



Appeal Decisions

Inquiry held on 8, 9 and 11 March 2022, 29 and 30 November 2022 and 1 December 2022

Site visit made on 9 March 2022 and 28 November 2022

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2023

Appeal A Ref: APP/X0415/C/20/3257434

Appeal B Ref: APP/X0415/C/20/3257843

Appeal C Ref: APP/X0415/C/20/3257881

OS Field 4800, Cholesbury Lane, Buckland Common, Buckinghamshire HP23 6ND

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Martin Cash, appeal B by Mary Carey and appeal C by Myles Cash against an enforcement notice issued by Buckinghamshire Council.
- The notice was issued on 19 June 2020.
- The breach of planning control as alleged in the notice is without planning permission:-
 - (1) the material change of use of the Land to a caravan site for residential purposes by the stationing caravans ("the Unauthorised Use"); and
 - (2) integral to and to facilitate the Unauthorised Use, the laying of hardstanding, the creation of a new vehicular access onto Cholesbury Lane and the erection of a timber outbuilding in the approximate locations labelled and shown on the Plan.
- The requirements of the notice are to:
 - 5.1 Cease the Unauthorised Use of the Land;
 - 5.2 Remove from the Land all caravans (including mobile homes), any associated bases, skirts or screens and other domestic paraphernalia brought onto the Land in connection with the Unauthorised Use;
 - 5.3 Demolish or dismantle the timber outbuilding;
 - 5.4 Rip up and remove the hardstanding;
 - 5.5 Cease the use of the vehicular access and where the access has been created, restore the Land to its former level commensurate with the adjacent ground level;
 - 5.6 Remove from the Land all debris and materials arising as a result of compliance with the steps above.
- The period for compliance with the requirements are:
 - Steps 5.1 and 5.2: 6 months.
 - Steps 5.3, 5.4, 5.5 and 5.6: 9 months.
- The appeal is proceeding on the grounds set out in section 174(2)(f), (g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeals are dismissed and the enforcement notice is upheld with a correction and a variation in the terms set out below in the Formal Decision.

Appeal D Ref: APP/X0415/W/20/3261555

Land Adjacent to Cholesbury Lane, Cholesbury Lane, Cholesbury HP23 6ND

- 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 Martin Cash against the decision of Buckinghamshire Council.
- The application Ref PL/20/1835/FA, dated 12 June 2020, was refused by notice dated 23 September 2020.

- The development proposed was described as “change of use of land to residential for members of the Gypsy Traveller community. Site to contain Static and Touring Caravans, Parking, Water Treatment Plant, and associated infrastructure.”

Summary Decision: The appeal is dismissed.

Preliminary Matters

1. Appeals A, B and C relate to the enforcement notice for the residential use of land and stationing of caravans and other paraphernalia. There is no appeal under ground (a) that planning permission should be granted and there is no deemed planning application under section 177(5) of the Act. However, appeal D relates to a planning application for essentially the same development. Success on appeal D would not affect the enforcement notice and it would remain extant. I note that section 180 of the Act states that if, after service of an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.
2. The description of the alleged breach in the enforcement notice subject of appeals A, B and C is missing the word “of” between stationing and caravans. I will use my powers under section 176(1) of the Act to correct the enforcement notice.
3. All the parties were agreed that the appellants are Gypsies or Travellers as defined at Annex 1: Glossary of the Planning Policy for Traveller Sites (PPTS). I see no reason to disagree and will consider the appeals on that basis.
4. My attention has been drawn to the judgement in the case of *Lisa Smith v SSLUHC* [2022] EWCA Civ 1391 (*Smith*) that related to that definition and, in particular, the exclusion from the definition of those who have ceased to travel permanently. It was agreed at the Inquiry that, as the status of the appellants is not in dispute and that this judgement was limited to the circumstances of that case, this would not affect the weight that should be attached to the PPTS as it relates to this case. The exception would be if I were to apply a condition limiting occupancy of the site to any planning permission granted as a result of success of appeal D, in which case it should enable the appellants to remain on the site if they were to cease to travel permanently.
5. I note that the appellants have brought static caravans onto the site between the first sitting days of the Inquiry in March and the re-opening in November. I understand this action was contrary to the stop notice on the site.
6. I carried out a formal site visit on 9 March 2022 when I was able to see around the site and within the touring caravans in which the appellants lived at that stage. I re-visited before the re-opening the Inquiry on 28 November 2022 when I visited the public vantage points from which I noted the caravans could be seen. I saw the static caravans in their positions on that date.
7. Evidence from the appellants and their education consultant, the Council’s Principal Enforcement Officer and the landscape experts was given on affirmation. Other evidence was subject of round table discussions.
8. It was agreed that the Council would provide details of their five year need and supply position for Gypsy and Traveller sites after the final round table session was complete. The appellant subsequently commented on that.

9. Closings were provided on behalf of the appellants, Council and Rule 6 party in writing following the end of the oral sessions.
10. A Core Documents List was kept up to date by the Council during the Inquiry. I have not included an additional submitted documents list at the end of my decision.

Appeal D

Main issue

11. The main issues are:

- Whether the development comprises inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
- The effect of the development on the openness and permanence of the Green Belt and the purposes of including land within the Green Belt;
- Whether the development conserves and enhances the landscape and scenic beauty of the Chilterns Area of Outstanding Natural Beauty;
- Whether the development affects ecology and biodiversity in the area;
- whether the development is in a suitable location in terms of its location in respect of adjacent settlements;
- the effect of the development on the Chiltern Beechwoods Special Area of Conservation;
- Whether there are any other harms arising from the development (for example to the significance of heritage assets);
- Whether there are other considerations weighing in favour of the development (for example the personal circumstances of the appellants, need for Gypsy and Traveller sites and whether a temporary or personal permission may be appropriate); and
- Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, does this amount to the very special circumstances required to justify the proposal.

Reasons

Green Belt

12. The appeal site is located within the Green Belt, where the National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It states that substantial weight should be given to any harm to the Green Belt. Policy GB2 of the Chiltern District Local Plan (LP) states that planning permission will be refused for inappropriate development. It states that permission may, however, be given for changes in the use of land that maintain openness and do not conflict with the purposes of including land in the Green Belt.

13. Policy CS14 of the Chiltern Core Strategy (CS) and PPTS state that new Gypsy and Traveller sites constitute inappropriate development within the Green Belt. That is not disputed by the appellants, and I see no reason to disagree.

Openness of, and reasons for including land within, the Green Belt

14. Prior to development, the appeal site comprised an open area with a hedge on the frontage with Cholesbury Lane and an access through a corner of the site. That hedge has been removed and a new access has been formed in the centre of the frontage of the site. Hardstanding has been laid over a large portion of the site to form a base for access, parking and the stationing of caravans and other paraphernalia related to the residential occupation of the site.
15. The hardstanding has a visual effect on the openness of the Green Belt, as it can be seen, but does not result in a spatial impact as it is laid at ground level. However, the parking and stationing of caravans and other items has both visual and spatial effects. That varies according to the number of caravans and other items on the land. Nevertheless, this has a considerable effect on openness.
16. The built development of the hardstanding and use of the land for stationing of caravans means that the development encroaches into the countryside. Consequently, it conflicts with the purpose of the Green Belt related to safeguarding the countryside from encroachment.
17. For these reasons, I conclude that the residential use of land including stationing of static and touring caravans, parking, water treatment plant, and associated infrastructure harms the openness of the Green Belt and conflicts with the purposes of including land within it. As such, it conflicts with Policies GB2 of the LP, CS14 of the CS and the Framework.

Landscape and scenic beauty

18. The appeal site is located within the Chilterns Area of Outstanding Natural Beauty (AONB). It comprises an area of hardstanding, with a paddock to the side in the ownership of the appellants on which they keep horses and, I understand, the children sometimes play. The appeal site fronts Cholesbury Lane that comprises a rural road with mature trees and hedgerows close to the road to either side in the vicinity of the site. Houses and a vehicle repair workshop are located over the road. There is limited built development on this side of the road in the immediate area.
19. There is a public footpath to the opposite side of the paddock area from the hardstanding and caravans. The public footpath continues down the hill to the rear of the site. In the opposite direction, the footpath crosses Cholesbury Lane into a fairly steep sided valley and up the other side across an open field that flattens out before crossing Oak Lane over which there is a substantial hedge.
20. The development comprises a substantial area of hardstanding used for the stationing of residentially occupied caravans and related paraphernalia. Prior to development, this was an open green area with substantial mature hedgerow and treed frontage. Removal of that hedgerow and trees appears to have been undertaken to allow this development to take place, so comprises part of the development to which this appeal relates.

21. A post and rail fence and gates have been erected set back from the road, with the frontage now open grassland. Behind the fence and adjacent to the new hardstanding has been planted a laurel hedge that screens the use taking place on the land to some extent. Laurel is not a native species and provides a dense green border that appears somewhat incongruous amongst the predominantly native species hedges on much of the rest of the road frontage. Close boarded panels have been fixed to the outside of the five bar gates, over which the caravans and other structures can be seen. This has altered the relationship of the site to the road and harms the experience of the landscape and scenic beauty on this section of the road.
22. The footpath runs parallel to the side of the site, with a hedge between the path and paddock. However, there are views from the footpath through the hedge and across the paddock to the site. The footpath continues past woodland to the rear of the site and down into a valley. Views to the site from this direction are blocked by the woodland and the topography such that the site is not visible other than the section past the paddock. This section of footpath otherwise leads through an undeveloped area. Where the site is experienced in views and when walking along the footpath, the development of the site appears incongruous.
23. The footpath over the road heads down the hill into a valley. The site is not visible from this section of footpath other than where it crosses the road and a small part of the path close to the road. However, it heads up the other side of the valley and levels out across a field. At this point, there are views across the valley to the rear of the houses opposite the site and the laurel hedge planting behind the post and rail fence on the frontage is visible, with the white roofs of the caravans visible above that. Although other development is visible in those views, the laurel hedge and roofs of the caravans appear incongruous in those views.
24. I note that Gypsy and Traveller sites are a historic feature in rural areas, including within the AONB. Nevertheless, the nature of this site with substantial area of hardstanding leading away from the road results in a developed appearance and is incongruous within this landscape.
25. A condition has been suggested that would require a landscaping scheme be submitted to and approved by the Council. This would enable more appropriate and substantial planting and other landscaping on the site to seek to mitigate the effects of the development on the AONB. Additional planting would, over time, reduce the visibility of the site from the surrounding footpaths and road such that the current views will become glimpsed views through the planting and access gates. Planting of appropriate species would better reflect the surrounding landscape. However, whilst providing some mitigation, such additional planting would not overcome the effect of the development in this sensitive location within the AONB.
26. For these reasons, I conclude that the residential use including stationing of static and touring caravans, parking, water treatment plant, and associated infrastructure does not conserve or enhance the landscape and scenic beauty of the AONB. As such, it is contrary to Policy LSQ1 of the LP, Policies CS4 and CS22 of the CS and the Framework that seek to conserve and enhance the special character and distinctiveness of the AONB. The Framework states that

great weight should be given to conserving and enhancing landscape and scenic beauty in the AONB.

Ecology and biodiversity

27. Prior to removal of the hedge and laying of the hardstanding, the site provided habitat or potential habitat for a number of species. However, removing the hedge and other landscape features, laying hardstanding and the additional human activity on site would have reduced the available habitat on the site. This has harmed the ecology and biodiversity of the site.
28. There was some discussion at the Inquiry of a pond on the site that may have provided habitat for great crested newts that are known to be present in the vicinity. However, the appellants stated, under affirmation, that they did not remove a pond. No pond is shown in photographs of the site and no-one else was able to provide evidence that there ever was a pond.
29. Nevertheless, should planning permission be granted, a condition requiring a landscaping scheme and/or biodiversity improvements could result in a pond, and other habitat features, to mitigate the effects of the development on ecology and biodiversity. It will take some time for those features to mature and they are unlikely to wholly overcome the effects of the development on ecology and biodiversity and would not result in biodiversity net gain.
30. For these reasons, I conclude that, even taking account of proposed mitigation measures, the residential use including stationing of static and touring caravans, parking, water treatment plant, and associated infrastructure does not and, taking account of the potential for a condition on any permission, would not conserve or enhance ecology and biodiversity in the area. As such, it is contrary to Policies CS4 and CS24 of the CS and the Framework that seek to conserve and enhance biodiversity and ecology.

Chiltern Beechwoods Special Area of Conservation

31. Chiltern Beechwoods Special Area of Conservation (SAC) comprises *Asperulo-Fagetum* beech forests on neutral to rich soils and semi-natural dry grasslands and scrublands on chalk or limestone (*Festuco-Brometalia*). The rare coralroot *Cardamine bulbifera* is a distinctive feature of the woodland flora. Fallen dead timber provides habitat for invertebrates including the stag beetle (*Lucanus cervus*). These comprise the qualifying features of the SAC. The conservation objectives are to ensure the integrity of the site is maintained or restored and ensure the site contributes to achieving the favourable conservation status of its qualifying features. The unit of particular concern is Ashridge Commons and Woods Site of Special Scientific Interest (SSSI).
32. The qualifying features of the SAC are threatened by disturbance as residents in the surrounding area use the SAC for recreation. In particular, the concerns are damage from trampling of the ground other than paths, vegetation wear, soil compaction and erosion; contamination including nutrient enrichment, for example from dog fouling, litter and invasive species; increased incidence and risk from fire; and other impacts such as harvesting and activities associated with site management.
33. Research was carried out in 2021 on the impacts of recreation on the SSSI within the SAC and is set out within the Footprint Ecology Report. Natural

England recognises that new residential development within 12.6km of the SSSI, within which the appeal site is located, can be expected to result in an increase in visitors to the SSSI and add to the recreation pressure.

34. In this case, the change of use commenced prior to most of that research being carried out. However, unauthorised development wasn't taken into account in the research on the impacts of recreation and some of the desktop study work took place prior to 2021. In addition, the assessment of the development and any consideration of the effects takes place through the application and appeal process. In this case, that is after the development has commenced.
35. My attention has been drawn to three other appeal decisions where the development had taken place prior to the issues relating to SACs came to light. Appeal decision reference APP/F1610/W/19/3237163 related to a single pitch for occupation by Gypsies or Travellers and whether there were any effects on the integrity of the Cotswold Beechwoods SAC. The proposed occupiers had been living on the existing pitch at that site for six years prior to the decision so were clearly in occupation before any survey work had begun. I note that the Council in that case indicated that they had no intention if taking action against the occupiers should the appeal have failed.
36. Appeal decision reference APP/U1240/C/10/2131503 dated 28 February 2011 related to another single pitch for occupation by Gypsies or Travellers within 400m of Dorset Heathlands. Residential occupation of that site had been established prior to the base date against which the cumulative effects of subsequent development had been measured, having been occupied continually since 2003 and periodically since 1992. Consequently, the use had been established for a long period such that the Inspector was able to conclude that there was no adverse effect on the designated site.
37. Appeal decision reference APP/R3650/A/05/1195499 dated 24 August 2006 also relates to the use of land as a caravan site for occupation by Gypsies or Travellers within the zone of influence of the Thames Basin Heaths Special Protection Area (SPA). The Inspector states that the occupants of that site had been living there since 2000 and 2003, prior to the designation of the SPA.
38. For these reasons, I consider that these cases differ from that in front of me, that has been occupied for a relatively short period of time with some desktop survey work having commenced prior to occupation. The Council have clearly stated that the Footprint Ecology Report did not take account of unauthorised development, such as this.
39. As a result, and taking account of case law, as the competent authority were I to consider allowing the appeal it would be necessary for me to carry out an appropriate assessment to determine the extent of any effects from this development, whether they could be avoided or whether mitigation measures could remove or reduce the effects. I will return to this after considering whether there are other considerations that would need to be taken into account and could affect an appropriate assessment.

Location in respect of services and facilities

40. The appeal site is located in the rural area. There is sporadic development forming the settlements of Cholesbury and Buckland Common near the site.

Opposite the site on Cholesbury Lane are a number of houses and a vehicle repair workshop. A short distance along the road in either direction are public houses. The area around the site, including the houses, vehicle repair workshop and a public house is the small settlement of Buckland Common.

41. The road outside the site does not have pavements and has a number of bends, with hedges and banks limiting the width such that it is not a comfortable road to walk along. There is an infrequent bus service. Other services are available in settlements some distance from the site, such as Chesham and Amersham both approximately 8km distant. There is a primary school approximately 2km away, a secondary school at approximately 6.5km and Wigginton Community Shop approximately 4.5km distant.
42. Given the above, services and facilities are only realistically accessible by private vehicle. However, I note that gypsy and traveller sites are commonly located in relatively isolated locations within the countryside outside settlements.
43. Taking all the above into account, the appeal site is located within a small settlement with limited services. Whilst accessibility to and from the site, other than by private transport, is limited, this is not an isolated location for this form of development.
44. For these reasons, I conclude that the development is not in an unsuitable location in terms of its location in respect to adjacent settlements. As a result, it does not conflict with Policy CS4 of the CS or the Framework that seek development to be easily accessible by public transport, walking and cycling and that housing should be located where it will enhance or maintain the viability of rural communities.

Any other harm

Intentional Unauthorised Development

45. The appellants accept that the development was intentional and unauthorised. Development that takes place in advance of planning applications prevent assessment of proposals against relevant development plan policies and prevent the application of policies concerning the quality of development. This needs to be given weight in accordance with the Planning Policy Statement relating to intentional unauthorised development issued by the Secretary of State on 31 August 2015.
46. An application had been submitted for stables by a relative of the appellants who then owned the land. It has been suggested that this was made in order to establish constraints to the development of the site as a precursor to moving the caravans onto the site and occupying them residentially. At the Inquiry, the appellants indicated this was not the case.
47. The appellants moved onto the site with their caravans over a weekend, following the removal of the hedgerow and laying of the hardstanding. They refer to their personal circumstances, which I will return to, forcing them to find somewhere else to live and this site happened to be owned by a family member who was willing to sell to them.

48. I consider that moving to the site would have required a degree of planning in advance. Nevertheless, it is not clear how much time was given to preparation and it is not necessarily the case that the application for stables was submitted with a view to the appellants occupying the land.
49. Nevertheless, the appellants accept that they knew the engineering works in constructing the hardstanding, other physical works and the change of use were unauthorised. They accept it was intentional unauthorised development and that I can give appropriate weight to that in my decision.

Heritage

50. My attention has been drawn to heritage assets in the vicinity of the site. Cholesbury Camp, a scheduled ancient monument, and Cholesbury and Hawridge Conservation Area are located a short distance from the site. Cholesbury Camp is the remains of a large hillfort dating to the Iron Age that has survived well as one of the most impressive prehistoric settlements in the Chilterns and that comprises its significance as a heritage asset. The conservation area includes Cholesbury Camp and the area adjacent to it, comprising houses set back over common land from the road. Its significance is derived from the open character of the road through the conservation area. However, there is no intervisibility between the site and those heritage assets. The path alongside the site leads to those assets, such that they are experienced on that route. Nevertheless, on balance I consider that the development does not harm the setting or significance of those heritage assets.
51. Kiln Cottage is a Grade II listed building located on Parrott's Lane and is separated from the site by small open fields and some woodland. This restricts views between the appeal site and that heritage asset. The asset itself comprises a timber framed single storey with attic dwelling dating from the late sixteenth or early seventeenth century. Its significance comes from its simple and modest form. Taking account the limited intervisibility between the site and that building, on balance I consider that the development does not harm the setting or significance of this heritage asset.
52. Dundridge Manor comprises a Grade II listed building to the south-west of the appeal site. It is beyond Oak Lane and comprises a former farmhouse dating to the sixteenth century, but with a number of additions and alterations dating from the seventeenth to nineteenth century. The significance of the heritage asset derives from its historic appearance. Taking account of its distance from the appeal site and intervening features, such as the hedgerow on Oak Lane, the development has not affected the setting or significance of this heritage asset.
53. For these reasons, I conclude that the development has not affected the setting or significance of the identified heritage assets. As such, the development does not conflict with Policy LB2 of the LP or the Framework that seek to protect the settings of heritage assets.

Other considerations

Personal circumstances

54. The appeals have been made on behalf of three families. The three families include ten children ranging in age from 18 months to 13 years, plus another

due to be born in the early part of 2023. A number of the children are particularly vulnerable. The best interests of children are a primary consideration in considering this appeal. No other consideration is inherently more important than their best interests in safeguarding and promoting their welfare. I am also aware of the rights of the appellants and occupiers of the site under the Human Rights Act 1998 and the public sector equality duty.

55. One family comprises the mother with severe health difficulties and four daughters, who are heavily reliant on the other families on site for care. At least five of the children on the site are under the care of Great Ormond Street Hospital. Two are constantly monitored, requiring a permanent electricity supply to ensure that connection link to the hospital. Other children are at risk of the same, have premature fusion of the skull so are not developing as they should and struggle to stand, or have issues with the development of their teeth, hair, sweat glands and heart that mean they need to regularly shower.
56. Two children are currently pre-school age, with another six of primary school age. Three are home schooled, including the eldest of secondary school age. One of these has been referred for special needs. Three travel to school in Watford, but may move to a closer school if they had more certainty about their living situation. The youngest can't go to nursery due to their particular health needs. One is at a special learning school in Hemel Hempstead and one child is at a local school; both have settled well into those schools.
57. The families all moved from secure pitches on larger sites elsewhere. However, I note that the situation of the families on those sites was precarious. Police carried out an armed raid to arrest a neighbour of one of the families, which was terrifying for the family concerned. There were knife attacks on the site. The families considered parties during the Covid lockdowns were putting their vulnerable children at risk. One family was on a site dominated by Gypsies or Travellers of another ethnic origin and, due to their personal circumstances, they considered this to be a hostile environment. It was suggested that all three families felt bullied and unwelcome in their previous permanent accommodation. In any event, pitches on those sites are no longer available. I note that the loss of these pitches was a decision by the parents, but it is the needs of the children that are the primary consideration.
58. Evidence from the appellants was that they would not vacate this site, which provides a secure home and is suitable for their needs, without suitable alternative accommodation being available.
59. The planning and education consultants who gave evidence on behalf of the families have significant experience of dealing with similar casework. I note that both described the situation of these families being one of, if not the, most perilous position of any families they have dealt with.
60. Should this appeal be dismissed, I understand the site occupants would be likely to become homeless and would need to return to travelling, including possibly staying on the roadside. There is a risk this would result in the children being removed from their current education provision. It would make links to health care more difficult, especially as constant monitoring is required for at least two children. One of the families needs the support that is available from the other two families, so it would be extremely difficult if they were to be

separated. That could have a significant effect on the children's development, whose best interests are a primary consideration in this appeal.

Need for Gypsy and Traveller accommodation

61. The PPTS requires that Local Plans should identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. It requires criteria be set to guide the allocation of sites where there is identified need, and those criteria should be used to assess applications on unallocated sites.
62. Policy CS14 of the CS makes provision for the allocation of sites to meet the needs of Gypsies and Travellers. It states that the Council will allocate sites for additional pitches within the Green Belt, if no suitable or deliverable sites can be found within settlements. I understand that no sites have been allocated for development in accordance with this policy. There are no Development Management type policies within the Local Plan to address any shortage of provision.
63. The Council have supplied their updated calculation for the supply of Gypsy and Traveller sites based on the area of the former Chiltern District. They state that the Gypsy and Traveller Accommodation Assessment identified a need for 8 pitches in the period 2016-2021, a further two pitches between 2021-2026 and 0.4 of a pitch for 2026-2027. Their updated calculation identifies an unmet need for eight pitches against their requirements. Whilst this is a small number, it is significant in relation to need. Their assessment includes those who have ceased to travel, so is not affected by the judgement in *Smith*.
64. The appellants suggest that the Council assessments are inadequate. They state that calculations of need should be on the area of the new Buckinghamshire Council. That is the area for which any new Local Plan would provide. They indicate the identified need should be for at least 176 pitches for the five year period, but a supply of only 62-63 pitches. I note that there are allocations for large housing developments in Aylesbury that are expected to provide additional pitches. That for 750 dwellings, reference 19/01628/AOP, is subject to an undetermined planning application but does not include provision for Gypsy and Traveller pitches. Another application, reference 18/04346/AOP would provide five pitches along with 1,400 dwellings. They suggest delivery of those pitches is unlikely within five years based on experience of delivery at major developments elsewhere.
65. My attention has also been drawn to other appeal decisions, notably that relating to Lodge Lane, Little Chalfont, reference APP/X0415/C/19/3226415. That decision refers to a persistent failure of policy as the needs of the Gypsy and Traveller community have not been addressed by the Council. Policy CS14 of the CS requires sites to be allocated to meet needs, but that hasn't happened. There is no policy to allow consideration of applications against criteria, as required by PPTS.
66. As a result, the lack of identification of sites to meet the needs of this sector of the population is a significant failure of policy, in particular in relation to Policy CS14 of the CS and PPTS.

Temporary or personal permission

67. A temporary planning permission would allow time for the appellants to find alternative accommodation. Any such accommodation would need to be available, affordable, acceptable and suitable, as set out in the judgement relating to *Doncaster MBC v FSS & Smith* [2007] EWHC 1034 (Admin). No alternative sites have been drawn to my attention that met those requirements. However, it is possible that such a site would come forward within the timescale of a temporary period, for example through identification in a Local Plan.
68. I note that the Council are legally required to produce a Local Plan within five years of becoming Buckinghamshire Council. As such, it is anticipated that plan would be adopted in around four years. Chiltern District Council previously sought to allocate sites for occupation by Gypsies and Travellers within the draft Local Plan that was withdrawn. This indicates a reasonable probability Buckinghamshire Council would do so. Once allocated, it may take some time for those sites to come forward particularly if they were related to larger developments, as with Aylesbury. Once any Local Plan is adopted, it will take some time for sites to come forward. I have significant concerns as to whether such development would be available within four years. A five year period is more realistic. On that basis, a period of five years would be the minimum reasonable timeframe for an available, affordable, acceptable and suitable alternative new site to come forward.
69. The needs of the appellants in this case are particularly compelling. The appellants need to find suitable alternative accommodation. Living by the roadside or in temporary accommodation within touring caravans, taking account of their particular circumstances and the best interests of the child, would result in significant harm to these families. In coming to my decision I will take into account the potential to provide a condition limiting occupancy of any resulting pitches to the appellants.

Appropriate assessment of the effect on the integrity of the SAC

70. The appropriate assessment needs to consider the effect of the development on the integrity of the Chiltern Beechwoods SAC, in particular the Ashridge Commons and Woods SSSI. The development comprises a modest residentially occupied caravan site and would have no more than a limited effect on the integrity of the SAC as a result of recreational disturbance. However, in combination with other developments in the area those effects could be substantial.
71. The appellants indicate that they are not interested in visiting the Ashridge Commons and Woods. They suggest, on that basis, they would not contribute to the forms of harm identified. However, the issue is whether there would be likely significant effects from the development on the SAC. There is a risk of significant effects if they cannot be excluded on the basis of objective information that the plan or project, in combination with other plans and projects, would not have significant effects on the conservation objectives of the SAC. The issue, in this case, is whether the appellants may visit the SAC and, therefore, contribute to any harm. I accept the evidence they provided was given in good faith and do not doubt it was intended to be correct. Nevertheless, I can't be certain that they would never visit the SAC. As such, there is a risk of them contributing to the significant effects on the conservation

objectives of the SAC. That is enough to conclude there would be a likely significant effect of this development, in combination with other developments, on the integrity of the SAC.

72. I understand that the Council are in the process of preparing a mitigation strategy to enable developers to provide payments toward that strategy and enable appropriate mitigation to offset the harm to the SAC. This is likely to require contributions toward Strategic Access Management and Monitoring Strategy and provision of Suitable Alternative Natural Green Space. However, that is not yet complete. The appellants have indicated they would be prepared to contribute toward that mitigation, once the mitigation strategy has been adopted. The Council indicated at the Inquiry that, if that strategy were adopted following my decision and mitigation were available, they would accept a planning application from the appellants.
73. I note that I could allow this development on a temporary basis and/or personal to the appellants. However, that would not alter my conclusion relating to whether the appellants may visit the site. The development would still require mitigation of the effects of the development proportionate to the length of time the development were to continue, or taking account of the personal circumstances of the appellants. As no mitigation is proposed, I cannot take this into account in relation to a temporary permission.
74. It has been suggested that there are imperative reasons of overriding public interest in support of this case. Those interests can include in relation to human health. The reasons presented would be to enable the development to continue based on the personal circumstances of the occupiers, particularly the best interests of the children. However, these benefits are in relation to a small number of families. Consequently, I consider that these interests do not amount to imperative reasons of overriding public interest. It is not essential for the development to proceed to serve a public interest. Consequently, they would not outweigh the harm to the integrity of the SAC.
75. Taking all the above into account and applying the precautionary principle, I conclude that there is an unacceptable risk of harm on the integrity of the Chiltern Beechwoods SAC such that the proposal would conflict with Policy CS24 and the Framework. These policies seek to protect and enhance sites and networks of habitats of international, national, regional or local importance for wildlife.

Conclusions

76. The PPTS states that, subject to the best interest 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.
77. In this case, I have concluded that there is a significant unmet need for sites to meet the needs of Gypsies and Travellers in the area, but the Council do not have an up-to-date 5 year supply of deliverable sites. I have found that there has been a significant failure of policy in providing for the needs of Gypsies and Travellers in this area. The personal circumstances of the appellants are a very significant factor, particularly taking account of the Human Rights Act 1998 and the public sector equality duty. However, it is the best interests of the children on the site that carry most weight, being a primary consideration. No other

consideration is inherently more important than their best interests in safeguarding and promoting their welfare.

78. Nevertheless, the development of the site, including change of use, is inappropriate development that has resulted in harm to the openness of the Green Belt. That carries substantial weight, in accordance with the Framework. This is a particularly sensitive site within this part of the Chilterns AONB, such that the development has harmed the landscape and scenic beauty and that carries great weight. I consider that the effect on ecology and biodiversity should also carry great weight. I have concluded that there is unacceptable risk of harm on the integrity of the Chiltern Beechwoods SAC, such that the development has failed the appropriate assessment required by the Habitats Regulations, even if I were to limit occupancy to the appellants. The development comprises intentional unauthorised development, which carries considerable weight.
79. I have concluded that the site is not in an unsuitable location in terms of its location in respect to adjacent settlements and the development has not affected the setting of heritage assets. These matters are, therefore, neutral in the planning balance.
80. Taking all of the above into account, I consider that the personal circumstances, unmet need for Gypsy and Traveller pitches and the best interests of the children do not constitute sufficient very special circumstances to outweigh the identified harm to the Green Belt and any other harm in relation to granting a permanent permission for the development. This includes if I were to limit occupancy of the site to Gypsies and Travellers or to the occupants of the site.

Temporary permission

81. I have set out above that a period of five years would be the minimum reasonable timeframe for an alternative new site to come forward through the Local Plan process. I consider that any shorter period would not enable an available, affordable, acceptable and suitable site to be identified within this area.
82. The PPTS states that, where a local planning authority do not have an up-to-date 5 year supply of deliverable sites, this would be a significant material consideration when considering applications for the grant of temporary planning permission. However, there are exceptions where the proposal is on land designated as Green Belt or in Areas of Outstanding Natural Beauty. Consequently, unmet need for sites to meet the needs of Gypsies and Travellers would not be a significant material consideration in relation to a consideration whether to grant permission for a temporary period in this case.
83. Nevertheless, the personal circumstances of the appellants and the best interest of the children, a primary consideration with no other consideration more important than their best interests in safeguarding and promoting their welfare, must be taken into account. I note that any approval would be based on the particular personal needs of the appellants; I would limit occupancy of the site via condition to them. These factors must carry substantial weight.
84. As set out above, the location in respect of adjacent settlements and the lack of affect on heritage assets are neutral matters in this case.

85. I have concluded that the development comprises intentional unauthorised development that harms the openness of the Green Belt, the landscape and scenic beauty of the AONB, ecology and biodiversity. I accept that this would continue for a temporary period and occupation could be limited to the appellants for that period. The development has failed the appropriate assessment required by the Habitats Regulations, even for a temporary period and taking account of limiting occupation of the site to the appellants. These comprise the Green Belt harm, to which the Framework states that I must attach substantial weight, and any other harm referred to in the Framework.
86. As a result and taking all the above into account, on balance I consider that the circumstances of the case do not amount to the very special circumstances necessary to outweigh the Green Belt harm and any other harm, even if the use were limited to a temporary period of five years and occupation limited to the appellants.

Conclusion

87. Taking all the above into account, I conclude that the development does not accord with the development plan and the Framework. There are no material considerations, including the best interests of the child, that indicate that I should conclude other than in accordance with the development plan, whether in relation to a permanent, temporary or personal permission. The appeal therefore fails.

Appeals A, B and C on Ground (f)

88. An appeal on this ground is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. In this case, the requirements seek to cease the use of the land and remove the related caravans, hardstanding and structures, in order to restore the land to its condition before the breach took place. Clearly, therefore, the purpose of the notice requirements is to remedy the breach of planning control.
89. The appellants suggest that the requirement to remove the access is excessive as the new access is safer than the previously existing access. However, since there is no appeal on ground (a) there is no deemed application for planning permission before me, and hence I am unable to consider granting planning permission for part of the existing development to remain. Allowing part of it to remain would not fully remedy the breach of planning control.
90. As a result, I conclude that the requirements of the notice do not exceed what is necessary in order to remedy the breach of planning control. As such, the appeal fails on ground (f).

Appeals A, B and C on Ground (g)

91. An appeal on this ground is that the period specified in the notice for compliance falls short of what should reasonably be allowed. The notice requires the appellants to cease the residential occupation of the site and remove the caravans within six months of the notice taking effect.

92. The appellants suggest that a period of 12 months would be the minimum required. If the families were required to move from this site they would need to find alternative accommodation or would be homeless. I consider that it would not be possible to find suitable alternative accommodation within the six months given on the notice. There is a real risk that these extremely vulnerable families would be made homeless and have to live by the roadside should they be forced to move from the site without finding suitable alternative accommodation.

93. Taking account of the above, I consider a period of 12 months would be reasonable to allow time to find alternative pitches, particularly considering the best interests of the children.

94. The enforcement notice allows a further three months for the removal of the physical works to the site. However, with an extended period of 12 months, this would allow a more reasonable period to enable the physical works to be removed, along with the use to cease. On this basis, I consider a single period of 12 months is reasonable to enable compliance with all the requirements of the enforcement notice.

95. For these reasons, I conclude that the appeal under ground (g) should succeed.

Formal Decisions

Appeals A, B and C

96. It is directed that the enforcement notice is corrected and varied by:

- The Insertion of "of" between stationing and caravans in the description of the breach; and
- The deletion of:

"Steps 5.1 and 5.2: 6 months from the date on which this notice takes effect.

"Steps 5.3, 5.4, 5.5 and 5.6: 9 months from the date on which this notice takes effect."

and the substitution of "12 months" as the period for compliance.

97. Subject to the correction and variation, the enforcement notice is upheld.

Appeal D

98. The appeal is dismissed.

AJ Steen

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Michael Rudd of Counsel instructed by WS Planning & Architecture

Michael Hargreaves BA BTP MRTPI MH Planning

Robert Petrow Petrow Harley

Peter Norton Education consultant

Chris Smith Small Ecology

Martin Cash Appellant

Myles Cash Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Sarah Sackman of Counsel instructed by Rachel Steele of Buckinghamshire Council

Philippa Jarvis Buckinghamshire Council

Kirstie Elliott Buckinghamshire Council

Chris Kennett

Paul Holton Buckinghamshire Council

Agni-Louiza Arampoglou Buckinghamshire Council

FOR BUCKLAND COMMON GREEN BELT PROTECTION ASSOCIATION (BCGBPA)

Melissa Murphy of Council instructed by BCGBPA

Phillip Hughes BA(Hons) MRTPI FRGS Dip Man MCIM PHD Planners

Fiona Sharman PGDipLI CMLI

Sephanie Wray Nature Positive

INTERESTED PARTIES:

Neil Jones Former local resident and member of BCGBPA