
Appeal Decisions

Hearing Held on 19 October 2021 (and closed in writing on 31 January 2022)

Site visit made on 19 October 2021

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 28 April 2022

Appeal Ref: APP/J1915/C/20/3248171 ("Appeal A")

Land adjacent to Long Leys Barn, Fanshaws Lane, Brickendon, Hertford

- 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 Billy Saunders against an enforcement notice issued by East Hertfordshire District Council.
- The enforcement notice was issued on 4 February 2020.
- The breach of planning control as alleged in the notice is without planning permission, (i) the material change of use of the land to a residential caravan site; and (ii) operational development on the Land comprising the creation of an area of hardstanding.
- The requirements of the notice are to:
 - (i) Cease the use of the land as a residential caravan site;
 - (ii) Remove the caravan from the land;
 - (iii) Excavate all the material used to create the hardstanding; and
 - (iv) Following compliance with [the above steps] remove from the land all the resultant debris and restore the land to its condition prior to the hardstanding being created.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: the appeal is dismissed and the enforcement notice is upheld with variations as set out below in the Formal Decision

Appeal Ref: APP/J1915/C/20/3248170 ("Appeal B")

Land adjacent to Long Leys Barn, Fanshaws Lane, Brickendon, Hertford

- 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 Billy Saunders, Emma Gaskin and Thomas Beany against the decision of East Hertfordshire District Council.
- The application Ref 3/19/2099/FUL, dated 15 October 2019, was refused by notice dated 10 December 2019.
- The development proposed is described as 'Site to contain one static caravan, with parking for two vehicles and associated infrastructure (retrospective)'.

Summary Decision: the appeal is dismissed.

Preliminary Matters

1. At the Hearing, none of the appellants appeared. Instead the agent was accompanied by Mr Flynn and Ms O'Leary who stated they were presently in occupation of the site and had been so since 2019.

2. I therefore directed, after hearing from the parties on a number of matters, that the Hearing was to be adjourned in order to allow an exchange of written representations in relation to certain aspects, principally concerning the gypsy or traveller status of the site's occupants, the security of tenure of their occupation, any personal circumstances prayed in aid of a grant of planning permission and any matters relevant to the Appeal A appeal on ground (g). The deadline by which the appellants were to submit any such information was set at 12 November 2021.
3. Additionally it transpired that the registered owner of the land was a limited company, albeit one understood to be connected to Mr Saunders who is one of the appellants. The company had not been served with a copy of either the notice or the planning application. Service of documents was therefore directed to take place.
4. I viewed the appeal site unaccompanied from public vantage points the day before the Hearing took place, and subsequently undertook an accompanied site visit before adjourning the Hearing on site.

Main Issues

5. The appeal site lies at the foot of Fanshaws Lane, a minor road leading from the village centre of Brickendon into open countryside and to the Grade II Listed Fanshaws and a smattering of residential properties. It falls within the Brickendon Conservation Area and within the Metropolitan Green Belt.
6. The main issues for consideration in the case were identified in my pre-hearing note. The common issues in the Appeal A ground (a) appeal and the Appeal B appeal are as follows:
 - Gypsy or Traveller status
 - Whether inappropriate development in the Green Belt ("GB"), to include consideration of the effects on openness and purposes of the GB
 - Any other asserted harm/policy conflicts
 - Character and appearance of the Brickendon Conservation area
 - Locational sustainability (HOU9 a)
 - Effect on highway safety and essential services (b)
 - Storage and utility services (c)
 - Size/location/scale (d)
 - Character of the area (g)
 - Whether harm to GB and any other harm is clearly outweighed by other considerations so as to amount to very special circumstances, such other considerations potentially including
 - Need for and supply of sites
 - Availability of alternative sites
 - Personal circumstances and human rights including best interests of children
7. Additionally an objection was raised by the parish council, adopted to some extent at the Hearing by the Council, that the development adversely affects the setting of Fanshaws. I am obliged by legislation to have special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest which it possesses. A further main issue

in the case is therefore concerned with the effects of the proposal on this listed building as well as on other designated or non-designated heritage assets.

8. A further issue in the Appeal A appeal, if permission is not granted, is whether the time stipulated for compliance with the notice's requirements falls short of what should reasonably be allowed. The appellant seeks at least three years.

Reasons

Gypsy or Traveller Status

9. National planning policy for traveller sites ('the PPTS') applies to gypsies and travellers as defined in Annex 1 of the PPTS, meaning persons of nomadic habit of life but also including certain persons who have ceased to travel temporarily on certain specified grounds. The occupants of the appeal site are presently Mr Flynn and Ms O'Leary together with two children. Mr Flynn works as a wagon builder and painter, sometimes working from a workshop in Wales and travelling to fairs. Ms O'Leary is a vocalist/singer, performing at various events across the UK and internationally. Although one of the children is enrolled in school, it is not said that travelling has temporarily ceased on the ground of educational need, but that the family will continue to travel for economic and cultural purposes as is their custom.
10. The Council express scepticism as to whether the occupants of the site are gypsies or travellers for PPTS purposes, pointing out that no financial information has been provided in support of the claim. The information given is somewhat scant, I but have no reason not to believe that Mr Flynn has attended the various fairs in pursuit of his livelihood. Thus I accept that the family are gypsies and travellers for the purposes of the PPTS.

Green Belt

11. The development as a whole on the appeal site results from engineering operations, to form a hardstanding area, and a material change of use from agriculture to residential, facilitated by the stationing of a mobile home. Such developments are not new buildings, as considered by paragraph 149 of the National Planning Policy Framework ("the Framework") but instead fall for consideration under paragraph 150 of the Framework. Application of the Framework policy relating to the Green Belt is incorporated into the East Herts District Plan 2018 ('the Local Plan') by policy GBR1. The appropriateness of developments falling within paragraph 150 depends on preserving the openness of the Green Belt and the absence of conflict with the purposes of including land within it.
12. The appellants' representative at the Hearing asserted that this is a small development and barely visible, and that caravans in the countryside are to be expected, where they are often associated with agricultural or recreational uses. Here however the occupation of the caravan is not in association with any use requiring a countryside location. It is straightforwardly a residential use, and has entailed laying hardcore on what was previously a field. It may be a small development in its own right, but that is not the relevant test for ascertaining whether it is inappropriate in the Green Belt.
13. The caravan may not be particularly prominent, and I accept that seeing caravans in a rural landscape is not unusual. However, whilst in visual terms the harm to the openness of the GB may not be significant, the presence of the

static caravan, with two parked vehicles and associated hardstanding and residential paraphernalia, on land previously devoid of such items has inevitably adversely impacted on the spatial aspect of the openness of the GB. As a result, the countryside has not been safeguarded from encroachment. Consequently I consider that the development does not preserve the openness of the Green Belt and is inconsistent with the purpose of safeguarding the countryside from encroachment, and is therefore inappropriate development in the GB. Moreover the PPTS sets out (at paragraph 16) that traveller sites in the GB are inappropriate development. The Framework requires that substantial weight is given to any harm to the GB.

Designated Heritage Assets

14. Legislation (the Planning (Listed Buildings and Conservation Areas) Act 1990) requires me to have particular regard to the desirability of preserving the setting of a listed building when considering a planning application that affects that setting. (There are other duties relevant to listed buildings, but it is not suggested that any arise here.) The same Act also directs me to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area in which the site lies. The Framework tells me to weigh any public benefits of a development proposal against any harm to the significance of a designated heritage asset (where that harm is judged to be less than substantial).
15. Any benefits, public or otherwise, of the development will be considered below, but great weight should be given to any harm to significance, and any harm requires clear and convincing justification. The effect of development on the significance of non-designated assets should also be taken into account. Policies HA1, HA2 and HA7 of the Local Plan are consistent with the requirements of the Framework.
16. The context here is that the site lies immediately to the south of Fanshaws Lane, which at that point is a private road leading north then west away from the village through pasture land to the Grade II listed Jacobean-style mansion house known as Fanshaws. The conservation area appraisal and management plan document of 2014 ('the CA appraisal') records that the house (now an institutional commercial HQ) was listed in 1988. It lies beyond thick woodland and cannot be seen from the lane at the point where access to the appeal site is taken. It is surrounded by a number of buildings and a fine garden wall, although I understand that these do not form part of the statutory list, the land ownership having been severed by the time of the listing.
17. The Conservation Area extends from the village centre to the west side, and then south side (following a roughly 90° bend), of Fanshaws Lane to surround Fanshaws, woodland to its west, and a substantial area of pasture land rising back to the village to the south-east of the house. The appeal site is viewed in the context of this pasture land and from the historic, largely tree-lined, approach to the house. A small watercourse adjoins the appeal site and is crossed by Fanshaws Lane, with a tree belt leading away to the north alongside the watercourse to the west, and with an agricultural field to the east of the watercourse. On the south side of Fanshaws Lane, and to the east of the watercourse and north-east of a pond identified in the CA appraisal plan to be protected, lies the appeal site.

18. The development is visible on the approach to Fanshaws, very clearly so at close quarters, and lies rather incongruously to the east of the watercourse and away from the cluster of properties and the historic wall. Whilst not sited within the pasture of the 'important open spaces to be protected' identified in the CA appraisal plan, it nonetheless appears to me obviously to fall within the historic estate park land associated with the mansion.
19. Given its location in the field, to the far side of the watercourse and away from the cluster of properties to the west, the obviously residential caravan is out of keeping with the rural parkland setting of Fanshaws. That parkland setting makes an important contribution to the significance of Fanshaws, and to the Conservation Area. The visual intrusion caused by the caravan into that setting causes harm to the significance of these designated heritage assets. I do not consider that a landscaping condition requiring screening could overcome this harm, because that in itself would disturb the openness of the agricultural land east of the watercourse which is its defining characteristic.
20. Therefore I concur with the Council and the parish council that the development adversely affects the setting of Fanshaws and fails to conserve or enhance the Brickendon Conservation Area. I attribute great weight to these harms. I do not attach additional weight to the harm to the nearby non-designated heritage assets. This is because they fall within the setting of Fanshaws and indeed lie within the Conservation Area, and I do not find them to be harmed by the development in their own right but only as part of that overall context.
21. In terms of the public benefits that ought to be weighed against the identified harm to the designated heritage assets, no heritage benefits are identified. The Planning Practice Guidance sets out however that public benefits are not limited to such concerns, and they can be anything that delivers the economic social or environmental objectives as described in the Framework. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. I consider the benefits of the development below, but note at this stage that none of those considerations appear to me to amount to 'public' benefits capable of outweighing the harm to the interests of designated heritage assets when drawing the balance on this issue.

Policies HOU9 (and/or HOU10)

22. The appeal site is not allocated for development for the purpose of Part 1 of HOU9. Both HOU9 and HOU10 provide criteria to be applied to applications for traveller sites, the criteria being identical but the essential difference being whether the application is for persons of nomadic habit meeting the PPTS definition. As I consider that the occupants of the site do meet the PPTS definition, it is Local Plan policy HOU9 that applies.

(a): sustainability

23. The first criterion requires a site to be in a sustainable location in terms of accessibility to existing local services. The Council also cites policies TRA1 and DPS2. The former relates to sustainable transport and the latter to the general development strategy. Developments should be located in places which enable sustainable journeys to be made to key services and facilities.

24. The site is located within easy walking distance of the centre of Brickendon. Fanshaws Lane is unlit for the most part, but lightly trafficked. Brickendon itself is a 'Group 2' village lacking in many amenities including shops. Limited services are available in nearby villages but realistically trips to Hertford, some three miles away, will be required for access to main shops and services. The primary school in which the child of the family is presently enrolled is however in Bayford, some 1500m away. An intermittent bus service is available, and it was said at the Hearing that a school bus service is also provided to the village. A railway station lies less than a mile away from the site. The occupants of the site said at the Hearing that the car is taken out two or three times each day and that public transport is not in fact used.
25. The PPTS exhorts local planning authorities to very strictly limit new traveller sites in open countryside that is away from existing settlements. The appeal site is in my view sufficiently well-connected to Brickendon so as not to be 'away from' it for PPTS purposes. With such limited services and alternative means of travel available in Brickendon, the occupants of the appeal site would be likely to continue to rely on the private car, but overall I do not consider that the site is so unsustainable that it conflicts with criterion (a) of policy HOU9. This is because any gypsy or traveller site is unlikely to become available on land that is highly sustainably located within or on the edge of settlements providing services and facilities, and the trips involved here are relatively short.

(b) and (c): highway safety and essential services; storage and utility services

26. Criterion (b) of policy HOU9 requires the site to be suitable in terms of vehicular access to the highway, parking, turning, road safety and servicing arrangements and has access to essential services such as water supply, sewerage, drainage and waste disposal.
27. No objection is raised to the development by the local highway authority, and I perceive no conflict with those aspects of the policy.
28. Criterion (c) requires proposals to make adequate provision for storage, play, residential amenity and utility services.
29. The Council indicated that such remaining matters in the criteria could be overcome by the imposition of planning conditions, but at the Hearing and subsequently both the Council and the parish council have expressed concerns as to the security of the arrangements by which the mobile home has access to essential services. It was recorded that at one stage a generator was used to provide electricity, resulting in noise audible away from the site.
30. I have been supplied with a copy of what is described as an Assured Shorthold Tenancy agreement ('the Tenancy') between the present occupants and the owner of the site (BJS Sports, being the company associated with one of the appellants). The tenancy is dated and apparently signed on 10 December 2019, although with extraordinary prescience it provides for possession to be taken on 24 November 2021. I am informed by the appellants that when the site was purchased, it was purchased with an agreement that services would be provided. It appears that from the Land Registry title that a sale of part took place at some point, and the site appears to rely on the owners of the adjoining retained part for the provision of utility services. There is no express clause in the Tenancy that assures the tenants of such service provision and I have seen

no contractual arrangements with any third party about these, although some rights and easements enjoyed by the freeholder are found in the Land Registry entries.

31. Nonetheless, as the appellant points out, the mobile home was connected to all services at the time of the appeal site visit, and there was no suggestion that the generator remained in use. There is some uncertainty as to the security of supply but overall I agree with the position expressed by the Council's letter of 6 October 2021 that such matters could be secured by way of a planning condition if permission were to be granted.
32. The Council raises the concern that in order for the site to be adequately serviced with storage facilities this could, together with other domestic paraphernalia, introduce additional visual impacts resulting from the development, and I consider these below under criterion (g).

(d): Size, location and scale

33. The 'red line' of the Appeal B site is considerably smaller than the area covered by the enforcement notice to which the deemed planning application in Appeal A relates. The siting of the mobile home could however be controlled by a planning condition. Taking the site to mean the Appeal B area, the proposal is well related to the size of the site, with the mobile home standing in a modest fenced garden area with sufficient space for parking cars and for the family to relax outdoors.
34. It does not however relate well to the location of the site, principally for the reasons I have already given in relation to its impact on the Conservation Area and local heritage assets, and for the reasons considered below in relation to criterion (g) of the policy. I have not found it to be locationally unsustainable in relation to criterion (a) and it is not disproportionate in scale to the nearest settled community, but for reasons relating to the sensitivity of its surrounding landscape and historic assets it is not in appropriate location and thus there is conflict with this policy criterion.

(g): Character of the area

35. This criterion seeks to avoid undue harm to the visual amenity and character of the area, and assimilation into the surrounding landscape without significant adverse effect. In support of its case the Council also refers to policies DES2, DES3, DES4 and HA4, relating to design and landscape and to conservation areas, as well as to aspects of the CA Appraisal document.
36. For the reasons I have set out above in relation to the impact of the development on the heritage assets including the Conservation Area, I do not consider that the development can be successfully assimilated into the surrounding landscape. It was suggested at the Hearing by the appellants that the development is discreet and not really visible unless one is looking for it. I cannot agree with that assessment. The development is plainly visible in what is otherwise open pasture land, where the CA Appraisal document indicates that views from Fanshaws Lane are worthy of protection. Any additional storage facilities or other domestic paraphernalia would only augment what is already an unacceptable impact on the landscape resulting from the inappropriate land use. I have also set out above why I do not think that a screening condition could overcome the harm.

37. Therefore I find conflict with this policy criterion as well as with the design and landscape policies cited by the Council.

Conclusions in relation to policy HOU9

38. I therefore conclude in relation to policy HOU9 that not all of the policy criteria are met, with the significant exceptions of those aspects relating to the location of the site resulting from its conflict with the heritage assets and landscape. Thus there is overall conflict with the policy.

Other matters

39. I am also obliged to consider whether 'intentional unauthorised development' has occurred and if so what weight to give it. The parish council point out that the land was sold at a time when planning permission had been refused for the retention of the mobile home at the site and in full knowledge of that refusal. Nonetheless I am mindful that neither the appellants nor the present occupants of the site placed the mobile home on the land, and the present occupants were not the first to occupy it. Thus this consideration attracts very limited weight against the development.

Other considerations

40. I turn then to whether other considerations raised in support of the development would clearly outweigh the harm to the Green Belt and other harm identified.

Need for and supply of sites

41. Provision is made for specific sites allocated by the first part of policy HOU9 resulting from a needs assessment published in 2014 and updated in 2016, and found to have been robustly assessed by the Local Plan Inspector in 2018. Since then, an appeal has been allowed in 2019 at Wheelwrights Farm¹ with the Inspector there finding that it was reasonable to conclude that the Council had underestimated the need for pitches arising over the next five years.
42. I do not have the specific numbers before me that were available to the Wheelwrights Farm Inspector, but the Council explains that an anomaly to the 2016 needs update report was identified in 2019, in respect of four unauthorised pitches which had not been correctly assigned at a site known as Esbies. Work to further update the 2016 update report was reported by the Council to have been stymied by recent public health restrictions, although is said to be under commission. Based on the 2016 needs update, the Council refers to a total of 22 pitches having been either permitted or allocated between 2017/18 and 2025/26 against a (revised) position of identified need for nine pitches across the same time span. It was however acknowledged that a large number of these permitted pitches reflected needs not accounted for by the 2016 update report (including Little Hadham² having permitted 10 pitches on appeal in 2020.)
43. The needs assessment met with a great deal of criticism from the appellants, describing it as 'guess work'. The agent described two unmet need pitches in the district of which he was personally aware. It was suggested that the needs and provision should be assessed on a county-wide basis, with other districts in

¹ APP/J1915/C/17/3174667 et al

² APP/J1915/W/19/3234671

the county admitting to a large unmet need and officials at the County Council having said that there are 121 families on their waiting list.

44. Nonetheless the approach of the Council, accepted as robust by the Local Plan Inspector, has been to assess need and allocate traveller site provision on a district-wide basis. In the absence of an up to date assessment it is difficult to assess the extent of unmet need, if any, in the area.
45. Although on the appellants' case there are considerable unmet needs across the County, I am not persuaded that there is a significant unmet need in the East Hertfordshire district at present, or that the Council has not made adequate provision for a 5 year supply of deliverable sites. Nonetheless I am mindful that any unmet need figures are to be treated as minima, not maxima, and the contribution of this site to meeting the accommodation needs of gypsies and travellers is a matter to which I attach considerable weight.

Availability of alternative sites

46. No party to the appeal has identified any presently-available alternative site to which the present occupants of the site might relocate, and no details of any search for alternative accommodation by the present occupants has been provided. It appears that the original appellants have lived elsewhere since at some point since the application was made. Permission has previously been granted to one of the appellants (Mr Saunders) elsewhere but that site has been vacated.
47. The Council explained at the Hearing that approximately a third of the district's area lies within the Green Belt. A number of sites have come forward satisfying the criteria-based policy of HOU9. Five sites, together providing 19 pitches, have been delivered in the period 2017/18 to 2020/21, of which one was an allocated site and another (Wheelwrights Farm) was found to be in conflict with provisions of the development plan but allowed for reasons relating to unmet need and the personal circumstances of the appellant and his family. The remaining three sites (16 pitches) were found, on appeal or otherwise, to meet the policy criteria of HOU9.
48. I accept what the appellants have to say about the difficulties in securing land for gypsy and traveller site development at an affordable price. However it is clear that sites have been coming forward in satisfaction of the relevant policy criteria and I have no grounds to conclude that this could not continue, or that there is any overall policy failure in the district. I therefore give the lack of an identified suitable and available alternative site little weight in favour of the appeals.

Personal circumstances including human rights and best interests of children

49. The medical condition of one of the adult occupants of the site was described to me at the Hearing and in subsequent correspondence. No medical records have been provided, but I have no reason to doubt the account given. Whilst no particular advantage of living specifically on the appeal site has been advanced, I accept generally that a settled base would be conducive to the health and well-being of all the site's occupants and I give this moderate weight.
50. Additionally, one of the two children on the site has been enrolled in school since January 2020. Correspondence from the Head Teacher indicates that the child has settled in well and is doing well both academically and socially. Based

on the age of the child I would expect her to have recently entered junior school. A stable and settled education is undoubtedly in the child's best interests and, whilst the possibility of finding an alternative site that would allow the child to remain at the school cannot be excluded, equally I have no information upon which to conclude that dismissing the appeal would not result in some educational and social disruption to this child. I am given no information as to the other child living at the site but accept that a settled home is likely to be in her best interests too.

51. The best interests of children are a primary consideration, and no other factor in the appeal is inherently more important. These interests attract significant weight, and in particular the educational continuity for the younger child that would be likely to result if the appeals are allowed.
52. My attention is also drawn to human rights considerations arising from the European Convention requiring the protection of property (A1P1) and respect for the home and private life (article 8). To dismiss the appeals would be to interfere with these qualified rights. This is justifiable where there is a clear legal basis for the interference, which in this case would relate to the regulation of land use in the exercise of development control measures, and the interference is necessary in a democratic society. I consider below whether this is the case. It is also necessary not to deny the right to education (A2P1). I am also mindful of my duties to facilitate the way of life of gypsies and travellers, and to eliminate discrimination, promote equality of opportunity and foster good relations where relevant protected characteristics arising under the Equality Act 2010 are concerned. I am mindful of all these matters in reaching my conclusions.

Other Green Belt decisions

53. Reference is made to nearby planning permissions including one for an extension to a nearby house, and it is suggested that the Council's approach to the loss of openness is inconsistent. I do not have the details of any other applications before me, or the particular aspects of Green Belt policy which may have been applicable to them. I therefore attach other decisions made by the Council only limited weight.

Conclusions on the ground (a) and planning appeals

54. Drawing all these points together, I give significant weight to the interests of the children in acquiring a settled home on the site from which the younger child can attend school locally. I also attribute moderate weight to the advantages to the health and well-being of all the site's occupants of securing permanent living arrangements, and in particular to the identified medical condition of one of the adults. The contribution of the site to meeting the accommodation needs of gypsies and travellers in the area attracts considerable weight, and I also attach some limited weight to the lack of any identified suitable and available alternative. Additionally, if the appeals were to be allowed then any interference with the established home and family life of the site's occupants would be avoided. An authorised settled home would potentially assist the family's integration into the local community and foster good relations.
55. The question then arises whether these factors in favour of allowing the appeals are considerations of such sufficient weight as to clearly outweigh the

harm to the Green Belt and other harm arising from the development, such that the necessary very special circumstances exist to justify allowing the appeals. I have concluded that they do not.

56. Turning first to the requirement to weigh the public benefits of the development against the harm to designated heritage assets, although each of the factors in favour of the development involves some consideration of the public interest, as does any matter relevant to a planning determination, they do not amount to 'public benefits' for the purposes of the Framework. No heritage benefits arise. The benefits of any planning permission granted would essentially be limited to the family living on the site and would not be of the nature or of a scale to be of benefit to the public at large, and it was not contended otherwise at the Hearing.
57. Here, I have found the development to be inappropriate in the Green Belt because it does not preserve openness and is inconsistent with the Green Belt purpose of safeguarding the countryside from encroachment. I give substantial weight to this harm. Harm arises not only to the Green Belt but in a number of other ways. I have found no clear or convincing justification for the harm caused to the significance of the designated heritage assets, and I am enjoined by the Framework to attach great weight to those harms which are not outweighed by public benefits. I have also concluded that there is conflict with the development plan in other respects, principally arising from the adverse impact on the landscape, and that, although there is compliance with a number of aspects of policy HOU9, the policy criteria are as a whole not met.
58. On balance, and conscious of the disruption to the family's living arrangements that my decision is likely to cause, I conclude that there are no material considerations of sufficient weight to overcome the conflict with the development plan or as to amount to very special circumstances justifying the grant of permission. Although I attribute significant weight to the interests of the children, together with additional moderate weight to the advantages to health and well-being, considerable weight to meeting accommodation needs and some limited weight to the lack of identified alternatives, these matters are insufficient to clearly outweigh the harm to the Green Belt and other harm identified. I find that the inevitable interference with the family's qualified rights to private life and their home is a justified and proportionate response that is necessary to give credence to the very restrictive planning policies that apply to the appeal site. Accordingly, very special circumstances to justify a grant of planning permission do not exist.
59. I am asked by the appellants to consider granting a temporary permission if a permanent permission is not forthcoming. Allowing a temporary permission would avoid (or at least postpone) the identified interference with the family's human rights. It would also potentially temporally limit the harm caused by the development. However, although I have attributed considerable weight to the contribution of the site to the accommodation needs of gypsies and travellers, I have not found there to be any significant shortfall in supply and I have attached only limited weight to the absence of identified alternatives, in the light of the Council's record of policy-compliant sites coming forward. Although the impending needs assessment update may result in the identification of a greater level of need in the area, potentially requiring additional allocations, it would not appear likely to alter the ability of sites to come forward that are consistent with the policy criteria of HOU9. Given the very substantial policy

objections to the development that exist at this site, without realistic prospect of future change, I do not consider this a suitable case for allowing a temporary permission. It is still necessary to attribute substantial weight to any Green Belt harm, even if temporally limited, and I do not consider that this and the other identified harm is clearly outweighed by the remaining factors in favour of the development, and consider that the interference with the family's human rights would still be a justified and proportionate response. Very special circumstances justifying a temporary grant of planning permission do not exist.

The appeal on ground (g)

60. Therefore I turn to whether the period specified in the enforcement notice for compliance falls short of what should reasonably be allowed. The appellants' written case on ground (g) of March 2020 apparently relates to the former occupants of the site, with no additional matters raised in more recent correspondence (or at the Hearing) in relation to the present occupants. However the case made there could apply equally to the present occupants of the site: the primary matter relied on relates to the enrolment of the child in school and the possibility of her ending up homeless and without a school to go to. A further matter raised is the ability of contractors to complete the necessary works within the four months stipulated by the Council.
61. Whilst the physical works of removing the mobile home and restoring the site should be readily manageable within the four months given, I accept that such a period would be likely to lead to disruption to the child's education. This is a right it is necessary not to deny, and one I consider essential to her best interests. Although on the information before me it does not seem unlikely that an alternative site could be found, this is likely to take some time. If a relocation leads to the child having to change schools then it is desirable that this should take place between academic years. Given the date of my decision, there appears to me a real risk that any such arrangements might not be capable of completion before the start of the next academic year in September. I shall therefore extend the period to 16 months to allow for the completion of the next academic year.

Conclusions and Formal Decisions

62. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application under Appeal A and shall dismiss the appeal under Appeal B.

Appeal A

63. It is directed that the enforcement notice be varied by deleting "Four" from paragraph 6 of the notice and replacing it with "Sixteen". Subject to that variation the appeal is dismissed and 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

64. The appeal is dismissed.

Laura Renaudon
INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Patrick Flynn	Site Resident
Selina O’Leary	Site Resident
Joseph Jones	Agent

FOR THE COUNCIL:

Eilis Edmonds	Principal Planning Officer (Development Management)
Kay Mead	Principal Planning Officer (Policy)
Suzanne Armstrong	Planning Enforcement Officer
Victoria Wilders	Legal Services Manager
Annabel Graham Paul	of Counsel

FOR THE PARISH COUNCIL:

Tony Roberts	Chair, Brickendon Liberty Parish Council
Edward Long	Solicitor, of Birketts LLP