



Appeal Decisions

Hearing Held on 7 and 8 March 2023

Site visits made on 8 March and 11 April 2023

by D Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2023

Appeals A and B, Refs: APP/L3625/C/22/3302376-7

Land at Parcel 2, north of junction at Cross Oak Lane and Picketts Lane, Salfords, Surrey RH1 5RG

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mrs Berry Collins and Mrs Theresa Baker against an enforcement notice issued by Reigate & Banstead Borough Council.
- The enforcement notice (Notice A) was issued on 31 May 2022.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land from agricultural land within the Green Belt, to land used for the stationing and residential use of touring/static caravans with associated other mobile units with associated hard standings, pathways and vehicle parking.
- The requirements of the notice are to cease the use of the land shown outlined in red, for the storage and residential use of touring/static caravans/other mobile units and the associated parking of vehicles from more than 28 days per calendar year.
- The period for compliance with the requirements is four months.
- The appeals are proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeals succeed in part and the enforcement notice is upheld with corrections and variations as set out below in the Formal Decision.

Appeals C and D, Refs: APP/L3625/C/22/3302388-9

Land at Parcel 2, north of junction at Cross Oak Lane and Picketts Lane, Salfords, Surrey RH1 5RG

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mrs Berry Collins and Mrs Theresa Baker against an enforcement notice issued by Reigate & Banstead Borough Council.
- The enforcement notice (Notice B) was issued on 31 May 2022.
- The breach of planning control as alleged in the notice is without planning permission, the installation of a new access way, landscaping and hard standing area used for the stationing and residential use of touring/static caravans with associated other mobile units with associated hard standings, pathways and vehicle parking.
- The requirements of the notice are:
 - (i) Remove from the land shown outlined in red all hardcore, gravel and associated hard standing materials and re-grass those areas.
 - (ii) Remove from the land shown outlined in red all residential landscaping such as sleepers, laurel hedging.
 - (iii) Remove all associated debris from the land outlined in red.
- The period for compliance with the requirements is four months.
- The appeals are proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary decision: The appeals succeed in part and the enforcement notice is upheld with corrections and variations as set out below in the Formal Decision.

Appeal E, Ref: APP/L3625/W/22/3311492

Land at Parcel 2, north of junction at Cross Oak Lane and Picketts Lane, Salfords, Surrey RH1 5RG

- 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 Mrs Berry Collins and Mrs Theresa Baker against the decision of Reigate & Banstead Borough Council.
- The application Ref 22/00893/CU, dated 15 April 2022, was refused by notice dated 21 October 2022.
- The development proposed is change of use of land to residential for three Gypsy and Traveller families. The site to contain three static caravans, three touring caravans, parking, hard standing and associated infrastructure.

Summary Decision: The appeal is dismissed.

Application for costs

1. At the Hearing an application for costs was made by the Council against the appellants and by the appellants against the Council. These applications will be the subject of separate Decisions.

Procedural Matters

2. The planning application decision notice relies on Policy DES7 from the Reigate & Banstead Local Plan Development Management Plan, adopted September 2019 (the DMP). At the Hearing though the Council confirmed that they were no longer relying on this policy in respect of their case and I have proceeded with my decisions on that basis.
3. A Statement of Common Ground (SoCG) was signed by the parties on the second day of the Hearing and sets out that the Council accepts the proposed occupiers of the site meet the definition of gypsies and travellers, as defined in the Planning policy for traveller sites 2015 (PPTS).
4. The appellants submitted a Landscape Proof of Evidence at the Hearing explaining firstly this was an update to a similar document accompanying the planning application (Appeal E) and then later that it replaced that document. There was an explanation as to why it was late and an adjournment was provided to allow for the document to be copied, read and considered.
5. Although appeals were lodged under ground (f), no facts or grounds were submitted to substantiate them. The appellants were given an opportunity at the Hearing to submit details of any lesser steps but none were forthcoming. As such, I shall disregard the ground (f) appeals as they are not supported by any facts.¹
6. The site visit was carried out on two separate days with the first visit limited to an inspection within the site and from a neighbour's garden and the second visit entailing an inspection of the wider area. This was necessary due to the particularly inclement weather in March.

¹ Procedural Guide – Enforcement Notice Appeals – England, December 2021, paragraph 4.2.5

The Notices

7. An Inspector has a duty to ensure that the notices are in order and to that end I had concerns about the framing of the allegation and other matters in both Notices A and B. It is open to me to correct and vary the notices provided there is no injustice to either party.
8. I find omitting the reference to “agricultural land within the Green Belt” from the allegation in Notice A and specifying the other mobile units, which are portaloos, portable shower units and skips, is not fatal to the allegation, causes no injustice and better reflects the development that has taken place. The requirements are varied to pick up on these changes and are expanded, as suggested by the Council, to require the removal of the gravel and re-seeding with grass. This does not result in injustice for the appellants as the associated operational development in Notice A is repeated in Notice B, which contains the requirements to remove the gravel and to re-seed with grass.
9. Notice B attacks the operational development that has occurred at the site, principally the new access but strays into describing the material change of use that has taken place and the associated operational development. This can be corrected without causing injustice by deleting the allegation and reducing the focus of the corrected allegation to the formation and laying out of a new access to the highway.
10. The appellants objected to the inclusion of a requirement to cease the use of the access on the basis that every field needs an access and submitted that there was no prior existing vehicular access into the site. The Council submitted there was a prior access to the site in the north east corner of the field where photographs show a gap in the hedge marked by an infilled ditch and wire fencing. The appellants’ site has been formed from a much larger field and they were therefore aware the new access was only needed in connection with their material change of use. As such, it is a reasonable requirement to specify that the use of the access should cease and be closed with a fence in order to remedy the breach of planning control. Such a step would not result in injustice given the existence of the north east corner access.
11. Finally, it is necessary to vary both notices to remove the reference to a specific date in the compliance period as this does not accord with section 173 of the Town and Country Planning Act 1990 (the Act).

Background, site and surroundings

12. The application site comprises a rectangular parcel of land with the long side bordering a hedge marking the northern boundary of a large field, which is situated on the west side of Picketts Lane. It is currently laid out as three pitches, each separated by post and rail fencing accessed from a new gap in the hedge from Picketts Lane. There are a variety of caravans and mobile buildings within each pitch sited on gravel. The field is separated from the lane by a hedge and a ditch.
13. The southern portion of the field (now known as Laurel Acre) is laid out as six pitches with caravans sited and used for residential purposes following a grant of planning permission allowed on appeal in November 2021.² This permission

² Ref: APP/L3625/W/20/3251850

was subject to a planning condition that limits the operation of the use to five years from the date of the decision.

14. There is grassland separating the appeal site and the six pitches to the south and the field is surrounded by other fields to the north, south and east with a belt of woodland to the west. In the wider area there is a group of dwellings to the north of the site accessed from Picketts Lane. West of the site, beyond the tree belt, National Cycle Network route No 21 (NCN21) runs north-south parallel to the railway line separating the rural area in the east from the built-up area of Salfords village to the west.
15. East of Picketts Lane is another rural lane running north-south, namely New House Lane, which also contains a small group of dwellings. A public right of way runs east-west from New House Lane to the NCN. East of New House Lane lies the borough boundary and beyond that the M23 motorway running north-south.
16. The appellants began using the site in April 2022 and an interim injunction was obtained by the Council on 27 May 2022 with a further order being made on 11 October 2022. This prevents any further hardcore or caravans being brought onto the site and any additional occupants taking up residency.

Appeal E, Main Issues

17. It is common ground that the use of the site is inappropriate development in the Metropolitan Green Belt in which it lies, as set out in paragraph 14 of the PPTS. As such the main issues are:
 - The effect of the use on the openness of the Green Belt and the purposes of including land within it;
 - The effect of the development on the character and appearance of the area, having regard to its location within the Low Weald;
 - Whether the scale of the development is appropriate, having regard to the settled community and integration;
 - Whether harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the proposal.

Reasons

Relevant planning policies

18. The Council's development plan comprises the Reigate and Banstead Local Plan: Core Strategy adopted July 2014 and reviewed in 2019 (the CS) as well as the DMP, as outlined above. The Council seeks to rely on Policies CS3 Green Belt and CS16 Gypsies, travellers and travelling showpeople of the CS and Policies NHE5 Development within the Green Belt and GTT1 Gypsies, travellers and travelling showpeople accommodation of the DMP. These policies are consistent with the National Planning Policy Framework (the NPPF) in particular the wording from paragraphs 147-149 and, as such, I give them substantial weight.
19. However, Policy NHE5 is not directly related to the development before me in that it deals with extensions to existing buildings in the Green Belt,

- replacement buildings and alterations to the Green Belt boundary. Similarly, Policy GTT1 is not applicable as it deals with allocated sites.
20. The Council also rely on Policy CS2 Valued Landscapes and the natural environment of the CS and Policies NHE1 Landscape protection and DES1 Design of new development of the DMP. These are also consistent with the NPPF, especially paragraph 174 and are therefore afforded substantial weight.
 21. In addition, the Council also rely on the policies within the NPPF and the PPTS to support their case. These documents are both material considerations with the PPTS to be read in conjunction with the NPPF. Paragraph 137 of the NPPF refers to the great importance of Green Belts and to their essential characteristics of openness and permanence. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Green Belt has five purposes which include assisting the safeguarding of the countryside from encroachment.
 22. Paragraph 147 explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Paragraph 148 requires substantial weight to be given to any harm to the Green Belt.
 23. PPTS has the same policies and paragraph 16 says that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.
 24. Planning law though requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan is clear in this case, the material change of use that has occurred is inappropriate development in the Green Belt contrary to Policy CS3.

Openness and Green Belt purposes

25. Prior to the current use, the appeal site formed part of a larger field and aerial photographs appear to show no buildings in the northern rectangular area and the site did not appear to be cultivated. The Council advise that there is no relevant planning history.
26. Following the material change of use I find there is harm to the Green Belt openness both spatially and visually from the introduction of mobile homes, touring caravans, hard standing, other portable buildings, vehicles and domestic paraphernalia. The proposed development only differs from the current development in that there would no longer be portable showers, portaloos and skips. The loss of openness is visible when passing along Picketts Lane on foot or by car as the access into the site is wide and the hedge is thin. The level of the northern portion of the site also appears to have been raised which makes the loss of openness more prominent from the former access into the site.
27. From the wider area the site is only glimpsed from one point along the NCN. Approaching the site from the south moving north along Picketts Lane, the site can also be glimpsed through the entrance to Laurel Acre when the gates are

- open. Other than that, there appear to be no views of the site from the public right of way that runs west-east from the NCN to New House Lane due to the lie of the land, intervening trees/hedges and buildings.
28. The appellants accept the development results in a loss of openness and submit there is scope through planning conditions to achieve additional planting to ensure that as far as possible the development is integrated into its surroundings. A suggested scheme of additional planting is shown in the appellants' landscape advisor's Proof of Evidence. The development would then accord with Policy DES1 of the DMP. Landscaping measures could in time reduce views into the site. This, however, would not overcome the harm to the spatial loss of openness and there is therefore significant harm to Green Belt openness which conflicts with Policy CS3.
29. There is a different degree of harm arising from conflict with the Green Belt purpose of assisting in safeguarding the countryside from encroachment, which I find is significant for the following reasons. The Council faces considerable development pressure given its location bordering London. There are few large towns within the district and therefore most of the district (in the order of 70%) in rural use is protected by the Green Belt designation.
30. The Council emphasised how important this area of Green Belt to the east of Salfords village and to the north of Horley town is to the management of development in the area, in particular the safeguarding of the countryside from encroachment. The Council state that Laurel Acre was assessed as an available and deliverable site within the December 2017 Traveller Site Land Availability Assessment. Although the assessment focused on Laurel Acre, rather than the appeal site, the Council considered the importance to the Green Belt was similarly high for both sites, given their proximity to each other within the same field.
31. The gap between Salfords and Horley at its smallest is only 500m wide. Although the appeal site does not lie within this gap, it does lie within a narrow corridor of land sandwiched between Salfords and the eastern boundary of the borough, which is nearby. It is therefore sensitive to development and the maintenance of the site as undeveloped land, in my view, would assist in safeguarding the countryside from encroachment. As a result of its direct position adjacent to a highway, I find any encroachment would be particularly noticeable.
32. Eventually the Council dismissed Laurel Acre as being an acceptable traveller site to be allocated in the local plan and it was due to a particular set of circumstances that arose which led to the time-limited grant of planning permission during the Covid-19 pandemic. I agree with the Council that the current loss of openness caused by Laurel Acre is temporary and does not support the loss of openness at the appeal site.
33. The corridor of land between Salfords and the borough boundary has a largely rural character comprising a regular pattern of fields lined with hedgerows interspersed with small blocks of woodland. This is the case notwithstanding the few dwellings in the area, which are situated mainly in large plots. As such, it forms an important role in safeguarding the countryside from encroachment and fulfils its Green Belt purpose. Policy CS3 states that a robust and defensible Green Belt will be maintained to ensure that the coherence of the green fabric is protected and future growth is accommodated

in a sustainable manner. Overall, I find that the development would conflict with development plan policy on Green Belts, the NPPF and the PPTS with regard to the effect of it on openness and Green Belt purposes.

Character and appearance

34. Policies CS2 and CS16 of the CS and Policies NHE1 and DES1 of the DMP seek to protect and enhance the borough's green fabric. In particular, Policy CS16 requires that development sites do not *significantly* (as stated in the policy) have an impact on the visual amenity and character of the area. The appeal site and the surrounding countryside has no national landscape designation. The Council produced a Borough Wide Landscape and Townscape Character Assessment in 2008 as part of the CS preparation, which divided the borough into character areas and sub areas.
35. The Character Assessment for the area around Salfords states: "although not environmentally designated, the majority of Salfords fringe is sensitive to change, in particular adjoining the north-south sprawl along the A23 corridor. An area of interrupted fringe exists to the east, where recent business estate developments have left some adjoining fringe areas with a lower sensitivity to change."
36. The business estate developments lie to the north of the rural corridor of land discussed previously between the railway line and New House Lane. Other than these, and the residential development along the lanes, the landscape character and appearance of the area remains as generally flat grassland with regular shaped fields bounded by hedges and trees interspersed with tree belts. There is a gradual incline from south to north along Picketts Lane which enables long distance views of the wider area but not of the site. Despite the age of the Character Assessment, I afford it some weight as the visual descriptions and assessments within it still reflect the area around the appeal site today.
37. There is also the need to consider the potential effects of the development on the tranquillity of the area and light pollution, if any (Policy NHE1). Other than noise from traffic and the nearby railway line, daytime background noise levels appear to be low. Third parties submit that the use of the site has resulted in additional traffic along the lane and activity within the site. In addition, activities on site are noticeable at night due to the introduction of external lighting where none existed before (evidenced by third party photographs).
38. Picketts Lane appears to be used as a shortcut by local hospital traffic, as described by third parties, and was not a quiet lane during my mid morning site visit, when I had to regularly step on to the verge to avoid passing cars. In this context I consider that the additional movements from three extra households would largely pass unnoticed. The harm to the tranquillity of the area would therefore be limited. The level of external lighting would be noticeable especially as there are no streetlights along the lane. The area concerned though is contained and should the development be acceptable, a condition could be imposed to control the lighting across the site to mitigate the moderate harm to the area.
39. The appellants also propose a landscaping scheme to mitigate the harm to the character and appearance of the area which would include trees and shrubs planted in between the pitches. These are currently divided by fencing and all

are open to view, especially the hard surfaced area, from the access into the site. Such a scheme would provide some mitigation but would not address the appearance of the hard surfaced area. I accept though that such a scheme would assist with screening the site following the removal of Laurel Acre, which currently screens the site from southerly views.

40. Notwithstanding the public views of the site, which I have already discussed, there are private views of the site from a nearby property. These are limited to distant views from a first floor window and glimpsed distant views from the northern side of the garden. Whilst no doubt this has resulted in a noticeable change in outlook for the occupiers, the sites are separated by an intervening field and hedgerows and I therefore find limited harm from the changes.
41. In conclusion, the development on previously undeveloped land has inevitably resulted in some change to the character and appearance of the area. I find the change has resulted in harm by the generally unsympathetic extent of hard surfacing, together with changes in land levels as well as the siting of various caravans.
42. Whilst I consider that the appearance of the site could be improved through the imposition of conditions, there is nevertheless moderate harm to the character and appearance of the area, which conflicts with Policies CS2, NHE1 and DES1 but not Policy CS16 due to the degree of harm. This is the case notwithstanding the absence of long distance views of the site and the statement within the PPTS that recognises traveller sites can be located in rural areas; they can be a common sight in the countryside and they are not intrinsically discordant features.

Scale of development

43. The Council submit that three additional pitches dominate the settled community in Picketts Lane resulting in unlikely integration and co-existence. The Council's explanation for this in their Statement of Case is that there are 93 residential dwellings along Picketts Lane, New House Lane, Axes Lane and Cross Oak Lane whereas there are 49 pitches/plots for gypsies, travellers and travelling showpeople in the same area. This would increase to 52 if the development were found to be acceptable.
44. The manner in which the site was developed did not bode well for peaceful integration and co-existence following the apparent unauthorised closure of Picketts Lane. Notwithstanding this, it seems to me that integration and co-existence take place whilst making use of the same services such as schools, clinics, shops and other local facilities. These are found in the nearby village of Salfords and just like the settled community, some travellers like to remain private at their abode but will integrate/co-exist further afield, such as at the school gate. It seems to me that the Council's fears are unfounded, relying simply on numbers (93 to 52) rather than considering where integration/co-existence takes place.
45. Policy CS16 sets out the approach to both the allocation of sites as well as the criteria used to assess the suitability of sites that come forward in planning applications that are not on allocated land. With regard to the first matter the Council states a sequential approach will be taken with sites in the Green Belt being considered last. Although this sequential approach is not replicated in

the following list of criteria, the Council's approach to sites in the Green Belts is clear.

46. I have already discussed one of the criteria in my section on character and appearance. There are five other matters that need to be considered. The first requirement is whether the site can be integrated into the local area and co-exist with the local community. The appellants submitted that in time this could be achieved once the manner of the development was forgotten but this was disputed by third parties. The location of the site is that it is slightly apart from the settled community but that is not unlike other gypsy and traveller development and does not necessarily mean co-existence cannot take place. I therefore find that this requirement is met.
47. Third parties have expressed concerns about highway safety and the second requirement is that the site has safe access to the highway with adequate parking and turning areas. This is met as no capacity issues have been identified and, subject to a number of conditions, the Highway Authority has raised no objection.
48. The third requirement is that the site provides a satisfactory residential environment with on-site utility services. No concerns have been raised by the Council that this is not the case and the mobile toilets and showers are temporary, pending a decision on the appeal. The agreed SoCG includes a condition that mains services would be provided in the event of a favourable decision. This requirement is therefore capable of being met.
49. The fourth requirement is that the site is not located in area of high flood risk. Third parties have raised concerns on the grounds of flooding but in the absence of any substantiated evidence to the contrary, the response from the Council's consultee on the matter states that flood risk to the site is minimal. This requirement is therefore met.
50. The last requirement is that there is adequate local infrastructure and access to appropriate healthcare and local schools. This can be found nearby at Salfords or slightly further afield at either Horley or Reigate and is therefore met. Overall, I find no conflict with Policy CS16 and I therefore give this matter significant weight.

Whether the proposal accords with the development plan as a whole

51. Notwithstanding my finding on Policy CS16, I have found conflict with the other relevant planning policies. As such, it is my view that when read as a whole, the proposal does not accord with the development plan. This attracts substantial weight.

Other considerations: need and provision of sites for gypsies and travellers

52. The most up to date Gypsy and Traveller Accommodation Assessment (GTAA) was published in July 2017 and some of its findings on the need for sites have now been acted on in the DMP. The appellants criticised the GTAA but it was found to be robust and sound by the examining Inspector. The Council provided a copy of their latest 5 year Housing Land Supply Position Statement dated 31 March 2022 which shows they have a 8.57 year supply of deliverable land for gypsy and traveller pitches. The DMP identified a need for 32 pitches over the period 2016 to 2031. Of this 23 were identified as being required

within the first 5 years of the plan. To date 31 pitches have been provided against the identified need of 23 pitches.

53. I therefore conclude that provision has met need which merits considerable weight. Although the appellants submit that there were 60 unauthorised gypsy and traveller sites, caravan count figures only provide a snapshot in time and as such, this does not weigh in favour of the development.

Availability of alternative sites

54. PPTS paragraph 24 requires consideration of the availability of alternative accommodation for the appellants. Alternative sites must be available, affordable, acceptable and suitable. To be available a pitch must have planning permission, be vacant and be actually available to the proposed occupier.
55. The Council suggested a site that received planning permission in 2022 for three traveller pitches at one of the sites allocated in the DMP, at Lower Kingswood but the appellants advise that this is now occupied. Nevertheless, I was advised that there are several traveller pitches advertised for rent on social media in the Horley area.
56. The appellants suggest that these sites may be unauthorised and that there are long waiting lists for public sites. As such, this merits considerable weight. No substantiated evidence was submitted to support the claim of long waiting lists but I agree the status of other sites is unknown.
57. The Council submit that eviction from this site would not necessarily result in a roadside existence. The response to the Planning Contravention Notice sets out that the appellants were all residents at Ivy Hatch, Green Lane (within Tandridge District Council area, approximately 0.8 miles from the appeal site) until they left there to live at the appeal site. Ivy Hatch is a lawful and licenced traveller site which provided a settled home for 11 years in the case of one of the appellants and 12 months in the case of the other appellant. It is alleged that they were asked to leave Ivy Hatch after it was served notice by Tandridge District Council for overcrowding. However, the Council has confirmed that no licencing or planning enforcement notices have been issued in respect of that site bringing the allegation and any submissions that the families were evicted into doubt.
58. The appellants explained that one of the families had outgrown the site, which is why they had to leave after being settled there for 11 years. The other appellant had been doubling up at Ivy Hatch, which was tolerated for a while but it was not a permanent option and they knew they had to move on. They had no settled base prior to living on Ivy Hatch.
59. Drawing these points together, I conclude that there does not appear to be alternative accommodation for the appellants and I have given this significant weight.

Personal circumstances

60. Pitch 1 is occupied by a couple and four children of which 3 attend a local primary school and one is waiting for a nursery school place. There are no known health needs in this family group. The occupiers of pitches 2 and 3 formerly occupied one pitch at Ivy Hatch comprising a single head of household with 4 adult children and two teenage children. The older teenager is home

tutored and the youngest is profoundly disabled with complex health, medical and educational needs, as evidenced by various official letters. They attend a specialist school a short drive away and are in receipt of assisted transport to and from school. The head of the household has their own health diagnoses and thus requires the support of their adult children nearby to look after the youngest child.

61. The Courts have held that the appellants do not need to show that their educational and health needs are exceptional. The best interests of children are a primary consideration in my decision and there are six (non adult) children living on this site. The children's best interest is to have a secure and settled site. This would give them the best opportunity for a stable family life, safe play and access to education, health and other services. If this appeal is dismissed there would be an infringement of the occupiers' human rights under Article 8 of the European Convention on Human Rights. This deals with the right to respect for family life and the home.

Intentional unauthorised development

62. Intentional unauthorised development is a material consideration that should be weighed in the determination of planning applications and appeals. The change of use of land was clearly done in the knowledge that planning permission was required and took place over a bank holiday weekend prior to the submission of the planning application. There was no attempt to hide the fact and the planning application was submitted after the event. Nevertheless, it was intentional unauthorised development to which I attach great weight that weighs against the grant of planning permission.

Other matters

63. The site does not lie within a conservation area and is not near any listed buildings. These matters therefore do not fall to be considered. The Council also confirmed that no trees were removed during the course of the development. Matters of covenants and property devaluation are not material planning considerations and, in conclusion, I give these other matters very little or no weight.

Planning balance

64. A refusal of planning permission would interfere with the Article 8 rights of those living on the appeal site. Indeed, the Courts have held that Article 8 imposes a positive duty to facilitate the gypsy way of life, as defined by race and ethnicity rather than planning policy. Any interference in this regard must be balanced against the public interest in upholding planning policy to protect the environment generally.
65. Both the NPPF and PPTS state that inappropriate development in the Green Belt is harmful and should not be approved except in very special circumstances. There is substantial harm on this basis and also significant harm due to the loss of openness and from the encroachment of development into the Green Belt. I found no conflict with Policy CS16, which merits significant weight, but overall, the proposal is in conflict with the development plan when read as a whole, which merits substantial weight.
66. In addition, I found moderate harm to the character and appearance of the area and considerable weight is added from my finding on intentional

unauthorised development. The Council supply situation merits considerable weight and counts against the appellant.

67. I consider that the personal accommodation needs of both families are significant and I have not been advised of any potential alternative sites. In the absence of any obvious short term alternative accommodation, I conclude there is a strong possibility that the families would have to resort to an unauthorised encampment. This would be likely to be seriously detrimental to their health and this merits significant weight.
68. The PPTS states that the best interest of the children is a primary consideration and this merits significant weight with the welfare of all children not just the child with complex needs being important.
69. Personal need is a weighty factor, but I find it does not justify permanent harm to the Green Belt and countryside. The accommodation needs in the local area have been assessed through the development plan process and there is currently an oversupply of sites to meet identified need. Through that process, sites which best meet the need with least harm to the environment have come forward on those sites, which are less harmful than, and therefore preferable to, the appeal site. On balance, I conclude that the totality of the other considerations do not clearly outweigh the harm to the Green Belt and any other harm so as to amount to the very special circumstances necessary to justify inappropriate development in the Green Belt on a permanent basis.
70. Whilst the refusal of planning permission would potentially leave the families homeless, including children that occupy the site, the refusal of planning permission would be a proportionate response given the harm I have identified.
71. I have considered whether to grant a temporary planning permission. However, there is unlikely to be any material change in circumstances at the end of a temporary permission given that there is not an identified shortage in the supply of sites at this time. Accordingly, a temporary planning permission would not be justified.
72. For the reasons given above I conclude that Appeal E should be dismissed.

Appeals A, B, C and D and ground (g)

73. The notices specify four months as the compliance period but the appellants consider this is unreasonable and submit that a period of between three to five years is required, which would allow them to find suitable alternative accommodation. However, this length of time would be tantamount to a temporary planning permission and disproportionate given the harm I have identified.
74. I consider 12 months would be a reasonable period to cease the use. This would enable the families to look for and consider alternative sites. As the use would need to cease before the operational development could be removed, a 13 month period is reasonable to remove the operational development. It would be a proportionate response and would also ensure that due consideration is made for the best interest of the children. Ground (g) therefore succeeds to this extent in respect of both notices.

75. For the reasons given, I conclude that a reasonable period for compliance would be 12 months and 13 months and I shall vary the notices accordingly prior to upholding them. The appeals under ground (g) succeed to that extent.

Conclusions

Appeals A, B, C and D

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

Appeal E

77. For the reasons given, I conclude that the appeal should be dismissed.

Formal Decisions

Appeals A and B

78. It is directed that the enforcement notice is:

corrected by the deletion of the words in the allegation and their substitution with

"Without planning permission, the material change of use of the land to use for the stationing and residential use of touring/static caravans with associated other mobile units (namely portaloos, portable shower units and skips) and with associated hard landscaping, hardstandings, pathways and vehicle parking";

and varied by the deletion of the words in the requirements and their substitution with

"(i) Cease the use of the land shown outlined in red for the stationing and residential use of touring/static caravans and the stationing of other associated mobile units and associated parking of vehicles;

(ii) Remove from the land shown outlined in red all residential landscaping (including hard landscaping), hardcore, gravel, hardstandings and associated materials and re-grass those areas; and

(iv) Remove all associated debris from the land outlined in red."

and varied by the deletion of 4 months and the substitution of 12 months for Step (i) and 13 months for Steps (ii) and (iii) as the time for compliance.

Subject to these corrections and variations, the appeals are dismissed and the enforcement notice is upheld.

Appeals C and D

79. It is directed that the enforcement notice is:

corrected by the deletion of the words in the allegation and their substitution with

"Without planning permission, the formation and laying out of a new access to the highway."

and varied by the deletion of the words in the requirements and their substitution with

"Cease the use of the access and close the opening with post and rail fencing."

and varied by the deletion of 4 months and the substitution of 13 months as the time for compliance.

Subject to these corrections and variations, the appeals are dismissed and the enforcement notice is upheld.

Appeal E

80. The appeal is dismissed.

D Fleming

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr J G Jones	Agent, BFSGC
Mr R Crandon	Landscape architect, Tirlun Design Associates
Mrs Alkiviadou	Registered nurse
Mrs B Collins	The appellant
Mrs T Baker	The appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr S Stemp	Counsel, instructed by the Head of Legal Services
Mr A Benson	Head of Planning
Mr M Parker	Principal Planning Officer
Mrs N Astley	Senior Enforcement Officer

INTERESTED PERSONS:

Mr C Smith	Colin Smith Planning, for Salfords and Sidlow Parish Council
Mr C Dahl	Local resident
Capt A Naran	Local resident
Mr & Mrs R Byerley	Local resident
Mr P Heyland	Local resident
Mrs L Stanhope	Local resident
Cllr K Dukes	Parish councillor

Documents

- 1 Landscape Proof of Evidence by Mr R Crandon
2. Agreed Statement of Common Ground
3. Discussed corrected and varied wording for allegation and requirements of both notices