
Appeal Decisions

Inquiry Held on 7 to 10 December 2021 and 26 to 27 April 2022

Site visit made on 12 January 2022 and 26 April 2022

by D Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2022

Appeal A, Ref: APP/J1535/C/21/3270539

Land to the north of Heathlands, Willingale Road, Norton Heath, Ongar CM4 0LW

- 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 O'Reilly and Gypsy-Traveller Group against an enforcement notice issued by Epping Forest District Council.
- The enforcement notice was issued on 15 February 2021.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised change of use of the land for the stationing of caravans, mobile homes and tourers for residential use, construction of buildings and the laying of hardcore and erection of fencing and gates.
- The requirements of the notice are:
 1. Cease the residential use of the land as shown outlined in black on the plan attached to the notice.
 2. Remove from the land all caravans, mobile homes tourers and ancillary buildings.
 3. Remove from the land all boundary treatments including all fencing, posts and gates that have been erected in the demarcation of the land into nine sub plots (1-9).
 4. Remove from the land all hardcore that has been laid to facilitate the unauthorised change of use of the land.
 5. Remove from the land all resultant debris as a result of compliance with steps 1-4 above.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: the appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B, Ref: APP/J1535/W/21/3270395

Land to the north of Heathlands, Willingale Road, Norton Heath, Ongar CM4 0LW

- 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 O'Reilly and Gypsy-Traveller Group against the decision of Epping Forest District Council.
- The application, Ref EPF/2790/20, dated 27 November 2020, was refused by notice dated 4 February 2021.
- The development proposed is change of use of land for the creation of 9 gypsy/traveller pitches comprising the siting of 1 mobile home, 1 touring caravan and the erection of 1 utility building per pitch.

Summary of Decision: the appeal is allowed, and planning permission is granted subject to conditions set out below in the Formal Decision.

Preliminary and Procedural Matters

1. The owner of the adjoining property, Heathlands, requested and was given Rule 6 status to participate in the Inquiry.
2. The Council confirmed that they were no longer continuing with some reasons for issuing the enforcement notice. These were in relation to harm to the Epping Forest Special Area for Conservation (EFSAC), harm to biodiversity and conflict with part of Policy H4 of the Epping Forest District Local Plan Submitted Version 2017 (the LPSV). In respect of the first matter, this was because the appellant had offered to submit a Section 106 Unilateral Undertaking to make an Air Pollution Contribution payment and Monitoring Contribution to the Council. In respect of the second, it was considered that the reason could not be sustained as the policy being relied upon was being modified in the local plan review process. I will therefore proceed on the basis of the remaining reasons in the determination of these appeals.
3. The allegation fails to allege that there has been a material change of use and refers to the "construction of buildings" when this has not occurred. The parties agreed I could correct the allegation, and make consequential corrections to the requirements, without causing injustice, to remedy these two points so as to have the correct basis for considering the deemed planning application. I will proceed on this basis.
4. The description of development for the planning application also does not refer to a material change of use of the land and, in addition, fails to mention a residential use of the land. This was not corrected when the application was determined but it was agreed by the parties that I could change the description to have the correct basis for considering the appeal. I will proceed on the corrected basis.
5. At the Inquiry the appellants submitted that the case for both appeals does not rely on the personal circumstances of the appellants in the first instance, but on the fact that the developments comply with Policy H4. This is a criteria-based policy for assessing windfall applications for gypsy and traveller developments intending to be occupied by those that meet the Annex 1 Planning policy for traveller sites (PPTS) definition.¹
6. Paragraph 8 of the Statement of Common Ground states the parties agree the appellant group are gypsy/travellers and agreed condition 2, option 1 states that the site shall not be occupied by persons other than those who meet the definition for gypsy/travellers set out in the PPTS. During the Inquiry there was a discussion as to whether this was the case and I shall therefore deal with this as a main issue.
7. The postcode on the planning application form differs from that stated on the notice. The parties confirmed that the correct postcode is CM4 0LW.
8. When the Council's witness, Mr Rahman, gave his evidence, the Council changed its view on its understanding of the lawful use of the site. This led to the production of an update to the Proof of Evidence and the appellant group was given the opportunity to respond formally.

¹ As set out in the supporting text to Policy H4

9. After the Inquiry was adjourned on 10 December 2021, and at the request of the parties for a winter site visit, I made an unaccompanied site inspection of the area around the appeal site on 12 January 2022. The Inquiry was again adjourned on 27 April 2022 pending the receipt of signed unilateral undertakings. These were received on 4 May 2022 and the Inquiry was then closed in writing.

Background, site and surroundings

10. The appeal site comprises the southern portion of a large field and is approximately rectangular in shape with the short side opening onto Willingale Road. This runs from Norton Heath in the south to Willingale village to the north. Norton Heath is a small settlement set back from the A414 road, which is a major east-west route in the area. The site is situated on the western side of Willingale Road and immediately abuts the northern boundary of Heathlands, a detached bungalow with the benefit of a large plot. Both sites are surrounded by farmland and the nearest neighbouring dwellings are those to the south, situated along Norton Lane.
11. The appeal site is bounded by hedgerow to the east, south and west and to the west and north there is a public right of way² that runs nearby. Within the site the appellants have laid out nine adjacent pitches, all similar in size, each separated by fencing. Their rear boundaries are marked by a line of solid fencing which is sited adjacent to the hedgerow line separating the appeal site from Heathlands. A new track within the site provides access to each pitch.
12. The appellant group began using the site towards the end of November 2020 after they submitted their planning application. This was brought to the attention of the Council who obtained an injunction on 4 and 11 December 2020.

Appeal A: The ground (a) appeal, the deemed planning application; and Appeal B: The section 78 appeal

Main Considerations

13. The first main issue is whether the appellant group fall within the definition of gypsies and travellers as set out in the PPTS. It is common ground that the use of the site is inappropriate development in the Metropolitan Green Belt, in which it lies, as set out in paragraph 14 of the PPTS. As such, I have identified the main considerations to be:
- (i) Whether the appellant group fall within the PPTS definition of gypsies and travellers for planning purposes;
 - (ii) The effect of the use on the openness of the Green Belt and the purposes of including land within it;
 - (iii) The effect of the development on the character and appearance of the area;
 - (iv) Whether the site is in an acceptable location having regard to access to services;
 - (v) The effect of the development on the living conditions of the neighbouring occupiers, having regard to noise;

² Public Right of Way No: 193_71

- (vi) The need for sites for gypsies and travellers, the provision of sites and the availability of alternative sites;
- (vii) Personal circumstances, human rights and the best interests of children; and
- (viii) Whether the harm to the Green Belt and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

PPTS status

14. The appellant group, who intend to/occupy the site, comprise Irish Travellers forming eight family groups living on the site and one single occupier. For planning purposes, paragraph 1 of the Annex to the PPTS defines gypsies and travellers as follows:

"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependents' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such."

15. Paragraph 2 states the following:

"In determining whether persons are "gypsies and travellers" for the purposes of this planning policy, considerations should be given to the following issues amongst other relevant matters: a) whether they previously led a nomadic habit of life b) the reasons for ceasing their nomadic habit of life c) whether there is any intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances".

The Courts have emphasised the need to prove current or previous nomadism for an economic purpose. Whilst travelling does not have to be a major or primary source of family income, it should be more than a hobby.

16. At the time of determining the planning application the Council stated that the site occupiers claimed gypsy and traveller status. During the Inquiry the appellant group submitted that it was for the Inspector to evaluate the evidence. Whether persons fall within the stated definition is a matter of fact and degree to be applied to their way of life at the time of the determination of the appeal.
17. The appellant group comprises nine households and it is my view, based on the written and verbal evidence, that eight households meet the definition. It would appear that one occupier was not raised by parents who travelled for an economic purpose and the family they spent most time with only travelled for cultural reasons. Since reaching adulthood they themselves have not travelled for an economic purpose, though this has been difficult over the last two years because of Covid. Whilst it is their intention to raise their child in the traveller way, it is not clear whether this would include travelling for an economic purpose, especially as they do not have a driving licence, though they could travel with others.
18. Regarding the other households, I find that two clearly travel for economic purposes and the remaining households have ceased to travel temporarily due

to educational, welfare and medical needs. Prior to stopping, they each had various patterns of travelling for an economic purpose beginning with parents and then continuing after marriage. It is therefore my view, on balance, that at present they meet the definition. Future intentions are unclear, largely due to the unknowns of, for example, looking after disabled children or their own health outcomes.

19. I therefore conclude that as a group, except for one household, their circumstances are sufficient to constitute gypsy and traveller status for planning purposes, on the balance of probabilities.

Relevant planning policies

20. The Council's development plan comprises the Epping Forest District Local Plan adopted in 1998 combined with Alterations made in 2006, published in February 2008³ (the LP). The Council rely on three policies from the LP in their first reason for issuing the notice, namely Policy GB2A Development in the Green Belt, GB7A Conspicuous Development and Policy H10A Gypsy Caravan Sites. I find that all three policies are broadly consistent with the National Planning Policy Framework (the Framework) despite their age, in particular the wording from paragraphs 147-149. In addition, Policy 10A refers to "special circumstances" rather than "very special circumstances". Nevertheless, I give the policies substantial weight.
21. There is also an emerging local plan which the Council seek to rely on, the LPSV. This has been the subject of an Examination in Public (EIP) in 2019. Main Modifications (MM) were consulted upon during summer 2021. Policy SP6 Green Belt and District Open Land states that the Green Belt will be protected from inappropriate development in accordance with national policy and Policy DM4. The latter is titled Green Belt and largely repeats the policy in the Framework. Policy H4 Traveller Site Development is a detailed criteria-based policy setting out the Council's approach to this area and includes a requirement to consider any impact on the Green Belt.
22. The Framework states that weight afforded to relevant policies in emerging plans is dependent on the stage of preparation and the degree of consistency with the Framework. The Council's appendices include extracts from the MM and the Inspector's letter dated 2 August 2019 written following the closure of the EIP. I find whilst Policies SP6, DM4 and H4 are all subject to MM, these do not go to the heart of the wording of the policies and, as such, I afford them significant weight.
23. The Council also rely on the policies within the Framework and the PPTS to support their case. These documents are both material considerations with the PPTS to be read in conjunction with the Framework. Paragraph 137 of the Framework refers to the great importance of Green Belts and to their essential characteristics of openness and permanence. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Green Belt has five purposes which include assisting the safeguarding of the countryside from encroachment.
24. Paragraph 147 explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special

³ Combined Policies of Epping Forest District Local Plan (1998) and Alterations (2006)

circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Paragraph 148 requires substantial weight to be given to any harm to the Green Belt.

25. PPTS has the same policies and paragraph 16 says that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.
26. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan is clear in this case; the material change of use that has occurred is inappropriate development in the Green Belt.

Openness and Green Belt purposes

27. Prior to the current use, the appeal site formed part of the larger field and in 2017 planning permission was granted for the material change of use of the field from agriculture to the keeping of horses. This included the erection of a stable block, hay barn and the formation of a hard standing area. The buildings have not been built and it appears that the existing hard standing does not accord with the approved plans⁴ in that it covers a much larger area.
28. The appellant claims that the appeal site is previously developed land (PDL⁵). This is significant as the development of PDL can be an exception to inappropriate development in the Green Belt (paragraph 145 of the Framework). However, notwithstanding that there are some caveats to the development of PDL, such as not having a greater impact on the openness of the Green Belt than the existing development, I find that the appeal site is unlikely to be PDL and the use could be considered to be unlawful. This is because the 2017 planning permission was subject to several pre-commencement conditions and none were discharged before the development was implemented.
29. Following the appellants' use of the land, I find there is harm to Green Belt openness both spatially and visually from the introduction of touring caravans, some mobile homes, an access track, hard standing, fencing, vehicles and domestic paraphernalia. This harm can be seen briefly when passing the site entrance on foot in a southerly direction. Other views from the road are very limited due to the depth and length of the roadside hedging. It is possible to glimpse part of the site from the access formed to serve the unbuilt stables but views from across the garden of Heathlands are restricted by the boundary hedgerow, trees and fencing.
30. Also on my winter site visit, I found it was very difficult to discern the appeal site from PROW 193_71. This runs northwards from a farm on Norton Lane to Offins Cottages on Willingale Road, with the route running across an intervening field from the appeal site. Other than from one narrow point near

⁴ Mr Pomery's Proof of Evidence Appendix 2

⁵ Previously developed land is defined in the Framework as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed).

Offins Cottages, the height and thickness of the hedgerows and trees around the appeal site obscured any view of the development.

31. As such, I find that the development is very well screened in winter and it follows that this screening would be increased in summer, when everything is in leaf. In addition, if the proposed utility buildings were built and the additional proposed mobile homes were installed, this would lead to a further loss of openness.
32. There is scope through planning conditions to achieve additional planting to ensure that as far as possible the development is integrated into its surroundings. Landscaping measures could, in time, further reduce views into the site. Nevertheless, there is moderate harm to Green Belt openness and therefore conflict with LP Policy 10A and LPSV Policy SP6..
33. There is however a different degree of harm arising potentially from conflict with the Green Belt purpose of assisting in safeguarding the countryside from encroachment. The Council faces considerable development pressure given its location bordering London. There are few large towns within the district and therefore most of the district in rural use is protected by the Green Belt designation, to manage development.
34. The LPSV proposes adjusting the Green Belt boundary in the north of the district where it borders Harlow, to meet future housing needs. Provision is also made in the same area for the provision of pitches to meet the needs of the gypsy and traveller community.
35. The development at the appeal site undermines this planned approach and, as such, it represents a form of encroachment resulting in significant harm to the Green Belt. This would be contrary to Policy GB2A of the LP and Policies DM4 and SP6 of the LPSV, which all reiterate national policy guidance on Green Belts.

Character and appearance

36. Policies CP2 and LL2 from the LP seek to protect the quality of the rural environment and safeguard the countryside from inappropriate rural development. In addition, Policies GB7A and LL1 of the LP seek to protect the visual amenities of the Green Belt from conspicuous development and the conservation of visually attractive landscapes. The requirement for high quality design and the protection of specific features is dealt with by Policies DBE1, DBE4 and LL10 from the LP and Policies DM5 and DM9 in the LPSV. As I have already found with Policy GB7A, the LP policies are broadly consistent with the Framework. The Council also seek to rely on Policy CP7 from the LP but this addresses development in urban areas and, as such, is not applicable to the development before me.
37. The appeal site and the surrounding countryside has no national landscape designation. The Council lies within Essex County and in 2003 a landscape character assessment was carried out for the County Council to provide a landscape baseline for the assessment of development. The appeal site falls within the Central Essex Farmlands area. This is an extensive area of gently undulating arable farmland with irregular fields enclosed by thick but intermittent hedgerows. This assessment was made almost 20 years ago but it still reflects the area around the appeal site today.

38. Norton Heath is a hamlet that sits in a pleasant but unremarkable rural landscape. It appears to have developed around an historic building, Norton Manor, which overlooks Norton Heath Common, a small, wooded area. The layout of the hamlet is that of a dispersed group of dwellings and small businesses sited along Willingale Road and Norton Lane near to the Manor. Many dwellings are detached and situated in large plots set back from the road. Heathlands and the appeal site lie to the north of the Manor and Norton Lane and, as such, they are on the edge of the hamlet. The appeal site is not so distant from the hamlet that it could be said it is 'away' from an existing settlement, as referred to in PPTS terms (paragraph 24).
39. I make the following comments in addition to my findings on visual harm set out above. The access into the site is new and involved the removal of a short stretch of hedging. It is at right angles to the road and the access track within the site curves away from the entrance. I find that car drivers passing the site southwards would be able to glimpse the development but such views would only be fleeting. Either side of the entrance there is mature hedgerow and a ditch, which helps to screen the site, and, in part, this is approximately 10m in depth. There is no footpath outside the appeal site and given the speed of local traffic, I imagine there would be few pedestrians. I saw the network of rural lanes attracts cyclists, but again, any views into the site from their view point would be fleeting.
40. The Council are concerned that in winter the development is highly visible and in summer the residential use would still be very noticeable. Whilst they accept that caravans can be part of a rural landscape, their view is that the number on this site together with parked cars, utility buildings, together with the layout of the site would cause significant harm to the character and appearance of the area.
41. I find that this is not the case because the layout of the site means that the pitches are tucked against the southern boundary of the site against the backdrop of a mature hedgerow. The curve of the access track means that the pitches are not directly opposite the entrance, thus reducing the effect of the change to the character and appearance of the area caused by the development. There is scope for additional landscaping to compensate for the small loss of hedging to form the access and to assimilate the development further into the countryside. This could be secured by a condition, together with a condition requiring the submission of the details for the external materials of the small utility buildings proposed for each plot.
42. The Council also submit that the development diminishes the rural character of the surrounding area and refer to an 'urbanising effect', although this expression is largely unexplained. I find what was once undeveloped land, surrounded by a patchwork of arable fields and sporadic dwellings, has changed with the development of nine pitches over an area of approximately 0.9ha. However, the degree of change to the character and appearance of the area has not led to a hamlet becoming more like a town.
43. Third parties and the Parish Council refer to other gypsy and traveller developments within three miles of the site and that the number of local existing sites is disproportionate to the size of the area. These sites are not named but the appellant mentions The Steers⁶, which is on a much smaller

⁶ The Steers, Pigstye Green Road, Willingale, three pitches.

scale. This site is over 1 kilometre away from Norton Heath, is not visible from the appeal site and is bounded by hedgerows. It has no bearing on the development of the appeal site as each site is self-contained within the landscape and any development at the appeal site, together with The Steers would not dominate the nearest settled community. In addition, at the Inquiry the Clerk to the Parish Council confirmed that there are no gypsy and traveller sites within the High Ongar Parish Council area.

44. It is considered that the layout of the site minimises the effect of the use on the environment and it is largely unseen from the surrounding area. It is also not easily seen from the access point. No hedges appear to have been removed from the site, other than to create the access, and no non-indigenous species have been planted, which might make the site conspicuous in landscape terms.
45. In conclusion, the development does not have an adverse effect on the character and appearance of the area, subject to the imposition of the conditions as discussed. This aspect of the development therefore accords with the policies set out in paragraph 36 and Policy H4 B(i) and (vii). As such, this attracts substantial weight.

Location of site and access to services

46. The Council submit that the location of the site is unsustainable and sites allocated for pitch development in the LPSV are in sustainable locations such as those forming part of the proposed garden towns.
47. Nevertheless, the Council accepts in Policy H4 that there will be, on occasion, a need to consider proposals for sites that are not allocated. The supporting text to this policy states that there needs to be convenient access to local services and facilities, specifically educational, medical and welfare services. However, 'convenient' is not defined. The policy states that applications will be determined taking into account various 'considerations'.
48. Paragraph B(ii) refers to the "relationship to local services with capacity, including education establishments, health and welfare facilities, shops and community facilities". The appellants stated that several of their children have been given places in local schools and nurseries and that they are picked up/dropped off by the school bus. This improves the general accessibility of the site and is also a more sustainable form of travel. The appellants have also registered with local health practices. There is therefore capacity in these required areas.
49. There is no shop in Norton Heath but the nearby petrol filling station on the A414 road sells some groceries and is regularly used by the appellants as they can walk there. Otherwise, they drive a short distance either west or east to supermarkets in Chipping Ongar and Chelmsford. This is not unlike the settled community in the area who use cars to travel further afield for shops and community facilities. There are no objections from the Highway Authority to the position of the access, subject to the imposition of conditions, requiring, for example, a minimum width for the access and a minimum set back distance for any gates. The site is also within a reasonable distance of larger settlements via the A414 road. I therefore find no conflict with paragraphs B(ii) and (iii) of Policy H4.

Living conditions

50. After the material change of use took place, the occupiers of the site were prevented from connecting the site to mains electricity. As such, they rely on petrol driven generators for electricity. These are audible when in use to the occupiers of Heathlands, particularly of an evening. This property is some distance from the boundary of the appeal site but given the rural location, various sounds are audible within the garden, such as tractors working in the fields and passing cars.
51. Expert evidence from the Council and the Rule 6 party showed that noise from the generators is both high in level, relevant to residual sound, and significantly different in character from the prevailing ambient environment. Both experts concluded that their assessments indicate a statutory nuisance is highly likely to occur during the operation of the generators. The appellants do not dispute these findings.
52. At the Inquiry it was suggested that a condition could be imposed to secure the connection of the site to mains electricity. It would be worded so that any planning permission granted would fall away within a particular time frame if this was not achieved. I regard such a condition as being necessary given the circumstances on site. The Rule 6 party remains concerned though, that there is still the potential for the generators to be in use for an unacceptably long time, for example, if an appeal was to be lodged.
53. Should that be the case, it is open to the Council, as it has been since the start of the material change of use, to investigate and if there is a statutory nuisance, to issue an abatement notice. This would secure the cessation of any statutory noise nuisance. Whilst the sound from the generators would not be eliminated, it could be reduced to an acceptable level by various means such as enclosing them and/or re-positioning them.
54. It is also open to any individual to bring their own case to a Magistrates Court where the local authority does not view the noise as a statutory nuisance. I find the expectations of the Rule 6 party to be unrealistic with regard to eliminating the noise completely (for example achieving either NOEL or LOAEL⁷). This is especially the case as the Framework requires mitigation and reduction to a minimum, not elimination, the potential adverse impacts resulting from noise from new development (paragraph 185).
55. The development therefore accords with Policy H4B(i), subject to an appropriate condition. This part of the policy requires the consideration of the development on local amenity and the natural environment.

Need and the provision of sites for gypsies and travellers

56. The most up to date Gypsy and Traveller Accommodation Assessment (GTAA) was published in 2017 and some of its findings on the need for sites have now been acted on in the LPSV. The appellants criticise the methodology of the GTAA but I note the examining Inspector has not and has not disagreed with its recommendations.

⁷ Noise Policy Statement for England, Defra March 2010, NOEL No Observed Effect level and LOAEL Lowest Observed Adverse Effect Level

57. LPSV Policy SP2 states an additional 38 pitches will be provided through the allocation of sites delivered using a sequential approach. This ranges from unauthorised sites or those with temporary planning permission being regularised, to the allocation of land for 15 pitches as part of the Garden Town Communities developments (Policy SP5). Over the 2011 to 2033 LPSV period, 32 of the required 64 pitches have already been provided.
58. In addition, the Council has also made separate provision for sites upon which caravans can be stationed for those that do not meet the PPTS definition (Policy H1).
59. At the Inquiry there was a discussion as to when the additional pitches would come on stream, particularly those forming part of the Garden Town Communities. No firm conclusions could be reached, given the LPSV has only completed the MM stage in 2021 but the new pitches have been allocated to meet the needs of the incumbent population. The appellants' development on an unallocated site falls to be considered against LP Green Belt policies and LPSV Policy H4. As such, it is a windfall site that meets an unidentified additional need.
60. The general need for sites is now being addressed by the Council, a criteria-based policy has been developed and the publication of the examining Inspector's final report appears to be imminent. Until then, the personal needs of the appellants count as unmet need in respect of the LP and the Council are currently unable to demonstrate a 5 year supply of deliverable sites. This finding attracts some weight.

Availability of alternative sites

61. PPTS paragraph 24 requires consideration of the availability of alternative accommodation for the appellants. Alternative sites must be available, affordable, acceptable and suitable. To be available a pitch must have planning permission, be vacant and be actually available to the proposed occupier. In addition, there is no requirement for the appellants to prove a need to live specifically on the appeal site, as suggested by the Council.
62. I set out below a summary of the circumstances of the occupiers of each pitch and their previous movements before purchasing the appeal site. The occupiers of Pitch 1 previously doubled up on a pitch in Witham, Essex for eight months but prior to that they rented a site in Warwickshire for four years. They were forced to leave Warwickshire because of the potential for harm to their children from a family feud not of their making.
63. The head of the household on Pitch 2 has been hospitalised on several occasions since 2012 due to serious ill health, has lived in a hostel and lived, on and off, in a house with a relative for support. They have had no settled base for several years.
64. The occupiers of Pitch 3 used to live in Ireland after getting married until the marriage ended. They then moved in with a parent in Bristol on a Council site until their parent was given a house due to ill health. They were on the Bristol waiting list for a pitch but other people were allocated pitches before them. They could not stay on their parent's pitch as the tenancy was not in their name and they were offered a flat instead, which they were forced to take as the alternative was the roadside.

65. They occupied the flat for about a year but could not settle and moved to a flat in Braintree to be near family until the family moved to London. Shortly after that, they moved into a house in Dagenham but still could not settle and once, they were awoken by burglars in their bedroom. After that they "sofa surfed" with family until moving on to the appeal site. Whilst in Dagenham they put their name down on the Council waiting list for a pitch as they felt safer on a site as opposed to in a house, but no offers were made.
66. The head of the household on Pitch 4 previously lived with grandparents on a site in Braintree until they were made homeless. They have been helped onto the appeal site by an uncle but they are unable to live with or near the uncle's site as there is no room.
67. The occupiers of Pitch 5 were previously doubling up with parents in Romford until they received an eviction notice. They have also been hospitalised due to serious ill health and prior to Romford, they were living in a refuge in Australia for a short time and then temporarily in a house in Surrey provided by Social Services.
68. The head of the household on Pitch 6 previously lived with an aunt on a privately rented site in Warwickshire but left due to a breakdown in relationships with neighbours. They were on the roadside for a couple of months before arriving at the appeal site.
69. The occupier of Pitch 7 has not lived on a lawful pitch for over 30 years though they have been on various waiting lists in Manchester and Liverpool for a pitch. They are from a family with 16 siblings but are unable to live with any of them as there is no room; they each have their own dependents living with them.
70. The occupiers of Pitch 8 previously lived on a rented site in Warwickshire but left for the same reasons as their sibling on Pitch 1. Prior to that they were doubling up in Romford for more than two years and they were also on a waiting list in Essex.
71. The occupiers of Pitch 9 previously lived on the same site in Warwickshire with their siblings on Pitches 1 and 8 and had been there for three years but were given an eviction notice when the landlord found out about the family feud. Prior to that they doubled up on a Council site in Bristol; they also occupied a house for a few months following the end of their marriage.
72. The appellants state that since they have been occupying the appeal site, they have not been advised of any alternative sites which they could move to. There is one Council-owned site in the area with 16 pitches, which is fully occupied and the appellants are not aware of any other available pitches either in the district or the wider area that could meet their needs.
73. Notwithstanding paragraph 24 of the PPTS, availability has not been addressed in the Council's Statement of Case. The only information on the matter is from Essex Countywide Traveller Unit who stated that there are currently 52 people on their waiting list but they are not required to meet the definition set out in Annex 1 of the PPTS. Of the 52 people, 6 have specifically requested to be located on the Council-owned site in the Epping Forest district area. It is not clear how long people wait whilst on the list.
74. In conclusion, the evidence from the occupiers shows that some have not had security of tenure in the past; some have been evicted from rented sites, some

have been seriously ill with no settled base, one has been made homeless by family and one has essentially been homeless all their adult life, living on the roadside until halted by ill health. Eviction from this site would result in homelessness and being forced to choose between abandoning a traditional way of life by accepting local authority housing, to safeguard their children, and a life on the road.

Personal circumstances

75. Regular access to medical care is needed for those who live on Pitch 1. One child currently attends school and has made friends locally, even being invited to parties which has never happened before, and two are awaiting school places. One pre-school child has a place to start at nursery in January 2022.
76. Regular access to medical care is needed for two occupiers on Pitch 2. The head of the household's three children reside elsewhere with their ex-partner but stay on Pitch 2 at the weekend.
77. Regular access to medical care is needed by the head of the household on Pitch 3 and their child attends school, which is corroborated by a letter from the school.
78. The head of the household on Pitch 4 needs regular access to health visitors, due to the welfare needs of a young child.
79. The head of the household on Pitch 5 needs regular access to medical care for themselves. Their youngest child is on a waiting list for a school place but the three older siblings are home-schooled.
80. One of the occupiers on Pitch 6 is awaiting surgery. The three youngest children are currently awaiting school places. In addition, a family friend lives on this pitch who is currently pregnant with an unrelated on-going medical need.
81. The occupier of Pitch 7 has a medical condition that requires regular monitoring and which makes working difficult. This occupier has no dependents.
82. Regular access to medical care is needed for three occupiers on Pitch 8. Two children attend school and one is waiting for a place. Two have significant special educational needs and are awaiting assessments.
83. Regular access to medical care is needed for those who live on Pitch 9. Two children are waiting for school places.
84. It is clear that the appellant group support one another, with three heads of households directly related (siblings), who have lived together before in Warwickshire, and others are cousins. Given their various personal circumstances, mutual support is much relied upon. The Courts have held that they do not need to show that their educational and health needs are exceptional or to show that they have a personal need to live on this site, as suggested by the Council.
85. The best interests of children are a primary consideration in my decision and there are 22 (non-adult) children living on this site. The children's best interest is to have a secure and settled site. This would give them the best opportunity for a stable family life, safe play and access to education, health and other services.

86. If this appeal is dismissed there would be an infringement of the occupiers' human rights under Article 8 of the European Convention on Human Rights. This deals with the right to respect for family life and the home.

Intentional unauthorised development

87. Intentional unauthorised development is a material consideration, as a result of a Written Ministerial Statement, that should be weighed in the determination of planning applications and appeals. The change of use of land was clearly done in the knowledge that planning permission was required. However, there was no attempt to hide the fact and a planning application was submitted for the development. Nevertheless, it was intentional unauthorised development to which I attach modest weight against the grant of planning permission.

Other Matters

88. Regarding flood risk, the site is not located in an area with a high flooding risk, rather it lies within Flood Zone 1 and a condition could be imposed to require the submission of details for surface and foul water drainage. Regarding the layout of the site, there is sufficient space to set aside areas for parking, play and residential amenity as each pitch is approximately 0.1ha in area. This could be achieved by the imposition of an appropriately worded condition.
89. The proposal is for residential use not a mixed use that would include an element of business activities. The use is therefore compatible with neighbouring residential use. The location of the site on the edge of the hamlet means there is the potential for successful integration with the settled community. This has already begun with some of the children attending local schools. The appellants' evidence shows that some members of the settled community were kind to them during the various lockdowns, some of the appellants' children have been invited to parties and the occupiers are made to feel welcome in the local shop. I therefore conclude that the development accords with the remaining parts of Policy H4B.
90. I have been referred to a significant number of previous appeal decisions of which some concern sites outside Essex. Most relate to sites in the Green Belt and some find conflict with the development plan but on planning balance allow the appeal with a temporary planning permission. They are all material considerations, which I have taken into account. However, I find that they each can be distinguished from the current appeal in that each case had its own individual set of circumstances and thus each planning balance and each decision reached was different. I therefore only give limited weight to these various decisions.
91. The Parish Council has raised several concerns, some of which have been addressed already in the preceding paragraphs. The submission that the application is a commercial venture to gain profit was not substantiated at the Inquiry. Similarly, the submission that horses regularly escape from the site and wander towards the A414 road is a matter for the authorities. The applications are for residential use not a mixed use to include the keeping of horses and I saw no evidence that horses are kept at the appeal site. There was also concern that the use of the site has led to an increase in crime in the area but this was not substantiated with any firm evidence at the Inquiry. For these reasons I therefore give minimal weight to all these matters.

Planning balance

92. A refusal of planning permission would interfere with the Article 8 rights of those living on the appeal site. Indeed, the Courts have held that Article 8 imposes a positive duty to facilitate the gypsy way of life, as defined by race and ethnicity rather than planning policy. Any interference in this regard must be balanced against the public interest in upholding planning policy to protect the environment generally.
93. Both the Framework and PPTS state that inappropriate development in the Green Belt is harmful and should not be approved except in very special circumstances. There is harm on this basis and also moderate and significant harm caused due to the loss of openness and the encroachment of development into the Green Belt. Substantial weight is to be afforded to this combined level of harm. In addition, modest weight is added from my finding on intentional unauthorised development.
94. The harm to the character and appearance of the area only merits limited weight as a condition could be imposed to mitigate the identified harm. In addition, I only give limited weight to the effect on the living conditions of the neighbouring occupier as mitigation can be achieved by other means as well as through the imposition of a condition.
95. Set against this harm, the location of the site in respect of local services weighs in favour of the appellants and attracts modest weight. I consider the general needs situation with the existing development plan and the personal needs of the appellants also leans in favour of them and attracts significant weight.
96. As well as the general needs situation, I consider that the personal accommodation needs of all of the occupiers are considerable and I have not been advised of any potential alternative sites. The health needs of some of the adults and children are significant and in the absence of any obvious short term alternative location, I conclude there is a strong possibility that they would have to resort to an unauthorised encampment. This would be likely to be seriously detrimental to their health and this merits significant weight.
97. The PPTS states the best interests of the children are a primary consideration and, in this case, I conclude this merits substantial weight due to the number of children involved. In particular, two of them are awaiting SEN assessments due to their conditions and as such it is important to safeguard not only their welfare and well-being but that of all the children.
98. My conclusions on the effect of the development on the character and appearance of the area, the location of the site, the effect on neighbouring occupiers, need and supply, the availability of alternative sites and the best interests of the children, when taken together, amount to very special circumstances and all point to a permanent grant of planning permission.
99. It was submitted in closings that very special circumstances will not exist unless the harm to the Green Belt, by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. The emphasis was on the phrase "clearly outweighed". I agree, but paragraph 16 of the PPTS also states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt. However, that is not to say they

never will. In some circumstances several ordinary factors when combined can result in something very special, as in this case. It was also submitted that other considerations, such as the personal circumstances of the appellant group, neither individually nor cumulatively are so significant that a finding in favour of the appellants must be arrived at. I disagree.

100. In particular, the settled community do suffer from similar health challenges as the appellant group. The difference though is in the concentration of so many difficulties within such a small group, and the challenge this raises, compared to a similar group in the settled community. In addition, the settled community are able to access appropriate services but these services are simply not always accessible to those without a settled base. Regarding the point that the current challenges faced by the appellant group have been experienced historically and are therefore not exceptional, in my view this does not make it acceptable to reduce the weight to this matter. Indeed, the Framework requires decisions to improve health and the PPTS states that the Government's overarching aim is to ensure fair and equal treatment for travellers.
101. I have considered whether the permission should be a temporary planning permission, having regard to the harm to the Green Belt. Appeal B includes the erection of utility rooms and it would be unreasonable to require their demolition after a temporary period. In addition, a temporary planning permission would only be appropriate where it is expected that the planning circumstances will change in a particular way at the end of the temporary period. That is not the case here where the Council's emerging policy position is known. As such a temporary planning permission would not be proportionate as it would not balance the protection of the public interest against the families' human rights.
102. My overall conclusion on the planning balance is in respect of a permanent planning permission. The harm to the Green Belt is clearly outweighed by other considerations. Having regard, in particular, to the best interests of the children, I find that there are very special circumstances which would justify the granting of planning permission on a permanent basis in this case. The appeal on ground (a) and the section 78 appeal therefore succeed and the appeal on ground (g) does not need to be considered.

Conditions

103. I have considered the need for conditions put forward by the parties in the light of the Planning Practice Guidance and in the circumstances of this case. The permissions should be personal to the named families on the site as their personal circumstances and the rights and best interests flowing from them are considerations of significant weight in the planning balance. A condition limiting occupation to gypsies and travellers is also required as my decision relies on unmet need.
104. In the interests of the appearance of the site it is necessary to limit the number of caravans, control external lighting, prevent commercial activities on the land and the stationing/storage of vehicles over 3.5 tonnes. It is also in the interests of the appearance of the site necessary to remove permitted development rights in relation to means of enclosure.

105. In the interests of highway safety, it is necessary to impose conditions to ensure a particular width for the access into the site, its position in relation to the highway, the position of any gates and the surface material.
106. To protect the living conditions of neighbouring occupiers it is necessary to impose a condition requiring details of ground works and a timetable to connect the site to mains electricity as well as the removal of all generators from the site.
107. As the material change of use has already occurred, it will also be necessary to impose a condition requiring the submission of a site development scheme (SDS) in the interests of the use and appearance of the site. This condition would require details of the internal layout of the site, including pitch layout, hard standings, the access road, the siting of caravans, the design and layout of a play area, amenity areas, the location of utility buildings, parking, manoeuvring areas and the proposed materials to be used. It would also include details of foul and surface water drainage, waste disposal collection point and storage areas, external lighting and landscaping.
108. The SDS is also necessary to secure a low carbon future and improved digital connectivity in accordance with Policies T1 and D5 of the LPSV and so would require details of electric vehicle charging points and super-fast broadband. The condition is drafted in such a way as to require the appellant group to comply with a strict timetable.
109. This condition and that regarding a connection to mains electricity are drafted in a particular form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective granted permission it is not possible to use negatively worded conditions precedent to secure the subsequent approval and implementation of outstanding detailed matters, as the development has already taken place. These conditions therefore provide for the loss of the effective benefit of the granted planning permission where the detailed matters in question are not submitted for approval during the time set by their condition, approved (either by the local planning authority or by the Secretary of State on appeal) and then implemented in accordance with an approved timetable. Should the requirements of the conditions not be met in line with the strict timetable, then the planning permission falls away.
110. Signed and completed unilateral undertakings have been submitted by the appellant group. These have been prepared to ensure that the appellant group pay an air pollution and a monitoring contribution to the Council within 14 days of the date of the permission. This is necessary to mitigate the impact of the development on the EFSAC as set out in Policies DM 2 and DM 22 of the LPSV. The payment is directly related to the development and is fairly and reasonably related in scale and kind to the development. The undertakings therefore meet the tests set out in paragraph 57 of the Framework.

Conclusions

Appeal A

111. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered.

Appeal B

112. For the reasons given above I conclude that the appeal should be allowed.

Formal Decisions

Appeal A

113. It is directed that the enforcement notice is corrected by the deletion of the words "construction of buildings" and the insertion of the words "material" prior to the word "change" in the allegation. It is also directed that the notice is varied by the deletion of the words "tourers and ancillary buildings" and their replacement with the words "and tourers". Subject to this correction and variation, the appeal is allowed, the enforcement notice is quashed and 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. This is now described as, without planning permission, the unauthorised material change of use of the land for the stationing of caravans, mobile homes and tourers for residential use, the laying of hardcore and the erection of fencing and gates, as shown on the plan attached to the notice and subject to the conditions set out in the attached schedule.

Appeal B

114. It is directed that the description of development is deleted and replaced with the material change of use of land for the creation of nine gypsy/traveller pitches, comprising the siting for residential purposes of one mobile home, one touring caravan and the erection of one utility building per pitch. The appeal is allowed and planning permission is granted for the development as corrected in accordance with the terms of the application, reference EPF/2790/20, dated 27 November 2020, subject to the conditions set out in the attached schedule.

D Fleming

INSPECTOR

APP/J1535/C/21/3270539: Schedule of Conditions

1. The use hereby permitted shall be carried on only by the following: Mr Michael O'Reilly; Ms Mary Marilyn McCarthy and her resident dependents; Ms Gina Maria McCarthy with her father Mr Richard McCarthy, her brother Michael McCarthy and her resident dependents; Ms Jane Marie O'Donoghue and her resident dependent; Ms Marika Connors and her resident dependent; Ms Charlena Louise Lee and her resident dependents; Mr Edward Patrick Stokes with his mother Ms Julie Stokes, his brother Mr Thomas Stokes and his resident dependents; Ms Lucy Diane Kiely and her resident dependents and Ms Kathleen Karina Gilheney and her resident dependents.
2. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning policy for traveller sites, August 2015 (or its equivalent in replacement national policy).
3. The use hereby permitted shall be limited to nine pitches. No more than two caravans, as defined in The Caravan Sites and Control of Development Act 1960 and The Caravan Sites Act 1968 shall be stationed on any pitch at any time and no more than one caravan per pitch shall be a static caravan.
4. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
5. No commercial activity shall take place on the land, including the storage of materials, plant or equipment.
6. No external lighting shall be put in place or operated on the site at any time other than has been previously submitted to and approved in writing by the local planning authority.
7. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting or amending that Order, no additional gates, walls or fences or other means of enclosure, including bunding, shall be erected or placed within/to the boundaries of the site.
8. 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 and the land restored to its condition before the development took place within 28 days of the date of failure to meet any one of the requirements set out in (i) to (v) below:
 - (i) Within one month of the date of this decision, submit details of
 - (a) A scheme for all groundworks for all mains electricity services with a timetable for its implementation and a timetable for the disconnection and removal of all generators from the site. The mains electricity services scheme (MESS) shall have been submitted for the written approval of the local planning authority.
 - (ii) Within three months of the date of this decision, submit details of
 - (a) The internal layout of the site, hereafter referred to as the Site Development Scheme (SDS), the layout of the pitches, hard standings, access road, the siting of the caravans, the design

and layout of a play area, amenity areas, parking and manoeuvring areas, means of enclosure and the proposed materials to be used;

- (b) Foul and surface water drainage;
- (c) Waste disposal including collection point and storage areas;
- (d) External lighting on the boundary and within the site;
- (e) Hard and soft landscaping, including details of species, plant sizes and proposed numbers and densities and to include ecological enhancements. Unless identified to be removed, all existing trees and hedgerows on the land shall be retained. The scheme shall set out measures for their protection throughout the course of the development.
- (f) The vehicular access, to be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 5 metres and shall be provided with a dropped kerb vehicular crossing of the highway verge.
- (g) Gates at the vehicular access into the site, which shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.
- (h) The location of parking spaces equipped with active and/or passive electric vehicle charging points. These details shall include: the location of active and passive charging infrastructure; the specification of charging equipment and an operation/management strategy. The operation/management strategy will address: which parking bays will have active and/or passive charging provision, including disabled parking bays, how charging point usage will be charged amongst users, the process and the triggers for identifying when additional passive charging points will become activated and electricity supply availability. The electricity supply should be already confirmed by the network provider so that the supply does not need to be upgraded at a later date.
- (i) A strategy to facilitate super-fast broadband, unless evidence is put forward and agreed in writing by the local planning authority that technological advances for the provision of a broadband service for the occupiers of the site will no longer necessitate below ground infrastructure. The strategy shall seek to ensure either a landline or ducting to facilitate the provision of a broadband service to the caravans from a site-wide network is in place and provided as part of the highway works.

The SDS shall have been submitted for the written approval of the Local Planning Authority and shall include a timetable for its implementation.

- (iii) Within 11 months of the date of this decision, the MESS and the SDS should have been approved by the local planning authority or, if the Local Planning Authority refuse to approve the MESS and the SDS or fail to give a decision within the prescribed period, an appeal should have been made to and accepted as validly made by the Secretary of State.
 - (iv) If an appeal is made in pursuance of (ii) above, that appeal should have been finally determined and the submitted MESS and the SDS should have been approved by the Secretary of State.
 - (v) The approved MESS and the SDS shall have been carried out and completed in accordance with the approved timetable.
9. The works comprised in the MESS and the SDS pursuant to condition 8 shall be retained for the duration of the use of the site and development and no other means of power generation shall be used on the site without the prior written consent of the local planning authority.

APP/J1535/C/21/3270395: Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans, except where details are required to be submitted under condition 9: J003655-DD01, J003655-DD02, J003655-DD03 and J003655-DD05.
2. The use hereby permitted shall be carried on only by the following: Mr Michael O'Reilly; Ms Mary Marilyn McCarthy and her resident dependants; Ms Gina Maria McCarthy with her father Mr Richard McCarthy, her brother Michael McCarthy and her resident dependants; Ms Jane Marie O'Donoghue and her resident dependant; Ms Marika Connors and her resident dependant; Ms Charlena Louise Lee and her resident dependants; Mr Edward Patrick Stokes with his mother Ms Julie Stokes, his brother Mr Thomas Stokes and his resident dependants; Ms Lucy Diane Kieley and her resident dependants and Ms Kathleen Karina Gilheney and her resident dependants.
3. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning policy for traveller sites, August 2015 (or its equivalent in replacement national policy).
4. The use hereby permitted shall be limited to 9 pitches. No more than two caravans as defined in The Caravan Sites and Control of Development Act 1960 and The Caravan Sites Act 1968 shall be stationed on any pitch at any time and no more than one caravan per pitch shall be a static caravan.
5. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
6. No commercial activity shall take place on the land, including the storage of materials, plant or equipment.
7. No external lighting shall be put in place or operated on the site at any time other than has been previously submitted to and approved in writing by the local planning authority.

8. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting or amending that Order, no additional gates, walls or fences or other means of enclosure, including bunding, shall be erected or placed within/to the boundaries of the site.
9. 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 and the land restored to its condition before the development took place within 28 days of the date of failure to meet any one of the requirements set out in (i) to (v) below:
 - (i) Within one month of the date of this decision, submit details of
 - (a) A scheme for all groundworks for all mains electricity services with a timetable for its implementation and a timetable for the disconnection and removal of all generators from the site. The mains electricity services scheme (MESS) shall have been submitted for the written approval of the local planning authority.
 - (ii) Within three months of the date of this decision, submit details of
 - (a) The internal layout of the site, hereafter referred to as the Site Development Scheme (SDS), the layout of the pitches, hard standings, access road, the siting of the caravans, the utility buildings, the design and layout of a play area, amenity areas, parking and manoeuvring areas, means of enclosure and the proposed materials to be used;
 - (b) Foul and surface water drainage;
 - (c) Waste disposal including collection point and storage areas;
 - (d) External lighting on the boundary and within the site;
 - (e) Hard and soft landscaping, including details of species, plant sizes and proposed numbers and densities and to include ecological enhancements. Unless identified to be removed, all existing trees and hedgerows on the land shall be retained. The scheme shall set out measures for their protection throughout the course of the development.
 - (f) The vehicular access, to be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 5 metres and shall be provided with a dropped kerb vehicular crossing of the highway verge.
 - (g) Gates at the vehicular access into the site, which shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.

- (h) The location of parking spaces equipped with active and/or passive electric vehicle charging points. These details shall include: the location of active and passive charging infrastructure; the specification of charging equipment and an operation/management strategy. The operation/management strategy will address: which parking bays will have active and/or passive charging provision, including disabled parking bays, how charging point usage will be charged amongst users, the process and the triggers for identifying when additional passive charging points will become activated and electricity supply availability. The electricity supply should be already confirmed by the network provider so that the supply does not need to be upgraded at a later date.
- (i) A strategy to facilitate super-fast broadband, unless evidence is put forward and agreed in writing by the local planning authority that technological advances for the provision of a broadband service for the occupiers of the site will no longer necessitate below ground infrastructure. The strategy shall seek to ensure either a landline or ducting to facilitate the provision of a broadband service to the caravans from a site-wide network is in place and provided as part of the highway works.

The SDS shall have been submitted for the written approval of the Local Planning Authority and shall include a timetable for its implementation.

- (iii) Within 11 months of the date of this decision, the MESS and the SDS should have been approved by the local planning authority or, if the Local Planning Authority refuse to approve the MESS and the SDS or fail to give a decision within the prescribed period, an appeal should have been made to and accepted as validly made by the Secretary of State.
- (iv) If an appeal is made in pursuance of (ii) above, that appeal should have been finally determined and the submitted MESS and the SDS should have been approved by the Secretary of State.
- (v) The approved MESS and the SDS shall have been carried out and completed in accordance with the approved timetable.

The works comprised in the MESS and the SDS pursuant to condition 9 shall be retained for the duration of the use of the site and development and no other means of power generation shall be used on the site without the prior written consent of the local planning authority.

END

APPEARANCES

FOR THE APPELLANT:

A Masters	Of Counsel, instructed by WS Planning & Architecture
He called	
B Woods	WS Planning & Architecture
R Petrow	Petrow Hartley Landscape Architects
M M McCarthy	Appellant
L D Kiely	Appellant
K Gilheney	Appellant
J M O'Donoghue	Appellant
M B McCarthy	Appellants' relative
C L Lee	Appellant
E P Stokes	Appellant
M O'Reilly	Appellant
M Connors	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

S Woolf	Of Counsel, instructed by the Council's solicitor
He called	
M Rahman	Planning Officer
S Jarman	Opinion Research Services Ltd

FOR THE RULE 6 PARTY

R Walton	Of Counsel, instructed under direct public access rules
He called	
R Pomery	Pomery Planning Consultants Ltd

INTERESTED PERSONS:

E Fenwick	Clerk to High Ongar Parish Council
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DOCUMENTS

Submitted 7 to 10 December 2021:

1. Copy of Council's opening statement
2. Additional personal statement with supporting documents, occupier Pitch 1
3. Copy of Rule 6 Party's opening statement
4. Additional personal statement with supporting documents, occupier Pitch 8

5. Suggested condition: mains electricity, water and drainage
6. Supporting documents, occupier Pitch 3
7. Land Registry details for appeal site
8. Suggested condition: mains electricity, water and drainage agreed between Council and appellant
9. Additional personal statement with supporting documents, occupier Pitch 6
10. Copy of update to M Rahman's Proof of Evidence
11. Copy of DCLG Draft Guidance to local housing authorities on the periodical review of housing needs March 2016
12. Details of traveller count of caravans January 2020 and previous years
13. BSI: Guidance on sound insulation and noise reduction for buildings BS 8233:2014
14. DEFRA: Noise Policy Statement for England March 2010
15. Copies of High Ongar Parish Council comments from local residents
16. Copy of email from B Woods dated 10 December 2021

Submitted 26 to 27 April 2022

17. Copy of response from Essex Countywide Traveller Unit, first quarter of 2022
18. Copy of Policy SP 5 Garden Town Communities, Epping Forest District Local Plan Submission Version December 2017
19. Unsigned copies and signed copies of two unilateral undertakings from the appellants, wording agreed with the Council

END