



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 49 Roydon Lodge Chalet Estate, Roydon CM19 5EF Appeals A and B Refs: APP/J1535/C/18/3215178 & APP/J1535/C/18/3215179

- 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 F Maloney and Ms M Moran 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 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 an appeal in each case 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, the enforcement notice as corrected is quashed and planning permissions are granted in the terms set out in the Formal Decisions.

Appeal C Ref: APP/J1535/W/18/3204596

- 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 Frank Maloney and Margaret Moran against the decision of Epping Forest District Council.
- The application Ref EPF/0640/17, dated 28 February 2017, was refused by notice dated 30 January 2018.
- The development proposed is Change of use from double leisure plot with original chalet, shed, hardstanding and cess pit to site for stationing of two static caravans for residential occupation by two traveller families with associated hardstanding, shed and storage of a touring caravan.

Summary of Decision: The appeal is allowed and planning permission is

granted in the terms set out in the Formal Decision.

Procedural Matters

1. The Council and the appellants agree that the site address of this double plot is Plot 49 and 21. The enforcement notice and the address in Appeal C shall be corrected accordingly.
2. The appeals for Plot 49/21 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.
3. 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.
4. I carried out site visits to the Chalet Estate on 25 and 29 October 2021 as well as familiarising myself with the surrounding area at other times.
5. 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

6. The Chalet Estate is within the Metropolitan Green Belt and consists of a number of plots fronting onto a central access road. A railway line follows the northern boundary, otherwise the plots are bounded by fields to the south and east. A vehicle entrance at the western end of the estate leads onto a single track road up to the village of Roydon. A network of public rights of way crosses the surrounding area.
7. 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.
8. Thereafter a planning history has developed specific to each plot or combined plots, as outlined in the appeal documentation. 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 lawful dwellings and a few very recently built chalets.
9. Following the amalgamation of the two plots a number of years ago, Plot 49/21 is one of the largest plots, roughly triangular in shape and covering an area of about 0.2 hectares. The land is located to the south of the access road at the

western end of the Chalet Estate, adjacent to Roydon Brook. A small chalet dating to the 1950s was sited in the north western corner of the land. According to the Council the planning permission limited the use of the chalet to recreational leisure purposes between 1 April to 31 October each year. The appellants stated that the previous owners had a large static caravan and sheds at the back of the plot that could be glimpsed from the public footpath.

10. The position in 2012, recorded by the Council, was of a landscaped area with a chalet on Plot 49 and a small structure/caravan on Plot 21. When an enforcement investigation was carried out in November 2016 the site was occupied by one static and two touring caravans and largely covered by hardstanding. The number of caravans subsequently increased to two statics and three touring caravans in September 2017, four statics and two tourers in September 2019 and four statics and four touring caravans in October 2019.
11. In October 2021 on the site as whole there were four static caravans and two touring caravans together with a dayroom, a washroom, a shed and other vans. The original chalet now somewhat dilapidated can still be seen on the site frontage. The site is largely covered with hardsurfacing, although trees were present.

Enforcement notice

12. 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. The power under section 176 of the 1990 Act to correct or vary an enforcement notice may only be exercised if the correction or variation can be done without injustice to either the appellant or the Council. The issue is not confined to whether the requirements are excessive, a matter for the ground (f) appeal.

Background

13. 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 38¹. 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. The appeal decisions referred to the *Pitman* judgement² which confirmed that use of land as a leisure plot can exist as a separate use in its own right. 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 described as a mixed use for leisure and residential occupation and therefore conclusions in 2015 inform but do not necessarily apply in the current appeals.

¹ Appeal ref APP/J1535/C/11/2160430 dated 25 May 2012 and Appeal ref APP/J1535/C/14/2211759 dated 30 July 2015

² *Pitman v Secretary of State for the Environment* [1989] JPL 831

14. In response to a pre-hearing note covering all appeals³, the Council confirmed that the breach described the use accurately and precisely, a position that was reaffirmed at the hearing. If I was minded to correct the notice the Council put forward alternative wording: "The material change of use of the Land from a recreational leisure plot use to use as a residential caravan site".⁴ Various other amendments were suggested for consideration by the Council and the appellants during the appeal process.

Alleged breach of planning control

15. 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 is served to know what those matters are.
16. 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 is not disputed. In view of the planning history of the site and the Chalet Estate the probability is that the land was used for pleasure and enjoyment during the owners' leisure time.
17. Furthermore, there is no dispute that the Land changed to a single primary use for residential purposes where the living accommodation is within caravans⁵. As stated in the notice, as matter of fact static caravans and touring caravans were stationed on the land. 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, part and parcel of the change of use.
18. The wording of the alleged breach of planning control when considered on its face is understandable.

Requirements

19. 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.
20. 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 change in the Council's position over the lawful use of the land was of concern to them. Early

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

⁴ Document 1

⁵ 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.

drafts of the statement of common ground accepted 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.

21. As seen from the statutory provision, the function of the requirements is to achieve the purpose of the notice. Therefore, it should be possible to understand from the requirements what the purpose of the notice is. 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 would represent a decision to exercise its power to under-enforce.
22. Nevertheless, there appears to be a conflict in the wording of the Requirements. In short, steps (i), (iii) and (iv) are directed at ensuring cessation of the use as a residential caravan site, whereas step (ii) indicates that a residential use is acceptable for seven months of the year. The report seeking authorisation for enforcement action does not assist in explaining this inconsistency.
23. In seeking clarification through the general discussion at the hearing the Council stated that the intention was step (ii) should require the recreational use of the land to cease between 1 November and 31 March⁶. Taken in isolation 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 step (ii) was an attempt to make clear enforcement action was not 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 would make more sense. Alternatively, the Council may have been seeking to under-enforce, as was the case in the enforcement notice on Plot 38⁷, although steps (iii) and (iv) do not reflect such an intention.
24. 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.
25. 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).
26. Step (ii) implies that a residential use is acceptable for part of the year. Its 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

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."

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

27. An alternative is 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 appellants did not disagree with this proposed way forward.
28. 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. In view of the information on the site conditions prior to September 2018 there is no need to delete reference to the associated development. It follows that the corrections are able to be made without injustice to either the appellants or the Council.

Conclusions

29. 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 appellants and the local planning authority agreed at the hearing that it was open to me to correct the notice in those two respects. I am satisfied that no injustice will be caused by doing so and the enforcement notice will be corrected 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) and Appeal C

The development

30. The development in the deemed planning applications (Appeals A and B) is derived directly from the description of the breach of planning control, as corrected. Therefore the development is a material change in the use of the Land from use as a recreational leisure plot to use as a residential caravan site with associated development, including the installation hardstanding. The appellants stated at the hearing that permission was being sought for two static caravans and two touring caravans on the land.
31. The description of the Appeal C proposal is similar but specific to the stationing of two static caravans for residential occupation by two traveller families with associated hardstanding, shed and storage of a touring caravan. The planning statement submitted with the application stated that the application was made retrospectively for year round occupation and for the storage of a caravan. It was considered that as a double plot permission was not required to site two statics with associated hardstanding on the plot.

32. However, the description of development on the application form is for a change of use. Whilst reference was made to a large static caravan on Plot 49 there is no evidence that this caravan was used for a primary residential use. A planning policy, such as RST10A, states what may be acceptable in planning policy terms but it does not grant a planning permission. As to the hardstanding again there is no evidence of extensive hard surfacing existing on the plot before development took place. Significantly no appeals on grounds (c) or (d) were included in the enforcement appeal. The description of development on the application form provides the basis on which the planning assessment will be made.

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 appeal 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, Policy CP2 Protecting the quality of the rural and built environment, Policy GB7A Conspicuous development, 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 (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.

Main Issue

38. With reference to Policy E of the PPTS the material change of use of the plots 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 for all three appeals 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 Epping Forest Special Area of Conservation
- The amenity of the village and the settled community
- Wildlife and biodiversity.

41. The carrying out of intentional unauthorised development is an additional matter to be explored.

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 appellants and their families and their other personal circumstances, including the best interests of the child.

43. The appellants have provided information on their patterns of travelling, the work they carry out and the contribution made by the younger members of the family. I am satisfied that they have PPTS status⁸.

44. 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. In applying Article 8 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 (PSED).

Reasons

Green Belt

45. 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 largely open area before development took place. Aerial photographs show much of the site was covered in grass, the presence of mature trees and hedgerows. The small chalet and a few other small structures did not detract from this open appearance and character.

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

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

46. The development introduced up to four static caravans, larger in size than a touring caravan and which may be expected be present for sustained periods of time. Touring caravans and other structures added to the impact on the spatial and visual aspects of openness. In addition, much of the site was hard surfaced to provide for vehicle parking, circulation and a platform to station all the caravans. The caravan site, acting as a stable base for the occupants, would generate daily activity and vehicle parking, which in all probability would be greater than the former leisure plot. The result was a largely developed double plot that had a considerable impact on its openness. A reduction in the number of caravans, as now proposed, would help to reduce the impact but even so a harmful loss of openness would occur.
47. The plot is contained within the boundary of the developed area of the Chalet Estate. No physical encroachment into the countryside occurred and the development would not conflict with any of the stated purposes of the Green Belt.
48. I conclude that the harm to the Green Belt, by reason of inappropriateness has substantial weight and bearing in mind the size of plot the loss of openness has moderate weight.

Character and appearance

49. The Chalet Estate is within a rural landscape characterised by gently undulating arable fields within the valley of the River Stort¹⁰. 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 area.
50. The development has not encroached into the countryside, affected field patterns or the farming landscape. It is unclear whether any hedgerow loss occurred along the western boundary. The caravan site has not impinged on views to the edge of Roydon village from adjacent fields. Any harm to the wider landscape character would be minimal and at the hearing the Council accepted that harm was localised.
51. 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.
52. 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 holiday accommodation 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.

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

53. 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 has changed, reflecting a greater intensity of residential use and cumulative change. The number of enforcement notices issued in September 2018 indicate much of the development taking place in the last few years has not been authorised. The aim of Policy RST10A is to maintain a predominantly recreational use. The Parish Council and many of the settled community regard the recent land use change as detrimental.
54. Account also needs to be taken of other factors leading to change from the traditional scene. Over time plots have become derelict and overgrown. On a small number of plots permanent residential use has become lawful and dwellings have been built. On plots remaining in leisure use Policy RST10A allows for the construction of leisure chalets or the stationing of caravans and mobile homes. The development on nearby Plots 47 and 48 indicates the type of built development the local planning authority finds acceptable, which is a more substantial and dominant building, patios and parking rather than a landscaped dominated plot with the traditional small timber chalet¹¹. Consistency should be applied to re-use of plots by the traveller community. Looking ahead in the emerging EFDLP there is no equivalent policy to RST10A, although the estate remains in the Green Belt.
55. The appeal site is of irregular shape and the long western boundary forms a sensitive visual edge to the estate. Static caravans were stationed along this boundary facing into the site which is mainly hardsurfaced for practical purposes, occupiers' ease of movement and parking. Design criteria in the SPG are not followed to any recognisable extent. Depending on the travelling patterns of the occupiers' daily activity may be absent or at a low level at times. Even so the site has the character and appearance of a residential caravan site as opposed to a that of a low key, more seasonal leisure use that probably existed before.
56. From the footpath network I found that the development on this double plot was visible in close views when looking directly towards the site. The proximity of a static to the rear corner stood out. Otherwise, the low height of the caravans and the close boarded boundary fencing reduced any visual intrusiveness, whilst tall evergreen trees and belts of trees in the background outside the estate appeared more dominant. Adverse impact has not been excessive in the terms of Policy GB7A.
57. To date the development has not been in harmony with the Chalet Estate as it was, even as late as 2015 or so. Even allowing for recent new chalets on nearby plots, the line of statics on an exposed edge of the estate results in a small to moderate level of visual harm. A caravan site here would contribute to the cumulative effect of change on the Chalet Estate.
58. The ability to successfully integrate a caravan site into its surroundings is to a fair degree dependent on the number and type of caravans and domestic structures, such as a dayroom or utility block and storage sheds. A reduction in

¹¹ Planning permission refs EPF/1630/14 and EPF/20121/14. Planning conditions restrict the buildings to use for recreational purposes only from April to October, domestic storage the remainder of the year and require no use for permanent residential accommodation.

the number of caravans would help to free up space, although the site layout plan (Appeal C) shows the two statics parallel with and near to the western boundary. A soft landscaped boundary could be secured by planning condition given the space within the plot.

59. In conclusion, the change in land use character is not supported by Policy RST10A. To date the development of this double plot has not contributed positively to the appearance of the Chalet Estate or short distance local views, leading to an element of conflict with Policy CP2. With reference to PPTS, the site has not been well planned or soft landscaped to positively enhance the environment. The weight I attach to this issue is moderate.

Flood risk

60. 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.
61. When consulted on the planning application the Environment Agency in a response dated 11 April 2017 objected because the proposed development was located 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 showed the site to be within the 1 in 2 year flood extent, meaning a 50% probability of flooding at the site in any one year. However, the advice set out ways to overcome the objection, which indicated that the footprint could be moved onto the area of the site within Flood Zone 2.
62. 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 land is at a slightly higher ground level than plots elsewhere on the estate. The report found that the plot lies within Flood Zone 1. The site is potentially at risk from groundwater and surface water flooding. No consultation response on the FRA from the Environment Agency was provided by the local planning authority. The Council maintained its objection because the site is in Flood Zone 3b.
63. The FRA explained the input of the topographic data was the only difference with the Environment Agency's base model. Consequently, 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, although no detailed explanation was forthcoming. The Environment Agency has not produced evidence that demonstrates the FRA methodology or modelling is 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. Having said that the historic flood outlines within the FRA report, show that the site was entirely flooded in 1947 and partly flooded in 2000.
64. Taking a precautionary approach, 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 3b. However, other factors

are relevant in assessing the risk from flooding and the safety of the development.

65. The Environment Agency accepted there are ways of overcoming its in-principle objection in order to accommodate development on the site. The FRA is confident that all the site is in Flood Zone 1.
66. The aim of the sequential test is to steer development to areas with the lowest probability of flooding. As accepted by the Council currently there are no alternative locations for traveller sites in areas at less risk of flooding. There is the prospect of suitable sites coming forward through the EFDLP, although no certainty the sites would be available to the appellants.
67. The FRA does not propose measures to mitigate flood risk on the basis that the site is Flood Zone 1. However, to take a precautionary approach, planning conditions could require a site layout, anchoring the static caravans to the ground, requiring occupants to sign up to receive flood alerts and flood warnings and the preparation of a flood plan.
68. The western and eastern parts of the central access road are predicted by the FRA to flood for all events including the 1 in 20 annual probability event. The deepest flood depths would be at the eastern end, away from the site. The primary means of escape for Plot 49/21 is westwards along the access road. A hazard analysis was undertaken based on the 1 in 100 annual probability plus 35% climate change event, which found the hazard rating of the access road is low risk.
69. 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, as necessary.
70. 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.
71. 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.
72. In conclusion, the caravan site is a highly vulnerable form of development. Weighing up all the various factors the risk to the safety of the site occupants and others from flooding is at the lower end of scale, subject to a revised site layout and the adoption of measures to minimise risk on and off site in a flood event. Policy U2A does not direct refusal of the development. The issue of flood risk provides a small amount of weight against the development.

Epping Forest Special Area of Conservation

73. 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.

74. 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. A significant effect should be considered likely if it cannot be excluded on the basis of objective information and it might undermine a site's conservation objectives. A risk or a possibility of such an effect is enough to warrant the need for an AA.
75. The 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 to inform assessment of development proposals. The reasons for issuing the enforcement notice and the reasons for refusal raised no objection but as a result of the new evidence the Council's position changed during the appeal process.
76. The Council has now withdrawn its objection following the financial contribution made by the appellants towards mitigation measures to help avoid adverse impacts of development on the integrity of the SAC. Natural England has advised, in summary, that air quality should not be considered an impediment to a favourable determination of the application provided that the proposed development is coming forward in accordance with the Strategy and mitigation is considered secure and certain to proceed.

Habitats Regulation Assessment

77. 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 effect the designated features and no significant effects are likely.
78. 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. An AA is necessary to establish 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.
79. The conservation objective for the SAC is to ensure the integrity of the site¹² 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 with holly growing on acid soils, Northern Atlantic wet heathland with cross leaved heath, European dry heaths and Stag beetle.
80. 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

¹² 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'.

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.

81. 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.
82. 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 vehicle generating use than the proposed use. Moreover, an aim is to restore the condition of the SAC, not to stop the condition deteriorating further.
83. The proposed use of the 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.
84. A development conditioned to provide no more than two static caravans acting as the main living accommodation would equate to two dwellings. The mitigation secured is in the form of a financial contribution to help fund the package of measures outlined above. The amount of the contribution is the same sum as 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.
85. I conclude that the development is coming forward in accordance with the Strategy and complies with an aim of Policy NC1. In the emerging plan, Policy DM2 seeks to ensure no adverse effect on the site integrity of SAC from development proposals and requires mitigation as appropriate in line with the Strategy. Policy DM22, regarding air quality, includes provisions to address potential effects on biodiversity from air pollution. The proposals comply with these two policies.

Amenity of settled community and village environment

86. 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.
87. 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 49/21¹³. 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.

88. I have addressed some areas of objection in the main issues above. As to precedent, the current appeals and occupation of plots elsewhere on the estate indicate pressure exists for changes of use to caravan sites. The Chalet Estate is in a Green Belt location where planning policy exercises strict control and very special circumstances must exist to justify inappropriate development. Provided that this policy test is met to allow the appeal(s) would not set a generalised precedent.
89. The appellants have occupied this plot since late 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 any anti-social behaviour can be attributed directly to them. Ms Moran informed the hearing that they follow strict religious beliefs and that they get on with their neighbours, have friends within the settled community and offer a helping hand when needed. Two residents of dwellings on the estate spoke in support of the traveller families.
90. As part of the local plan process, allocation of land within the estate for traveller sites was rejected. Nevertheless, with reference to criteria in the Local Plan and in the emerging EFDLP¹⁴ I consider that the site is in reasonable distance of a settlement for access to schools, shops and other services. Access to public transport services is convenient and safe, as is access 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. The Council raised no objections regarding accessibility and highway safety.
91. 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 49/21 would not impact on these two factors because of the separation distance from the village and the relatively small scale of the development. Increases in traffic movements would be small when placed in the wider picture.
92. 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 is also directed at the lack of

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.

¹⁴ Part B criteria (ii) and (iii) of Policy H 4 Traveller Site Development

¹⁵ Roydon Conservation Area Character Appraisal September 2006 paragraph 3.2

responsibility or authorisation to do the work. This is a separate matter, which is not for my consideration.

93. In conclusion, the development is not of a scale that would dominate the settled community or harm the character of the village. The contribution of the revised proposal to the effects of cumulative change would be small.

Wildlife

94. The Environment Agency objected to the development because of an inadequate buffer zone to Roydon Brook, classed as a main river. A buffer would protect wildlife and enhance diversity by contributing to a natural network of linked habitat corridors. It also would enable essential river maintenance works and promote recovery and improvement of water bodies. The Environment Agency requires a natural buffer zone 8 metres wide to overcome the objection.
95. The Council did not include the lack of a buffer zone and effect on wildlife as a reason for refusal. Nevertheless, an allowance for a buffer zone is supported by Policy CP2, which refers to sustaining the rural environment, including its wildlife and preserving and enhancing the biodiversity of natural habitats including river and wildlife corridors. The development plan policy is consistent with the Framework and has precedence over the SPG.
96. I attach little weight to the appellants' fallback argument because a leisure plot use would be unlikely to require the number and type of static caravans proposed. The site layout submitted with Appeal C indicates the potential benefits from the proposed lower number of caravans compared to the existing four statics. A revised site layout with details of planting and a maintenance scheme would be required to demonstrate policy compliance. The failure of the Council to promote a habitat corridor on this and nearby plots when the opportunity arises is not a good reason to put aside the policy requirement. A planted buffer would also support visual improvement and managing flood risk. The failure of the proposal to address this matter and the consequent conflict with policy has moderate weight, taking account of the potential to address the matter by a planning condition.

Intentional unauthorised development

97. 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.
98. 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 caravans 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 taken. A planning application was submitted on 28 February 2017 (now the subject of Appeal C).

99. The supporting statement to the application explained the background to occupation of the site, referring to an aversion to living in bricks and mortar housing, the need for a settled base in order to get medical treatment, the loss of a rented pitch, the constant moving on from unauthorised stopping places such as waste ground and the family ties with occupants on other plots on the estate.
100. The balance of the evidence is that the appellants 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. Nevertheless, the appellants were attempting to resolve the personal need for a site close to family and health facilities by purchasing available land when no authorised pitch was available in the wider area. Unauthorised roadside camping was 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.
101. In conclusion intentional unauthorised development occurred, a consideration to which I attach a small degree of weight.

Need and supply

102. 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.
103. 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. There is not a 5 year supply of deliverable sites at the current time, which is not disputed by the Council. 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.
104. 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 definition¹⁶.
105. 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

¹⁶ 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.

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.

106. 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.
107. 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 the 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.
108. 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.
109. 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.
110. 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 in its view 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.
111. 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 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

¹⁷ Hearing Document 4

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.

112. The lack of 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. The continued failure of authorities to address the issue adequately in Epping District and in many other areas has led to the 'failure of policy' argument being cited in support of proposed traveller sites.
113. 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 around 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
114. In addition to general need, the availability (or lack) of alternative accommodation for the applicants is as a relevant consideration, as indicated by the PPTS. 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.
115. 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.
116. 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

117. The current position is that Mr Maloney, who owns the land, shares the plot with his son and daughter in law and their three young children. Ms Moran is also living on the plot with her partner and their teenage son. Her daughter who used to live on the plot has now married and is on Plots 33/34. Other members of the appellants' extended families occupy various plots on the estate.
118. The appellants have health issues and benefit from having a stable base in order to get treatment and reduce anxiety and uncertainty. The appellants

were not able to adjust to living in housing and returned to living on caravan sites and the road.

119. 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 Public Sector Equality Duty I must have due regard to the need to remove or minimise disadvantages and advance equality of opportunity between persons.
120. I consider that the plot facilitates the families' 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. No available alternative pitch has been identified to meet their personal needs for a site. Experience has shown bricks and mortar housing is not an acceptable option. 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

121. In terms of the factors weighing against the development the harm to the Green Belt, by reason of inappropriateness has substantial weight and the loss of openness has moderate weight. The harm to the appearance of the Chalet Estate and the failure of the site development to allow for a wildlife buffer each has moderate weight. The issue of flood risk, the matter of intentional unauthorised development and the impact on the local community each has a small element of weight.
122. Considerations that are neutral in the planning balance concern the wider landscape character of the area and the SAC.
123. In support of the development the absence of a 5 year supply of specific deliverable sites and the lack of an alternative site for the occupiers has substantial weight taking account of the acknowledged national and regional 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 the best interests of the child has very significant weight.
124. 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. Conflict also exist with Policy RST10A. Even allowing for the compliance with Policies NC1, GB7A, U2A 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 securing a well-planned site that provides for biodiversity lend support to following the direction provided by the development plan. The caravan site is not acceptable on a permanent basis.

Temporary Planning Permission

125. 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 no more than is necessary and

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.

126. 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. In my view there is much uncertainty over the timescale for delivery of these sites. The probability is that a 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 permanently¹⁸. Within that period the position on the site allocations and their ability to meet outstanding need in the District should be a lot clearer.
127. 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. PPTS at paragraph 27 states the absence of an up-to-date five year supply of deliverable sites should have significant weight, except where the proposal is on Green Belt land. However, the pressing need in Epping District for sites, the extent of the Green Belt, the local plan process, the location of proposed allocations and the confidence of the local authority about future site delivery, are good reasons for attaching weight to the considerations of need and supply of traveller sites. In addition, the best interests of the children on the plot and the very serious consequences of the occupiers losing their home have substantial weight all matters considered.
128. The totality of the identified harm is clearly outweighed by other considerations. A grant of a temporary permission is proportionate, 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 and Policy GB2A and is now in accordance with the development plan when read as a whole. Given the demonstration of very special circumstances the balance of other considerations now supports the direction of the development plan.

Planning Conditions

129. Planning Practice Guidance advises that 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.
130. 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 restriction on occupation 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

¹⁸ Planning Practice Guidance: The use of planning conditions, paragraph: 014 Reference ID: 21a-014-20140306; PPTS paragraph 27

contributes. Such a condition would also facilitate the gypsy way of life, promote equality and reduce disadvantages experienced by the traveller community.

131. A limit on the number and type of caravans is necessary to secure an acceptable site layout and to ensure adequate mitigation in relation to the SAC.
132. As part of a site development scheme, details of a site layout are required, together with matters such as landscaping and a buffer zone, with a view to securing a well-planned site that takes account of flood risk. The position of the double plot at the edge of the estate and near Roydon Brook justify a landscape scheme, notwithstanding the time-limited period. Measures to manage flood risk are important to reduce risk and improve safety in a flood event. Given that development has taken place, conditions would have to be worded to be enforceable by imposing timescales for submission and providing for cessation of the use if an approved scheme is not achieved.
133. Conditions to prevent employment activity and to restrict the parking of commercial vehicles are necessary to safeguard the amenity of the estate.
134. To require the provision of an electric vehicle charging point and superfast broadband would not be reasonable with a time limited permission, which the Council accepted.

Conclusions on planning merits

135. For the reasons given above Appeals A and B should succeed on ground (a) and I will grant planning permission 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. Therefore the appeals on ground (f) and (g) do not need to be considered. The corrections to the wording of the requirements follow on from the corrected description of the allegation.
136. For the reasons given above Appeal C should be allowed.

DECISIONS

Appeals A and B Refs: APP/J1535/C/18/3215178 & 3215179

137. It is directed that the enforcement notice be corrected:
 - in paragraph 2 by the deletion of 'Plot 49' and the substitution of 'Plot 49 and 21'.
 - 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 laying 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, domestic paraphernalia and development associated with the use of the Land as a caravan site, including the hardstanding.
- iii. Remove from the Land all debris resulting from compliance with steps (i) and (ii) above.

138. 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 and the carrying out of associated development, including the installation of hardstanding, on the land at Plot 49 and 21, Roydon Lodge Chalet Estate, Roydon CM19 5EF as shown on the plan attached to the enforcement notice and subject to the conditions in the Schedule below.

Appeal Ref APP/J1535/W/18/3204596

139. The appeal is allowed and planning permission is granted for Change of use from double leisure plot with original chalet, shed, hardstanding and cess pit to site for stationing of two static caravans for residential occupation by two traveller families with associated hardstanding, shed and storage of a touring caravan at Plot 49 and 21, Roydon Lodge Chalet Estate, Roydon CM19 5EF in accordance with the terms of the application, EPF/0640/17, 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 use hereby permitted shall be for a limited period being the period of 4 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.
2. 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 (or its equivalent in replacement national policy).
3. No more than 4 caravan(s), 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 2 shall be a static caravan) shall be stationed on the site at any time.
4. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such

use shall be removed 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 submitted with the application ref. EPF/0640/17, a site development scheme (hereafter referred to as the scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation. The scheme shall include details of: the internal layout of the site, including the siting of caravans, plots, hardstanding and amenity areas, a landscaped buffer zone; tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities; a schedule of maintenance for the planted areas and buffer over the period of the permission; the means of foul and surface water drainage; measures to manage flood risk; external lighting on the boundary of and within the site; means of enclosure; provision for storage of waste and recyclables; 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 9 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 retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

5. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
6. No commercial activities shall take place on the land, including the storage of materials.

End of Schedule

APPEARANCES

FOR THE APPELLANTS:

Alison Heine BSc MSc MRTPI	Heine Planning Consultancy
Margaret Moran	Appellant
Christopher Moran	An Appellant (Plot 32B and C)

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.