



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 Plots 32B and 32C Roydon Lodge Chalet Estate, Roydon CM19 5EF

Appeals A and B Refs: APP/J1535/C/18/3215175 & APP/J1535/C/18/3215176

- 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 C Moran and Mr C McFadyen 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 mixed recreational leisure and permanent residential use including the stationing of static caravans and associated development (touring caravans, hardstanding and cess pit) for residential occupation.
- 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 appeal by Mr C Moran (3215175) is proceeding on the grounds set out in section 174(2)(a), (b), (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.
- The appeal by Mr C McFadyen (3215176) is proceeding on the grounds set out in section 174(2) (b), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The enforcement notice is quashed.

Appeal C Ref: APP/J1535/W/18/3204595

- 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 C Moran and Mr C McFadyen against the decision of Epping Forest District Council.
- The application Ref EPF/0639/17, dated 28 February 2017, was refused by notice dated 30 January 2018.
- The development proposed in the application was: Change of use from double leisure plot to mixed use as leisure plot with 1 static caravan and siting of two static caravans for year round occupation by two traveller families with associated development (storage of 2 touring caravans, shed, cess pit and hardstanding).

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

Procedural Matters

1. The appeals for Plots 32B and 32C were heard together with a number of appeals concerning various plots at Roydon Lodge Chalet Estate (the Chalet Estate) in relation to enforcement notices issued by the Council and against refusals of planning permission.
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. The attached Schedule provides a summary of all the Decisions for ease of reference.
3. I carried out site visits to the Chalet Estate on 25 October and on 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.

Site and Surroundings

5. The Chalet Estate is located to the north and east of the village of Roydon within the Metropolitan Green Belt. The plots of land are served by a central access road, with the vehicle entrance at the western end of the estate. A single track road and a network of public rights of way link the Chalet Estate to the village. A railway line follows the northern boundary, otherwise the plots are bounded by fields to the south and east.
6. In the late 1940s the land consisted of around 50 allotment plots, provided as part of the Dig for Victory campaign during World War Two. The allotments subsequently became leisure plots. On 18 May 1951 enforcement notices were issued requiring each plot to be cleared of all structures. At the same time the Council stated that it was not the intention to stop the use of the land for gardening purposes or to prohibit weekend and holiday occupation of a suitable type of chalet during the summer months.
7. Thereafter a planning history has developed specific to each plot or combined 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 lawful dwellings and a few plots where chalets have been built more recently.
8. Plots 32B and 32C form a double plot located to the south of the access road at the far eastern end of the Chalet Estate. The planning history and numbering of this double plot and the adjoining plot is not entirely clear but it appears as if there was a conditional permission for a chalet for weekend and recreational

use¹. In any event any chalet that existed was demolished a number of years ago.

9. The position in 2012 as recorded by the Council was of a landscaped plot with no development present. By 2015 the land was overgrown and was subject to the tipping of waste material. In 2016 the plot was laid to hardstanding and towards the end of the year caravans were stationed there. By 2018 the plot had been extended into the adjacent field by infilling of the ditch along the eastern boundary and by closing off the central access road to adjoin the plot to the north. In September 2019 the site was covered by hardstanding and subdivided into two pitches. Static and touring caravans and small sheds were present.
10. In October 2021 the double plot was divided into two pitches by close boarded fencing. On the easternmost pitch (Plot 32C) a static caravan was stationed on a paved area. The remaining area was hardsurfaced where there were several small structures such as a utility block, kennels and a playhouse. On the adjacent Plot 32B were two static caravans, two sheds and hardsurfacing extended across the plot.

APPEALS A AND B

Enforcement notice

11. 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 as to whether the requirements are excessive is a matter that is dealt with through the ground (f) appeals.

Summary of Appellants' case

12. The appellants maintain there are issues with the notice that require attention and clarification, although they do not so far as to claim the enforcement notice is invalid. They do not dispute that a breach of planning control to a mixed use took place. Furthermore, the appellants accept the land was extended beyond the Chalet Estate boundary onto agricultural land and additional hard standing was laid to facilitate the new use.
13. They proposed that the description of the alleged breach of planning control be amended to state: *Without planning permission the material change in the use of the Land from agriculture and a recreational leisure plot with residential use restricted to the period 1 April through to 31 October, to a mixed use as a leisure plot and residential caravan site with the stationing of caravans for unrestricted year round residential occupation with associated development to facilitate that use*².
14. After the issue of the notice the appellants explained a further change took place in response to family circumstances and the double plot is now in use as a residential caravan site³.

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 appellants.

² Appellants' Final Comments Update 30 September 2021 paragraphs 28 to 30

³ Appellants' Final Comments update, dated 30 September 2021 paragraph 23

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 of it is served to know what those matters are.
16. There is no necessity to state the previous lawful use but it is generally better to do so. The photographic evidence shows that the developed area of the plot was extended beyond the long established eastern boundary to the Chalet Estate onto agricultural land. The Council and the appellants agree that this should be recognised in the notice by describing the former use of the Land as agriculture and a recreational leisure plot use. The Land, as defined on the plan attached to the notice, reflects the extended area and no correction is necessary. I understand that the appeals on ground (b) are resolved by correcting the allegation in this way.
17. The meaning of a leisure plot on the Chalet Estate was considered in appeal decisions issued in May 2012 and July 2015 regarding Plot 38⁴. The *Pitman* case⁵ confirms that there is no inherent uncertainty in the phrase a leisure plot, which connotes generally the use of land for pleasure and enjoyment during the owners' leisure time. I am satisfied the early history of the Chalet Estate and the land in question supports the use of this phrase to describe the former use of the appeal site.
18. There is no record of a planning permission for a residential chalet or holiday accommodation. The appellants have not produced any evidence to show a primary residential use of the appeal plots actually took place over a period 1 April through to 31 October and that such a residential use was lawful. No reliance may be placed on a policy guideline. The planning history is of a chalet conditioned for recreational and weekend use. Even if the chalet was used for occasional weekend or holiday living accommodation, the building was demolished before the material change of use took place. As the Inspector observed in the 2015 decision, a use cannot survive the destruction of a building and installations necessary for it to be carried out. There is no substantial evidence here to show the chalet was necessary for the leisure use to be carried out and that the leisure use could not continue in its absence. Moreover, the description in terms of the leisure use is similar to the wording used by the appellants when making their planning application.
19. In summary, the lawful use of the Land is agriculture and a recreational leisure plot.
20. The new, unauthorised use is described in the notice as a mixed recreational leisure and permanent residential use including the stationing of static caravans and associated development (touring caravans, hardstanding and cess pit) for residential occupation. The planning unit is taken to be the double plot.

⁴ Appeal ref APP/J1535/C/11/2160430 dated 25 May 2012 and Appeal ref APP/J1535/C/14/2211759 dated 30 July 2015

⁵ *Pitman v Secretary of State for the Environment* [1989] JPL 831 and para 32 of the 2015 decision

21. This description is not fully consistent with that contained in the report seeking authorisation for enforcement action (the enforcement report)⁶: *"Without planning permission, the stationing of a static caravan for leisure use, a material change in the use of the land from a recreational leisure plot use to residential use including the stationing of a static caravans and associated development (touring caravans, hardstanding and cess pit) for residential occupation."* A change to a mixed use of the land is not identified and leisure use relates to one static caravan.
22. At the hearing the Council agreed that the use of the site as a permanent base and the use of one static caravan for family to stay, as described by the appellants, had occurred in the period before September 2018. The Council also acknowledged that the notice as issued did not reflect the act of development for which action was authorised and that it should be corrected without injustice.
23. In the enforcement notice, the mixed use described in the alleged breach comprises two primary uses of the land, recreational leisure and permanent residential use. The caravans and associated development are related to residential occupation, rather than recreational leisure purposes. I have serious reservations as to whether the actual use of the land was correctly described and more particularly whether a recreational leisure use of the land survived the change of use.
24. The appellants stated that when the land was bought in 2016 it was a cleared plot, hardsurfaced and with a cess pit. When the planning application was made retrospectively in February 2017 for a mixed use of the double plot, two static caravans were for occupation all year round and one static caravan was for occupation April to October on the leisure plot. At the time the plot was not subdivided and the site layout plan (with no plot enlargement) indicated all the area around the caravans and shed was hardstanding and parking.
25. The timing of the plot extension and subdivision is uncertain but probably occurred before the enforcement notice was issued in September 2018, based on the appellants' information and aerial photographs. The people intending to occupy the site and the number of caravans have shown some variation but consistently the land has been occupied by the appellants in two of the static caravans. The 'leisure plot' static caravan was for when Mr and Mrs Moran Senior came to stay over the summer months, as a break from a bricks and mortar dwelling in London. This type of seasonal occupation is comparable to holiday accommodation or a second home. The primary use of the static caravan would be for residential purposes, not leisure or recreation. There is no substantive evidence to show that the land was used for a leisure or recreation use in the sense of being a primary use as opposed to an ancillary or incidental use associated with the residential use.
26. In similar circumstances on Plots 25 and 26, where family members visited during the summer months, the Council did not accept describing the use as a mixed leisure residential use. I agree with the Council in that case. Whilst no two cases are exactly the same, I see no reason to come to a different conclusion here. An appeal decision for Plot 31, made in December 1999, remains relevant⁷. The Inspector concluded the stationing of a caravan for

⁶ Council's Statement Annex part 2 Plot32 B-C Enforcement report paragraph 2.9.1

⁷ Appeal reference APP/J1535/C/99/1021623 dated 16 December 1999 submitted by the appellant.

holiday accommodation was a residential use, using planning conditions to control seasonal occupation.

27. To conclude, (i) the enforcement notice, as worded, is not clear as to the matters which appear to constitute the breach of planning control, and (ii) as a matter of fact and degree the new use was not a mixed use. The breach would be more appropriately described as a residential caravan site, involving the stationing of caravans for use as a permanent residential base and the stationing of one static caravan for holiday purposes, facilitated by the laying of hard standing, the installation of a cess pit and erection of a shed.

Requirements of the notice

28. The appellants and the Council put forward alternative forms of wording with a view to clarifying the requirements. In particular, the appellants wished to ensure that use for leisure purposes included residential occupation for 7 months each year from 1 April until 31 October. They suggested including the phrase 'in connection with the use of the Land as a residential caravan site' in steps (iii) and (iv) to overcome any confusion. At the hearing the Council stated the intention was that step (ii) should read cease the recreational use of the land between 1 November and 31 March⁸, not the residential use.
29. 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. 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.
30. By way of initial observations, the four requirements are the same as in the other enforcement notices issued in September 2018, even though the alleged new use is a mixed use. Step (ii), which allows for a residential use during the 7 months of the year, suggests a degree of under-enforcement because the planning history shows that there is no lawful primary residential use to save. However, step (ii) is inconsistent with steps (i), (iii) and (iv), which appear to prevent or frustrate any residential use at any time of the year.
31. Based on the mixed use allegation, the various matters raised suggest an option would be to delete step (ii) and substitute two requirements: cease the recreation/leisure use of one static caravan between 1 November and 31 March the following year, and cease the residential use of the Land (to avoid any possibility of a residential use gaining permission through the operation of section 173(11), remembering that the allegation states "permanent residential use including"). However, such a correction would remove a degree of under-enforcement and the notice would be more onerous to the appellants. More particularly this option would address a mixed leisure residential use whereas I

⁸ 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

have concluded the change was to a caravan site. To draft steps specific to that use would potentially cause injustice to both the appellants and the Council.

32. In summary, the enforcement notice does not correctly describe the matters which constitute the breach of planning control and the steps do not fairly tell the appellants what they must do to remedy matters.

Conclusion

33. For the reasons given above the enforcement notice does not specify with sufficient clarity the alleged breach of planning control and the steps required for compliance. It is not open to me to correct the errors in accordance with my powers under section 176(1)(a) of the 1990 Act as amended since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed. In these circumstances the appeals under grounds (a), (f) and (g) as set out in section 174(2) of the 1990 Act as amended and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not fall to be considered.

APPEAL C

Proposed development

34. The appeal site, as shown on the site location and site layout plans, is an irregular shaped area. The site is smaller than the Land covered by the enforcement notice because it excludes a strip of agricultural land along the western boundary.
35. The mixed use described in the application was to enable family members to stay over the summer months. They now have their own pitch at Plot 32. As a result, the appellants wish to amend the description of the proposal to "Change of use from double leisure plot to siting of three static caravans for year round occupation by three traveller families with associated development (storage of 2 touring caravans, shed, cess pit and hardstanding)." The Council raised no objections to the revised description.
36. The amended proposal would still constitute a material change in the use of land. The site area and the number and type of caravans would be as originally proposed. The key difference is the occupation of the caravans, a matter appropriately controlled by planning conditions, not through the description of the development. The change is not so significant as to require further consultation and to accept the amendment would not prejudice any interested party. Therefore the appeal will be determined on the basis of the amended description of development.

Planning policy

37. 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).
38. The most important policies for determining the appeals are those related to the proposed land use and the appeal site's location in the Green Belt and countryside. The policies are Policy GB2A Development in the Green Belt, Policy RST10A Roydon Lodge Chalet Estate and Policy H10A Gypsy Caravan Sites. Locational criteria for traveller sites are set out in the supporting text to Policy

H10A. 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 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.

39. 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).
40. The most important policies identified above are generally consistent with the Framework and have full weight.
41. 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

42. The proposal, as amended, is for a traveller site in the Green Belt which, having regard to Policy E of the PPTS, amounts to inappropriate development. The Council and appellants were agreed on this matter.
43. The main issue is whether the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations to provide the very special circumstances necessary to justify the development.
44. The change resulting from the development will be assessed against the previous lawful use and actual character as a leisure plot. 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.
45. The carrying out of intentional unauthorised development is an additional matter to address.
46. 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 family and their other personal circumstances, including the best interests of the children.

47. The 'fallback', the development that could occur without permission, has not been firmly established. There could be some instances where the stationing of a caravan will not involve development, such as for a purpose that comprises the lawful primary use as a leisure plot, or a use ancillary thereto, but the stationing of larger static caravan(s) and site coverage by hardstanding would be unlikely to fall within that scope.
48. 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. It is a qualified right that requires a balance between the rights of the individual and the needs of the wider community. There is a positive obligation to facilitate the Gypsy way of life to the extent that the vulnerable position of Gypsies as a minority group means that some special consideration should be given to their needs and different lifestyle in the regulatory planning framework and in reaching decisions on particular cases. Under the Equality Act 2010 I will have due regard to the public sector equality duty (PSED).

Reasons

Green Belt

49. Inappropriate development, by definition, is harmful to the Green Belt.
50. The essential characteristics of Green Belts are their openness and permanence. In this instance the site was predominantly open, even if overgrown, before development took place. Three static caravans, touring caravans, parked vehicles, hard surfaces and the residential activity would all lead to a harmful loss openness, both spatially and visually.
51. The double plot, as shown on the submitted plan, is contained within the boundary of the developed area of the Chalet Estate. No physical encroachment into the countryside is involved and the development would not conflict with any of the stated purposes of the Green Belt.
52. The site is located on the eastern edge of the estate and so does not have the same degree of enclosure as many other plots. The caravans are visible in views from within the Green Belt but because of their low profile and the surrounding context they do not have an excessive adverse impact on the openness, rural character or visual amenities of the Green Belt referred to in Policy GB7A.
53. Having regard to policy in the Framework to protect Green Belt land and criterion (ii) in Policy H10A, the harm to the Green Belt by reason of inappropriateness has substantial weight, with a small degree of additional weight to the loss of openness.

Character and appearance

54. 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

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

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 small chalet or caravan on site for incidental use when there. Low level activity and a quiet, even tranquil, environment prevailed.

55. 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.
56. 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 level 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. The Parish Council and the settled community see the trend as very detrimental to area character. The aim of Policy RST10A is for the Chalet Estate to continue in recreational/leisure plot use and to resist permanent dwellings and residential use.
57. Planning policy, in the development plan and the Framework, expects development to be well-planned, sympathetic to local character and history, including the surrounding built environment and landscape setting. The aim is not to prevent appropriate change, which may include more effective use of land, as the PPTS acknowledges. Within this context, in very recent years the Council's application of Policy RST10A has allowed for more substantial chalets¹⁰ and increased hard landscaping on two plots near the western end of the estate.
58. The submitted site layout for the double plot arranges the caravans along the boundaries, with the remaining area hard surfaced for parking and circulation. Design criteria in the SPG are not met and at the hearing the appellants accepted this layout has little merit. The space and layout benefits facilitated by the small increase in the site area is readily visible on the ground now.
59. The landscape of the wider area is characterised by the gently undulating arable fields within the valley of the River Stort¹¹. Fields are lined with a network of mature hedgerows often with hedgerow trees. 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.
60. The proposal would not encroach into the countryside or directly affect field patterns or farming land use. However, a comparison of aerial photographs show that a mature boundary hedgerow was removed. There is a degree of conflict with Policy CP2 in this regard. However, adverse change to the wider

¹⁰ 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.

¹¹ Landscape Character Assessment January 2010, pages 96-99 C6: Roydon

landscape character would be minimal and at the hearing the Council accepted that any harm would be localised.

61. In local views from the footpath network I found that the development on this double plot, whilst visible, was not intrusive because the small scale structures sit within a rural landscape where the backdrop is of mature tree cover and the context includes the village settlement extending along Harlow Road and the old pumping works.
62. In conclusion, harm is localised. The site area constrains the achievement of a well-planned layout with soft landscaping. The change in land use character and appearance is not supported by Policy RST10A.

Flood risk

63. 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. The Council considers Plots 32B and 32C are in the functional flood plain Flood Zone 3b and the Environment Agency in April 2017 objected to the proposal.
64. A site-specific flood risk assessment dated 17 August 2017 (the FRA) was carried out on behalf of the appellants using data from the Environment Agency and surveyed site levels. The FRA found that a small part of the plot lies in Flood Zone 3b, a slightly larger area lies in Flood Zone 3a and the remainder in Flood Zone 2. The site is also found to be potentially at risk from groundwater and surface water flooding. There is nothing in the appeal documentation to show that the Environment Agency was consulted on the FRA.
65. The FRA explained that the only difference with the Environment Agency's base model was the input of the topographic data from a survey undertaken in 2017. Neither the Council or the Environment Agency brought forward evidence to show the methodology or modelling carried out in the FRA was inaccurate or incorrect. In my view the FRA should provide the more accurate results being site specific, with the use of up to date survey information.
66. The direction of national 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.
67. The aim is to steer development to areas with the lowest probability of flooding. The Council accepts 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.
68. The FRA indicates that not all the land would be flooded and that if flooding occurred the maximum flood depth would be in the order of 0.2 metres (m). Various measures are proposed to mitigate flood risk. These include ensuring the threshold level of the caravans remain 300mm above the flood level expected in the 1 in 100 annual probability plus 35% climate change event, anchoring the static caravans to the ground, requiring the occupants to sign up to receive flood alerts and flood warnings and the preparation of a flood plan.

69. The FRA predicts that the western and eastern parts of central access road would flood in all events including the 1 in 20 annual probability event. The hazard rating along the road was found to be low risk. Flash flooding is unlikely to occur because of the size of the River Stort catchment at this location. That being so, there would be time to respond to flood alerts and warnings and to leave the site safely.
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 appellant explained that works were done to clear out the brook and increase the height of the culvert so that conditions were improved.
72. Taking all these factors into account, I conclude that the use of the land as a caravan site would increase the safety 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. The risk would be at the lower end of the scale because of site conditions, the probable nature of a flood event and the mitigation measures proposed. The issue of flood risk provides a moderate 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. Much of the SAC is in an unfavourable condition as a result of atmospheric pollution and also recreational pressure. By reason of the international designation, the SAC is afforded the highest level of protection through UK legislation and Government policy¹².
74. 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 (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.
75. The reasons for refusal made no reference to the SAC but the Council's position was updated to an objection during the appeal process. The Council has now withdrawn this objection, following the financial contribution made by the appellants towards mitigation measures to help avoid adverse impacts from the 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.

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).

Habitats Regulations Assessment

76. 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.
77. The same conclusion is not able to be reached in terms of vehicle flows and associated air pollution when the development of the site is considered in combination with other plans and projects. An appropriate assessment is necessary to establish whether there would be adverse effects on the integrity of the features of the European site and if there are, how could these be modified through mitigation.
78. 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.
79. 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.
80. The Strategy sets out a range of strategic and site specific mitigation measures to help avoid adverse impacts of development on the integrity of the SAC. Monitoring and review are integral to the implementation of the Strategy. Funding of elements delivered by the Council and its Partners will be by means of financial contributions secured through planning obligations linked to development proposals. There is no evidence to indicate that the mitigation will not proceed in accordance with the Strategy.
81. 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 active use than the proposed use. Moreover, an aim is to restore the condition of the SAC, not to stop the condition deteriorating further.
82. The proposed use of the small site alone probably would not affect the integrity of the European site, but it would contribute to a cumulative adverse impact together with the other plans and projects. The mitigation secured is in the form of a financial contribution to help fund a package of measures outlined

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'.

above. The development proposes three static caravans on two pitches as the residential accommodation. The amount of the contribution is the same as to the sum sought through the Strategy for two dwellings and is proportionate, bearing in mind the occupation of the plot by an extended family. The Council has confirmed in writing that the payment will only be used to implement the approved Strategy. The Strategy has been costed and a delivery framework has been developed.

83. I conclude that the adequate provision has been made for mitigation subject to adequate control on the number of pitches and caravans. Provided that is achieved by the use of planning conditions the proposal is in accordance with aim of Policy NC1. Turning to the relevant policies in the emerging EFDLP, the proposal complies with emerging Policies DM 2 and DM 22, which seek to conserve the site integrity of SAC and address potential effects on biodiversity from air pollution.

Amenity of the settled community and village environment

84. The effect on the 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.
85. 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 32B and 32C¹⁴. 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.
86. I have addressed some areas of objection in the main issues above. In terms of precedent, all the appeals considered at the hearing indicate that there is pressure and a personal need for similar development on a number of plots over the Chalet Estate. By reason of the Green Belt location planning policy strictly controls development and very special circumstances must exist to justify inappropriate development. Provided that this policy test is met to allow the appeal would not set a generalised precedent.
87. The appellants have occupied this double plot since about early 2017 and are attempting to regularise the planning position through the appeals following the statutory process. There is no specific evidence to show the appellants or their families have not respected the settled community or that they have been responsible for or involved in any anti-social behaviour. To the contrary, at the hearing two residents of the Chalet Estate spoke highly of how the Moran family had helped another resident who had no family and of the improvements carried out to the access road. They were described as good people.
88. As part of the local plan process, allocation of land within the estate for traveller sites was considered but rejected. Nevertheless, with reference to

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.

local criteria¹⁵, I consider that the site is in reasonable distance of a settlement for access to schools, shops and other services. Convenient and safe access exists to public transport services and by vehicle to the main road network via the lane into 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.

89. 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 32B and 32C 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.
90. The access road linking the Chalet Estate to 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 responsibility or authorisation to do the work. This is a separate matter, which is not for my consideration.
91. In conclusion, the development is relatively small scale and would not dominate the local settled community or harm the character of the village. The contribution to the effects of cumulative change would be minor.

Intentional Unauthorised Development

92. 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.
93. As a matter of fact development occurred before authorised by a planning permission and before a planning application was made. Harm was caused to the Green Belt. The opportunity to guide details of the site layout, hard and soft landscaping was lost. The unauthorised nature of the development probably contributed to the friction with the local community. 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.
94. In view of the experience of members of the appellants' extended family, the probability is that development was undertaken in knowledge that planning

¹⁵ See criteria in the Local Plan and Part B 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

permission may be needed. However, the discussion at the hearing indicated that there was some confusion over what use could take place without planning permission and the appellant had understood from the Council that seasonal residential use was acceptable. The land was hard surfaced at the time it was acquired. A planning application was submitted promptly on 28 February 2017, after receipt of clear advice from the Council and a further attempt was made to regularise the development, following due process, in response to the enforcement notice. The appellants were attempting to resolve the personal need for a site close to family when no pitch was available in the wider area. Unauthorised roadside camping may have been avoided.

95. In conclusion, the matter of intentional unauthorised development has little weight.

Need and supply of traveller sites

96. 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.
97. The development plan does not identify land for sites and Policy H10A is confined to setting out the tests to apply when determining applications for gypsy caravan sites within the Green Belt. The policy wording indicates the expectation that sites will come forward and be located in the Green Belt, rather than elsewhere in the District. The Council accepts that it does not have a 5 year supply of deliverable sites at the current time. This position is contrary to policy in PPTS and an objective in Policy CP1 (ii) has not been achieved. Providing for identified need will be through the EFDLP.
98. 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.
99. 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.

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.

100. 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.
101. 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 have 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.
102. 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.
103. 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.
104. 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.
105. 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 appellant has drawn attention to gypsy sites that have received permission over the last five years or so, such as 3 pitches at Willingale. The shortfall of available sites and the relatively high level of need were important factors weighing in favour of a grant of permission. The EFDLP too relies on windfall 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.

¹⁸ Hearing Document 4

106. The failure 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. 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.
107. In addition to general need and with reference to the PPTS, the availability (or lack) of alternative accommodation for the applicants is as a relevant consideration. The Council was not able to suggest an alternative acceptable, affordable and available site(s) for the current occupiers to move to if the appeal is not successful.
108. 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. 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.
109. 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(s) provide substantial weight in support of the development.

Personal circumstances

110. Mr Moran and his wife Berry moved to Plot 32C in 2017, having previously been travelling for work and stopping on holiday caravan sites for about a year. They now have two children, who attend primary and nursery school. A third child was due at the end of last year. Mr Moran travels all over the country and abroad working with his brother doing property repairs and ground works. The appellant explained at the hearing that the Chalet Estate is an ideal place, because it is safe, close to relatives, extended family members occupy other plots on the estate and it is near schools and hospitals. One of their children has daily medical support.
111. Mr McFadyen is the father of Berry and is cared for by her. He moved to Plot 32B in 2017 having previously stopped on traveller sites in the London and Manchester areas. He still travels for work with Mr Moran when he is well enough. His younger daughter more recently came to live with her father. The other two occupants have shared the plot for some 18 months or more.
112. The adult occupiers have PPTS status. The double plot facilitates the family's traditional way of life as travellers whilst providing a safe and healthy home base. The benefits of health, education and community services are easily accessible to improve the quality of life. In particular it would be in the best

interests of each child for the family to remain on the site. The ability for the appellants to be near to their extended family is very important and is essential to caring responsibilities, remembering that Mr Moran's parents now occupy Plot 32 and have serious health issues.

113. No available alternative pitch has been identified to meet their personal needs for a site. A roadside existence would be against the best interests of the young children and could be detrimental to their well-being and future education. Past experience has shown that they have difficulty in adjusting to living in housing. The potential environmental costs of unauthorised camping are support their continued occupation of the plot. Dismissal of the appeal would lead to uncertainty and potentially the loss of their home. The interference would be sufficiently serious as to engage the operation of their Article 8 Convention rights.

114. All these matters provide substantial weight in support of the development.

Planning balance

115. Balanced against the development, the harm to the Green Belt by reason of inappropriateness and loss of openness has substantial weight. The harm to the appearance of the Chalet Estate and its local character has significant weight, the flood risk moderate weight. The matter of intentional unauthorised development has little weight. The effect on the amenity of the local settled community is essentially neutral. As the development is in accordance with the Strategy the SAC consideration is also neutral in the planning balance.

116. In support of the development, the various aspects of need and supply of deliverable sites have substantial weight, taking account of the acknowledged national, regional and local need for additional traveller pitches. The failure of policy argument adds very little additional weight. The personal need for a site and other family circumstances, including as a primary consideration the best interests of the children, have substantial weight.

117. 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. Even allowing for the compliance with Policies NC1 and GB7A 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

118. 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.

119. 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. As considered in the section on Need above, 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 PPG and PPTS advises 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. During this period it should become clear whether new traveller sites come forward as a result of the local plan process and are sufficient to meet the outstanding needs of the traveller community, whether they would offer suitable alternative pitches for the appellants and if not for alternative pitch provision to be investigated and secured.

120. 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 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 serious consequences and the probable hardship if the occupiers lost their home has substantial weight all matters considered. The link with the outcomes on Plot 1B and Plot 32 is important and calls for consistency.

121. 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. The development complies with Policy H10A and Policy GB2A and is 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

122. 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 should satisfy all of the following six tests: necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. I have considered the proposed planning conditions that were discussed at the hearing in the context of this guidance.

123. 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. The personal circumstances of the occupiers are of particular importance in the balance in favour of a permission and so a personal condition is appropriate

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.

rather than a requirement that the caravan site shall only be occupied by gypsies and travellers with PPTS status.

124. The approved land use is a caravan site, where it is necessary to control the number and type of caravans and number of pitches. Such restrictions are to safeguard the appearance of the plot and the Chalet Estate and to preclude increased intensity of use.
125. 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 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.
126. The FRA identified mitigation measures which are important to reduce risk and improve safety in a flood event. The carrying out of these measures needs to be secured.
127. Conditions to prevent employment activity and restrict the parking of commercial vehicles are necessary in the interest of safeguarding the amenity of the estate.
128. The provision of an electric vehicle charging point and superfast broadband is not reasonable for a temporary planning permission. The Council accepted this position.

Conclusion

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

DECISIONS

Appeal Refs: APP/J1535/C/18/3215175 and APP/J1535/C/18/3215176

130. The enforcement notice is quashed.

Appeal Ref: APP/J1535/W/18/3204595

131. The appeal is allowed and planning permission is granted for Change of use from double leisure plot to siting of three static caravans for year round occupation by three traveller families with associated development (storage of 2 touring caravans, shed, cess pit and hardstanding) at Plots 32B and 32C Roydon Lodge Chalet Estate, Roydon CM19 5EF in accordance with the terms of the application, Ref EPF/0639/17, dated 28 February 2017, as amended and the site location plan (plan 1) submitted with it, subject to the following conditions:
- 1) The use hereby permitted shall be carried on only by the following: Christopher Moran, Berry McFadyen, Christopher McFadyen, Karen Marie McFadyen, Isaac McFadyen and Paige McFadyen and their resident dependants, and shall be for a limited period being the period of four years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.

- 2) When the land ceases to be occupied those named in condition 1 above, or at the end of four years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use, shall be removed and the land restored to its condition before the development took place in accordance with a scheme of work submitted to and approved in writing by the local planning authority.
- 3) There shall be no more than two pitches on the site and no more than five 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 three shall be static caravans) 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 a site development scheme and a timetable for its implementation shall have been submitted for the written approval of the local planning authority. Notwithstanding the details shown on Plan 2 proposed site layout submitted with the application, the scheme shall include details of: the internal layout of the site, including the siting of caravans, hardstanding, parking and amenity areas; the means of foul and surface water drainage; external lighting; tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities and a maintenance schedule for the period of the temporary permission; means of enclosure; provision for storage of waste and recyclables; a scheme for site restoration at the end of the period for which planning permission is granted for the use, or the site is occupied by those permitted to do so, as appropriate.
 - 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.

- 5) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 60 days of the date of failure to meet any one of the requirements set out in i) to iv) below:

- i) Within 3 months of the date of this decision a scheme for flood risk management shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
- ii) If within 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 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.

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

Diane Lewis

Inspector

APPEARANCES

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Christopher Moran

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The Appellant

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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

- 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.