
Appeal Decisions

Hearing Held on 26 to 28 October 2021

Site visit made on 29 October 2021

by Diane Lewis BA(Hons) MCD MA LL M MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2022

Land at Plot 21A Roydon Lodge Chalet Estate, Roydon CM19 5EF Appeals A Refs: APP/J1535/C/18/3215165, 3215166 and 3215167

- 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 Mr W Doherty, Ms S Doherty and Mr P Byrne against an enforcement notice issued by Epping Forest District Council.
- The enforcement notice was issued on 28 September 2018.
- The breach of planning control as alleged in the notice is:
Without planning permission: The material change in the use of the Land from a recreational leisure plot use to a residential use including the stationing of static caravans, touring caravans and associated development, including the installation of a shed, cess pit and hardstanding.
- The requirements of the notice are:
 - i. Cease the use of the Land as a residential caravan site.
 - ii. Cease the residential use of the Land between 1 November and 31 March inclusive.
 - iii. Remove from the land all caravans, hardstanding, septic tanks and other structures on the land used in connection with the residential use of the Land.
 - iv. Remove from the Land all domestic paraphernalia and debris associated with the residential use of the Land and any debris resulting from compliance with paragraphs (i) to (iii) above.
- The period for compliance with the requirements is within 6 months after the notice takes effect.
- The appeals are proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since, in each case, an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.

Summary of Decisions: The appeals are allowed subject to the enforcement notice being corrected in the terms set out in the Formal Decision.

Appeal B Ref: APP/J1535/W/18/3204590

- 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 W Doherty, Ms S Doherty and Mr P Byrne against the decision of Epping Forest District Council.
- The application Ref EPF/0636/17, dated 28 February 2017, was refused by notice dated 30 January 2018.
- The development proposed is Change of use from leisure plot to caravan site for siting of 1 static caravan with associated development (touring caravan, shed and hardstanding) for residential occupation by one traveller family.

Summary of Decision: The appeal is allowed.

Procedural Matters

1. The appeals for Plot 21A were heard together with a number of appeals concerning various plots at Roydon Lodge Chalet Estate (the Chalet Estate) in relation to enforcement notices issued by the Council and against refusals of planning permission. For ease of reference a summary is attached setting out the outcome of all appeals.
2. The discussion at the hearing considered the site history, matters specific to the enforcement notices, planning merit issues, plot specific matters and concerns of the Parish Council and residents that formed no part of the Council's case. Even though certain issues were discussed in the round to avoid repetition, each appeal will be considered on its individual merits with a single decision letter addressing the appeal(s) for each plot.
3. I carried out site visits to the Chalet Estate on 25 and 29 October 2021, as well as familiarising myself with the surrounding area on other occasions.
4. In relation to the Epping Forest Special Area of Conservation (the SAC), Natural England was consulted in order to comply with the requirements of the Conservation of Habitats and Species Regulations 2017. A response was received on 27 April 2022.

The Site and Surroundings

5. The Chalet Estate is located to the north and east of the village of Roydon within the Metropolitan Green Belt. A number of plots of land are served by a central access road, with a vehicle entrance at its western end. A single track road and a network of public rights of way link the Chalet Estate to the village. A railway line follows the northern boundary, otherwise the plots are bounded by fields to the south and east.
6. In the late 1940s the land consisted of around 50 allotment plots, provided as part of the Dig for Victory campaign during World War Two. The allotments subsequently became leisure plots. On 18 May 1951 enforcement notices were issued requiring each plot to be cleared of all structures. At the same time the Council stated that it was not the intention to stop the use of the land for gardening purposes or to prohibit weekend and holiday occupation of a suitable type of chalet during the summer months.
7. Thereafter a planning history has developed specific to each plot or combined plot. A small number of plots are characterised by garden land with a small traditional chalet, some appear vacant and overgrown. A number of plots are occupied as caravan sites. There are also plots with lawful dwellings and two plots where larger chalets have been built recently.
8. Plot 21A is a long, single width plot sited towards the western end of the Chalet Estate to the south of the access road. Planning permission was granted for a recreational chalet in 1961¹. Occupation was restricted to between 1 April and 31 October each year for recreational purposes only. The position in 2012 recorded by the Council was of a landscaped plot where the original weekend chalet remained. In November 2016 the site was described as being laid to hardsurfacing and in September 2017 one static caravan and one touring

¹ The information outlining the planning history is taken primarily from the plot specific Annexe to the Council's statement.

caravan were stationed there. As of September 2019 two static caravans, a touring caravan, a shed and the original chalet were on site. Close boarded fencing was erected along the common boundaries with the adjacent plots.

9. On the appeal site visit in October 2021 a static caravan was stationed to the front of the chalet building, which had been refurbished to provide a day room. A utility shed was adjacent. Hardsurfacing extended over this front part of the plot. To the rear the remainder of the plot was a garden with a grassed amenity space and where two playhouses were sited. A touring caravan was stationed in this area.

Enforcement Notice

10. The appellants raised concerns about the clarity of certain aspects of the enforcement notice and appealed on grounds (f) and (g) but did not go so far as to claim the notice was invalid. No appeals are made on grounds (b) and/or (c). Nevertheless, I have a duty to ensure that the enforcement notice tells the recipients fairly what they have done wrong and what they must do to remedy matters. In the event I conclude the notice is invalid an Inspector has the power under section 176 of the 1990 Act to correct/vary the notice provided that the correction or variation can be done without injustice to either the appellants or the Council. The issue is not confined to whether the requirements are excessive, a matter dealt with through the ground (f) appeal.

Background

11. The wording and validity of enforcement notices related to changes of use on the Chalet Estate have been the subject of much discussion and examination in the past. I have considered at some length the appeal decisions issued in May 2012 and July 2015 regarding Plot 38². Disputed issues included the description of the previous lawful use in the alleged breach and the specification of the requirements, particularly in respect of allowing for the continuation of a lawful residential element. In 2012 the notice was quashed for being invalid. In 2015 the Inspector concluded that the Council had exercised its power to under-enforce and the notice was not invalid. Conclusions on the wording of the notice for Plot 38 do not necessarily apply to the notice for Plot 21A, remembering that the previous lawful use of Plot 38 was described as a mixed use for leisure and residential occupation.
12. In April 2020 I asked the Council through a pre-hearing note why the new use is not described as a residential caravan site in the allegation, especially in view of the wording of the requirements³. In response the Council confirmed that the breach described the use accurately and precisely. This position was reaffirmed at the hearing. If I was minded to correct the notice the Council put forward an alternative form of wording: "The material change of use of the Land from a recreational leisure plot use to use as a residential caravan site".⁴ In addition, various amendments were put forward by the Council and the appellants during the appeal process.

² Appeal ref APP/J1535/C/11/2160430 dated 25 May 2012 and Appeal ref APP/J1535/C/14/2211759 dated 30 July 2015

³ Inspector's Pre-Hearing Note 2 dated 16 April 2020.

⁴ Document 1

Alleged breach of planning control

13. The description of the alleged breach in section 3 of the notice is consistent with wording set out in the officer report seeking authorisation for enforcement action (the enforcement report). There is no doubt that the unauthorised development is a material change in the use of the Land. There is no necessity to state the previous lawful use in the allegation but it is generally better to do so. In this instance there is no dispute over the former use as a recreational leisure plot use. In view of the planning history of the plots and the Chalet Estate the probability is that the land was used for pleasure and enjoyment during the owner's leisure time. The *Pitman* case⁵ confirmed that use of land as a leisure plot can exist as a separate use in its own right. Furthermore, there is no dispute that the Land is now in a single primary use for residential purposes where the living accommodation is within caravans. The allegation also reasonably refers to the installation of hardstanding and other minor works as associated development, facilitating the change of use.
14. In accordance with Section 173(1)(a) of the 1990 Act an enforcement notice must state the matters which appear to the local planning authority to constitute the breach of planning control. A notice complies with this statutory provision if it enables any person on whom a copy of it is served to know what those matters are. The wording of the alleged breach of planning control, when considered on its face, is reasonably clear. One matter that may require correction is replacement of the word 'including' by 'involving'.

Requirements

15. Section 173(3) of the 1990 Act states that an enforcement notice shall specify the steps to be taken or the activities that must cease in order to achieve, wholly or partly, any of the purposes set out in section 173(4). In summary, the purposes are to remedy the breach or to remedy any injury to amenity which has been caused by the breach. In specifying the steps a council may decide to under-enforce by not seeking to fully remedy the alleged breach. Case law has confirmed that the express requirements of an enforcement notice should not abrogate pre-existing rights.
16. The appellants maintained that the requirements should be clear on the level of residential use that would be acceptable, as it was understood that there were no restrictions on a residential use of a caravan for 7 months of the year. A similar argument was presented in the 2012 appeal decision on Plot 38, which the Inspector found on the evidence to be persuasive. The appellant also understood the Council accepted that the plots can be used for leisure purposes, including residential occupation, for 7 months each year from 1 April until 31 October. The Council's deletion of the phrase "including residential occupation" in the final version of the statement of common ground therefore was of concern.
17. As seen from the statutory provision, the function of the requirements is to achieve the purpose of the notice. The requirements cannot require that a lawful use resumes, although the service of a notice may allow a landowner to revert to the previous lawful use through the provisions of section 57(4) of the 1990 Act. With these provisions in mind, I disagree with the appellants that the requirements should, as a matter of course, set out a level of residential use

⁵ *Pitman v Secretary of State for the Environment* [1989] JPL 831

that would be acceptable. If the Council decided to do so, it would represent a decision to exercise its power to under-enforce.

18. In this instance the appellants brought forward no evidence of the actual use of the plot in the period before the change of use occurred. The available evidence from the Council records supports a leisure use of the plot only. The old chalet was restricted by planning condition to recreational purposes during 7 months of the year. Any overnight stays as part of the primary leisure use could only have been incidental and not equivalent to use of a chalet as residential holiday accommodation. I consider no saving in relation to a residential use is necessary, a conclusion consistent with a view expressed by the Council at the hearing.
19. On an initial reading of the notice the wording of the Requirements is inconsistent. Steps (i), (iii) and (iv) indicate that the purpose is to remedy the breach by discontinuing the use of the land as a residential caravan site and by removing all caravans, works and domestic paraphernalia that facilitate a residential use. Step (ii) also requires the residential use of the Land to cease but adds a qualification of a time period, suggesting a residential use outside of the stated months is acceptable. The enforcement report does not assist in explaining this inconsistency, the only difference in the report's recommendation is to omit the word 'permanent' to describe the residential use in step (ii).
20. During the discussion at the hearing on the wording of all the notices the Council stated that the intention was that step (ii) should read cease the recreational use of the land between 1 November and 31 March⁶. I am not persuaded by this explanation because there is no tie to the chalet building and a recreational use of the land could lawfully take place all year round. The Council also stated that step (ii) was an attempt to make clear enforcement action was not being taken against the historical position where an occupier could pull on a caravan for leisure/recreation purposes outside the winter months. If that was the case substitution of recreational for residential may make more sense. As an alternative explanation, the Council may have been seeking to under-enforce, as was the case in the enforcement notice on Plot 38⁷. If that was the intention it is not followed through in steps (iii) and (iv).
21. These considerations lead me to conclude that in order to make the requirements consistent step (ii) should be deleted. It is not a question of deleting an excessive requirement and such a correction can only be made if it would not cause injustice to either the appellants or the Council.
22. A second option would be to delete the phrase "between 1 November and 31 March inclusive", remembering that the allegation states the material change of use is to "a residential use including". The notice would then ensure all residential use of the Land would cease and avoid any possibility of a residential use gaining permission through the operation of section 173(11).
23. Step (ii) implies that a residential use is acceptable for part of the year. Its deletion or part deletion would remove a degree of under-enforcement and the

⁶ See also the Council's response to Inspector's Pre-Hearing Note of 16 April 2020: Cease using the land for any recreational or leisure purpose annually between 1 November and 31 March the following year

⁷ For ease of reference the requirement as varied for Plot 38 was "To cease the use of the land as a residential gypsy and traveller caravan site by (i) ceasing the residential occupation of caravans on the land between the 1 November and 31 March inclusive; (ii) permanently reducing the number of caravans on the land to one."

notice would be more restrictive than provided for originally. Its deletion would reflect a view expressed by the Council at the hearing and the final position taken in the statement of common ground, although not its apparent position at the time of issuing the notice. On the other hand, the appellant would be worse off and hence injustice would be caused. That being so, the uncertainty created by step (ii) is not able to be resolved by its deletion as a single amendment to the notice.

Alternative wording

24. An alternative is to follow the Council's proposal to correct the notice to allege a material change of use to a residential caravan site and require that use to cease with the removal of caravans, hardstanding, associated structures and residential paraphernalia. The Council maintained this approach would not cause injustice because it would narrow the scope of the notice. The appellant did not disagree with this proposed way forward.
25. The proposed amendments correct the identified defects in the enforcement notice. The scope of the notice would be narrowed in so far as the description of the alleged breach would become specific to a residential caravan site as opposed to the wider term of residential use. It follows that the corrections are able to be made without injustice to either the appellants or the Council.

Conclusions

26. For the reasons set out above I conclude that the enforcement notice does not set out with sufficient clarity the alleged breach of planning control and the steps required for compliance. The appellant and the local planning authority agreed at the hearing that it was open to me to correct the allegation in the notice and also the requirements. I am satisfied that no injustice will be caused by doing so and I will therefore correct the enforcement notice in those two respects. The correction to the allegation will clarify the terms of the deemed applications under section 177(5) of the 1990 Act as amended.

APPEALS A ground (a) and APPEAL B

Proposed development

27. The development at issue in Appeal B is a material change of use from a leisure plot to a caravan site for the siting of one static caravan and a touring caravan with associated hard standing, for residential occupation by a single traveller family. The planning application was made retrospectively under section 73A of the 1990 Act and sought planning permission for development already carried out.
28. The development is essentially the same as that which is the subject of the deemed planning applications as a result of the corrections to the wording of the allegation. Therefore I will deal with the planning merits at issue in all appeals together.
29. I am satisfied from the information provided in the supporting statement to the application and at the hearing that the current adult occupiers of the plot have PPTS status⁸ in view of their travelling lifestyle, including travelling for an economic purpose.

⁸ Annex 1, Planning policy for traveller sites, August 2015, Department for Communities and Local Government

Planning policy

30. The development plan for the area includes the saved policies of the Epping Forest District Local Plan adopted in 1998 and the Epping Forest District Local Plan Alterations adopted in July 2006 (the Local Plan).
31. The most important policies for determining the appeals are those related to the appeal site's location and use. The policies are Policy GB2A Development in the Green Belt, Policy RST10A Roydon Lodge Chalet Estate and Policy H10A Gypsy Caravan Sites. The supporting text to Policy H10A sets out locational criteria for proposed sites. Additional relevant policies include Policy CP1 Achieving sustainable development objectives, GB7A Conspicuous development, Policy CP2 Protecting the quality of the rural and built environment, Policy U2A Development in Flood Risk Areas and Policy NC1 Nature Conservation. The reasons for refusal and issuing the notice also cite Policy LL3 Edge of settlement development. I consider this policy is not directly relevant because of the location of the Chalet Estate outside the settlement of Roydon.
32. Material considerations include the National Planning Policy Framework (the Framework), Planning policy for traveller sites (PPTS) and Planning Practice Guidance. At local level Roydon Lodge Chalet Estate Design Criteria was adopted in 2003 as Supplementary Planning Guidance (the SPG).
33. The most important policies identified above are generally consistent with the Framework and have full weight.
34. The Council is preparing the Epping Forest District Local Plan 2011-2033 (the EFDLP). Following the hearings stage of the examination into the soundness and legal compliance of the EFDLP the Inspector set out her interim advice in August 2019. In response, the Council carried out additional work and published a Schedule of proposed Main Modifications to the emerging plan. Consultation on the Main Modifications ended in September 2021. At the time of the hearing the Council was compiling its responses to go to the examining Inspector. The Council anticipated that once the Inspector's report is received the period leading to adoption would be relatively short.

Main issue

35. With reference to Policy E of the PPTS the material change of use of the plot to a traveller caravan site is inappropriate development in the Green Belt, a matter which the main parties agreed in the statement of common ground.
36. The main issue is whether the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the caravan site, is clearly outweighed by other considerations to provide the very special circumstances necessary to justify the development.
37. The potential harms relate to the effect of the development on:
 - The openness and purposes of the Green Belt
 - The character and appearance of the Chalet Estate and the surrounding countryside and landscape
 - The safety of the site occupants and others in respect of flood risk

- The integrity of the Epping Forest Special Area of Conservation
 - The amenity of the village and the settled community.
38. The carrying out of intentional unauthorised development is an additional matter to be explored.
39. Other matters to be considered, potentially weighing in favour of the development, include the existing level of local provision and the need for traveller sites, the availability (or lack) of alternative accommodation for the appellants and their family and their other personal circumstances, including the best interests of the child.
40. The change resulting from the development will be assessed against the lawful use and actual character as a leisure plot. The 'fallback', the development that could occur without permission, has not been firmly established. There could be some instances where the stationing of a caravan will not involve development, such as for a purpose that comprises the lawful primary use as a leisure plot, or a use ancillary thereto, but the stationing of larger static caravan(s) would be unlikely to fall within that scope. The presence of a chalet also would negate the need for an additional recreational caravan.
41. Integral to my decision-making will be exercising duties under the Human Rights Act 1998. Article 8, a Convention Right⁹, affords a person the right to respect for their private and family life, their home and their correspondence. Article 8 is a qualified right that requires a balance between the rights of the individual and the needs of the wider community. There is a positive obligation to facilitate the Gypsy way of life to the extent that the vulnerable position of Gypsies as a minority group means that some special consideration should be given to their needs and different lifestyle in the regulatory planning framework and in reaching decisions on particular cases. Under the Equality Act 2010 I will have due regard to the public sector equality duty.

Reasons

Effect on the Green Belt

42. By definition inappropriate development is harmful to the Green Belt. The essential characteristics of Green Belts are their openness and permanence. The importance of openness is reflected in Policy H10A. In this instance the site was a landscaped plot with a single chalet before development took place. Aerial photographs show the presence of mature trees and hedgerows and much of the site was covered in grass. The land had an open character.
43. The development has resulted in a static caravan being introduced onto the land along with a touring caravan and other structures associated with a residential use. A sizeable area of grass has been lost to hard surfacing comprising block paving and gravel. The new use as a residential caravan site acting as a stable base for the family would generate daily activity and vehicle movements which in all probability would be a more intensive use than the former leisure plot. A harmful loss of openness results from all these factors.
44. The plot is contained within the boundary of the developed area of the Chalet Estate. No physical encroachment into the countryside has occurred and the

⁹ Article 8 of the European Convention on Human Rights, enshrined into UK law by the Human Rights Act 1998.

development would not conflict with any of the stated purposes of the Green Belt set out in paragraph 138 of the Framework.

45. The harm to the Green Belt by reason of inappropriateness and the loss of openness has substantial weight.

Character and appearance

46. The gently undulating arable fields within the valley of the River Stort is a key landscape characteristic of the area. The fields are lined with a network of mature hedgerows often with hedgerow trees and veteran trees contribute to the historic landscape pattern. The large nucleated village of Roydon is dominant in the settlement pattern. A strong sense of tranquillity is present throughout most of the rural area¹⁰.
47. The development of Plot 21A has not encroached into the countryside and has not disturbed field patterns or other key landscape characteristics. The effect on the wider landscape character would be minimal and at the hearing the Council accepted that any harmful effect would be localised.
48. Traditionally the land use character of the Chalet Estate was for leisure use, which was reflected in the physical features such as the small timber chalets and the dominance of gardens and green space. The probability is that plot owners and family members visited to enjoy the amenity of a plot of land in the countryside with the benefit of a chalet or caravan on site for use when there. Low level activity and a quiet, even tranquil, environment prevailed.
49. The evidence indicates that change in the character of the estate was gradual over the years through the replacement and extension of the chalets, the increase in mobile homes and caravans and an acceptance in policy of the use of the chalets and caravans for weekends and holidays for seven months of the year. The leisure use was regarded as complementary to the countryside location. Even by 2015 the Chalet Estate was a generally tranquil, green and relatively undeveloped environment with built development blending well with the vegetation and rural surroundings, as described by the Inspector in the 2015 decision.
50. However, by 2018 a number of plots were in use as caravan sites where greenery had been lost to extensive hard surfacing and the main structures were static and/or touring caravans. The trend continued so that by the time of my visit in 2021 the land use character and appearance reflected a greater intensity of residential use. Much of the development taking place in the last few years has not been authorised, as indicated by the number of enforcement notices issued in September 2018. The Parish Council and many of the local community regard the recent land use change as detrimental. The increased daily activity, the increase in the volume and speed of traffic, the visual impact, the loss of vegetation and light pollution were said to have a harmful impact of the character of the village, its rural countryside setting and the local community. The Council considers the estate has become a highly developed urban form of development.
51. The appeal site is a single width plot towards the western end of the estate. The static caravan, in its current position and as currently shown on the submitted site layout, complies with design criteria in the SPG in so far as it is

¹⁰ Key characteristics are taken from the Landscape Character Assessment January 2010, pages 96-99 C6: Roydon

set back within the plot with the shortest side facing the access road. A reasonably sized grassed amenity area and the boundary vegetation are positive features, with hard surfacing limited to that essential for practical purposes, occupiers' ease of movement and parking. Depending on the travelling pattern of the occupiers there may well be times when daily activity is absent or at a low level, but even so the site has a residential character.

52. In local views from the footpath network I found that the development on this single plot was not unduly noticeable or conspicuous, primarily because of its enclosed position within the estate. The rear boundary is visible but caravans are low structures and additional planting could be secured by a planning condition to soften appearance and strengthen boundary features. The caravan site did not impinge on views to the edge of Roydon village.
53. The changes in character and appearance to this plot would not be in harmony with the Chalet Estate as it was even as late as 2015. However, the physical contrast would not be so marked when account is taken of the development allowed by Policy RST10A, as indicated by the nearby new chalets granted permission which are larger and of a more residential appearance than the traditional chalets. A caravan site here would contribute to the cumulative effect of change on the Chalet Estate but in my view the proposal, in terms of the submitted site layout and scale of use, would be better able to be integrated into its surroundings and make effective use of land.
54. In conclusion, the change in land use character is not supported by Policy RST10A, although the appearance of the estate would not be unduly harmed. The proposed development of this single plot would not result in significant harm to the character and appearance of the countryside. In this respect there is no conflict with Policy H10A and when placed in a wider landscape and countryside context the development does not conflict with Policies CP2 and GB7A.

Flood risk

55. The Environment Agency Flood Map for Planning (Rivers and Sea) places the Chalet Estate in Flood Zone 3 and Flood Zone 2. Caravans and mobile homes intended for permanent residential use are classified as highly vulnerable in Annex 3 of the Framework.
56. A site-specific flood risk assessment dated 3 August 2017 (the FRA) was carried out on behalf of the appellants using data from the Environment Agency and site levels from a topographic survey undertaken in 2017. The report states that Plot 21A would not be flooded in the 1 in 1,000 annual probability event and lies in Flood Zone 1. The site was found to be potentially at risk from groundwater and, to a lesser degree, pluvial flooding. No specific flood mitigation measures were proposed, taking account of the ground levels within the site and the no risk outcome of a hazard analysis.
57. Having reviewed the FRA the Environment Agency removed its objection, although advising that the site is within Flood Zone 2 based on historical flood outlines rather than modelled flood levels. A sequential test still needed to be passed before granting planning permission.
58. The aim of the sequential test is to steer development to areas with the lowest probability of flooding. The Council accept that currently there are no

alternative locations for traveller sites in areas at less risk of flooding, although suitable sites should come forward through the EFDLP. I consider the sequential test is satisfied.

59. The FRA explained that the western and eastern parts of the single access road serving the Chalet Estate are predicted to flood for all events including the 1 in 20 annual probability event. A hazard analysis was undertaken based on the 1 in 100 annual probability plus 35% climate change event. The hazard rating along the access road is low risk. The deepest flood depths are shown to be located at the eastern end where flood depths are predicted to be between 0.4m and 0.6m for around 40m. Access to and from Plot 21A would not involve using this part of the road access. The FRA identified an option of providing for pedestrian escape by installing a gate in the fence along the southern boundary, which would give access to the footpath network to Roydon.
60. The FRA considers that flash flooding is unlikely to occur because of the size of the River Stort catchment at this location, allowing time to respond to flood alerts and warnings and to leave the site safely.
61. The FRA reasoned that the development would make little difference to flood risk elsewhere because there are no proposals to modify ground levels and the Chalet Estate is located in an existing developed area. No contrary technical evidence has been produced.
62. In conclusion, the proposal is a highly vulnerable form of development and an element of risk from flood events exists, primarily related to the potential flooding of the access road and groundwater flooding. Risk would be low and importantly the FRA has shown the site itself to be in a flood zone with a low probability of river flooding. The development complies with Policy U2A. To allow the caravan site would not conflict with advice from the Environment Agency. The issue of flood risk provides little weight against the development.

Epping Forest Special Area of Conservation

63. The SAC is a large ancient wood pasture with a mosaic of habitats of high nature conservation value. The SAC, by reason of the international designation, is afforded the highest level of protection through UK legislation and Government policy. Much of the SAC is in an unfavourable condition as a result of atmospheric pollution and also recreational pressure.
64. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') require competent authorities before granting planning consent for a plan or project to carry out an appropriate assessment (AA) in circumstances where the plan or project is likely to have a significant effect on a European site, alone or in combination with other plans and projects.
65. The Council's understanding and approach to development that is likely to have a significant effect on the SAC has evolved considerably during the preparation of the EFDLP, informed by the AA for the emerging plan. The Council issued a Position Statement in October 2019 and an Interim Air Pollution Mitigation Strategy in December 2020. Specific to Plot 21A, the reasons for issuing the enforcement notice and the reasons for refusal made no reference to the SAC but the Council's position was revised and updated during the appeal process. The final position is that the Council has withdrawn its objection based on the SAC, following the financial contribution made by the appellants towards

mitigation measures to help avoid adverse impacts of development on the integrity of the SAC.

Habitats Regulations Assessment

66. In terms of recreational pressure the appeal site is outside the zone of influence (6.2km) established through research and visitor surveys. In view of the distance of the site from the SAC there is no pathway to affect the designated features and no significant effects are likely.
67. The same conclusion is not able to be reached in respect of vehicle flows and associated air pollution when the development of the site is considered in combination with other plans and projects. There is not the objective information to exclude the possibility of a significant effect. An appropriate assessment (AA) is necessary, which establishes whether there would be adverse effects on the integrity of the features of the European site and if there are, whether they could be modified through mitigation.
68. The conservation objective for the SAC is to ensure the integrity of the site¹¹ is maintained or restored as appropriate and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features. These are Beech forests on acid soils, Northern Atlantic wet heathland with cross leaved heath, European dry heaths and Stag beetle (*lucanus cervus*)¹².
69. The Strategy explains the growth proposed in the District would be the primary source of atmospheric pollution that would have an adverse effect on the integrity of the SAC. Vehicle flows and queuing traffic on roads bisecting the SAC have been identified as a key contributor to that atmospheric pollution, related to vehicle emissions including oxides of nitrogen, ammonia and nitrogen deposition. The SAC features are considered sensitive to changes in air quality and serious deleterious effects can occur to habitats and species through changes in species composition of plant communities and associated animal communities, the loss of sensitive species, the promotion of competitive and invasive species.
70. The Strategy sets out a range of strategic and site specific mitigation measures to help avoid adverse impacts of development on the integrity of the SAC. Monitoring and review are integral to the implementation of the Strategy. Funding of elements delivered by the Council and its Partners will be by means of financial contributions secured through planning obligations linked to development proposals. The Strategy has been costed and a delivery framework has been developed. There is no evidence to suggest that the Strategy will not be progressed.
71. The appellants have not demonstrated through the use of objective and robust evidence within a transport statement or assessment that the proposed development would not give rise to a net increase in average annual daily traffic within the district. Planning permission is required for the use. The little information that there is on the previous leisure use indicates a less intensive

¹¹ There is no definition of site integrity in the Habitats Regulations. The definition that is most commonly used is in Circular 06/2005: '(...) the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified'.

¹² The Citation for the SAC details the qualifying habitats and qualifying species

use than the proposed use. Moreover, an aim is to restore the condition of the SAC, not to stop the condition deteriorating further.

72. The proposed use of the small site alone probably would not affect the integrity of the European site, but it would contribute to a cumulative adverse impact together with the other plans and projects. However, mitigation has been secured in line with the Strategy. The mitigation is in the form of a financial contribution towards the funding of the package of measures outlined above. The development provides one static caravan as the main living accommodation. The amount of the contribution is the same as the sum sought through the Strategy for a single dwelling and is proportionate. The Council has confirmed in writing that the payment will only be used to implement the approved Strategy.
73. Having due regard to the advice from Natural England I am satisfied that air quality should not be considered an impediment to a favourable determination of the deemed applications and Appeal B. The proposal complies with an aim of Policy NC1 and with emerging Policies DM 2 and Policy DM 22. These emerging policies seek to ensure no adverse effect on the site integrity of the SAC from development proposals and address potential effects on biodiversity from air pollution.

Amenity of local community and village environment

74. PPTS under Policy H states that sites in rural areas should respect the scale of and not dominate the nearest settled community and avoid placing an undue pressure on local infrastructure.
75. A strong body of objection, supported by the local MP, was demonstrated in written representations, a petition and the case presented in person at the hearing. The objections expressed by the local community, latterly taken forward by the Parish Council, were directed at development on a number of plots at the Chalet Estate rather than specifically Plot 21A¹³. Concerns raised included the change in land use, unauthorised activities and use, local flooding and drainage problems, negative effects on local character, amenity (with reference to anti-social behaviour, intimidation, rubbish and bonfires, effects on Roydon Conservation Area and Lee Valley Regional Park), inadequate access and high concentration of the District's traveller sites in Roydon and Nazeing.
76. I have addressed some areas of objection in the main issues above. As to precedent, the current appeals indicate pressure and a personal need for similar development on a number of plots over the Chalet Estate. The estate is in a Green Belt location where policy places strict control on development and very special circumstances must exist to justify inappropriate development. Provided that this policy test is met to allow the appeals would not set a generalised precedent.
77. The appellants and his family have occupied this plot since 2016 and they are attempting to regularise the planning position through their appeals following the statutory process open to them. There is no specific evidence to show the appellants have not respected the settled community or that they have been involved in anti-social behaviour. Ms Doherty, who spoke at the hearing, referred to the positive interaction with the local community through school

¹³ Objections were in response to the notification by the Council of seven planning applications submitted on the same date of 28 February 2017 and the notification covering the various appeals against the enforcement notices.

events and contacts. Two residents who live in dwellings on the estate spoke generally in support of the appeals.

78. As part of the local plan process, allocation of land within the estate for traveller sites was considered but rejected. In respect of local criteria on accessibility¹⁴ I consider that the site is in reasonable distance of a settlement for access to schools, shops and other services. There is convenient and safe access to public transport services and by vehicle to the main road network via the lane linking the Chalet Estate with the village. I assessed visibility at property access points at the southern end of the lane and concluded highway safety would not be compromised. I note that the Council raised no objections regarding accessibility and highway safety. Furthermore, the site is capable of providing an acceptable living environment for the occupiers.
79. Factors contributing to the character of Roydon Conservation Area include the rural setting and the quiet residential character of the village¹⁵. The change of use of Plot 21A would not impact on these two factors because of its location within the Chalet Estate, the separation distance from the village and the small scale of the development. Increases in traffic movements would be very small when placed in the wider picture.
80. The access road linking the Chalet Estate with the village is not within the Conservation Area. At the time of the planning application interested parties objected to the increased use of the then unmade track. The Character Appraisal for Roydon Conservation Area noted that the potholed gravel surfaced road on the eastern side of the Village Green (at the southern end of the access road) would benefit from being repaired or even resurfaced using an appropriate material. The resurfacing of the access road carried out by residents of the Chalet Estate is not objectionable from purely a planning point of view. The objection from the Parish Council is also directed at the lack of responsibility or authorisation to do the work. This is a separate matter, which is not for my consideration.
81. In conclusion the single pitch at Plot 21A respects the scale of the nearest settled community and would not be harmful to the character of the village. The contribution to the effects of cumulative change would be very small.

Intentional unauthorised development

82. The Government policy on intentional unauthorised development was confirmed by a Written Ministerial Statement in December 2015 and remained in place after the publication of the Framework. The policy was in response to concern about the harm caused, particularly in the Green Belt, where development is undertaken in advance of obtaining planning permission. In such cases there is no opportunity to appropriately limit or mitigate harm that may be caused and a planning authority may have to undertake expensive and time-consuming enforcement action.
83. As a matter of fact the development occurred before authorised by a planning permission and before a planning application was made. A Council officer observed the hardstanding on the site in November 2016. The Council advised of the need for planning permission and requested an application be made by 1

¹⁴ Locational criteria in the Local Plan and criteria (ii) and (iii) of Policy H 4 Traveller Site Development in the emerging EFDLP

¹⁵ Roydon Conservation Area Character Appraisal September 2006 paragraph 3.2

March 2017 otherwise enforcement action would be taken. A planning application was submitted on 28 February 2017 and now is the subject of Appeal B.

84. The supporting statement to the application explained the background to occupation of the site, referring to previous travelling, new household formation and family ties and connections with the estate. Ms Doherty's family live on Plot 38, which has its own planning history involving enforcement action and appeals. This indicates the planning system and the need for planning permission were known to the family.
85. The balance of the evidence is that the appellants carried out development in the knowledge that planning permission was required. Harm was caused to the Green Belt. The opportunity was lost to guide details of the site layout, hard and soft landscaping. Such action has contributed to the friction with the local community. However, the appellants were attempting to resolve the personal need for a site close to their family when no pitch was available in the wider area. Unauthorised roadside camping may have been avoided. An attempt was made to regularise the development following due process after receipt of clear advice from the Council and again in response to the enforcement notice. On balance this matter provides a small degree of weight against the development.

Need and supply of traveller sites

86. There is a generally accepted national need for more traveller sites. The level of need will vary between regions and at district or local authority level. The Framework expects that the housing needs for different groups in the community should be reflected in planning policies. PPTS sets out how travellers' housing needs should be provided for in plan-making for those covered by the definition in Annex 1. Local planning authorities should make their own assessments of need and working collaboratively should develop fair and effective strategies to meet need through the identification of land for sites. More specifically local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets.
87. The development plan does not identify land for sites and Policy H10A is confined to setting out the tests to apply when determining applications for gypsy caravan sites within the Green Belt. The policy wording indicates the expectation that sites will come forward and be located in the Green Belt, rather than elsewhere in the District. The Council accepts that it does not have a 5 year supply of deliverable sites at the current time. This position is contrary to policy in PPTS and an objective in Policy CP1 (ii) has not been achieved. Providing for identified need will be through the EFDLP.
88. The emerging EFDLP sets out the components of the traveller and travelling showpeople requirement over the period 2011-2033. I will refer only to the traveller requirements. Based on the 2016 Gypsy and Traveller Accommodation Assessment and update (the GTAA) 64 pitches are required. Taking account of the new pitches coming forward between 2011 and 2017 the remaining requirement is 32 pitches, not including provision for known ethnic traveller households who do not meet the planning definition¹⁶.

¹⁶ Table 2.4 in the Submission Version of the EFDLP December 2017. The figure of 64 includes 4 pitches that represent 10% of the estimated need from the 'unknowns' in respect of the PPTS definition.

89. In the emerging EFDLP Policy SP 2 provides for an additional 38 pitches through the allocation of sites, which are to be delivered through a sequential approach. Policy SP 5 requires land to be provided for 15 traveller pitches at the proposed Garden Town Communities and another 23 pitches on various site allocations. Policy H 4 confirms the provision of pitches as part of strategic allocations and sets out criteria for determining applications for the development of pitches elsewhere.
90. The proposed Main Modifications includes minor updates to Table 2.4, whereby the remaining requirement is reduced to 31 pitches. The wording of Policy H 4 is subject to changes through the Additional Main Modifications but the fundamental provisions and criteria are not changed.
91. In the examination of the EFDLP to date the Inspector has not questioned the evidence base of the GTAA or the strategic and sequential approach to traveller site provision. The appellants included in their appeal documents a copy of a letter submitted through the 2021 consultation on the Main Modifications arguing that the pitch assessment is out of date and based on a methodology that has been found not to be robust.
92. It would not be appropriate in these appeal decisions to conclude in any detail on matters that are being considered through the examination of the EFDLP. It is clear however, that currently there is an unmet need for sites in the District. Based on the GTAA, which is the best available evidence, over 30 additional pitches are required in the next 10 years for gypsies and travellers who have PPTS status. The GTAA also recognised that need from households who may not have PPTS status (the unknowns) could range from 4 to 41 pitches. The Council confirmed at the hearing that the requirement of 64 pitches included 'new' need from unauthorised sites, including pitches on the Chalet Estate¹⁷. However, I note that the identified unauthorised sites contributing to this total do not include all the pitches at issue in the current appeals and it appears that the GTAA was not informed by interviews with any of the residents of the Chalet Estate. To that extent there is probably an underestimate of need.
93. Supply of sites will be through strategic allocations and windfalls. The updated trajectory has moved forward the provision of 5 pitches at Latton Priory to the 2019-2023 time period and those in the Water Lane Area and East of Harlow to the 2024 to 2028 time period. At the hearing the Council explained why the updated trajectory for delivery of pitches is not over-optimistic, referring to increased confidence of developers to bring strategic housing sites forward as the EFDLP nears adoption. Nevertheless, details on a number of matters, including phasing, have yet to be submitted and resolved and in the absence of more specific evidence considerable uncertainty remains over the timing of delivery of these pitches.
94. Over the last five years or so private site provision has an important source of additional pitches. The wording of Policy H10A recognises that traveller sites that come forward are likely to be within located in the Green Belt, not least because of a very high proportion (92%) of the District is Green Belt land. The appellants have drawn attention to gypsy sites that have received permission over the last five years or so, such as 3 pitches at Willingale. The shortfall of available sites and the relatively high level of need were important factors weighing in favour of a grant of permission. The EFDLP too relies on windfall

¹⁷ Hearing Document 4

private sites (including those already delivered) to make up the supply of pitches to meet the identified requirement to 2033. Some of the proposed allocations are on Green Belt land.

95. The appellant has also relied on the failure to deliver adequate sites for Gypsies and Travellers in Epping Forest District over a prolonged period of time, against a background of Government policy setting out how the likely need for permanent and transit-site accommodation should be addressed in plan-making.
96. In the District the development plan made no site allocations and reliance has been on private site provision to help cater for increasing accommodation needs. The Submission Version of the EFDLP dates back to 2017, although work on the plan commenced in 2010/2011. The time taken to progress the plan towards adoption has been increased by the essential work on the SAC, during which time there was a moratorium on new residential development. The lack of site allocations is reflected to an extent in the existing level of need and the lack of available alternative sites for those travellers on unauthorised sites. The 'failure of policy' argument now has only a small degree of weight given the Council's commitments to move forward through the EFDLP.
97. With reference to the PPTS, the availability (or lack) of alternative accommodation for the applicants is also a relevant consideration. The Council was not able to suggest an alternative acceptable, affordable and available site(s) for the family to move to if their appeal is not successful.
98. The appellants did not explain in any detail the efforts made to find an alternative site following the service of the enforcement notice. However, there is no requirement in planning policy, or case law, for an applicant to prove that no other sites are available or that particular needs could not be met from another site. Conversely, there is no obligation on a local authority to provide them with a site. The probability is that finding a suitable alternative pitch would be difficult, bearing in mind the site search undertaken by the Council as part of the local plan process, the extent of Green Belt in the District and the wider shortfall in traveller site provision.
99. In conclusion, the challenging order of need, the absence of a supply of five years' worth of sites and the lack of a suitable alternative pitch provide substantial weight in support of the development.

Personal circumstances

100. Mr Byrne and Ms Doherty live on the site with their three young children. Ms Doherty explained that they liked to travel but also how much they liked living on the estate. She had previously lived with her parents on Plot 38 and would find leaving the estate very hard. The eldest child attends primary school and their second child attends pre-school. They have made lots of friends and go to parties and events. From her own experience, regular attendance at school and ability to learn were not helped by living on the roadside.
101. I consider that the plot facilitates the family's traditional way of life as travellers whilst the benefits of health, education and community services are accessible and enable improvement to the quality of life. In the event the ground (a) appeals are unsuccessful, the enforcement notice requires the use of the land as a caravan site to cease. It follows that the appellants would lose

their home. The interference would have such gravity as to engage the operation of their Article 8 Convention rights.

102. No available alternative pitch has been identified to meet their personal needs for a site. A roadside existence would be against the best interests of the young children and could be detrimental to their well-being and future education. The potential environmental costs of unauthorised camping are also a factor that supports their continued occupation of the plot. These matters provide very significant weight in support of the development.

Planning balance

103. The main policy objection is the harm to the Green Belt by reason of inappropriateness and loss of openness, which has substantial weight. The limited harm to the character and appearance of the Chalet Estate and matter of intentional unauthorised development each has a small degree of weight. The effect on the amenity of the local settled community and the matter of flood risk provide little additional weight. The SAC issue is neutral in the planning balance, as is the lack of any material harm to the wider landscape character of the area.
104. In support of the development, the various aspects of need and supply of deliverable sites have substantial weight, taking account of the acknowledged national, regional and local need for additional traveller pitches. The failure of policy argument adds very little additional weight. The personal need for a site and other family circumstances, including as a primary consideration the best interests of the children, have very significant weight.
105. The potential harm to the Green Belt by reason of inappropriateness and the additional identified harm is clearly outweighed by other considerations. A single pitch would contribute to pitch provision in the District and would facilitate the gypsy way of life, promoting equality and opportunity, of particular importance to children. I am satisfied that to grant permission would not result in a harmful cumulative impact when taking account of the outcome on the other appeals. Very special circumstances exist to justify the development. The change of use complies with Policy H10A and hence Policy GB2A.

Planning conditions

106. Draft conditions were discussed at the hearing. Conditions should be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.
107. A requirement that the caravan site shall only be occupied by gypsies and travellers with PPTS status is necessary because of the weight attached to the general unmet need for traveller sites to which the personal need of the appellants and their family contributes. Such a condition would also facilitate the gypsy way of life, promote equality and reduce disadvantages experienced by the traveller community. The development is acceptable on a permanent basis and a time limited period is not relevant.
108. A planning condition is the appropriate mechanism to control the number and type of caravans and to specify a single pitch to preclude sub-division. Such restrictions would safeguard the appearance of the plot and the Chalet Estate and control increased intensity of use, also important in relation to the

SAC. Conditions to prevent employment activity and restrict the parking of commercial vehicles are necessary in the interest of safeguarding the amenity of the estate.

109. A site layout plan, together with details of other matters including site drainage, external lighting and landscaping, are required in order to achieve a well-planned site. The information submitted with Appeal B is not sufficient in the context of a permanent permission. No on-site flood mitigation measures are necessary, although a flood evacuation plan is required in the interests of public safety. If approval of the details is not obtained in a reasonable timescale as set out in the condition the use must cease. A schedule of maintenance of the planting is required to encourage establishment and longer term enhancement, albeit the amount of planting on the plot is likely to be small scale.
110. The provision of an electric vehicle charging point (EVCP) and superfast broadband were agreed by the appellants to be reasonable and necessary in the event a permanent, as opposed to a temporary, planning permission is granted. An EVCP would promote sustainable transport choices in the move to a low carbon future and be consistent with the strategy to reduce air pollution in the vicinity of the SAC. The wording of the draft condition is suited to a new housing development where EVCP(s) would serve a number of houses, where usage would be subject to an operation/management strategy and where the electricity supply is anticipated not to require upgrading. I am unable to see how the wording of the condition could be amended to be reasonable and enforceable.
111. Superfast broadband at the development would contribute towards wider objectives to improve digital connectivity across the District, which in turn would support aims to improve the health and well-being of residents and increase opportunities available to them. The wording of the draft condition, as with the EVCP, is suited to a development of new housing on a site without existing infrastructure, not a single caravan plot where an existing use is to continue. I am unable to see how the wording of the condition could be amended to be reasonable and enforceable.

Conclusions

112. The use of the land as a caravan site is in accordance with the development plan when read as a whole.
113. The Green Belt balance demonstrates that the development is acceptable when assessed against the relevant policies in the Framework and the PPTS. In terms of the emerging EFDLP, the traveller site scores well in respect of the criteria set out in Part B of Policy H4 and the proposal complies with emerging Policies DM 2 and DM 22. I have not identified any serious conflict with the emerging EFDLP.
114. The use of the land as a traveller caravan site is able to be approved in accordance with the development plan and other considerations.

Appeals A Refs APP/J1535/C/18/3215165, 3215166 and 3215167

115. For the reasons given above the appeals should succeed on ground (a) and I will grant planning permissions in accordance with the applications deemed to have been made under section 177(5) of the 1990 Act as amended, which will

now relate to the corrected allegation. The appeals on grounds (f) and (g) do not therefore need to be considered. Corrections to the requirements are to ensure consistency with the corrected allegation.

Appeal B Ref: APP/J1535/W/18/3204590

116. For the reasons given above the appeal should be allowed.

DECISIONS

Appeals Refs: APP/J1535/C/18/3215165, 3215166 and 3215167

117. It is directed that the enforcement notice be corrected:

- by the deletion of the wording below the heading to paragraph 3 and the substitution of the wording "Without planning permission, the material change in the use of the Land from use as a recreational leisure plot to use as a residential caravan site and the carrying out of associated development, including the erection of a shed and the installation of hardstanding."
- In paragraph 5 by the deletion of steps (i) to (iv) and the substitution of the wording:
 - i. Cease the use of the Land as a residential caravan site.
 - ii. Remove from the Land all caravans, all domestic paraphernalia and all associated development connected with the use of the Land as a caravan site, including the hardstanding and the shed, but excluding the chalet.
 - iii. Remove from the Land any debris resulting from compliance with steps (i) and (ii) above.

118. Subject to these corrections the appeals are allowed and the enforcement notice is quashed. Planning permission is granted on the applications deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the material change in the use of the land to use as a residential caravan site, with associated development, including the erection of a shed and the installation of hardstanding on the land at Plot 21A, Roydon Lodge Chalet Estate, Roydon CM19 5EF as shown on the plan attached to the enforcement notice and subject to the conditions set out in the Schedule below.

Appeal Ref: APP/J1535/W/18/3204586

119. The appeal is allowed and planning permission is granted for Change of use from leisure plot to caravan site for siting of 1 static caravan with associated development (touring caravan, shed and hardstanding) for residential occupation by one traveller family at Plot 21A, Roydon Lodge Chalet Estate, Roydon CM19 5EF in accordance with the terms of the application, Ref EPF/0636/17, dated 28 February 2017, and the location plan submitted with it, subject to the conditions in the Schedule below.

Diane Lewis

Inspector

SCHEDULE OF PLANNING CONDITIONS

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites 2015 (or its equivalent in replacement national policy).
- 2) There shall be no more than one pitch on the site and on the single pitch hereby approved no more than two caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended), shall be stationed at any time, of which only one caravan shall be a static caravan.
- 3) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 4) No employment activities shall take place on the land, including the storage of materials.
- 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 within 60 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 site development scheme (hereafter referred to as the scheme) shall have been submitted for the written approval of the local planning authority. The scheme shall include details of the internal layout of the site, including the siting of caravans, hardstanding, parking and amenity areas; the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; means of enclosure; tree, hedge and shrub planting, including details of species, plant sizes and proposed numbers and densities; provision for the storage of waste and recyclables; a flood evacuation plan and a timetable for implementation of the approved scheme.
 - ii. If within 11 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 scheme specified in this condition, that scheme shall thereafter be maintained.

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) At the same time as the site development scheme required by condition 5 above is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of 5 years of the proposed planting beginning at the completion of the final phase of implementation as required by that condition. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within 5 years of planting or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

End of Schedule

APPEARANCES

FOR THE APPELLANT:

Alison Heine BSc MSc MRTPI	Heine Planning Consultancy
Shannon Doherty	Appellant
Christopher Moran	An Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Phillip Hughes BA Hons MRTPI MCMi	Principal PHD Chartered Town Planners
Mark Beard of Counsel	Instructed by the local planning authority

FOR ROYDON PARISH COUNCIL:

Angelica Rokad of Counsel
Kathryn Claydon

INTERESTED PERSONS:

Canon Anthea Cannell
Councillor Mary Sartin
Vince Parker
Wayne Matthews

DOCUMENTS submitted at the hearing

- 1 Proposed corrections to the enforcement notices
- 2 Draft Deed of Unilateral Undertaking
- 3 Letter of consent
- 4 Document EB402A Tables 1 and 2
- 5 Letter dated 14 December 2016
- 6 Proposed planning conditions
- 7 Representation by Rt Hon Robert Halfron MP
- 8 Roydon Conservation Area Appraisal
- 9 Revised list of planning conditions
- 10 Planning history of plots

ROYDON LODGE CHALET ESTATE APPEALS: SUMMARY OF DECISIONS

Plot number	Appeal refs	Decision Enforcement appeal	Decision s78 appeal
1B	C/18/3215158 W/18/3204576	Appeal allowed, enforcement notice corrected and quashed, temporary planning permission granted	Appeal allowed, temporary planning permission granted
5 & 6	C/18/3215159, C/18/3215160 W/18/3204582	Appeals allowed, enforcement notice corrected and quashed, temporary planning permissions granted	Appeal allowed, temporary planning permission granted
7	C/18/3215161	Appeal dismissed, enforcement notice as corrected and varied upheld	
8, 9 & 10	C/18/3215162, C/18/3215163 W/18/3204586	Temporary planning permission granted for part of the land, enforcement as corrected and varied upheld	Appeal dismissed
11	C/18/3215164	Appeal dismissed, enforcement notice as corrected and varied upheld	
21A	C/18/3215165, 3215166, 3215167 W/18/3204590	Appeals allowed, enforcement notice as corrected quashed, planning permissions granted	Appeal allowed, planning permission granted
25 & 26	C/18/3215169 W/18/3204593	Enforcement notice quashed	Appeal dismissed
29	C/18/3215171	Appeal allowed, enforcement notice as corrected quashed, temporary planning permission granted	
30 30A	C/18/3215172	Enforcement notice quashed	
32	C/18/3215174	Appeal allowed, enforcement notice as corrected quashed, temporary planning permission granted	

32B 32C	C/18/3215175 C/18/3215176 W/18/3204595	Enforcement notice quashed	Appeal allowed, temporary planning permission granted
33 & 34	C/18/3215177	Enforcement notice quashed	
38	W/19/3222126		Appeal allowed, planning permission granted
49	C/18/3215178 C/18/3215179 W/18/3204596	Appeals allowed, enforcement notice as corrected quashed and temporary planning permissions granted	Appeal allowed, temporary planning permission granted

Note: This summary is for information only and reference should be made to the Appeal Decision(s) for details.