



Appeal Decisions

Hearing held on 24 January 2023

Site visit made on 24 January 2023

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2023

Appeal A Ref: APP/W3710/C/21/3277616

The land and buildings known as Site 120B004, Coventry Road, Bulkington CV12 9LZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr George Allan against an enforcement notice issued by Nuneaton and Bedworth Borough Council.
 - The notice, numbered 024829, was issued on 28 May 2021.
 - The breach of planning control as alleged in the notice is without Planning Permission the material change of use of the Land from agricultural use to the siting of a touring caravan for residential use, in the approximate location marked 'A' on the plan attached to this Notice, the siting of a static caravan for residential use, in the approximate location marked 'B' on the plan attached to this Notice the installation of a septic tank in the approximate location marked 'C' on this plan attached to this Notice and the parking of a vehicle and the storage of materials on the Land used in association with the use of caravans for residential purposes.
 - The requirements of the notice are to:
 - (i) Cease the use of the Land for residential use.
 - (ii) Remove the touring caravan from the Land.
 - (iii) Remove the static caravan from the Land.
 - (iv) Remove from the Land the septic tank and all associated drainage pipes including ones connected to the static caravan.
 - (v) Remove from the Land any materials stored and vehicles parked in association with the use of caravans for residential purposes.
 - (vi) Restore the Land to its condition prior to the unauthorised breach.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B Ref: APP/W3710/C/21/3287895

The land and buildings known as Site 120B004, land rear of 69 Coventry Road, Bulkington, CV12 9LZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr George Allan against an enforcement notice issued by Nuneaton and Bedworth Borough Council.
- The notice, numbered 024829, was issued on 8 November 2021.
- The breach of planning control as alleged in the notice is without planning permission:
 - (1) The change of use of land to a use for the stationing of residential caravans and associated structures and chattels; and
 - (2) Operational development involving the laying of hardstanding and installation of a septic tank and associated pipework in connection with residential use.

- The requirements of the notice are to:
 - (i) Cease the use of the Land for the stationing of caravans for residential purposes.
 - (ii) Remove all touring and static caravans, chalets and vehicles associated with the unlawful use of the Land.
 - (iii) Remove all structures and chattels associated with the unlawful use from the Land, including but not limited to sheds, portable toilets, septic (sic) tanks and associated pipe work.
 - (iv) Remove all hardstanding other than in accordance with planning permission 035180.
 - (v) Restore the Land to its condition prior to the unlawful use.
 - The period for compliance with the requirements 9 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. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal C Ref: APP/W3710/W/21/3286377

Land rear of 69 Coventry Road, Bulkington, Warwickshire CV12 9LZ

- 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 George Allan against the decision of Nuneaton and Bedworth Borough Council.
 - The application Ref 038142, dated 20 June 2021, was refused by notice dated 12 October 2021.
 - The development proposed is change of use of land to use as a residential caravan site for 3 gypsy families, each with two caravans, including no more than one static caravan/mobile home, together with laying of hardstanding.
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Decisions

Appeal A

1. It is directed that the notice is corrected
 - by the deletion of the words 'Cease the use of the Land for residential use' and the substitution of the words 'Cease the use of the land for the siting of caravans for residential use' in requirement 5 (i)
 - to remove the word 'unauthorised' from requirement 5 (vi)
2. It is also directed that the notice is varied by the deletion of 3 months and the substitution of 12 months as the time for compliance.
3. Subject to the corrections and variation the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

4. It is directed that the notice is corrected to remove the words 'unlawful use' and substitute the word 'breach of planning control' in requirement 5 (v).
 5. It is also directed that the notice is varied by the deletion of 9 months and the substitution of 12 months as the time for compliance.
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6. Subject to the correction and variation the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal C

7. The appeal is dismissed.

Preliminary Matters

8. The Council has served two enforcement notices. I shall refer to the notice served in May 2021 which is the subject of Appeal A as Notice A and that served in November 2021 and the subject of Appeal B as Notice B.

The Notice – Appeal A

9. Requirement 5 (vi) of Notice A includes the words 'unauthorised breach'. The word 'unauthorised' is superfluous and the parties agreed that it should be removed.
10. The requirements of the notice should follow logically from the allegation which in this case is the change of use of the Land to the siting of caravans for residential use. Requirement (i) does not refer to the siting of caravans. However, I can amend this requirement to do so without causing injustice to the parties.

The Notice – Appeal B

11. Requirement 5 (v) of Notice B refers to restoration of the land to its condition 'prior to the unlawful use'. A more appropriate wording for this requirement would be to refer to the breach and this would also be consistent with Notice A. Neither party had any objection to this change, and it would not give rise to any injustice.

Appeal A – Ground (c)

12. An appeal on ground (c) is on the basis that the matters alleged in the notice do not constitute a breach of planning control. This is a legal ground of appeal, and the onus of proof lies with the appellant. The evidence must be sufficiently precise and unambiguous, and the standard of proof is the balance of probabilities.
13. In order to achieve success on ground (c) the appellant must show that either there has been no development, or that planning permission is not required for whatever reason, or that what is alleged complies with the terms and conditions of a planning permission. In this case the appellant argues that the caravans constitute permitted development under Class 5 of Part 2 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (Part 2, Class 5).
14. In order to benefit from the rights under Part 2, Class 5 the caravan site would have to be in use for the accommodation of a person or persons employed in building operations on the land or adjoining the land. The appellant refers to building works which have taken place to convert a piggery to a dwelling on the land identified by the notice.

15. In February 2020 the Council issued a decision on an application for Prior Notification under Class Q for the change of use from agricultural buildings to a residential dwelling. This decision related to the piggery building. The Council's decision notice includes a condition requiring the use of the piggery to begin no later than 3 years after the date of the notice. However, under Part 2, Class 5 there is a requirement to complete the development within the same period, which in this case is by 20 February 2023.
16. The appellant says that he brought caravans onto the site with the intention of carrying out the works to the piggery. The caravans had been brought onto the site by time the Council served the notice in May 2021. He says that he has commenced work on the conversion by the removal of the roof of the piggery.
17. When I visited the site, I observed that there is little evidence of any works having been carried out to the piggery to demonstrate that it is undergoing conversion to a dwelling. The roof has been removed but the structure which remains retains its internal subdivisions which it is reasonable to assume that were associated with its use for shelter for animals. There are some materials being stored in the piggery including mattresses, a lawn mower and Christmas decorations. However, these do not point to any building works being carried out.
18. Taking together the limited time the appellant has to complete the conversion and the limited evidence of any building works having been carried out to the piggery, the appellant has not demonstrated that he is employed in connection with the works to the piggery. Therefore, he has not shown on the balance of probabilities that the siting of the caravans as described in the notice amounts to permitted development under Part 2, Class 5.
19. For the reasons set out above the appeal under ground (c) fails.

Appeals A and B – ground (a), the Deemed Planning Applications (DPA) and Appeal C

20. In respect of Appeals A and B an appeal under ground (a) is on the basis that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.

Main Issues

21. Appeals A and B relate to land to the rear of houses and bungalows facing Coventry Road between No. 69 and the railway embankment. However, Appeal C relates to a smaller area of land behind Nos. 69 to 79. To that extent the impacts of the development vary, however the main issues are the same for all three appeals and they are as follows:
 - Whether the change of use to a gypsy and traveller site is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.
 - The effect of the development on the openness of the Green Belt.
 - The effect of the development on the character and appearance of the site and the surrounding area.

- Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal’.
22. In the event of a lack of success on ground (a), the appeals on ground (g) are seeking an extension to the compliance period. I will need to consider whether the period for compliances stated in the enforcement notices are reasonable and proportionate.
23. Integral to my decision-making will be exercising duties under the Human Rights Act 1998. Article 8, a Convention Right, provides that everyone has a right to respect for their private and family life, their home and their correspondence. This is a qualified right, and it requires a balance between the rights of the individual and the needs of the wider community. There is a positive obligation to facilitate the way of life of Gypsies and Travellers given their vulnerable position as a minority group. This means some special consideration should be given to their needs and different lifestyle in the regulatory planning framework and in reaching decisions on particular cases.
24. As required by the public sector equality duty (PSED) under the Equality Act 2010, I will have due regard to the three aims identified in the Act – to eliminate discrimination, advance equality of opportunity and foster good relations. The families are Romany Gypsies which is an ethnic minority, and they have the protected characteristic of race under section 149(7) of the 2010 Act. I am also aware from the evidence that there are persons on the site with the protected characteristics of age. There is no doubt that the PSED is engaged in these appeals. The decisions must be proportionate to achieving the legitimate planning aims.

Reasons

Inappropriate development in the Green Belt?

25. There is no dispute between the parties that the site is within the Green Belt and that the occupiers of the site are gypsies. The interested parties have questioned the nomadic lifestyle of the families and refer to their residence in bricks and mortar accommodation in Reading in 2013. However, even if this were to have been the case, the appellant has provided evidence that he currently has a nomadic lifestyle, and this has been accepted by the Council. There is no substantive evidence before me which would lead me to conclude differently.
26. Both parties also accept that the Planning Policy for Travellers Sites (PPTS) is a relevant consideration and that under Policy E of the PPTS the development is inappropriate development in the Green Belt.
27. The Council confirmed in the Hearing that the relevant development plan policy in respect of development in the Green Belt is Policy DS7 of the Nuneaton & Bedworth Borough Council Borough Plan 2011-2031 (2019) (the Local Plan). Policy DS7 identifies strategic sites which have been removed from the Green Belt. It establishes that in the remaining Green Belt development is restricted to that which is considered by national planning policy as not inappropriate, except where very special circumstances can be demonstrated. This policy is therefore in accordance with the Framework.

28. On the basis of the PPTS and in the light of the Framework and the relevant development plan policy I conclude that the use of the site constitutes inappropriate development in the Green Belt. As such it is development which is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Effect on openness

29. The Framework identifies the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.
30. The Framework also sets out that the Green Belt serves five purposes. Whilst there was some disagreement between the parties about whether or not the purposes of checking unrestricted sprawl of large build up areas was of importance in this case, the relevance of safeguarding the countryside from encroachment was recognised.
31. The openness of the Green Belt can have both a spatial and visual aspect. In this case the appellant accepts that the introduction of the caravans and additional hardstanding has resulted in a loss of openness in spatial terms. However, he does not accept that there has been a loss of openness in visual terms.
32. The land which is the subject of Appeals A and B is bounded by the dwellings fronting Coventry Road and their gardens on two sides, by the railway line which runs along an embankment and by hedges and trees marking the edge of the adjacent field. As a consequence, the site is not highly visible from the street or the pavement.
33. My attention was drawn to a public footpath which runs roughly parallel to the site through the countryside between Bulkington and Barnacle. However, as this footpath is separated from the site by two extensive fields, it is reasonable to assume that the site is not prominent in views from the footpath.
34. Nevertheless, both the site which is the subject of Appeals A and B and the smaller site which was the subject of the planning application are highly visible from the outdoor spaces to the rear of the Coventry Road properties. In general, the rear boundary fences are quite low and there is a high degree of inter-looking between the sites and the rear gardens.
35. It is a matter of agreement between the parties that before the caravans were brought onto the site the only features were the access which curves along two sides and serves the piggery building itself and some hardstanding. Planning permission was granted in January 2018 (Council Ref. 035180) for the retention of the access and the erection of stables. The stables and the hardstanding shown on the plans which was associated with them had not been constructed when the caravans were brought on. Overall, the site would have had an open appearance.
36. At the time of my visit there were two static caravans and three tourers close to the boundary of the site with the garden serving 67 Coventry Road and the boundary with the open fields. There were also a number of vehicles and a shed.

37. The DPA in Appeal A relates to one static caravan and one touring caravan, along with a septic tank. To that extent the caravans which are currently on site have a greater visual impact than if the number was restricted to two through the imposition of a planning condition.
38. The description of development in respect of the DPA in Appeal B does not refer to a particular number of caravans but again the number of caravans could be controlled by condition.
39. The current number and layout of caravans on the site is also not the same as that which is proposed in respect of Appeal C. The proposed layout plan shows three static caravans and three touring caravans spread out over the roughly square area behind Nos. 71 to 79 Coventry Road. There is also a play area which would be likely to contain play equipment and post and rail fencing. Tree planting is shown on two edges.
40. The introduction of the caravans and associated vehicles demonstrates that the existing development has a significant visual impact on the site in comparison with its largely open appearance when in agricultural use. Whilst the three scenarios which I have described would have varying visual impacts in comparison with the existing situation they would all have a harmful visual impact on openness.
41. Drawing all of these points together I find that the development would have a harmful effect on openness and would fail to safeguard the countryside from encroachment.

Character and appearance

42. Coventry Road as its name suggests links Bulkington to the outskirts of Coventry. Close to the village centre the road is characterised by houses facing the street with development behind forming part of the main built form of the settlement. However, as the road continues out of Bulkington the pattern of development changes to houses with long rear gardens and fields behind. There is another change from 67 Coventry Road onwards towards the railway line where rear gardens are much shorter. The space between the rear boundaries and the field edge forms the appeal site for Appeals A and B. The appeal site for Appeal C is a smaller part of this area.
43. The existing houses are fairly close to one another which results in limited views from the street. However, in some instances there are wider gaps which allow views through. An example of such an arrangement is present at the entrance to the appeal sites.
44. The pattern of development is similar on the opposite side of Coventry Road. Although the Council has allocated land behind those houses for residential development of a significant scale, this development has not commenced and there is no evidence before me in respect of any change in character which might arise.
45. Coventry Road has wide pavements and provides a safe route for people to access the facilities in Bulkington. It is therefore reasonable to assume that residents of the houses in Coventry Road would use this route and experience the changing character of the street.

46. The overall character and appearance of the part of Coventry Road from which access to the site is taken is of an established street facing development with private gardens and open land behind.
47. The caravans which are currently on the site are visible from Coventry Road through the gap between Nos. 69 and 71. The access track and their positions result in the caravans as constituting backland development which is at odds with the street facing development which I have described above.
48. Whilst there are sheds and outbuildings in the gardens of properties adjoining the site they are of a small scale and associated with the occupation of those dwellings. By comparison the size and appearance of the caravans are very different to those features and are visually unconnected with the street facing buildings. Furthermore, the comings and goings associated with the caravans introduces activity to the behind existing development in contrast to the street focused nature of access to the existing dwellings.
49. The proposed layout of the caravans in the planning application sets the caravans behind Nos. 71 to 77 Coventry Road and conditions could be applied to the DPA decisions to position the caravans in a similar place. Whilst in that location the caravans would be visually less obvious from the street, it would still be possible to see them in glimpsed views. The provision of tree and hedge planting would reduce the views further once it has matured. However, the access and presence of the caravans would continue to give rise to the change in character as result of additional activity which I have identified and this conflicts with the prevailing character of the area.
50. Drawing all of these points together I find that the development would have a harmful effect on the character and appearance of the site and the surrounding area. Therefore, the development which is the subject of Appeals A, B and C is contrary to Policies BE3 and DS3 of the Local Plan which require that all development is of a high standard and quality and that it contributes to local distinctiveness and urban character.
51. For the same reasons the development is not in accordance with the Council's Sustainable Design and Construction Supplementary Planning Document (2020) which requires design of new developments to take the local pattern of development into account.

Other considerations

Local Plan Policy H3

52. Policy H3 of the Local Plan includes criteria against which proposals for gypsy and traveller sites will be assessed. There is no dispute between the parties that the criteria set out in Policy H3 are met by the developments. This conformity indicates that to some extent the site is a good location for a gypsy and traveller site.
53. The appellant submitted a copy of an appeal decision at Shadowbrook Lane, Hampton in Arden (Appeal Refs: APP/Q4625/C/13/2209742 and APP/Q4625/C/13/2209777) in which the Inspector assigned substantial weight to her assessment that when read against the relevant criteria based policy the development performed reasonably well. The approach which I have adopted in respect of Policy H3 concurs with this Inspector's approach.

Intentional Unauthorised Development

54. There is no dispute between the parties that the change of use of the land and operational development has been carried out in advance of planning permission being granted.
55. A Written Ministerial Statement (WMS) dating from August 2015 establishes that IUD is a material consideration to be weighed in the determination of planning applications and appeals. The WMS relates to all forms of development not just that relating to gypsy and traveller sites and places particular emphasis on IUD in the Green Belt.
56. The appellant says that he first brought caravans onto the land in connection with the works to the piggery. This is reflected in his appeal under ground (c) (Appeal A) and his understanding that the stationing of a caravan for that purpose was permitted development. Notwithstanding my finding on ground (c) it could be argued that the appellant believed that he did not need planning permission and his actions do not amount to IUD.
57. The appellant proceeded to bring on caravans for other families who were members of his extended family, and he accepts that planning permission was needed for that development. However, he explained that there was an urgent need for him to provide for elderly family members who themselves are carers. The appellant says that those family members had no alternative site available to them.
58. The appellant also installed a septic tank which was present on the site when the Council served a Planning Contravention Notice (PCN) in March 2021 before serving the notice in May 2021. The only elements of the scheme for which planning permission has been sought which the appellants have not implemented is the bringing on of a third static caravan and the laying out of the pitches. In these respects, the appellant has carried out development in excess of the minimum necessary for the families to occupy the site.
59. There was some discussion at the Hearing in respect of whether or not the appellant or members of his family were familiar with planning matters and on this basis whether they were deliberately disregarding them. However, I am satisfied that there is no evidence of such familiarity, and this was confirmed by the agent acting for the appellant who had also acted for other family members.
60. Bringing all of these points together I find that IUD has occurred but the weight which I attach to this is reduced by the fact that the families had no alternative site and taking into account their role as carers plus their lack of familiarity with the planning process. Consequently, IUD attracts moderate weight against the appellants' case that planning permission should be granted.

The need for and supply of gypsy and traveller sites

61. Policy H3 of the Local Plan sets out a need for at least 39 pitches for the period 2016/17 to 2031/32 based on a Gypsy and Travelling Showpersons Accommodation Assessment (GTAA) that was completed in July 2016. The Council says in its statement that the current need is for 19 pitches taking account of pitches which have been approved since the GTAA was completed. In terms of supply the Council says in its statement that the supply figure as of April 2021 is 3.2 years.

62. The Council also refers to the production of a Gypsy and Traveller Site Allocations DPD in its statement but at the time of writing it was of the view that the 2021 Issues and Options draft attracted no discernible weight and that the figures set out in the Local Plan should be the starting point for new provision.
63. The Council provided me with a copy of the Gypsy and Traveller Site Allocations DPD (Public consultation draft) at the Hearing and explained that it has been submitted to the Planning Inspectorate and that it was under examination by an Inspector. The Council also provided a 'tracked changes' version of the same document which it said was produced in response to questions asked by the Inspector. The appellant was aware of the document and there would be no injustice were I to consider it as part of my determination of the appeals.
64. The Council anticipates the adoption of the final version of the DPD this month (February 2023) and that at that point it says that it will be able to show that it has a five-year supply of sites. However, as it stands the DPD has yet to be found sound and adopted.
65. The appellant raised concern about the Council's reliance on turnover at the public site, The Griff, and the expansion of private sites as the basis upon which it intends to provide for the needs of gypsies and travellers. However, these are matters which are more appropriately raised as part of the process of adopting the DPD and to be considered by the examining Inspector.
66. The GTAAs which are referred to by the Council were produced before the Lisa Smith judgement (Lisa Smith v SSLUHC [2022] EWCA Civ 1391). This judgement regards the interpretation of the PPTS and the application of that policy to gypsies and travellers who have ceased to pursue nomadic lifestyles. It may be necessary to review the assessment of Traveller site needs in the light of this which could delay the publication of the DPD.
67. Taking all of these points together, it has been shown that the Council is making progress in having a more up to date assessment of the need for pitches and having a strategy for meeting those needs. However, until the DPD is adopted a five-year supply has not been demonstrated. For these reasons the Council's position on the need for and supply of sites, taken separately, weigh moderately in favour of the development.

Availability (or lack) of alternative accommodation

68. The appellant says that there are no suitable, affordable and acceptable sites available to them as an alternative to the appeal sites. Furthermore, in respect of the sites coming forward as part of the DPD process the private sites are not available to them as they say that those sites will be for other families. I was not provided with any evidence about the suitability of any sites coming forward at The Griff as a result of turnover.
69. The appellant says he would live in the converted piggery and contends that the occupation of bricks and mortar accommodation does not necessarily run counter to his cultural tradition as a gypsy. It will be seen from my reasoning in respect of the appeal under ground (c) that the appellant has a very limited window of opportunity to complete the conversion of the piggery. In these

circumstances there is no certainty that the converted piggery would provide alternative accommodation on the site.

70. The interested parties have suggested the use of 69 Coventry Road which it is their understanding is in the ownership of the appellant's family. However, the location plan submitted with the planning application in 2021 indicates that the appellant did not own No. 69 at that time, and he confirmed that it is not in family ownership. Consequently, that accommodation is also not a viable alternative.
71. The Council has not identified any alternative accommodation. The appellant said at the hearing that the families have no alternative site and in the event that the appeals were dismissed, and they had to leave, the only option would be the roadside. This factor weighs significantly in favour of the development.

Personal circumstances of the appellants and their families

72. The development allows a group of families who are part of an extended family to live together enabling them to provide support for each other, which is acknowledged as of importance to the gypsy and traveller community and has been shown to be of particular relevance to these families. The site also provides a stable base from which the residents can access essential services such as education and healthcare.
73. The site is occupied by six adults and two children. The children both attend a local school, which the appellants say is favoured by the gypsy and traveller community and able to provide for the needs of this ethnic group.
74. The appellant confirmed that all of the occupiers of the site are registered with local doctor's surgeries. Two of the adults need extra support by virtue of age and two others have serious medical conditions, one of which requires frequent hospitalisation. The health of these four adults requires regular monitoring, medication and treatment.
75. Both in the specific cases of four of the residents of the site and in general terms it would be beneficial for the residents to be able to access healthcare from a settled base. On the basis of the lack of any identified available, alternative accommodation and the appellant's evidence there is a probability that the families would have to resort to life on the road in the event that they were unable to stay on the site. Such an existence in itself presents challenges in terms of maintaining a good standard of health and wellbeing and is not in the best interests of the children.
76. Taking account of these factors, the personal circumstances of the occupiers of the site, including the best interests of children, weigh significantly in favour of the development.

Green Belt balance

77. I have found significant harm to the Green Belt in relation to openness and that the development would have a harmful effect on the character and appearance of the site and the surrounding area contrary to Policies DS7, DS3 and BE3 of the Local Plan. I am mindful that, by virtue of paragraph 148 of the Framework substantial weight should be given to any harm to the Green Belt.

78. In accordance with the WMS, I have also found that intentional unauthorised development (IUD) has taken place and I have concluded that in this case the IUD factor attracts moderate weight against allowing the appeal.
79. In favour of allowing the appeal, I attach significant weight to the lack of available alternative accommodation and the personal circumstances of the families and moderate weight individually to the need for gypsy and traveller sites and the lack of supply of sites.
80. The best interests of the children are a primary consideration, and no other consideration is inherently more important, however, they are not a determinative factor. In this case the best interests of the children who reside on the site weigh significantly in favour of allowing the appeals.
81. The Framework establishes that substantial weight should be given to any harm to the Green Belt and that inappropriate development, such as the appeal schemes, is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Policy E of the PPTS states that, subject to the best interests of the child, unmet need and personal circumstances, are unlikely to clearly outweigh harm to the Green Belt and any other harm.
82. The Framework makes it clear that the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the development must be clearly outweighed by other considerations for planning permission to be granted. In this case I find that although there are some matters which weigh in favour of the appellants, the cumulative weight of these other considerations does not clearly outweigh the substantial harm arising to the Green Belt in combination with the harm to the character and appearance of the site and the surrounding area and IUD.
83. Consequently, my initial conclusion is that the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist in this case. Accordingly, the development is contrary to Policy DS7 of the Local Plan.

Interested parties

84. A number of local residents made representations in respect of the planning application/appeals, and they were represented at the Hearing. The local Councillor also attended the Hearing. The issues which they raised coincided generally with the reasons for refusal or the other considerations which I have identified as weighing against the grant of planning permission.

Planning permission on a temporary and/or personal basis

85. The appellant confirmed at the Hearing that if I found that permanent planning permission could not be justified, he wished me to consider if a temporary and/or personal permission would be acceptable. Planning Practice Guidance establishes that amongst other circumstances where a temporary permission may be appropriate is where it is expected that the planning circumstances will change in a particular way at the end of that period.
86. In this case, I find that the Council's position on the need for and supply of sites appears to be becoming clear and given the advances which have been made the DPD is more likely than not to be adopted shortly. Whilst the appellants argue that part of the provision coming through the DPD on private

sites will not be available to them it is not clear whether this also applies to the public site.

87. Nevertheless, there is no firm timescale before me with respect to a suitable, affordable and acceptable site becoming available. To that extent it is not possible to establish an appropriate duration for a temporary consent with any certainty.
88. Notwithstanding the lack of clarity around the basis for a temporary consent, whilst the harm to the Green Belt and the character and appearance of the site and the surrounding area would be moderated by the fact that it would be of limited duration, the harm would be apparent over that full time period. Furthermore, the benefits to the families in terms of having a stable base would also be reduced. The other matters in the balance would remain unchanged and, on that basis, the Green Belt harm would not be clearly outweighed by other considerations in this scenario either.
89. Similarly, a personal consent based on the occupation of the site by the families would result in a continuation of the harm to the Green Belt and the character and appearance of the site and the surrounding area. In this case such an impact even of limited duration outweighs the benefits to the appellant and his extended family.
90. I conclude that granting permission on a temporary and/or personal basis does not change the Green Belt balance such that planning permission should be granted on either or both of these bases.

Human Rights and the PSED

91. There is at least a possibility that dismissing the appeals would result in the families becoming homeless. This would amount to interference with their rights under Article 8. However, the interference would be in accordance with the law and necessary in pursuance of a well-established and legitimate aim: the protection of the Green Belt.
92. Turning to the PSED, the level of engagement by interested parties who have objected to the development suggests that the relationship between the families and the settled population is not a positive one at present. Allowing the families to remain on the site, with the benefit of planning permission to establish a lawful use of the land has the potential to foster good relations between the two groups and eliminate discrimination.
93. Allowing the appeals and granting planning permission would also advance equality of opportunity by taking steps to meet the particular needs of the families both in terms of their ethnicity and the shared protected characteristic of age. It would also provide a settled base for the children to access education, which is in their best interest.
94. I have had due regard to the PSED and found that the development would provide the opportunity to advance its aims, however set against the well-established and legitimate aim of the protection of the Green Belt dismissing the appeals is a proportionate response in this case.

Conclusion

95. The development does not accord with the development plan and there are no other considerations to indicate that the appeals should be determined otherwise. Therefore, for the reasons given above, I conclude that Appeals A and B should not succeed, and that planning permission should not be granted for the DPAs, and that Appeal C should be dismissed. This action would not unacceptably violate the families human rights and the protection of the public interest cannot be achieved by means that are less interfering of their rights.

Ground (g) (Appeals A and B)

96. Ground (g) is that the period specified for compliance with the notices falls short of what should reasonably be allowed. The issue of proportionality is also of relevance in this case given the consideration of human rights.

97. The compliance period for Notice A is 3 months. The appellant considers that a compliance period of 12 months is necessary to enable the residents to find alternative accommodation. The compliance period for Notice B is 9 months. In that case the appellant considers that an 18 month compliance period is necessary for the same reason. Although he also cites the effect of the global pandemic, it was accepted at the Hearing that that particular reason was no longer as relevant.

98. It will be seen from my consideration of the appeals under ground (a) that there are currently no alternative sites available to the families. Furthermore, compliance with the notices would result in the loss of the families' homes which as I have set out above would interfere with the rights of the families under the Human Rights Act 1998.

99. In that context, 3 months is an impractical compliance period for the families to move off the site and it is a disproportionate response in terms of their human rights. However, the Council now proposes an extension of the compliance period for Notice A so that the compliance period for both notices would be 9 months.

100. In the light of my finding that the development has a harmful effect on the Green Belt and given the emphasis placed in the Framework on such harm I find that extending the compliance period to 18 months as requested in respect of one of the notices would not be appropriate. However, an extension to 12 months would be a reasonable compromise for both notices. This would allow the school age children to complete the current academic year and investigate alternatives for full time education and would also provide some additional time for the immediate health concerns of one resident to be addressed. This would be a proportionate response in terms of the families' human rights.

101. For the reasons given above, I conclude that the periods for compliance with the notices fall short of what is reasonable and proportionate. I shall vary the enforcement notices prior to upholding them. The appeals on ground (g) succeed to that extent.

Sarah Dyer

Inspector

APPEARANCES

For the appellant:

Philip Brown

Ms Joleen Smith (appellant's partner)

Ms Dora Stanley (family member)

For the Council:

Mr Freddie Humphries Counsel appointed by the Council

Mrs Emily Temple Consultant acting for the Council

Interested parties:

Mr Ian McHugh Representing the residents of Coventry Road

Mr Paul Bates Former resident of Coventry Road

Councillor Richard Smith

DOCUMENTS SUBMITTED TO THE HEARING

By the appellant:

None

By the local planning authority:

Decision notice and approved plans for planning permission (Council's Ref. 035180)

Gypsy and Traveller Site Allocations DPD Publication consultation draft

Gypsy and Traveller Site Allocations DPD Publication 2021-2037