforcement notice is by judicial review. It is not a matter for my deliberations.

9. There is no dispute that the intended occupiers would currently fall within the definition of gypsies and travellers[2] as set out in the glossary to Planning Policy for Traveller Sites (PPTS), such that this is a relevant material consideration in the determination of the appeals. I have determined the appeals on this basis. The starting point is therefore whether the sites are suitable, in principle, as a gypsy and traveller site for occupation by persons meeting the PPTS definition.

The appeal on ground (a)

Main issues

- The effect of the development on the character and appearance of the countryside location.
- Whether the development would comply with planning policy which seeks to steer new development away from areas at the highest risk of flooding.
- Whether the appeal site is situated within a sustainable location.
- whether there are any other considerations to outweigh any harm identified.

Reasons

Character and appearance

10. The site is within open countryside to the east of Brockford Road a rural but busy road leading to the A140 from the nearby village of Mendlesham to the south-west. To the north is an existing caravan park, farm and a small number of individually styled large, detached dwellings in generous plots. Further dwellings can be found to the south-west along with the Grade II listed building Mendlesham Manor.

11. The road frontage is predominantly open countryside, hedgerows and mature trees providing an attractive green corridor. A public right of way leads from the southern end of Brockford Road, near to Mendlesham Manor, to the village. The right of way is accessed near to the junction of Brockford Road with an unnamed road which bridges over the River Dove and leads east to the A140.

12. The rear boundary of the plot is defined by the River Dove and adjoining plots share the north and southern boundaries. At the time of my visit the site was well-maintained with a mobile home and sheds towards the front of the site on a large area of gravelled hardstanding. A short drive flanked by two areas of

[2] Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

fenced grass leads to an area to the rear, fenced off with close boarded fencing, containing various kennels and a shipping container. Close boarded fencing runs along all boundaries. Laurel hedging and soft landscaping can be found within the site along with low and high level close boarded fencing.

13. Policy H7 of the Mid Suffolk Local Plan 1998 (LP) and Policies CS 1 and CS 2 of the Mid Suffolk LDF Core Strategy 2008 (CS) set out a settlement hierarchy and seek to protect the landscape quality and character of the countryside for its own sake, by restricting development in the countryside to that which is essential to the efficient operation of agriculture, forestry and appropriate recreation. Policy CS 5 sets out that all development will maintain and enhance the environment and local distinctiveness of the area.

14. The caravans, sheds, kennels, domestic paraphernalia, car parking, extensive hardsurfacing and close boarded fencing are at odds with the countryside location and wider rural landscape. The change of use has harmfully impacted the visual amenity in the locality, introducing development where none existed. Views are readily available from the public domain where the site is a stark contrast to the surrounding countryside, leading the viewer to question how it came to be.

15. To that end PPTS Paragraph 26(d) encourages not enclosing a site with so much hard landscaping, high walls or fences that the impression is given that the site and its occupants are deliberately isolated from the rest of the community. This implies that sites should not be completely hidden and some degree of visibility is to be expected. The fencing and gates are at odds with that, giving the impression that the site (along with the other unauthorised plots) is isolated from the nearby community.

16. Whilst I recognise landscaping would, in time, screen the close board fencing, it would remain an unnatural form in this rural setting. I also accept the site could be reconfigured, as set out below, but that would not overcome the harm I have identified; incongruous development would still prevail in a location where there was no development previously. I accept that landscaping secured by way of condition may reduce that harm, however, there is nothing before me to suggest such landscaping could be accommodated within the site and outside of the flood plain (as discussed below) in any event.

17. Alongside that, and notwithstanding the arguments advanced on site, I am not convinced, given the lack of any accurate drawings, that there would not be significant tree and/or hedgerow removal as a result of instigating the sight lines required to ensure long-term highway safety. Such removal would compound the harm to the character of the rural lane.

18. For these reasons, I find the development has resulted in unacceptable harm to the character and appearance of the countryside location. That is at odds with the aforementioned policies of the LP and CS along with the National Planning Policy Framework (the Framework) which seeks to avoid isolated homes in the countryside. In addition, the PPTS is clear in that sites enclosed by landscaping and fences should not be given weight in consideration of applications.

19. In addition to the effect during the day, at night the site contributes to light pollution in a location, which I saw from my night-time visit, should be intrinsically dark. It is particularly noticeable when views are taken from the unnamed road to the south. That is also at odds with the Framework which

seeks to limit the impact of light pollution from artificial light on intrinsically dark landscapes. Whilst I recognise there are lights from nearby dwellings and other property that does not justify further light pollution. I am also not convinced a planning condition for a lighting scheme, given the amount of development that needs to be lit, for safety alone, would reduce the harm by any significant amount.

20. These matters in combination weigh significantly against the change of use. I come to that view recognising that Policy CS 2 of the CS also refers to a rural exception housing and includes sites for Gypsies and Travellers and travelling showpeople. Nevertheless, it is clear from the CS that such exceptions would only be permitted in exceptional circumstances and where development cannot be met in a more sustainable location. Moreover, there is nothing before me to suggest the site has been identified as such as part of the development strategy.

Flood Risk

21. Policy CS4 of the CS sets out that the Council will support development proposals that avoid areas of current and future flood risk. That is reflected in the Framework which sets out that inappropriate development in areas at risk of flooding should be avoided and where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

22. There was some dispute regarding where the flood zones are in relation to the site. To that end the Council accept that the wrong plans were used initially. However, the Environment Agency (the Agency) appeared at the Hearing with an updated position founded upon updated information including the River Waveney and Tributaries Hydrology Report (2021), Waveney Report – Hydraulic Modelling Report (2021) and Draft Model outlines for Brockford Road, Mendlesham.

23. Before I address that updated position, I recognise that there has been some confusion over various drawings and plans used to determine the flood zones. It has been acknowledged that maps dated 11 April 2019 were incorrect. However, I see no reason to disagree with the Agency's view that the only difference between their flood maps, and that of the Council's, is that the latter includes the factor of climate change. That precautionary approach follows the requirements of the Framework, when looking at the sequential test, to take into account all sources of flood risk including the current and future impacts of climate change. In that light the Council's maps use the Agency's modelled flood outlines, including climate change, and are a representation of future flood risk.

24. Furthermore, as set out by the Agency, when providing consultation advice to the application, the Agency only commented on present day flood risk. However, the Council are correct to consider the climate change flood outlines when determining the future flood risk to the site and applying the Sequential Test to applications for development.

25. Against that background the appellant has produced calculations for flow rates and their own flood data based upon a drone topographical survey which, in the appellant's view, suggests that the land would not be subject to fluvial flood risk and banks are sufficiently high such that there would be no

overtopping. I accept the levels shown on the topographical plan submitted for the site show higher datum points nearer to the river.

26. I have also considered the drawings submitted by the appellant which would move part of the existing the development to what they consider to be Flood Zone 1. That is to say within an area of land 35m from the road. However, the Agency evidence contradicts that, along with submitted photographs of flooding. Whilst it's suggested that the flooding shown was as a result of the Dove being dammed further downstream, the appellant accepted that there was flooding on lower parts of the land. In addition, the incident report concerning the conifer trees is inconclusive and does not suggest that the conifers caused damming of the Dove as suggested. There is no corroborating evidence that they were causing any issue with flow. Also, what I saw on site with regards to the lie of the land, and differences in vegetation growth on a number of the adjacent sites, point to the flood zone being much closer to the road.

27. Furthermore, whilst I recognise the appellant's agent has experience and background in modelling in the Telecoms industry and such knowledge is transferable, the evidence submitted by the appellant has not been tested with any rigour. Whilst the same could be said for the Agency's evidence, there is some inevitability, given the very nature of the Agency, the professional standing of their officers and experience in such matters, that I place greater weight upon it.

28. I have no reason to doubt the Agency's witness who confirmed that the modelling used for their reports and updated position is based upon the best available information they have, including new LIDAR data. Whilst not site specific, the reporting is a valid and adopted approach. Any level of uncertainty is modelled, and reports are to industry standards and recognised by insurers and all involved in managing flood risk.

29. Overall, therefore, whilst the Agency's position has changed from that when consulted on the planning application made in 2019 (ref:DC/19/01326), the Agency's evidence can now be summed up in the statement made at the Hearing. Namely, had an application been made for the development as built, the Agency would have recommended refusal because of the risk of flooding. I see nothing of any weight to bring me to a different view. I say that given the draft Waveney Model Outlines for Brockford Road which show the majority of the land in the 5% (1 in 20) annual probability flood outline, and therefore Flood Zone 3b Functional Floodplain.

30. To corroborate that, I also heard from the Agency's Flood & Risk Enforcement Officer who was of the view that there was no evidence that the river had been deliberately dammed and that there were frequent reports of the land flooding. He was confident that was a regular occurrence. The new modelling suggests that flood Zone 3 is as close as 10m to the road in some parts along this section of the River Dove. Indeed, the Environment Agency originally considered, when responding to the appellant's 35m assertion, that flood zones came to within 19m of the road and predominantly within 25m prior to the newer data becoming available. In addition, he pointed out that much of what had been constructed within 8 metres of the river including re-profiling of the land, fencing and buildings, had been done without a permit and had led to environmental harm, that was unchallenged.

31. All of these factors lead me to the view that a large part of the site is in Flood Zone 3. The Planning Practice Guidance (the Guidance) also sets out that that caravans, mobile homes and park homes intended for permanent residential use are classified as being highly vulnerable in terms of flood risk. In addition, that a Sequential Test should be carried out in order to steer development away from the areas at high risk of flooding. A Sequential Test not been carried out and I am unable to consider flood risk any further in respect of the change of use.

32. Therefore, I must find, the development is at odds with Policy CS4 of the CS and the Framework which is clear in that inappropriate development should be avoided by directing development away from areas at highest risk. This is a matter that weighs very significantly against the development.

33. In coming to that view, I have considered the alternative layout put forward by the appellant which would retain all of the built development within 35m of the road. Whilst I am not convinced, as set out above, that Flood Zone 1 extends to such a distance into the site, even if I were to accept that on its face, and the development was all relocated into that area, such a scheme would not overcome the other harm I have found to character and appearance and highway safety. Furthermore, I am not satisfied, given the limited space, that such a scheme would be able to accommodate all the needs of those on site without leading to such cramped conditions that the living conditions of those occupying the site would be unacceptably harmed. I say that noting that the current sheds, kennels and storage buildings nearer to the river are not accommodated within the proposed layout.

Sustainable location

34. There is no dispute that the site is within 2kms of nearby services in a location away from any settlements. Whilst 2kms is within walking distance for many, the route to the village is not easily accessible by foot because of the lack of footpaths and street lighting along the road. That also applies to the access to the garage and general store to the north. There is nothing before me to suggest that readily accessible public transport is an option either. Occupiers are therefore likely to be reliant on the car as the main mode of transport.

35. The appellant points to some 20 planning applications made to the Council over recent years. It is clear from that list and the appended application details those new dwellings have been given planning permission and access to nearby services given as a reason to approve the application. For example, in 2018 permission was given for *a change of use of the land and siting of up to 10 residential caravans*; *erection of fencing* at The Caravans Brockford Road. The officer report for that site, to the north of the appeal site, refer to the location as part of the considerations regarding sustainable development.

36. Planning application ref: DC/18/02002 at The Laurels Brockford Road for *use of land for the stationing of mobile home, creation of gravel drive and shared vehicular access* was given planning permission in 2018 without reference, it seems, to the locations being sustainable or not. The officer report of a 2016 permission at Latin Hall, Brockford Road ref:3084/16 for *erection of 2 no. dwellings including associated works* refers to the location (south of the appeal site) and states: '..the distance necessary to traverse without benefit the defined pavement is relatively minor to that extent it would not be a justifiable

reason for a refusal of planning permission'. That same report also refers, at that time, to an inability to demonstrate a 5-year land supply of housing.

37. The other sites also have various reasons as to why they were granted planning permission. Looking at the three I have highlighted I note that two of the sites were closer to the village than the appeal site and The Caravans had an extensive planning history. Whilst I can understand the appellant may be frustrated by what appears to be contrary decisions, all of the planning decisions flagged will have taken into account any number of considerations that may, or may not, be similar to the deliberations for this appeal. It seems to me that the much-rehearsed planning adage that each case must be decided upon its own merits applies once again in this case.

38. Furthermore, the appellant has not set out in any detail the number of vehicles that would use the site, the frequency of trips which, given the number of occupiers on site, would be a good number of trips over and above that associated with a nomadic lifestyle. At the Hearing I heard that an average number for all of the sites subject of the current appeals generate on average six vehicular trips per day but there is nothing before me to corroborate that figure.

39. The PPTS anticipates the likelihood of rural sites in the countryside and the Framework recognises that opportunities to maximise sustainable transport will vary from urban to rural areas. However, there will inevitably be an increase in vehicular movements which is at odds with Policy CS10 of the CS which seeks appropriately located sites and Policy H7 of the LP which places strict control over proposals outside of the settlement boundary. It would also be at odds with the core principles of the Framework that seek to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.

40. I have also considered Policy CS 2 of the CS which refers to development in the countryside and amongst other things that rural exception housing including sites for Gypsies and Travellers and travelling show people. However, there is nothing before me to corroborate the view that the site falls to be considered as an exception site as set out in the development plan.

Other matters

41. The appellant has referred to a number of matters centred on the reasons for refusal of the planning permission that was sought and refused (ref:DC/19/01326) which preceded the issuing of the enforcement notice. Those matters included the design and layout of the plots and there being insufficient information to demonstrate acceptable living conditions for occupiers or if there would be sufficient space for landscaping and amenity space.

42. Whilst I recognise the revised drawings submitted seek to address those points, with particular regards to the amount of land available outside of Flood Zone 1, these matters did not form part of the reasons for issuing of the enforcement notice or the Council's subsequent appeal submissions. I have not therefore considered those design aspects further. I have in any event covered the amount of land potentially available with regards to flood risk above.

43. The Council raise no particular concerns regarding highway safety. Further, I have no reason to doubt the views of those who occupy some of the caravans along this section of road, that the presence of those occupying the caravans, has added to the personal safety of those children using the highway. Furthermore, the traffic count supplied by the appellant was undisputed and whilst it is unclear what the speed limit is over the entire length of the road I accept that the Highway Authority is satisfied that there would be no harm to highway safety, provided sightlines were agreed and implemented by way of planning condition.

44. However, with regard to highway safety, the matter of sightlines was discussed on site which raised some concerns. Namely, without any accurate plans depicting vegetation, it seems that the consideration of sightlines has not taken into account, in any detail, the trees and shrubs on the road frontage. The officer report, to the original planning application, refers to roadside vegetation and from what I saw on site, there seems to be some inevitability that such sightlines would require the removal of shrubs and mature trees. That would lead to further unacceptable harm to the character and appearance of the locality and adds further weight against the change of use.

45. I have considered all of the large number of documents, plans, drawings, references to judgements and extracts from various documents submitted by the appellant but find nothing to alter my findings on the main issues.

Other considerations

Need

46. At the Hearing there was some discussion around the issue of need for gypsy and traveller sites within the district. The *Gypsy, Traveller, Travelling Showpeople and Boat Dwellers Accommodation Needs Assessment (ANA) for Babergh, Ipswich, Mid Suffolk, Suffolk Coastal and Waveney* (GTAA) was commissioned by the Council and published in 2017 to provide evidence to support the need for permanent and transit sites and moorings for the period 2016-2036. The data therein was gathered through interviews with available site occupiers.

47. The GTAA identified that Mid Suffolk needed 9 extra pitches up to 2036. The *Babergh and Mid Suffolk Joint Annual Monitoring Report 2019-2020* identified 88 pitches in the district. Taken on its face that report indicates the need has been met. However, the appellant maintains the GTAA is not a true reflection. The agent has submitted extensive evidence as presented to the examination of the Mid Suffolk Joint Local Plan. In brief that sets out that the GTAA was flawed and is now out of date. Furthermore, numerous applications have been made to the Council for sites which demonstrates an unmet need.

48. I do not doubt the appellant's agent, who has represented a number of gypsy and travellers at appeals. I also heard first-hand from many of those occupying the unauthorised plots in Brockford Road who told me they would have nowhere to go save for the roadside. That was undisputed. Furthermore, I heard anomalies regarding a number of sites. For example, DunRoamin, a site on Brockford Road, being identified for 21 static caravans whereas in reality, on the ground, that was more like 15 to 18. In addition, the Council did not disagree that there were 17 pitches in Brockford and elsewhere that were not taken into account.

49. In face of the evidence heard, and presented, I also gave the opportunity for the Council (who put forward no policy witness) to provide an updated policy position at the Hearing but none was forthcoming. In fact to that end the Council sought to rely on the policy position "which is to be taken on its face". There is some inevitability therefore, that I find a lack of confidence in the GTAA figures being an accurate reflection of the current need.

50. In coming to that view, I note the Council's submission that whether or not there are sufficient sites should not matter and the officer's view that a lack of sites does not justify occupation of high-risk sites as is the case here. However, that does not exclude the Council from considering such matters outside of a policy vacuum, as they inevitably must form part of the overall balance.

51. Thus, I find the need for additional pitches in the district to be a matter that attracts significant weight.

Alternative Sites

52. The Council have no control over sites in the District as they are all privately owned. However, the Council is reviewing its landholding with potential opportunities for a short-term transit site although no timescales or potential outcomes are put forward. Alongside that I am informed that many of the existing sites are contaminated sites on contaminated land and no sites are available. That view was corroborated by one of the current occupiers at Brockford Road who set out, in some detail, how over a period of two years he had sought a site in the locality to be close to the hospital but to no avail. That was undisputed by the Council who identified no alternative sites save to say that Council housing would be available if required.

53. I also heard from a Parish Councillor who set out that the Parish Council valued their relationship with the Gypsy and Traveller community. Whilst there was nothing specific within the Mendlesham Neighbourhood Plan regarding the provision of an exception site, the Parish Council recognise that the plan, which was due to be reviewed, may change in respect of provision. Although any modifications could take up to 18 months.

54. Furthermore, I was informed that the County Council were resurrecting their review of gypsy and traveller sites and sites could come forward in the future. Although, this was very much at discussion stage with no timescales. Whilst both of these matters indicate potential for more sites coming forward inevitably, without any specific evidence or timeframes, they carry little weight.

55. Overall, there is nothing before me, or from what I heard, that places any certainty on how the immediate needs of those requiring a gypsy and traveller site are going to be met or any timetable for addressing a longer-term solution.

56. This lack of suitable available alternative sites also carries great weight.

Personal Circumstances

57. It was confirmed that the site is currently occupied by two adults (Mr and Mrs Gaskin) who need a registered address for health care and to live close by to access those services. The alternative of roadside living would not be appropriate given their current circumstances. These facts were not disputed, and I therefore attach considerable weight to the personal circumstances of the appellant and his family.

58. However, save for Mr & Mrs Gaskin I have no detail as to the whereabouts of any others with an interest in the land (such as all of those pursuing the ground (f) and (g) appeals) and I must give their personal circumstances no weight. No evidence was proffered that they would be homeless if caravans, beyond that which I saw on site, were not secured. Whilst the alternative scheme shows four caravans, no evidence as to the personal circumstances of those who may occupy additional caravans has been submitted. Moreover, given they have no ground (a) appeal it is not for me, as set out elsewhere, to consider an alternative scheme to that which has been enforced against. In that light, I have only considered the needs of those currently living on site and any permission will reflect that.

Balancing exercise

59. I have found the development has resulted in unacceptable harm to the character and appearance of the countryside location. That is at odds with the policies of the LP and CS, along with the Framework and PPTS. Given the extensive nature of that harm, including the effect at night, it must carry significant weight. The same applies with regards to flood risk which also ways significantly against the development. The matter of the location of the site and reliance upon the car also weighs, albeit less than significantly, against the use for residential occupation.

60. Matters weighing in favour include the need for the site both generally and personally. That is in the face of a lack of supply and uncertainty around the future supply of sites. I also recognise the unmet need is not certain to be met in the immediate future. These matters in combination carry considerable weight. However, overall, in relation to permanent planning permission, the harms identified are not outweighed by the other considerations raised.

61. However, the considerations in favour of the appeal are sufficient to outweigh the harm on a time-limited basis. Taking account of the site occupiers' personal need for a site, and the lack of any available alternative sites, it is necessary to allow occupation of the site to continue for a sufficient time to allow alternative sites provision to be considered, as suggested, through the Council's Joint Local Plan Consultation, the Neighbourhood Plan review and the potential for the County Council to review their sites.

62. This conclusion is in accordance with traveller site policy and personal circumstances. Therefore, it follows that permission should be granted subject to a temporary and 'personal' condition, so that it is only for the benefit of the appellant and their resident dependents.

63. The occupiers of the appeal site would lose their home if the appeal were to be dismissed. They would also lose their home at some point if permission is granted on a time-limited basis. I recognise that would represent a serious interference in their human rights. However, having taken into consideration the supply of sites and that I am not satisfied in the short term that there will be sites available, it is likely that the occupiers would have to resort to a roadside existence with poor consequences.

64. In addition, the public sector equality duty (PSED) contained in the Equality Act 2010 concerns the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not

share it. Since the site occupiers are Gypsy and Travellers, they have a protected characteristic for the purposes of the PSED. A refusal of permission for the development on a temporary and personal basis, even with the harm I have identified, would not help foster good relations between the appellant and the settled community. Therefore, the PSED adds weight to my conclusion to allow the appeal, but only for a short period because of the harm caused.

65. Thus, granting a temporary and personal permission is in accordance with the law and pursues legitimate aims of protecting the environment and is proportionate to the situation. I shall therefore allow the appeal on ground (a) to the extent that I shall grant a temporary and personal planning permission with conditions limiting occupation to the site occupiers and to three years and requiring restoration of the site similar to that of the enforcement notice requirements. These are necessary in the interests of environmental protection.

66. Given the temporary nature of the permission it would not be reasonable to impose conditions requiring further landscaping or sightlines. However, it would be reasonable and necessary, to protect the character and appearance of the countryside, to limit the number of caravans on the site, prevent commercial activities, limit external lighting, and the erection of further fences, gates and walls. Given the risk of flooding, and even though this a temporary permission, a condition to secure suitable foul and surface water drainage is necessary along with a flood evacuation plan. Conditions to ensure sufficient areas for turning vehicles and bin storage are also necessary. These will both safeguard the environment and the living conditions of those living on site.

67. I recognise the appellant was seeking, in the alternative, a temporary permission of five years but given the likelihood of policy matters regarding the provision of sites being considered in a shorter term I see no justification for any more than three years. That, in my view, would give sufficient time for alternative sites or accommodation to be found.

Overall conclusion on the ground (a) appeal

68. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal on ground (a) and the application for deemed planning permission should succeed for the material change of use, subject to conditions.

69. On this basis there is no need to consider the ground (f) and (g) appeals.

R J Perrins

Inspector

APPEARANCES

FOR THE APPELLANT:	
Stuart H Carruthers	Agent
Mr Gaskin	Appellant

FOR THE LOCAL PLANNING AUTHORITY:	
John Pateman Gee	Area Planning Manager
Simon Bailey	Enforcement Officer
Steven Bell	Solicitor

INTERESTED PERSONS:	
Liam Robson	Planning Advisor - Environment Agency
Sarah Palmer	Flood Risk Management Advisor - Environment Agency
Ali Moseley	Flood & Coastal Risk EO - Environment Agency
Andrew Stringer	District Councillor
Michael Exley	Parish Councillor

DOCUMENTS

1 Index Bundle to Statement of Stuart H Carruthers
2 Highways Consultation Letter dated 1 July 2019 ref:DC/19/02973
3 Refusal of Certificate of lawful Use or Development Ref: DC/21/03571
4 PDU4 Waveney Report Hydraulic Modelling Report July 2021
5 PDU4 River Waveney & Tributaries Hydrology Report August 2021
6 Drawing showing Draft Waveney 2021 Model Outlines for Brockford Road
7 A3 Drawing showing 'river to confluence' and 'river to headwater'
8 Email from Liam Robson to Stuart Carruthers dated 31 August 2021 regarding draft flood outlines plus attachments
9 Schedule of Draft conditions
10 Revised enforcement notice site plan

ANNEX A

1. The use hereby permitted shall be carried on only by Ms C Gatehouse, Mr T Gaskin, Mrs T Gaskin and their resident dependants, and shall be for a limited period being the period of three (3) years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.

2. When the premises cease to be occupied by those named in condition 1. above, or at the end of three (3) years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment (including hardcore and hardstanding) brought on to the land, or works undertaken to it in connection with the use, shall be removed and the land restored to its condition before the development took place.

3. Not including the residential unit to the front of the site, no more than two caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Site Act 1968 as amended, shall be stationed on the site at any one time, comprising no more than one static and one touring caravan.

4. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

    (i) Within 3 months of the date of this decision a scheme for the means of foul and surface water drainage of the site shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.

    (ii) If within 6 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

    (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State

    (iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved site development scheme specified in this condition, that scheme shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

5. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

(i) Within 1 month of the date of this decision a Flood Evacuation Plan (the Plan) for the site shall have been submitted for the written approval of the local planning authority and shall include a timetable for its implementation.

(ii) If within 6 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

(iv) The approved Plan shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the Plan the use of the site will accord with it at all times. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

6. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

(i) Within 3 months of the date of this decision a scheme setting out: external lighting; areas for refuse/recycling bins storage; and areas for parking, loading, unloading and manoeuvring of vehicles, is to be submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.

(ii) If within 6 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

(iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved site development scheme specified in this condition, that scheme shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

7. No external lighting other than that approved under Condition 6 shall be provided without the prior written permission of the Local Planning Authority.

8. No commercial, activities shall take place on any part of the site, including the storage of materials.

9. No fences, gates or walls other than those expressly authorised by this permission shall be constructed.

-END-

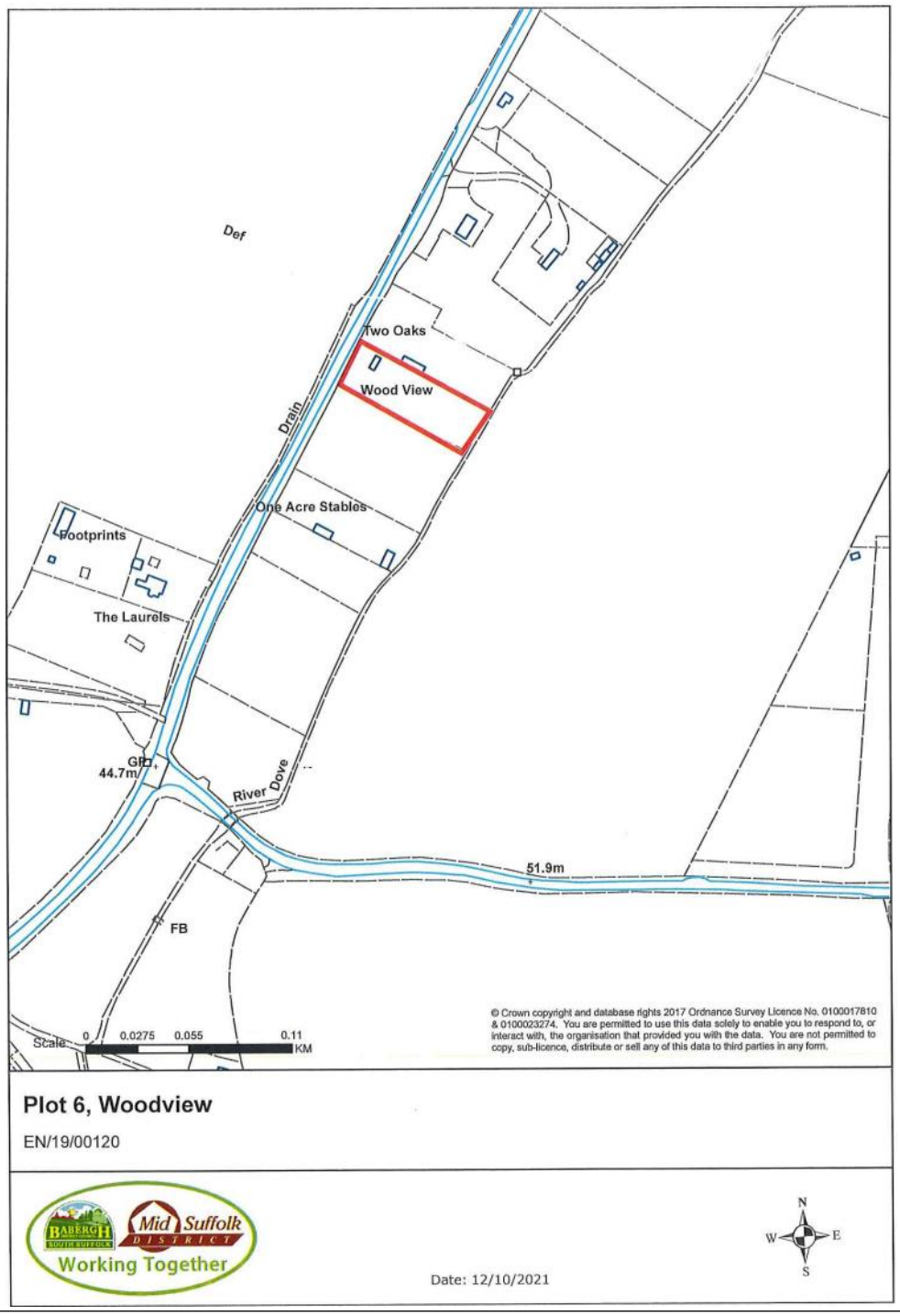
The Planning Inspectorate

Plan

This is the plan referred to in my decision dated: 14 April 2022

by R J Perrins MA

Land at: Wood View, Brockford Road, Mendlesham Suffolk

References: APP/W3570/C/3238578/579/580/581/582

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