



Appeal Decisions

Hearing Held on 26 to 28 October 2021

Site visit made on 29 October 2021

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2022

Land at Plots 5 and 6 Roydon Lodge Chalet Estate, Roydon CM19 5EF Appeals A and B Refs: APP/J1535/C/18/3215159, APP/J1535/C/18/3215160

- 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 J Brien and Mr M Brien 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 for residential use, touring caravans and associated development, including the installation of a 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.
- Appeal A by Mr J Brien (ref 3215159) is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since 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.
- Appeal B by Mr M Brien (ref 3215160) is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since 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 Decision: The appeal is allowed, subject to the enforcement notice being corrected in the terms set out below in the Formal Decision.

Appeal C Ref: APP/J1535/W/18/3204582

- 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 Messrs J and M Brien against the decision of Epping Forest District Council.
- The application Ref EPF/0635/17, 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 two static caravans with associated development (touring caravan, shed and hard standing) for residential occupation by two traveller families.

Summary of Decision: The appeal is allowed and temporary planning permission is granted in the terms set out in the Formal Decision.

Procedural Matters

1. The three appeals for Plots 5 and 6 were heard together with a number of appeals concerning other plots at Roydon Lodge Chalet Estate (the Chalet Estate) in relation to enforcement notices issued by the Council and against refusals of planning permission.
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. A summary of all Decisions is attached for information.
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.

Appeal Site and Surroundings

5. The Chalet Estate is located to the north and east of the village of Roydon within the countryside and the Metropolitan Green Belt. A number of plots of land are served by a central access road and a vehicle entrance at the western end of the estate. A railway line follows the northern boundary, otherwise the plots are bounded by fields to the south and east. A single track road and a network of public rights of way link the Chalet Estate to the village.
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 plots. A small number of plots are characterised by garden land with a small traditional chalet or appear vacant and overgrown. A number of plots are occupied as caravan sites. There are also plots with dwellings and two plots with very recently built chalet style dwellings.

8. Plots 5 and 6 are towards the eastern end of the Estate to the north of the access road¹. On Plot 5 planning permission was granted for a weekend chalet in 1953 and a weekend caravan in 1954 and 1957. On Plot 6 the erection of a weekend chalet was granted permission in 1953. Standard conditions were imposed, indicating occupation of the chalet for leisure use was restricted to between 1 April and 31 October each year. In 1999 and in 2000 unsuccessful applications were made for a detached bungalow for recreational use only. The 1999 refusal was subject to an appeal and the Inspector described the site in 2000 (a triple plot 5-7) as overgrown with no structures in any habitable state.
9. The position recorded by the Council at 2012 was one of landscaped plots with a weekend chalet at each site. In November 2016 the site was occupied by 2 static caravans on hardstanding. By September 2019 the site was partially laid to hardstanding and was occupied by two static caravans, a touring caravan and one building.
10. On the appeal site visit in October 2021 there was one occupied static caravan, a stored static near the rear boundary, a camper van and a shed. The frontage was hard surfaced near the gateway and the remaining area was grassed with vegetation along the side boundaries. No original chalets remained.

APPEALS A and B

Enforcement notice

11. 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

12. The wording and validity of enforcement notices related to changes of use of plots 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. The previous lawful use of Plot 38 was a mixed use for leisure and residential occupation and therefore conclusions in 2015 on the wording of the notice do not necessarily apply in the current appeal.

¹ Information on the planning history is taken primarily from the plot specific Annexe to the Council's statement, Document 10 submitted at the hearing and the plot specific information provided by the appellant.

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

13. In a pre-hearing note in April 2020 I asked the Council why the new use described in the allegation is not described as a residential caravan site, especially in view of the wording of the requirements³. I also questioned inconsistencies within the wording of the requirements. At the time the Council confirmed that it was satisfied that the breach described the use accurately and precisely. This position was reaffirmed at the hearing, although 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.

Alleged breach of planning control

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.
15. 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 the former use as a recreational leisure plot use is not disputed. In view of the planning history of the appeal 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.
16. Furthermore, there is no dispute that the Land is now in a single primary use for residential purposes where the living accommodation is within caravans⁶. Despite the use of the word 'including' in the allegation, no other form of residential use is identified. The allegation also reasonably refers to the installation of hardstanding and other minor works as associated development, facilitating the change of use.
17. In my view the wording of the alleged breach of planning control, when considered on its face, is reasonably clear.

Requirements

18. 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.

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

⁴ Document 1

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

⁶ A caravan site means land on which a caravan is stationed for the purposes of human habitation and land which is used in conjunction with land on which a caravan is so stationed. Section 336(1) of the 1990 Act states caravan site has the meaning given in section 1(4) of the Caravan Sites and Control of Development Act 1960.

19. 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. Linked to this point the appellants were concerned that the Council's position over the lawful use of the land had changed in the final version of the statement of common ground. Earlier drafts accepted that the plots can be used for leisure purposes including residential occupation for 7 months each year from 1 April until 31 October, whereas in the final document the phrase "including residential occupation" was deleted.
20. 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 that would be acceptable. If the Council decided to do so, it may represent a decision to exercise the power to under-enforce.
21. In the Requirements 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 report seeking authorisation for enforcement action does not assist in explaining this inconsistency.
22. In seeking clarification through the general discussion at the hearing the position of the Council was not entirely clear or consistent throughout. At one point the Council stated that step (ii) should read cease the recreational use of the land between 1 November and 31 March, not the residential use⁷. Taken in isolation I am not persuaded by this explanation because no chalet remained on the site and a recreational use of the land could lawfully take place all year round. The more plausible explanation was 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. Alternatively, the Council may have been seeking to under-enforce, as was the case in the enforcement notice on Plot 38⁸. If that was the intention it is not followed through in steps (iii) and (iv).
23. 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.
24. 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

⁷ 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

⁸ 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."

residential use of the Land would cease and avoid any possibility of a residential use gaining permission through the operation of section 173(11).

25. 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 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

26. 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.
27. 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 the corrections may be made without injustice to either the appellants or the Council.

Conclusions

28. For the reasons set out above the enforcement notice does not set out with sufficient clarity the alleged breach of planning control and the steps required for compliance. The appellants 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 this 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 and B ground (a)/deemed planning application, APPEAL C

The Developments

29. The development at issue in Appeals A and B is derived directly from the description of the breach of planning control as proposed to be corrected, namely the material change in the use of the Land from use as a recreational leisure plot to use as a residential caravan site and carrying out associated development, including the erection of a shed and the installation of hardstanding.
30. The development described in Appeal C is a material change of use from a leisure plot to a caravan site for the siting of two static caravans with associated development (touring caravan, shed and hard standing) for residential occupation by two traveller families. The intention is that the site

would be occupied by travellers who have PPTS status⁹. The planning application was made retrospectively under section 73A of the 1990 Act and sought planning permission for development already carried out. The submitted block plan of the site layout does not tally exactly with the layout of the site on the ground in October 2021.

31. The developments are essentially the same in so far as they are caravan sites and I will deal with the planning merits at issue in the three appeals together. Two static caravans were proposed in Appeal C and were present on the site before the enforcement notice was issued. Accordingly that will form the starting point for my assessment.
32. 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 status in view of their travelling lifestyle, including travelling for an economic purpose.

Planning policy

33. 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).
34. 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. I note the supporting text to Policy H10A also sets out locational criteria for proposed gypsy caravan sites. Additional relevant policies include Policy CP1 Achieving sustainable development objectives, Policy 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 for 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.
35. Material considerations include the National Planning Policy Framework (the Framework), Planning policy for traveller sites 2015 (PPTS) and Planning Practice Guidance. At local level Roydon Lodge Chalet Estate Design Criteria was adopted in 2003 as Supplementary Planning Guidance (the SPG).
36. The most important policies identified above are generally consistent with the Framework and have full weight.
37. 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.

⁹ Annex 1 to Planning policy for traveller sites sets out the meaning of gypsies and travellers for the purposes of the planning policy

Main Issue

38. 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.
39. 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.
40. 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.
41. The carrying out of intentional unauthorised development is an additional matter to be considered.
42. Other considerations, potentially weighing in favour of the development, include the existing level of local provision and the need for sites, the availability (or lack) of alternative accommodation for the appellant and his family and their other personal circumstances, including the best interests of the child.
43. Integral to my decision-making will be exercising duties under the Human Rights Act 1998. Article 8, a Convention Right¹⁰, 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. I also will have due regard to the public sector equality duty (PSED) under the Equality Act 2010.

Reasons

Effect on the Green Belt

44. By definition inappropriate development is harmful to the Green Belt. The essential characteristics of Green Belts are their openness and permanence. In this instance the site was an open landscaped plot before development took place. Aerial photographs show the presence of mature trees and hedgerows and much of the site was covered in grass. The appellants say when they bought the site in 2016 it had to be cleared of rubbish. Notwithstanding, the base position is that the land was of an open character.

¹⁰ Article 8 of the European Convention on Human Rights, enshrined into UK law by the Human Rights Act 1998.

45. The appellants wish to station two static caravans to provide living accommodation, which may be expected to be larger structures than a touring caravan and present for sustained periods of time. In addition part of the site would be hard surfaced to provide for vehicle parking, circulation and a platform to station all the caravans. The current occupiers say they use the site mostly as a winter base because they travel extensively for work purposes. Nevertheless, in all probability the residential use would generate more activity and vehicle movements than the former leisure plot. Family circumstances may change whereby the occupiers spend more time at the site. The change in use has resulted in a harmful loss of openness. As such there is conflict with criterion (i) of Policy CP1 and criterion (ii) of Policy H10A.
46. 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 development would not conflict with any of the stated purposes of the Green Belt.
47. I conclude that the harm to the Green Belt, by reason of inappropriateness and a loss of openness, has substantial weight.

Character and appearance

48. 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 area¹¹.
49. The development of Plots 5 and 6 has not encroached into the countryside or disturbed field patterns or other key landscape characteristics. The change to the wider landscape character would be minimal and at the hearing the Council accepted that any harmful effect would be localised.
50. Traditionally on the Chalet Estate the use of land for leisure purposes 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 small caravan on site for use when there. Low level activity and a quiet, even tranquil, environment prevailed.
51. The evidence indicates that change 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.
52. 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

¹¹ Key characteristics are taken from the Landscape Character Assessment January 2010, pages 96-99 C6: Roydon

intensity of residential use. As indicated by the number of enforcement notices issued in September 2018 much of the development taking place in the last few years has not been authorised.

53. The appeal site is a double width plot towards the eastern end of the estate. The static caravans, as shown on the submitted site layout (Appeal C), comply with design criteria in the SPG in so far as they are set back within the plot with the shortest side facing the access road. A reasonable 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 they may well be times when daily activity is absent or at a low level, but even so the site reflects a residential character, distinct from a low key, more seasonal leisure use character.
54. In local views from the footpath network I found that the development on this double plot was not unduly noticeable or conspicuous, primarily because of its location on the northern side of the estate. The caravans are low structures and the features of nearby permanent dwellings are more dominant. A soft landscaped rear boundary could be secured by planning condition given the space within the plot.
55. The changes in character and appearance to this double plot would not be in harmony with this part of the Chalet Estate as it was even as late as 2015 or so. However, the physical contrast would not be so marked when account is taken of the development allowed by Policy RST10A, as indicated by the new chalets towards the western end of the estate. A caravan site here would contribute to the cumulative effect of change on the Chalet Estate but the proposal, in terms of the submitted site layout, inclusion of extensive green space and modest scale of use, would be better able to be integrated into its surroundings and make effective use of land. The photograph dated mid-2017 submitted by the appellants' supports that view. There is evidence that for a period at least the land was not used or maintained and, with reference to Policy H in the PPTS, I attach positive weight to its effective use.
56. 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 and arguably would be improved. The proposed development of this double plot would not result in significant harm to the character and appearance of the countryside, nor would the site have an excessive adverse impact on the rural character and visual amenities of the Green Belt. On these matters there is no conflict with Policy H10A criterion (ii) and Policies CP2 and GB7A.

Flood risk

57. 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. When consulted on the planning application for Plots 5 and 6 the Environment Agency in a response dated 11 April 2017 objected to the application because the proposed development is located entirely within Flood Zone 3b, the functional flood plain with a 1 in 20 chance of flooding in any year. Moreover, its most up to date modelling shows the site to be within the 1 in 2 year flood extent, meaning that there is a 50% probability of flooding at the site in any year.

58. The appellants submitted a site-specific flood risk assessment dated 3 August 2017 (the FRA) that used data from the Environment Agency and site levels from a topographic survey undertaken in 2017. The report states that Plot 5/6 would be partly flooded in the 1 in 20 annual probability event with a maximum flood depth of 0.32m. An area extending some 11m back from the access road would be free of flooding. The plot would be entirely flooded in the 1 in 100 annual probability event when flood depths would range from 0.02m to 0.42m. The FRA concludes the site is partly within Flood Zones 3a and 3b. The site is also potentially at risk from groundwater flooding and surface water flooding. The Committee report for the planning application indicates that the FRA was referred to the Environment Agency, who maintained their objection.
59. The Environment Agency and FRA do not fully agree on the flood zone applicable to the site. The FRA explained that the only difference with the Environment Agency's base model was the input of the topographic data and concluded the FRA provided the most accurate and up to date information to determine the appropriate flood zones at the site. At the hearing the Council maintained the FRA was not a satisfactory alternative to the Environment Agency modelling but no detailed explanation was forthcoming. There is no evidence from the Environment Agency that demonstrates that the methodology or modelling of the FRA was inaccurate or incorrect. The Framework and Planning Practice Guidance require a FRA for site development proposals. In my view and in the absence of evidence to show otherwise the FRA should provide the more accurate results being site specific and using topographic information.
60. Having said that, the starting point from national planning policy and guidance is that the caravan site as a highly vulnerable form of development should not be permitted in Flood Zone 3a or 3b. The exception test does not apply. However, there are other factors to take into account in relation to avoidance and making the development safe.
61. The aim 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.
62. The FRA proposes various measures to mitigate flood risk. These include ensuring the threshold level of the static caravan remains 300mm above the flood level expected in the 1 in 100 annual probability plus 35% climate change event, anchoring the static caravan to the ground, requiring occupants to sign up to receive flood alerts and flood warnings and preparation of a flood plan. These measures would manage the risk of flooding rather than remove it. Planning Practice Guidance is that flood resistance and resilience measures should not be used to justify development in inappropriate locations.
63. 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. The only means of escape for Plot 5 and 6 is along the access road. A hazard analysis was undertaken based on the 1 in 100 annual probability plus 35% climate change event. The hazard rating within the site and along the access road is low risk. The deepest flood depths on the access road are found at the eastern end, where flood depths are predicted to be between 0.4m and 0.6m for around 40m.

64. The FRA considers that flash flooding is unlikely to occur because of the size of the River Stort catchment at this location. Residents would have time to respond to flood alerts and warnings and to leave the site safely.
65. 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 was produced.
66. The Parish Council drew attention to flooding events in the last few years and how the increase in hard surfaces had made matters worse by displacing some of the flooding onto the railway and farmland. Concern was expressed over works to the brook by the entrance to the estate. The appellants explained that works were done to clear out the brook and increase the height of the culvert so that conditions were improved.

Conclusions

67. The proposal is a highly vulnerable form of development. The use of the land as a caravan site in the functional flood plain would increase the danger from flood risk to the occupiers and in the event of a flood event to members of the emergency services. For these reasons Policy U2A does not support the use in this location. Based on the flood risk classification and the location of the site the Framework also indicates the use should not be permitted. On the other hand, measures have been identified to reduce risk and make the development flood resistant. Escape routes would present a low risk. Flood risk would not be increased elsewhere. All matters considered, the issue of flood risk provides significant weight against the development.

Epping Forest Special Area of Conservation

68. The SAC is a large ancient wood pasture with a mosaic of habitats of high nature conservation value. By reason of the international designation, the SAC is afforded the highest level of protection through UK legislation and Government policy¹². Much of the SAC is in an unfavourable condition as a result of atmospheric pollution and also recreational pressure.
69. 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 Appropriate Assessment for the emerging plan. The Council issued a Position Statement in October 2019 and an Interim Air Pollution Mitigation Strategy in December 2020. In the emerging EFDLP Policy DM 2 seeks to ensure there is no adverse effect on the site integrity of SAC from development proposals and requires mitigation as appropriate in line with the Strategy. Policy DM 22, regarding air quality, includes provisions to address potential effects on biodiversity from air pollution.
70. The reasons for refusal and for issuing the enforcement notice made no reference to the effect on the SAC but the Council's position has been 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

¹² The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') set out the provisions and procedures which must be followed to assess the implications of plan and projects on European sites (Regulations 63 and 64).

contribution made by the appellants towards mitigation measures to help avoid adverse impacts of development on the integrity of the SAC.

Habitats Regulations Assessment

71. Step 1 'Screening' establishes whether there is a pathway for effect on the designated features of a European site and whether significant effects are likely.
72. 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.
73. The same conclusion does not apply in respect of vehicle flows and associated air pollution when the development of the site is considered in combination with other plans and projects. It is necessary to move to stage 2 the appropriate assessment (AA) 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.
74. The conservation objective for the SAC is to ensure the integrity of the site¹³ is maintained or restored as appropriate and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features. These features are Beech forests on acid soils, Northern Atlantic wet heathland with cross leaved heath, European dry heaths and Stag beetle (*lucanus cervus*).
75. The Strategy explains that 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.
76. 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 its implementation. The Strategy has been costed and a delivery framework has been developed. 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. There is no evidence to indicate that the mitigation will not proceed in accordance with the Strategy.
77. 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 that

¹³ 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'.

probably would generate more vehicle trips than the previous leisure use. Moreover, an aim is to restore the condition of the SAC, not to stop the condition deteriorating further.

78. The proposed use of the small site alone probably would not have adverse effects on the integrity of the European site, but it would contribute to a cumulative adverse impact together with the other plans and projects.
79. The development, where two static caravans would provide the main living accommodation, would equate to two dwellings. The mitigation is in the form of a financial contribution to help fund a package of measures outlined above. The amount of the contribution is the same as to the sum sought through the Strategy for two dwellings and is proportionate. The Council has confirmed in writing that the payment will only be used to implement the approved Strategy.
80. Having due regard to the advice from Natural England I am satisfied that that air quality should not be considered an impediment to a favourable determination. The development complies with an aim of Policy NC1 and with emerging Policies DM 2 and DM 22.

Amenity of settled community and village environment

81. 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.
82. 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 Plots 5 and 6¹⁴. Objections included the change in land use, unauthorised activities and use, local flooding and drainage problems, negative effects on local character and amenity (with reference to anti-social behaviour, intimidation, rubbish and bonfires, Roydon Conservation Area and Lee Valley Regional Park), inadequate access and high concentration of the District's traveller sites in Roydon and Nazeing.
83. I have addressed some areas of objection in the main issues above. In terms of precedent, all the appeals considered at the hearing indicate pressure and a personal need for similar development on a number of plots over the Chalet Estate. Being in a Green Belt location 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.
84. The appellants have owned this plot since around early 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 responsible for or involved in any anti-social behaviour.

¹⁴ 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.

85. As part of the local plan process, allocation of land within the estate for traveller sites was considered but rejected. Nevertheless, referring to local criteria¹⁵ 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.
86. Factors contributing to the character of Roydon Conservation Area include the rural setting and the quiet residential character of the village¹⁶. The change of use of Plots 5 and 6 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 small when placed in the wider picture.
87. 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 objectional from purely a planning point of view. The objection from the Parish Council raises a separate matter directed at the lack of responsibility or authorisation to do the work. This issue is not a planning issue for my consideration.
88. The policy indicators show that there is the potential for successful integration between the occupiers of the plot and the settled community. The modest scale of development of Plots 5 and 6 would not dominate the local settled community or harm the character of the village. The contribution to the effects of cumulative change would be small.

Intentional unauthorised development

89. 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.
90. 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 2 static caravans and hardstanding on the site in November 2016. The Council advised of the need for planning permission and requested an application be made by 1 March 2017 otherwise enforcement action would be

¹⁵ See criteria (ii) and (iii) of Policy H 4 Traveller Site Development in the emerging EFDLP

¹⁶ Roydon Conservation Area Character Appraisal September 2006 paragraph 3.2

taken. A planning application was submitted on 28 February 2017 and now is the subject of Appeal C.

91. The supporting statement to the application explained the background to occupation of the site, referring to a lack of spare pitches on sites owned by other family members, the lack of success in gaining planning permission for additional pitches and the need to have medical support at hand.
92. The balance of the evidence is that the appellant carried out development in the knowledge that planning permission was required. Harm has been caused to the Green Belt. The opportunity to guide details of the site layout, hard and soft landscaping was lost. Also of relevance, the appellant was attempting to resolve the personal need for a site close to his family when no pitch was available in the wider area. Unauthorised roadside camping probably was avoided. An attempt was made to regularise the development following due process after receipt of clear advice from the Council and secondly in response to the enforcement notice.
93. In conclusion intentional unauthorised development occurred, a consideration to which I attach a small degree of weight.

Need and supply of traveller sites

94. 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.
95. 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. Nevertheless, provision of sufficient traveller accommodation has not been secured. The Council does not have a 5 year supply of deliverable sites at the current time, which 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.
96. 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 completed 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 definition¹⁷.

¹⁷ Table 2.4 in the Submission Version of the EFDLP December 2017. The figure of 64 includes 4 pitches that is equal to 10% of the estimated need from the 'unknowns' in respect of the PPTS definition.

97. 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.
98. 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.
99. 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' documents include 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.
100. 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 that may not have PPTS status (the unknowns) could range from 4 to 41 pitches.
101. The Council confirmed at the hearing that the requirement of 64 pitches included 'new' need from unauthorised sites, including pitches on the Chalet Estate¹⁸. 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.
102. 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.
103. Over the last five years or so private site provision has been 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

¹⁸ Hearing Document 4

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 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.

104. The need to deliver adequate sites for Gypsies and Travellers was recognised in Government policy back in 2006. Since then PPTS 2012 and the current PPTS set out how the likely need for permanent and transit-site accommodation should be addressed in plan-making.
105. In Epping Forest 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 commenced on the plan 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.
106. With reference to the PPTS, the availability (or lack) of alternative accommodation for the applicants is identified as a relevant consideration. The Council was not able to suggest an alternative acceptable, affordable and available site(s) for the occupiers to move to if their appeals are not successful.
107. The appellants did not explain what efforts they have made to look for 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. Likewise, there is no obligation on a local authority to provide 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.
108. 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

109. When the planning application was made in 2017 the intention was that the site would be occupied by the appellants and their families. Due to bereavement and health issues, the site is now occupied by a son and his family together with a second related household. At the present time two very young children live on the site and their best interests are a primary consideration. No particular health issues are identified.
110. The supporting information states that the Brien family are persons of nomadic habit of life, they travel extensively doing ground work and the site is used mainly as a winter base. At the hearing the indication was that current

occupiers do not travel so extensively now but nevertheless I am satisfied they have PPTS status. Based on human rights law there is a positive obligation to facilitate the gypsy way of life. The appellants share a protected characteristic and under the PSED I must have due regard to the need to remove or minimise disadvantages and advance equality of opportunity between persons.

111. I consider that the plot facilitates the occupiers traditional way of life as travellers. The benefits of health, education and community services are accessible and enable improvement to the quality of life. 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 very 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 the continued occupation of the plot by the families. The personal circumstances provide significant weight in support of the development.

Planning balance

112. There are two main policy objections. The harm to the Green Belt by reason of inappropriateness and loss of openness has substantial weight. The issue of flood risk provides a significant amount of weight against the development. As to the remaining potential harms, the matter of intentional unauthorised development has a small element of weight. The effects on character and appearance and local amenity do not raise undue concern. The issue of the SAC is neutral in the planning balance.
113. In support of the development, the various elements of need have substantial weight. The failure of policy argument adds very little additional weight. The family circumstances, including the best interests of the children, have significant weight.
114. The totality of the identified harm is not clearly outweighed by other considerations. Very special circumstances do not exist. That being so the development fails to comply with Policy H10A and Policy GB2A. Conflicts also exist with Policies U2A and RST10A. Notwithstanding the compliance with Policies NC1 and CP2, the material change of use is not in accordance with the development plan when read as a whole. The conflicts with national policy on Green Belt and flood risk provide a strong reason for following the direction of the development plan. The development is not acceptable on a permanent basis.

Temporary planning permission

115. Planning permission may be granted for a temporary period, for example where it is expected that circumstances will change in a particular way at the end of that period. Furthermore, where there would be an interference with an individual's rights the interference should be no more than is necessary and be proportionate. The length of a possible temporary period was discussed at the hearing, the Council arguing for a two year period and the appellant for five years.
116. The potential change would be the provision of sites through the EFDLP and more particularly the strategic site allocations identified in emerging Policies SP 4 and SP 5. There is much uncertainty over the timescale for delivery of these sites. The probability is that a time-limited period of four years is more

realistic, remembering that it will rarely be justifiable to grant a second temporary permission and there is no presumption that a temporary grant of planning permission will then be granted permanently¹⁹.

117. The weights attached to the various harms and considerations in the planning balance require adjustment to take account of the use over a time-limited period. In doing so I have taken account of PPTS paragraph 27²⁰ in respect of the absence of an up-to-date five year supply of deliverable sites. In this case the shortfall in sites reflects the pressing need in Epping Forest District for sites, the extent of the Green Belt, the period of the local plan process, the location of proposed allocations and uncertainty about future site delivery. The position justifies very significant weight. In addition, the best interests of the children and the probable hardship if the families lost their homes have substantial weight all matters considered.
118. The totality of the identified harm is clearly outweighed by other considerations. A grant of a temporary permission is a proportionate outcome, given the positive obligation to facilitate the gypsy way of life and having due regard to the PSED. 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 and accordingly the development complies with Policy H10A. In terms of the development plan and national planning policy the caravan site is acceptable for a temporary period.

Planning conditions

119. Planning Practice Guidance advises when used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. Conditions must satisfy six tests and be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. Against this background and the discussion at the hearing the permissions will be subject to conditions on the following matters.
120. The development is acceptable for a temporary period and so a time limit must be imposed, together with requirements for the use to cease at the end of the stated period and restoration of the land to an agreed scheme. 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 contribute. Such a condition would also facilitate the gypsy way of life, promote equality and reduce disadvantages experienced by the traveller community.
121. The approved land use is a caravan site and so it is necessary to control the number and type of caravans and to specify a single pitch to preclude sub-division. Such restrictions are to safeguard the appearance of the plot and the Chalet Estate, to preclude increased intensity of use and to ensure the SAC contribution towards mitigation is adequate.

¹⁹ Planning Practice Guidance: The use of planning conditions, paragraph: 014 Reference ID: 21a-014-20140306; PPTS paragraph 27

²⁰ PPTS at paragraph 27 states when considering the grant of a temporary permission the absence of an up-to-date five year supply of deliverable sites should be a significant material consideration, except where the proposal is on Green Belt land.

122. Conditions to prevent commercial activity and restrict the parking of commercial vehicles are necessary to protect the amenity of the residential and leisure uses on the estate.
123. Notwithstanding the use being for a time limited period, submission and approval of a site development scheme is necessary to maintain the appearance of the plot and estate. The information submitted with Appeal B does not adequately reflect the preferred layout currently seen on site. The details should include a site layout plan, site drainage, external lighting and planting. The scheme and details required should be proportionate to the size and location of the plot and the temporary time period. If approval of the details is not obtained in a reasonable timescale, as set out in the condition, the use must cease.
124. A condition sets out mitigation measures identified in the FRA, which are important to reduce risk and improve safety in a flood event.
125. To require the provision of an electric vehicle charging point and superfast broadband is not reasonable with a temporary planning permission. The Council accepted that position.

Conclusions on planning merits

126. For the reasons given above Appeals A and B 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. As a result of this conclusion the appeals on grounds (f) and (g) do not need to be considered.
127. For the reasons given above Appeal C should be allowed.

DECISIONS

Appeals Refs APP/J1535/C/18/3215159, APP/J1535/C/18/3215160

128. 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 installation of hardstanding".
 - the deletion of steps (i) to (iv) in paragraph 5 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 and all associated development, including the hardstanding connected with the use as a caravan site.
 - iii. Remove from the Land all domestic paraphernalia associated with the use of the Land as a caravan site and any debris resulting from compliance with steps (i) and (ii) above.
129. 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 installation of hardstanding on the land at Plots 5 and 6, Roydon Lodge Chalet Estate, Roydon CM19 5EF referred to in the notice, subject to the planning conditions set out in the Schedule.

Appeal Ref APP/J1535/W/18/3204582

130. The appeal is allowed and planning permission is granted for Change of use from leisure plot to caravan site for siting of two static caravans with associated development (touring caravan, shed and hard standing) for residential occupation by two traveller families at Plots 5 and 6 Roydon Lodge Chalet Estate, Roydon CM19 5EF in accordance with the terms of the application, Ref EPF/0635/17, dated 28 February 2017 and plan 1 Location Plan submitted with it, subject to the planning conditions set out in the Schedule.

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) The use hereby permitted shall be for a limited period being the period of four years from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought onto, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place in accordance with a scheme submitted to and approved in writing by the local planning authority.
- 3) There shall be no more than two pitches on the site. No more than four caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than two shall be a static caravan) shall be stationed on the site at any time.
- 4) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 5) No commercial or business activities, including the storage of materials, shall take place on the land.
- 6) At all times (i) the floor level of the static caravans shall be set at 33.80 metres Above Ordnance Data (AOD), and (ii) the static caravans shall be anchored to the ground.
- 7) 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 and notwithstanding the details shown on the block/site plan submitted with application Ref EPF/0635/17, a site development scheme and a timetable for its implementation 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 and amenity area; the means of foul and surface water drainage; external lighting; means of enclosure; tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities and details of maintenance during the 4 year period of the approved use; a flood evacuation plan; provision for storage of waste and recyclables and a scheme to restore the site to its former condition at the end of the period for which planning permission is granted for the use.
- 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.

End of Schedule

APPEARANCES

FOR THE APPELLANTS:

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Christopher Moran

Heine Planning Consultancy
An Appellant

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MCMJ
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Principal PHD Chartered Town Planners
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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 Halfon 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.