



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 1B Roydon Chalet Lodge Estate, Roydon CM19 5EF Appeal A Ref: APP/J1535/C/18/3215158

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr T 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 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 steps (i) to (iii) above.
- The period for compliance with the requirements is within six months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.

Summary of Decision: The appeal is allowed, subject to the enforcement notice being corrected in the terms set out in the Formal Decision.

Appeal B Ref: APP/J1535/W/18/3204576

- 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 Thomas Moran against the decision of Epping Forest District Council.
- The application Ref EPF/0634/17, dated 28 February 2017, was refused by notice dated 30 January 2018.
- The development proposed is change of use from leisure plot with two sheds to caravan site for siting of one static caravan with associated development (touring caravan and hard standing) for residential occupation by single traveller family.

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

Procedural Matters

1. The two appeals for Plot 1B were heard together with a number of appeals against enforcement notices issued by the Council and against refusals of planning permission, all concerning various plots at Roydon Lodge Chalet Estate (the Chalet Estate).
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. For ease of reference a summary of all Decisions is attached.
3. I carried out site visits to the Chalet Estate on 25 and 29 October 2021, as well as familiarising myself with the surrounding area on other occasions.
4. In relation to the Epping Forest Special Area of Conservation (the SAC), Natural England was consulted in order to comply with the requirements of the Conservation of Habitats and Species Regulations 2017. A response was received on 27 April 2022.

Site and Surroundings

5. The Chalet Estate is made up of a number of plots of land served by a central access road and a vehicle entrance at the western end of the estate. A railway line follows the northern boundary, otherwise the plots are bounded by fields to the south and east. A single track road and a network of public rights of way link the Chalet Estate to the village of Roydon lying to the south.
6. In the late 1940s the land consisted of around 50 allotment plots, provided as part of the Dig for Victory campaign during World War Two. The allotments subsequently became leisure plots. On 18 May 1951 enforcement notices were issued requiring each plot to be cleared of all structures. At the same time the Council stated that it was not the intention to stop the use of the land for gardening purposes or to prohibit weekend and holiday occupation of a suitable type of chalet during the summer months.
7. Thereafter a planning history has developed specific to each plot or combined plot. A small number of plots are characterised by garden land with a small traditional chalet or appear vacant and overgrown. A number of plots are occupied as caravan sites. There are also plots with dwellings and two plots where larger chalets have been built recently. The estate is within the countryside and the Metropolitan Green Belt.
8. Plot 1B is at the eastern end of the Chalet Estate to the north of the access road. As the planning history shows planning permission was granted in 1951 for the erection of a weekend chalet, restricted by condition to use for recreational purposes from April to October and not for permanent habitation¹.
9. The position as recorded by the Council was of a landscaped plot with a weekend chalet in 2012, whilst in November 2016 the site was laid to

¹ Document 10. If consistent with the planning permission provided for Plot 10 the wording of the condition would have been "The building shall be used for recreational purposes only during the months of April to October inclusive and shall not be used for permanent habitation."

hardstanding and occupied by three touring caravans. When making the planning application in February 2017 the appellant said the family were living on the plot in three touring caravans. The plot was bought with two sheds, an original chalet near the rear boundary and a smaller shed that was timber clad and had a toilet and shower.

10. At the time of my visit there was a static caravan on the plot, an old chalet, a timber clad chalet and other small structures such as dog kennels. The land was hard surfaced and enclosed by close boarded fencing.

APPEAL A

Enforcement notice

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

Background

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

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

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

⁴ Document 1

Alleged breach of planning control

14. In accordance with section 173(1)(a) of the 1990 Act an enforcement notice must state the matters which appear to the local planning authority to constitute the breach of planning control. A notice complies with this statutory provision if it enables any person on whom a copy is served to know what those matters are.
15. There is no doubt that the unauthorised development is a material change in the use of the Land. There is no necessity to state the previous lawful use in the allegation but it is generally better to do so. In this instance the former use as a recreational leisure plot use is not disputed. In view of the planning history of the plots and the Chalet Estate the probability is that the land was used for pleasure and enjoyment during the owner's leisure time. The *Pitman case*⁵ confirmed that use of land as a leisure plot can exist as a separate use in its own right. Furthermore, there is no dispute that the Land is now in a single primary use for residential purposes where the living accommodation is within caravans⁶. Despite the use of the word 'including' in the allegation, no other form of residential use is identified. The allegation also reasonably refers to the installation of hardstanding and other minor works as development associated with the change of use.
16. The wording of the alleged breach of planning control, when considered on its face, is reasonably clear.

Requirements

17. 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.
18. The appellant maintained that the requirements should be clear on the level of residential use that would be acceptable, as it was understood that there were no restrictions on a residential use of a caravan for 7 months of the year. A similar argument was presented in the 2012 appeal decision on Plot 38, which the Inspector found on the evidence to be persuasive. The appellant also understood the Council accepted that the plots can be used for leisure purposes, including residential occupation, for 7 months each year from 1 April until 31 October. The Council's deletion of the phrase "including residential occupation" in the final version of the statement of common ground therefore was of concern.
19. 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

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

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

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 appellant that the requirements should, as a matter of course, identify a level of residential use that would be acceptable. If the Council decided to do so, it may represent a decision to exercise its power to under-enforce.

20. In this instance the appellant brought forward no substantive evidence of the actual use of the plot in the period before the change of use occurred. The available evidence from the Council records indicates a leisure use of the plot only. The old chalet was restricted by planning condition to recreational purposes during 7 months of the year. Any overnight stays as part of the primary leisure use could only have been ancillary and not equivalent to use of a chalet as a primary use as residential holiday accommodation. I consider no saving in relation to a residential use is necessary. This conclusion is consistent with a view expressed by the Council at the hearing.
21. Nevertheless, the wording of the Requirements lacks clarity. In short, steps (i), (iii) and (iv) are directed at ensuring the residential caravan site use ceases, 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.
22. In seeking clarification through the general discussion at the hearing the position of the Council was not entirely clear or consistent throughout. At one point the Council stated that the intention was that step (ii) should read cease the recreational use of the land between 1 November and 31 March⁷. 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 more plausible explanation was that step (ii) was an attempt to make clear enforcement action was not being taken against the historical position where an occupier could pull on a caravan for leisure/recreation purposes outside the winter months. Alternatively, the Council may have been seeking to under-enforce, as was the case in the enforcement notice on Plot 38⁸. If that was the intention it is not followed through in steps (iii) and (iv).
23. These considerations lead me to conclude that in order to make the requirements consistent step (ii) should be deleted. It is not a question of deleting an excessive requirement and such a correction can only be made if it would not cause injustice to either the appellant or the Council.
24. A second option would be to delete the phrase "between 1 November and 31 March inclusive", remembering that the allegation states the material change of use is to "a residential use including". The notice would then ensure all residential use of the Land would cease and avoid any possibility of a residential use gaining permission through the operation of section 173(11).
25. Step (ii) implies that a residential use is acceptable for part of the year. Its deletion or part deletion would remove a degree of under-enforcement and the notice would be more restrictive than provided for originally. Its deletion would

⁷ See also the Council's response to Inspector's Pre-Hearing Note of 16 April 2020: Cease using the land for any recreational or leisure purpose annually between 1 November and 31 March the following year.

⁸ For ease of reference the requirement as varied for Plot 38 was "To cease the use of the land as a residential gypsy and traveller caravan site by (i) ceasing the residential occupation of caravans on the land between the 1 November and 31 March inclusive; (ii) permanently reducing the number of caravans on the land to one."

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

Alternative wording

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

Conclusion

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

APPEAL A Ground (a)/deemed planning application and APPEAL B

Proposed development

29. The development at issue in Appeal B is a material change of use from a leisure plot with two sheds to a caravan site for the siting of one static caravan and a touring caravan with associated hard standing, for residential occupation by a single traveller family. The planning application was made retrospectively under section 73A of the 1990 Act and sought planning permission for development already carried out.
30. The Appeal B development is essentially the same as in Appeal A, where the development is derived directly from the corrected description of the breach of planning control in the notice. Therefore I will deal with the planning merits of the developments in the two appeals together.
31. The appellant has provided sufficient information on their travelling lifestyle and means of earning a livelihood to confirm that the current adult occupiers of the plot are travellers within the meaning of Planning policy for traveller sites⁹.

⁹ Annex 1, Planning policy for traveller sites, August 2015, Department for Communities and Local Government

Planning Policy

32. 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).
33. The most important policies for determining the appeals are those related to the appeal site's location and use. The policies are Policy GB2A Development in the Green Belt, Policy RST10A Roydon Lodge Chalet Estate and Policy H10A Gypsy Caravan Sites. I note the supporting text to Policy H10A sets out locational criteria for proposed gypsy caravan 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.
34. 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).
35. The most important policies identified above are generally consistent with the Framework and have full weight.
36. 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

37. With reference to Policy E of the PPTS and the planning history of Plot 1B, the material change of use of the land to a traveller caravan site is inappropriate development in the Green Belt. The appellant did not argue otherwise.
38. The main issue, applicable to both 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.
39. 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.
40. The carrying out of intentional unauthorised development is an additional matter to be explored.
41. The main matters to be considered, potentially weighing in favour of the development, include the existing level of local provision and the need for traveller sites, the availability (or lack) of alternative accommodation for the appellant and his family and their other personal circumstances, including the best interests of the child.
42. The change resulting from the development will be assessed against the lawful use and actual character as a leisure plot. The 'fallback', the development that could occur without permission, has not been firmly established. There could be some instances where the stationing of a caravan will not involve development, such as for a purpose that comprises the lawful primary use as a leisure plot, or a use ancillary thereto, but the stationing of larger static caravan(s) would be unlikely to fall within that scope. It is also the case on this plot that the original chalet survives.
43. Integral to my decision-making will be exercising duties under the Human Rights Act 1998. Article 8, a Convention Right¹⁰, affords a person the right to respect for their private and family life, their home and their correspondence. It is a qualified right that requires a balance between the rights of the individual and the needs of the wider community. I also have in mind the 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).

Effect on the Green Belt

44. By definition inappropriate development is harmful to the Green Belt. The essential characteristics of Green Belts are their openness and permanence. The importance of openness is reflected in criterion (ii) of Policy H10A. In this instance the site was a landscaped plot before development took place. Aerial photographs show the presence of mature trees and hedgerows and much of the site was covered in grass. There was a structure sited near the rear boundary, which by all accounts was the weekend chalet granted permission in 1951. When the appellant bought the site there was also a small shed (2m square). The land had an open character.
45. By contrast, the development has resulted in the land being covered with hardstanding, comprising crushed road stone topped with planings. In addition to the chalet and shed, there is now a static caravan and kennels. A touring caravan also has to be taken into account, even though not present at the time of the appeal site visit. The new use as a residential caravan site acting as a stable base for the family would generate daily activity and vehicle movements, which in all probability would be a more intensive use than the former leisure plot. The result is a harmful loss of openness taking account of both spatial and visual aspects of openness.

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

46. The plot is contained within the boundary of the developed area of the Chalet Estate. No physical encroachment into the countryside has occurred and the development would not conflict with any of the five purposes of the Green Belt set out in paragraph 138 of the Framework.
47. Applying national policy in the Framework the harm to the Green Belt by reason of inappropriateness and a small loss of openness has substantial weight.

Character and appearance

48. The gently undulating arable fields within the valley of the River Stort is a key landscape characteristic of the area. The fields are lined with a network of mature hedgerows often with hedgerow trees and veteran trees contribute to the historic landscape pattern. The large, nucleated village of Roydon is dominant in the settlement pattern. A strong sense of tranquillity is present throughout most of the rural area¹¹.
49. The development of Plot 1B has not encroached into the countryside. The surrounding farming landscape, topography, field patterns and nearby tree belts would not be disturbed by the use. The effect on the wider landscape character would be minimal and at the hearing the Council accepted that any harmful effect would be localised.
50. 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.
51. The evidence indicates that change was gradual over the years through the replacement and extension of the chalets, the increase in mobile homes and caravans and an acceptance in policy of the use of the chalets and caravans for 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.
52. However, by 2018 a number of plots were in use as caravan sites where greenery had been lost to extensive hard surfacing and the main structures were static and/or touring caravans. The trend continued so that by the time of my visit in 2021 the land use character and appearance reflected a greater intensity of residential use. As indicated by the number of enforcement notices issued in September 2018 much of the development taking place in the last few years has not been authorised.
53. The Council described individual changes to the various plots as stark and incongruous, with the cumulative unlawful development completely changing the character of the Chalet Estate from a leisure use set on a verdant informally developed leisure estate to a highly developed urban form of development where hardsurfacing and caravans dominate. The Parish Council

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

- and many of the settled community also see the recent land use change as detrimental.
54. The change in land use character from a chalet estate with a predominantly leisure use to an estate in mainly permanent residential use is resisted by Policy RST10A. Nevertheless, in my view it is not realistic to expect the character and appearance of the Chalet Estate to continue to reflect the scene of the 1950s. Plots have become derelict and overgrown. On a small number of plots permanent residential use has become lawful and dwellings have been built. Even 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 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 chalet.
55. The appeal site is a single width plot towards the eastern end of the estate. The static caravan, in its current position and as currently shown on the submitted site layout, complies with design criteria in the SPG in so far as it is set back within the plot with the shortest side facing the access road. The uncharacteristic element of change is the loss of greenery and the hardsurfacing across the full extent of the plot. However, there is scope to introduce boundary planting to soften the appearance whilst at the same time ensuring a practical, all weather area within the plot for parking, circulation and ease of movement. Depending on the travelling pattern of the occupiers there may well be times when daily activity is absent or at a low level, but even so the site would assume a residential character as opposed to a more seasonal leisure use character.
56. In local views from the footpath network I found that the development on this single plot was not unduly noticeable or conspicuous. The gables and pitched roofs to the permanent dwellings on the estate are more prominent than the lower caravan. The site is also seen with the canal vegetation in the foreground and against a wider backdrop of the hillside to the north, with the substantial old pumping station and the dwellings on Harlow Road. Planting along the rear boundary could be secured by planning condition.
57. The changes in character and appearance to this plot would not be in harmony with the Chalet Estate as it was even as late as 2015. However, the physical contrast would not be so marked when account is taken of the new chalets for the settled community near the entrance to the estate. A caravan site here would contribute to the cumulative effect of change on the Chalet Estate but given the scale of use, it would be better able to be integrated into its surroundings and make effective use of land.
58. In conclusion, the change in land use character is not supported by Policy RST10A. The development is not in keeping with the traditional character and appearance of the Chalet Estate but allowing for accepted change over time and potential new planting the appearance of the estate would not be unduly harmed. Also, the development is compatible with the wider landscape and countryside context and in this respect does not conflict with Policies H10A, CP2 and GB7A.

Flood risk

59. The Environment Agency Flood Map for Planning (Rivers and Sea) places the Chalet Estate in Flood Zone 3 and Flood Zone 2. Caravans and mobile homes intended for permanent residential use are classified as highly vulnerable in Annex 3 of the Framework. When consulted on the planning application for Plot 1B in 2017 the Environment Agency advised that its most up to date modelling shows the site to be within the 1 in 2 year flood extent, meaning that there is a 50% probability of flooding at the site in any one year. The Environment Agency objected to the highly vulnerable development in the functional floodplain.
60. A site-specific flood risk assessment (the FRA) was carried out on behalf of the appellant using data from the Environment Agency and site levels from a topographic survey undertaken in 2017. The entire plot would be flooded in the 1 in 20 annual probability event with flood depths ranging from 0.19 metres (m) to 0.38m. Flood depths in the 1 in 100 annual probability event would range from 0.3m to 0.49m. The FRA concludes Plot 1B lies in Flood Zone 3b, the functional flood plain. The site is also found to be potentially at risk from groundwater and from surface water flooding. The Environment Agency maintained its objection having reviewed the FRA.
61. With reference to national policy and guidance the caravan site as a highly vulnerable form of development should not be permitted in Flood Zone 3b. The exception test does not apply. However, there are other factors to take into account in relation to risk avoidance and making the development safe.
62. The aim is to steer development to areas with the lowest probability of flooding. The Council accept that currently there are no alternative locations for traveller sites in areas at less risk of flooding, although suitable sites should come forward through the EFDLP.
63. The FRA proposes various measures to mitigate flood risk. These include ensuring the threshold level of the static caravan remains 300mm above the flood level expected in the 1 in 100 annual probability plus 35% climate change event, anchoring the static caravan to the ground, requiring occupants to sign up to receive flood alerts and flood warnings and preparation of a flood plan.
64. The FRA explained that the western and eastern parts of the single access road serving the Chalet Estate are predicted to flood for all events including the 1 in 20 annual probability event. The only means of escape for Plot 1B is along the access road. A hazard analysis was undertaken based on the 1 in 100 annual probability plus 35% climate change event. The hazard rating within Plot 1B and along the access road is low risk. The deepest flood depths on the access road are found to be located at the eastern end, close to the site, where flood depths are predicted to be between 0.4m and 0.6m for around 40m.
65. 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.
66. 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.

67. 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.
68. To conclude, the proposal is a highly vulnerable form of development. The use of the land as a caravan site in the functional flood plain would increase the danger from flood risk to the occupiers and in the event of a flood event to members of the emergency services. For these reasons Policy U2A does not support the use in this location. The Framework also indicates the use should not be permitted, given the flood risk classification and the location of the site. There is a strong policy objection. Measures have been identified to manage flood risk and make the development flood resistant. Escape routes would present a low risk. Flood risk would not be increased elsewhere. Balancing all the various considerations the issue of flood risk provides a significant amount of weight against the development.

Epping Forest Special Area of Conservation

69. The SAC is a large ancient wood pasture with a mosaic of habitats of high nature conservation value. By reason of the international designation, the SAC is afforded the highest level of protection through UK legislation and Government policy.¹² Much of the SAC is in an unfavourable condition as a result of atmospheric pollution and also recreational pressure.
70. The Council's understanding and approach to development that is likely to have a significant effect on the SAC has evolved considerably during the preparation of the EFDLP, informed by the Appropriate Assessment for the emerging plan. The Council issued a Position Statement in October 2019 and an Interim Air Pollution Mitigation Strategy in December 2020. In the emerging EFDLP Policy DM 2 seeks to ensure there is no adverse effect on the site integrity of SAC from development proposals and requires mitigation as appropriate in line with the Strategy. Policy DM 22 concerns air quality and includes provisions to address potential effects on biodiversity from air pollution.
71. The reasons for refusal and for issuing the enforcement notice made no reference to the effect on the SAC but the Council's position was revised and updated during the appeal process. The final position is that the Council has withdrawn its objection based on the SAC, following the financial contribution made by the appellant towards mitigation measures to help avoid adverse impacts of development on the integrity of the SAC.

Habitats Regulations Assessment

72. Step 1 'Screening' establishes whether there is a pathway for effect on the designated features of a European site and whether significant effects are likely.
73. 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

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).

the distance of the site from the SAC there is no pathway to affect the designated features and no significant effects are likely.

74. 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 appropriate assessment (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.
75. 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 are Beech forests on acid soils, Northern Atlantic wet heathland with cross leaved heath, European dry heaths and Stag beetle (*lucanus cervus*).
76. 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.
77. The Strategy sets out a range of strategic and site specific mitigation measures to help avoid adverse impacts of development on the integrity of the SAC. Monitoring and review are integral to the implementation of the Strategy. Funding of elements delivered by the Council and its Partners will be by means of financial contributions secured through planning obligations linked to development proposals. The Strategy has been costed and a delivery framework has been developed. There is nothing to indicate that the mitigation will not proceed.
78. The appellant has 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 use than the proposed use. Moreover, an aim is to restore the condition of the EFSAC, not to stop the condition deteriorating further. 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.
79. Mitigation has been secured in line with the Strategy and is in the form of a financial contribution to help fund a package of measures outlined above. The amount of the contribution, the same as the sum sought through the Strategy

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'.

for a single dwelling, is proportionate. The Council has confirmed in writing that the payment will only be used to implement the approved Strategy.

80. Having due regard to the advice from Natural England I am satisfied that air quality should not be considered an impediment to a favourable determination of the deemed application and appeal. The proposal is in accordance with an aim of Policy NC1 and complies with emerging Policies DM 2 and DM 22.

Local Community and Village Environment

81. PPTS under Policy H states that sites in rural areas should respect the scale of and not dominate the nearest settled community and avoid placing an undue pressure on local infrastructure.
82. A strong body of objection, supported by the local MP, was demonstrated in written representations, a petition and the case presented in person at the hearing. The objections expressed by the local community, latterly taken forward by the Parish Council, were directed at development on a number of plots at the Chalet Estate rather than specifically Plot 1B¹⁴. Objections included the change in land use, unauthorised activities and use, local flooding and drainage problems, negative effects on local character, amenity (with reference to anti-social behaviour, intimidation, rubbish and bonfires, effects on Roydon Conservation Area and Lee Valley Regional Park), inadequate access and high concentration of the District's traveller sites in Roydon and Nazeing.
83. I have addressed some areas of objection in the main issues above. In terms of precedent, all the appeals considered at the hearing indicate that there is pressure and a personal need for similar caravan site development. The Chalet Estate is in a Green Belt location where policy strictly controls development and very special circumstances must exist to justify inappropriate development. Provided that this policy test is met to allow the appeals would not set a generalised precedent.
84. The appellant and his family have occupied this plot since late 2016/January 2017 and he is attempting to regularise the planning position through the appeals following the statutory process. There is no direct evidence to show the appellant and his family have not respected the settled community or that they have been responsible for anti-social behaviour. From the appellant's point of view, they are anxious to distance themselves from the stigma associated with the traveller community.
85. As part of the local plan process, allocation of land within the estate for traveller sites was considered but rejected. Nevertheless, with reference to criteria in the Local Plan and in the emerging EFDLP¹⁵ I consider that the site is in reasonable distance of a settlement for access to schools, shops and other services. There is convenient and safe access to public transport services and by vehicle to the main road network via the lane linking the Chalet Estate with the village. On my site visits 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.

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.

¹⁵ Part B criteria (ii) and (iii) of Policy H 4 Traveller Site Development

86. Factors contributing to the character of Roydon Conservation Area include the rural setting and the quiet residential character of the village¹⁶. The change of use of Plot 1B would not impact on these two factors because of its location within the Chalet Estate, the separation distance from the village and the small scale of the development. Increases in traffic movements would be very small when placed in the wider picture.
87. The access road linking the Chalet Estate with the village is not within the Conservation Area. At the time of the planning application interested parties objected to the increased use of the then unmade track. The Character Appraisal for Roydon Conservation Area noted that the potholed gravel surfaced road on the eastern side of the Village Green (at the southern end of the access road) would benefit from being repaired or even resurfaced using an appropriate material. The resurfacing of the access road carried out by residents of the Chalet Estate is not objectional from purely a planning point of view. The objection from the Parish Council 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.
88. The policy indicators show that there is the potential for successful integration between the occupiers of the plot and the settled community. The small scale development of Plot 1B would not be harmful to the character of the village. The contribution to the effects of cumulative change would be very small.

Intentional unauthorised development

89. The Government policy on intentional unauthorised development was confirmed by a Written Ministerial Statement in December 2015 and remained in place after the publication of the Framework. The policy was in response to concern about the harm caused, particularly in the Green Belt, where development is undertaken in advance of obtaining planning permission. In such cases there is no opportunity to appropriately limit or mitigate harm that may be caused and a planning authority may have to undertake expensive and time-consuming enforcement action.
90. As a matter of fact the development occurred before a planning application was made to seek the required planning permission. A Council officer observed 3 caravans on Plot 1B which appeared to be used for permanent residential accommodation, together with extensive hardstanding. A letter from the Council dated 14 December 2016 advised a family member of the need for planning permission, the unlikelihood of permission being granted and the possibility of enforcement action. A retrospective planning application was given as an alternative to removing the caravans and associated works. The letter also advised that planning permission would be required if there were more than one caravan/static on each plot which is being used for the lawful leisure use of the plot.
91. A planning application was submitted on 28 February. The application proposed one static and one touring caravan. A static caravan was brought onto the land subsequent to the application being made.
92. The discussion at the hearing indicated some confusion on the part of the appellant's family member as to what they were allowed to do on the plot

¹⁶ Roydon Conservation Area Character Appraisal September 2006 paragraph 3.2

without permission. The stationing and residential use of a caravan for 7 months of the year was understood to be acceptable to the Council.

93. Against this background, the probability is that the unauthorised change of use and facilitating development took place in the winter months and a larger static caravan was brought onto the land after the written advice from the Council. The balance of the evidence is that the appellant carried out development in the knowledge that planning permission was required. Harm has been caused to the Green Belt. The opportunity to guide details of the site layout, hard and soft landscaping was lost.
94. Also of relevance, the appellant was attempting to resolve the personal need for a site close to his family when no pitch was available in the wider area. Unauthorised roadside camping probably was avoided. An attempt was made to regularise the development following due process after receipt of clear advice from the Council and again in response to the enforcement notice.
95. In conclusion intentional unauthorised development occurred, a consideration to which I attach a small amount of 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. Nevertheless, provision of sufficient traveller accommodation has not been secured and an objective in Policy CP1 (ii) has not been achieved. 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.

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.

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.
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 appellant 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 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 appellants have drawn attention to gypsy sites that have

¹⁸ Hearing Document 4

received permission over the last five years or so, such as 3 pitches at Willingale. The shortfall of available sites and the relatively high level of need were important factors weighing in favour of a grant of permission. The EFDLP too relies on windfall private sites (including those already delivered) to make up the supply of pitches to meet the identified requirement to 2033. Some of the proposed allocations are on Green Belt land.

106. The need to deliver adequate sites for Gypsies and Travellers was recognised in Government policy back in 2006. Since that time PPTS 2012 and the current PPTS set out how the likely need for permanent and transit-site accommodation should be addressed in plan-making.
107. In Epping Forest District the development plan made no site allocations and reliance has been on private site provision to cater for increasing accommodation needs. The Submission Version of the EFDLP dates back to 2017, although work commenced on the plan in 2010/2011. The time taken to progress the plan towards adoption has been increased by the essential work on the SAC, during which time there was a moratorium on new residential development. The lack of site allocations is reflected to an extent in the existing level of need and the lack of available alternative sites for those travellers on unauthorised sites. The 'failure of policy' argument now has only a small degree of weight given the Council's commitments to move forward through the EFDLP.
108. With reference to the PPTS, the availability (or lack) of alternative accommodation for the applicants is a relevant consideration. The Council was not able to suggest an alternative acceptable, affordable and available site(s) for the family to move to if their appeal is not successful. Little information has come forward from the appellant on a search for an alternative site following the service of the enforcement notice. However, there is no requirement in planning policy, or case law, for an applicant to prove that no other sites are available or that particular needs could not be met from another site. Likewise, there is no obligation on a local authority to provide a site. The probability is that finding a suitable alternative pitch would be difficult bearing in mind the site search undertaken by the Council as part of the local plan process, the extent of Green Belt in the District and the wider shortfall in traveller site provision.
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 provide substantial weight in support of the development.

Personal circumstances

110. Thomas Moran and Catherine Kennedy live on the plot with their daughter born in May 2021. They are persons of nomadic habit of life and Mr Moran travels widely for an economic purpose doing property repairs and ground works. Based on human rights law there is a positive obligation to facilitate their gypsy way of life. The best interest of the child is a primary consideration, which means that no other consideration can be inherently more important. The appellant shares 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.

111. Members of their close family live on Plots 32, 32C and 21. The appellant informed the hearing that this site is the first place that they are able to call home, having previously stopped on camping and caravan sites all over England and on roadside encampments and holiday camp sites when the owners permitted. They very much want their child to have an education.
112. I consider that the plot facilitates the family's traditional way of life as travellers, whilst the benefits of health, education and community services are accessible and enable improvement to the quality of life. No available alternative pitch has been identified to meet their personal need for a site. With an enforcement notice in place a lack of success in the appeals would mean the use of the land as a caravan site would have to cease. It follows that the appellant and his family would lose their home. The interference would have such gravity as to engage the operation of their Article 8 Convention rights.
113. To have to return to a roadside existence would be against the best interests of their very young child and could be detrimental to her well-being and future education. The potential environmental cost of unauthorised camping is also a factor that supports their continued occupation of the plot. In my view this consideration has significant weight in support of the development.

Planning Balance

114. There are two main policy objections. The harm to the Green Belt by reason of inappropriateness and a small loss of openness has substantial weight. The issue of flood risk provides a significant amount of weight against the development. The other harms identified each have a small amount of weight. The effect on the wider landscape character of the area and the SAC consideration are neutral in the planning balance.
115. In support of the development the outstanding level of need in the District, and more widely and the absence of a 5 years' worth supply of specific deliverable sites, has considerable weight. The failure of policy argument adds very little additional weight. The personal need for a pitch and other family circumstances, including the best interests of the child has very significant weight.
116. The totality of the identified harm is not clearly outweighed by other considerations. Very special circumstances do not exist. That being so the development fails to comply with Policy H10A and Policy GB2A. Conflicts also exist with Policies U2A and RST10A. Notwithstanding the compliance with Policies NC1, GB7A and CP2, the material change of use is not in accordance with the development plan when read as a whole. The conflicts with national policy on Green Belt and flood risk provide a strong reason for following the direction of the development plan. The development is not acceptable on a permanent basis.

Temporary planning permission

117. Planning permission may be granted for a temporary period, for example where it is expected that circumstances will change in a particular way at the end of that period. Furthermore, where there would be an interference with an individual's rights the interference should be no more than is necessary and must be proportionate. The length of a possible temporary period was

discussed at the hearing, the Council arguing for a two year period and the appellant for five years.

118. 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 time-limited period of four years is more realistic than two years, remembering that it will rarely be justifiable to grant a second temporary permission and there is no presumption that a temporary grant of planning permission will then be granted permanently¹⁹. Within that period the position on the site allocations and their ability to meet outstanding need in the District should be a lot clearer.
119. The weights attached to the various harms and considerations in the planning balance require adjustment to take account of the use over a time-limited period. In doing so I have taken account of PPTS paragraph 27²⁰ in respect of the absence of an up-to-date five year supply of deliverable sites. In this case the shortfall in sites reflects the pressing need in Epping Forest District for sites, the extent of the Green Belt, the period of the local plan process, the location of proposed allocations and uncertainty about future site delivery. The position justifies very significant weight. In addition, the best interests of the very young child and the probable hardship if the family lost their home has substantial weight all matters considered.
120. The totality of the identified harm is clearly outweighed by other considerations. A grant of a temporary permission is a proportionate outcome, given the positive obligation to facilitate the gypsy way of life and having due regard to the PSED. I am satisfied that to grant permission would not result in a harmful cumulative impact when taking account of the outcome on the other appeals. Very special circumstances exist and accordingly the development complies with Policy H10A, both in Appeal A and Appeal B. In terms of the development plan and national policy the caravan site is acceptable for a temporary period.

Planning conditions

121. I have considered what planning conditions would be appropriate in relation in light of the discussion at the hearing and Planning Practice Guidance. Conditions should satisfy six tests and be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.
122. The development is acceptable for a temporary period and so a time limit must be imposed, together with requirements for the use to cease at the end of the stated period and restoration of the land to an agreed scheme. A requirement that the caravan site shall only be occupied by gypsies and travellers with PPTS status is necessary because of the weight attached to the general unmet need for traveller sites to which the personal need of the appellants and their family contributes. Such a condition would also facilitate

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.

the gypsy way of life, promote equality and reduce disadvantages experienced by the traveller community.

123. The approved land use is a caravan site and so it is necessary to control the number and type of caravans and to specify a single pitch to preclude subdivision. Such restrictions are to safeguard the appearance of the plot and the Chalet Estate, control the intensity of use and reflect the mitigation for the SAC. Conditions to prevent employment activity and restrict the parking of commercial vehicles are necessary to safeguard the amenity of the estate.
124. Notwithstanding the use being for a time limited period submission and approval of a site development scheme is necessary to maintain the appearance of the plot and estate. The information submitted with Appeal B does not adequately reflect the preferred layout currently seen on site. The details should include a site layout plan, site drainage, external lighting and planting. The scheme and details required should be proportionate to the size and location of the plot and the temporary time period. If approval of the details is not obtained in a reasonable timescale, as set out in the condition, the use must cease.
125. A condition sets out mitigation measures identified in the FRA, which are important to reduce risk and improve safety in a flood event.
126. The Council accepted that provision of an electric vehicle charging point and superfast broadband would not be reasonable if a temporary planning permission is granted. I agree.

Conclusions on planning merits

127. For the reasons given above I conclude that Appeal A should succeed on ground (a) and I will grant planning permission in accordance with the application deemed to have been made under section 177(5) of the 1990 Act as amended, which will now relate to the corrected allegation. The corrections to the wording of the requirements are to ensure consistency with the corrected allegation. The appeals on ground (f) and (g) do not need to be considered as the notice will be quashed.
128. For the reasons given above I conclude that Appeal B should be allowed.

DECISIONS

Appeal Ref: APP/J1535/C/18/3215158

129. It is directed that the enforcement notice be corrected by:
- the deletion of the wording below the heading to paragraph 3 and the substitution of the wording "Without planning permission, the material change in the use of the Land from use as a recreational leisure plot to use as a residential caravan site and the carrying out of development associated with the use, including the installation of hardstanding."
 - the deletion of steps (i) to (iv) in paragraph 5 and the substitution of the wording:
 - i. Cease the use of the Land as a residential caravan site.

- ii. Remove from the Land all caravans and associated development, including the hardstanding, connected with the use as a caravan site.
- iii. Remove from the Land all domestic paraphernalia associated with the use of the Land as a caravan site and all debris resulting from compliance with steps (i) and (ii) above.

130. Subject to the corrections the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the material change in the use of the land to use as a residential caravan site, with associated development including the installation of hardstanding on the land at Plot 1B, Roydon Lodge Chalet Estate, Roydon CM19 5EF referred to in the notice subject to the following planning conditions:

- 1) The use hereby permitted shall be for a limited period being the period of four years from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought onto, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored in accordance with a scheme of works that has been 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 2015 (or its equivalent in replacement national policy).
- 3) There shall be no more than one pitch on the site and on the single pitch hereby approved no more than two caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended), shall be stationed at any time, of which only one caravan shall be a static caravan.
- 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 (hereafter referred to as the scheme) and a timetable for its implementation shall have been submitted for the written approval of the local planning authority. The scheme shall include details of: the internal layout of the site, including the siting of caravans, hardstanding and amenity area; the means of foul and surface water drainage of the site; proposed and existing external lighting; tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities and details of maintenance during the 4 year period of the approved use; means of enclosure; a flood evacuation plan; provision for storage of waste and recyclables; a plan 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 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) At all times (i) the floor level of the static caravan shall be set at 33.81 metres Above Ordnance Datum, and (ii) the static caravan shall be anchored to the ground.
- 6) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 7) No business activities, including the storage of materials, shall take place on the land.

Appeal Ref: APP/J1535/W/18/3204576

131. The appeal is allowed and planning permission is granted for change of use from leisure plot with two sheds to caravan site for siting of one static caravan with associated development (touring caravan and hard standing) for residential occupation by single traveller family at Plot 1B, Roydon Chalet Estate, Roydon CM19 5EF in accordance with the terms of the application, Ref EPF/0634/17, dated 28 February 2017, and the site location plan 1 submitted with it, subject to the following planning conditions:

- 1) The use hereby permitted shall be for a limited period being the period of four years from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought onto, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored in accordance with a scheme of works that has been 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 2015 (or its equivalent in replacement national policy).
- 3) There shall be no more than one pitch on the site and on the single pitch hereby approved no more than two caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended), shall be stationed at any time, of which only one caravan shall be a static caravan.
- 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 (hereafter referred to as the scheme), together with 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 the scheme shall include details of: the internal layout of the site, including the siting of caravans, hardstanding and amenity area; the means of foul and surface water drainage of the site; proposed and existing external lighting; tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities and details of maintenance during the 4 year period of the approved use; means of enclosure; a flood evacuation plan; provision for storage of waste and recyclables; a plan 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 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) At all times (i) the floor level of the static caravan shall be set at 33.81 metres Above Ordnance Datum, and (ii) the static caravan shall be anchored to the ground.
- 6) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 7) No business activities, including the storage of materials, shall take place on the land.

Diane Lewis

Inspector

APPEARANCES

FOR THE APPELLANT:

Alison Heine BSc MSc MRTPI	Heine Planning Consultancy
Christopher Moran	An Appellant
Thomas Moran	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Phillip Hughes BA Hons MRTPI MCM1	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.