



Appeal Decision

Hearing Held on 31 May 2023

Site visit made on 31 May 2023

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22 June 2023

Appeal Ref: APP/Y2430/C/21/3274234

Sandy View, Sandy Lane, Melton Mowbray LE13 0DL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr M McDonagh against an enforcement notice issued by Melton Borough Council.
- The enforcement notice was issued on 6 April 2021.
- The breach of planning control as alleged in the notice is *the use of the Site for the stationing of residential mobile homes, comprising up to 11 mobile homes being used for private rented accommodation and the associated installation of services, which for the avoidance of doubt is not in accordance with the planning permission for the Site.*
- The requirements of the notice are to (1) Remove all of the mobile homes from the Site; (2) Not place or permit to place further mobile homes to be placed on the Site without the requisite planning permission; (3) Cease any residence on the Site except by Mr M McDonagh and his dependents in a maximum number of 2 mobile homes; and (4) Not reside or permit to reside any person on the Site except for Mr M McDonagh and his dependents in a maximum number of 2 mobile homes.
- The period for compliance with the requirements is 3 months (also expressed to be 4 August 2021).
- The appeal was brought on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended; by pre-hearing correspondence I permitted the appeal to proceed additionally on grounds (c) and (f) and also indicated that I considered a further ground (b) appeal was in substance being made.

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

Preliminary Matters

1. Although the appeal was initially raised on grounds (a) and (g) only, the appellant's Statement of Case expressly raised matters under grounds (c) and (f). I set out in a pre-hearing note that the matters raised under ground (c) also raised a potential appeal on ground (b) which is to say that the matters alleged in the notice had not occurred by reason of no material change of use having taken place. I considered that the Council had been put on sufficient notice of these legal grounds of appeal by the appellant's initial grounds of appeal including his averment that an occupancy condition attaching to a previous grant of planning permission was not necessary or reasonable, with "no sensible reason" having been given for its imposition.
2. As to the ground (f) appeal, I should need to consider under ground (a) whether to grant permission for the whole or any part of the development alleged, and would also need to consider whether any pre-existing use rights should be preserved by the notice if upheld. The requirement to remove "all"

mobile homes was inconsistent with other requirements of the notice, and plainly excessive in view of there being no dispute as to the effect of a 2016 permission allowing some residential use. Thus I accepted the additional grounds of appeal for consideration.

Main Issues

3. It is fair to say that the notice is not without its infelicities, as is a planning permission relating to the site granted in 2016 under reference 16/00164/COU. A substantial amount of time at the hearing was spent deciphering the meaning of these documents.
4. Because of the interrelationship between the notice and the 2016 permission, I shall first consider the validity of the notice and the legal grounds of appeal in the round. I identified at the hearing four main issues for consideration, with no dissent from the parties. They were, first, whether permission is required, or (rather) has already been granted, for the development as alleged (and if that allegation is correct); secondly whether, if permission is required, it should be granted; thirdly, if permission is not granted then whether the steps required to be taken exceed what is necessary to achieve the purposes of the notice; and fourthly whether the time specified for compliance with the notice falls short of what should reasonably be allowed.
5. The first main issue requires consideration of the meaning and effect of the 2016 permission, together with the allegation made in the notice (or as I may consider it requires and is capable of correction).
6. The second main issue raises the two principal issues of the site's locational sustainability and the effects of the development on the local highway network. As the parties were in disagreement as to whether the occupiers, or intended occupiers, of the site are Gypsies or Travellers, this requires consideration of that issue, in order that the correct policy context may be applied.
7. The third main issue falls to be considered, in part, against the appellant's 'fall back' position, or pre-existing use rights, and so is somewhat intertwined with the first issue. The outcome of that will necessarily feed into the fourth main issue, of determining a reasonable compliance period, upon having ascertained whether the steps the notice requires to be taken are in need of amendment.

Reasons

Legal grounds of appeal and the validity of the notice

8. The notice does not expressly allege a 'material change' of use, but contends that the use of the site for what it describes as the stationing of residential mobile homes is unauthorised. Reference is made to there being 'up to 11' such mobile homes, and their being used for 'private rented accommodation'.
9. The 2016 permission was expressed to be for the 'material change of use of land to mixed use to include siting of caravans for residential occupation with associated development'. Several conditions were attached to that permission, some of which I will come on to, but at this juncture I note particularly that (a) neither party asserted that any such conditions were 'Grampian' type conditions, with which any failure to comply might mean that the permission could not have been implemented; and (b) that notwithstanding the criticism of some of the conditions made by the appellant, there is no contention by

anyone that the whole permission is made null or void as a result. This is not to say that these issues do not necessarily require consideration; but it is evidently common ground between the parties that the operative grant of permission in 2016 has taken effect so as to confer a (prior) lawful use of the site.

10. As to what that lawful use is, the permission makes reference to a 'mixed use' but gives no further detail as to what might be comprised in that 'mix' save for its sole reference to the use of residential caravans. This singular referenced use is somewhat buttressed by condition 6, requiring that 'the site shall be used solely for the purposes of a residential gypsy site'. Although the Council were at pains to express their intention that this was to restrict the occupation of the site to Gypsies, it appears to me (in the absence of any meaningful reason having been given for the condition: 'for the avoidance of doubt and to ensure the use remains compatible with the site and surroundings') that its main, if not sole, purpose was to restrict the use to a residential one, rather than one for a particular ethnic or cultural group. The condition goes on to say that 'no businesses or commercial activities shall be carried out at the premises'. In the light of the personal occupancy condition also imposed, there was no need to have imposed a 'Gypsy occupation' condition, which this anyway does not amount to, and in any event the appellant is not a Gypsy but a Traveller. I therefore find the 'gypsy' reference somewhat otiose, but consider that the condition was designed to restrict the use of the site to (subject to what follows) a residential one.
11. Nonetheless the operative grant of permission does refer to a mixed use, so it is fair to infer that there must have been a mix of *something* in the minds of those involved at the time. Reference is made (by condition 2) to plans accompanying the application. These plans are not expressly incorporated into the permission, but condition 2 states that the permission 'relates' to two plans (albeit the reason for the condition refers, in relation to one of them, to a different plan entirely). One of those plans shows the proposed site layout. This reveals part of the site to be laid to hardstanding and containing what are described as mobile homes and touring caravans together with a proposed utility block, and the remainder of the site depicted as a 'paddock' (then) containing two stable blocks.
12. In the round, in order to make sense of the 'mixed use' for which permission was (purportedly) granted in 2016, I consider that the permission granted was for a mixed use of the site as a paddock, which is to say land used for the keeping of horses or other animals (and I refer to the 'paddock' use with this meaning in mind hereafter) and for the stationing of residential caravans. Condition 6, read purposively, was intended to control the residential element of that mixed use and to prevent any of the site from being used for commercial or other business purposes, rather than to restrict the use of the site to residential only.
13. I turn then to whether the allegation in the notice can be correct. The parties agreed that what I witnessed on site was broadly akin to the position at the time the notice was issued. Most of the triangular site has now been absorbed by hardstanding and the placement of additional caravans. A small triangle in the eastern corner has not been physically developed in the same way, and remains open to grass. It is largely fenced off from the part now physically used for the caravans, although there is an open and unfenced gap section

roughly opposite the site entrance. No horses or other animals were present during my visit, and that part of the land was evidently untended and ungrazed. The appellant explained on site that the children of the extended family might use it to play.

14. The absence of its use for the keeping of any animals, and its availability to the site occupants for domestic recreation, as described by the appellant, means that I consider it is now being put to a use ancillary to the residential use of the remainder of the site, and that the 'paddock' element of the 'mix' for which permission was granted in 2016 has now disappeared.
15. That being the case, the appellant impresses upon me that the mere cessation of one element of a mixed use does not in itself result in a material change of use of land. However, this so-called *Whipperman*¹ principle does not prevail in all cases, and the correct approach, as identified by the High Court in *Beach*², is to ask, when primary uses are added to or removed from a mix, whether the change is material.
16. In relation to any legal ground of appeal, the onus of proof lies on the appellant to demonstrate the case on the balance of probabilities. In order to find that the alleged change in use to a sole residential use from the 'mixed use' granted in 2016 (or, if that permission does not apply, from the former use solely as a paddock) the appellant would need to demonstrate that the cessation of the paddock element of the use and its usurpation by the residential occupiers did not amount to a material change. The appellant has not done so; instead contending that the 'paddock' element of the use continues such that the allegation in the notice is wrong. I find as a fact that this is not the case; and the immateriality of this cessation has not been demonstrated.
17. Therefore I find that, as essentially alleged, there has been a material change of use of the land, from (assuming the validity of the 2016 permission and that development pursuant to it was begun) an authorised mixed use of 'paddock' and residential to a purely residential use. (If the 2016 permission does not subsist then the change from the former 'paddock' use to a residential one is plainly material.)
18. Turning to the other elements of the allegation, whilst the reference to 'up to 11 mobile homes' may be factually correct (although a reference to caravans would be preferable) I do not find this numerical reference an essential element of the described use. As to the reference to 'private rented accommodation', the Council conceded at the hearing that the particular form of tenure was not relevant to the use of the land. They also agreed at the hearing that occupation under private tenancies was not inconsistent with the occupation of the site by Gypsies or Travellers, and that a different use was not being described. I shall (if upholding the notice) omit both these elements from the allegation.
19. Because of my findings about the materiality of the change arising from the cessation of the 'paddock' element, it is not necessary for me to consider in detail, for the purpose of the legal grounds of appeal, the effect of the conditions attaching to the 2016 permission. This is because, having agreed with the Council that a material change of use has taken place, it is not necessary to consider whether there has been a breach of any of the conditions

¹ *Whipperman v Barking LBC* [1965] 17 P&CR 755

² *Beach v SSETR & Runnymede BC* [2001] EWHC 381 (Admin)

attaching to that permission – because it does not apply to the use that I have found to subsist on the site.

20. It follows that I consider the notice to be capable of correction and to be valid. I also consider that a material change of use requiring planning permission, to a use consisting of a residential caravan site, has taken place. Thus the outcome of the legal grounds of appeal is that they fail.

Meaning and effect of the 2016 permission

21. The effect of the permission as a whole is however relevant to my considerations of the other grounds of appeal, because section 57(4) of the 1990 Act provides that where an enforcement notice has been issued in respect of any development of land, permission is not required for its use for the purpose for which it could lawfully have been used if that development had not been carried out. This means that, the Council having issued a notice, it is (unless perhaps the notice is quashed) open to the appellant to revert to what was authorised by that 2016 permission. Therefore it is necessary to determine what the 2016 permission did actually authorise; and, what restrictions applied to the mixed use for which I have found permission was conferred.
22. The appellant conceded at the hearing that the reference to the 'amount of accommodation' in condition 4 of the 2016 permission did have the effect of limiting the number of caravans permitted to be on the site. It was contended, and I agree, that the reference to the plans had effect only for the initial implementation of the permission, and thereafter the appellant was free to move the four permitted caravans anywhere within the site, given the mixed use of the single planning unit that was then permitted. No continuing control over the site layout was exerted by any condition.
23. I agree that the reasons for imposing a personal occupancy condition on the appellant and his dependants ('for the avoidance of doubt') are on the face of it impregnable. If reference is made to the committee report then that reveals that, on the officers' analysis, the application was considered to raise some conflicts with the development plan, but that the benefits were considered to be significant in terms of meeting overall need for Gypsy or Traveller pitches that was then unmet, and the family's particular requirements (although these received no detailed explanation in the report).
24. Thus, although it is difficult now to understand what they were, the personal circumstances of the appellant were attributed weight at the time in order to justify the permission that was then granted.
25. Although accepting that the case is not one where regard to extraneous documents (such as the committee report) is required because of ambiguities in the permission – in itself, it is not ambiguous, at least in this regard – I do not find that the 'personal occupancy' condition is invalid, as now contended for by the appellant. The appellant otherwise relies on the permission. Although on the face of it the reason given for the condition does not reveal a planning purpose, it is not unusual to find personal occupancy conditions attaching to planning permissions for residential uses in the open countryside and I do not find that the condition failed the *Newbury*³ tests.

³ *Newbury DC v SSE & Others* [1981] AC 578

The appeal on ground (a)

26. I turn then to the planning merits of the appeal, in the light of a fallback position that allows the appellant and his dependants to occupy the site in a maximum of four caravans with no continuing restriction as to their location within the site. It was suggested by the appellant that permitting four caravans on two pitches was inconsistent with the requirement that they be occupied by the appellant or his dependants, on the basis that usually one's dependants would occupy the same caravan in the same household. However, I do not consider this necessarily to be the case, and that it is possible for one's dependants to occupy a different pitch.

Locational sustainability

27. The Council's reasons for issuing the notice cited conflict with a number of "SS" policies of the development plan, which together effectively are designed to direct development to the Borough's most sustainable settlements and the aims for housing growth in the area. The expansion of the residential use on this site does not on the face of it achieve compliance with these policies. However, the issue between the parties concerns the extent to which they apply, or rather the extent to which other policies do not apply.
28. The Council, when issuing the notice, did not appear to have researched (except perhaps cursorily, reported in appeal documents amounting only to copies of tenancy agreements) the extent to which the site might be, or have been, developed to meet the needs of Gypsies or Travellers. Compared with the 'usual' bricks and mortar policy criteria, the site performs badly, and the appellant did not advance any arguments in its favour on such grounds. The Council has a very healthy housing land supply (of 8+ years) and there is no need for a site such as this to be developed in order to meet the housing needs of those who do not have any cultural aversion to bricks and mortar housing. Thus it would fail the policy criteria referred to in the notice, and particularly the first criterion of policy SS3 concerning rural developments, where the development must meet a proven local need as identified by substantive evidence.
29. Considering Gypsy and Traveller needs, however, the position is somewhat different: and the ground (a) appeal is pursued on the basis of providing accommodation to meet those needs.
30. Whilst policy C6, which is the local criteria-based policy for assessing proposals for Gypsy and Traveller accommodation, states that the needs assessment ('the GTAA') will be 'used as a basis for determining planning applications', the policy itself does not require any express demonstration or assessment of need. The policy is supportive of sites that (among other criteria, which are not in dispute) are well-related to local infrastructure and services of a nearby town or village, including safe and convenient access to the road network (criterion 4). The second of those issues will be considered below.
31. Although at the hearing the Council encouraged me to consider that there would be a conflict with the 'sustainability' criterion, they did not identify any real reasons for such an objection. The site is about a mile from the southern edge of Melton Mowbray and cannot seriously, in the context of a Traveller lifestyle, be considered 'remote' from the settlement, which is the borough's main settlement in which all services and facilities can be found. I find no

general conflict with the requirement to be located within reasonable proximity of local facilities, and the site's location is also supported by the criteria set out in paragraph 13 of the 2015 Planning Policy for Traveller Sites ('PPTS') document.

Effects on the highway network

32. The second element of criterion 4 of policy C6 requires safe and convenient access to the highway network, and here the local highway authority ('LHA') objects to the proposal.
33. Upon being consulted upon the 2016 application, the LHA recommended refusal because the applicant had failed to demonstrate that their proposal would be in a location where services are readily and safely accessible by walking, cycling and public transport. It is unclear from that consultation response whether the LHA had had regard to the Council's then-applicable criteria-based policy, H21, which was permissive of Gypsy and Traveller site developments provided that satisfactory access could be achieved, and provided that any permanent site would be well located to community facilities. The LHA's response did not expressly assess the proposal against those policy criteria, or make any reference to the then-extant PPTS. No objection on highway safety grounds were raised; it was purely a locational sustainability objection. Nonetheless the Council resolved otherwise and permission was granted, conditionally restricted to two pitches and four caravans although with no ongoing restriction as to their type (i.e. static caravans/mobile homes or touring caravans).
34. The Council has also since granted permission for a development of 30 houses part way along Sandy Lane, known as Sandy Lane Poultry Farm, some way nearer to the edge of the settlement. A Highway Statement produced in support of that proposal has been provided to me in the course of this appeal. That revealed that the traffic counts and speeds were low, with daily flows of around 50 in each direction along Sandy Lane and with 85th percentile speeds of around 35 mph. Occasional passing places are found on Sandy Lane, and even in summer there is generally good visibility along most parts of the Lane. The Poultry Farm permission will require the provision of further passing places to the north of that development.
35. The Council have consulted the LHA both on the present enforcement appeal proposal and on a planning application made in 2021 to 'vary' conditions attached to the 2016 permission so as to remove the personal occupancy condition and to increase the number of pitches to 10 and increase the number of caravans to 13 including no more than 10 static caravans. This is slightly more development than (if restricted by condition to what I observed on site) the present appeal proposal, which consists of a residential use of 10 static caravans on the site.
36. In relation to both proposals, the LHA has now introduced a highway objection other than on locational sustainability grounds. Why their view differs from that taken in relation to the (albeit more limited) proposal in 2016 is not explained, and nor are any relevant planning policies referred to in their objection to either proposal.
37. The nub of their objection is that there would be a significant increase in trips accessing the site specifically from vehicles which will most likely be large motor home style vehicles or vehicles towing caravans without the facility of

any passing bays along Sandy Lane. This may result in traffic having to reverse into passing bays and potentially result in mud and other debris being dragged into the highway.

38. The proposal to 'vary the conditions', the subject of the current planning application with the Council, proposes an increase in the potential number of touring caravans to three, from the two envisaged in 2016, and in relation to the present appeal proposal there are currently no touring caravans present on the site. The ten static caravans for which a residential permission is sought are already present on the site and hence would not need to be moved on in consequence of any grant of permission. Thus whilst accepting that there may be the periodic need to replace those static caravans, I consider that the prospects of moving mobile homes along Sandy Lane would be relatively rare.
39. The appellant confirmed at the hearing that the existing mobile homes were brought onto the site from the south. Whilst potentially a slightly longer journey to the site, depending on one's point of origin, this appeared the natural approach to take when travelling in, or towing, a large vehicle. The site lies relatively close to the southern end of Sandy Lane, it being approximately 0.2 miles from its junction with (what appears on a satellite navigation map as) Aerodrome Road which, whilst still relatively rural, amply accommodates two-way traffic, and which joins Dalby Road, the B6047, shortly to the west. Given the low traffic counts found in the Poultry Farm's Highway Statement, and the absence of any farm entrances south of the appeal site on Sandy Lane, I consider the risk of traffic having to reverse and cause consequential damage to the highway resulting from mud and debris would be slight.
40. The particular criterion of the policy requires that access to the highway network be 'safe and convenient'. The LHA do not ultimately contend that the proposal would be unsafe, although say (without elaboration) that vehicles having to reverse along Sandy Lane 'raises concerns' over highway safety. I accept that if vehicles do meet along the Lane then an impediment to the free flow of traffic is likely. Given the low traffic counts, low vehicle speeds, and largely ample visibility, however, I find that safety risks are unlikely. I saw little evidence of rutted verges and the like at my site visit, and heard no claims of any accidents or 'near misses' in the more than two years since the enforcement notice was issued.
41. Ultimately, given that the development has existed in its present form for over two years apparently without incident; that the number of permitted touring caravans stationed on the site is not due to increase; that the static caravans for which a residential permission is sought are already *in situ* and do not need moving onto the site, save in the case of replacement; and that the LHA had no such highway safety objections to the 2016 application, I find overall that the development accords with this element of policy C6 in providing access to the highway network that is neither unsafe nor unduly inconvenient.

Planning Balance and Conclusions

42. No personal circumstances were cited in favour of the site's development, which is sought to meet a general Gypsy and Traveller housing need. Given my findings above, and in the light of the existing residential permission for the site albeit with fewer anticipated occupiers, it follows that I consider the proposal to accord with the development plan for the area as it provides for

Gypsy and Traveller accommodation, and thus the personal circumstances of any of the site's occupiers are unnecessary to my considerations.

43. No material considerations of sufficient weight to indicate a decision otherwise than in accordance with the development plan have been drawn to my attention. It follows that a permission will be granted.

Conditions

44. A Statement of Common Ground was put before me at the hearing setting out several potential conditions to be applied. As I have found the development to be consistent with the development plan for the area as it applies to Gypsy and Traveller sites, a condition restricting the occupation of the site to persons who accord with that definition (found in Annexe 1 to the PPTS but extended to accommodate those who may have ceased to travel for certain reasons) is needed. However, no personal occupancy condition is required.
45. A condition limiting the number and type of caravans that may be stationed on the site is also required. In view of my findings as to the effects on the local highway network, I consider that the number of touring caravans that may be stationed on the site should be limited to the two envisaged at the time of the 2016 permission. Given my reasons above, it follows that any increase in that number should require a separate assessment. This is not inconsistent with the occupancy condition, because that allows for occupation by those who have ceased travelling and are thus not in need of a touring caravan. It also reflects the position as I observed it on site. Thus the condition will allow the stationing of not more than 10 caravans on the site, of which no more than two may be touring caravans. In fact, at present, there are none.
46. A condition requiring the provision of passing places along Sandy Lane was suggested; but there are no details provided and, as the LHA point out, the ability to achieve such a requirement has not been demonstrated. As I have found that, subject to the above condition concerning the caravan numbers and types, the development is unlikely to significantly increase the movement of large or towing vehicles, I do not consider this necessary in any event.
47. Other conditions concern the foul drainage arrangements, the prohibition of external lighting, and the retention of the site boundary treatments. On site I observed a considerable area of standing water and shall thus extend the requirements of that proposed condition to cover the surface water drainage arrangements. I agree that the proposed lighting condition is necessary in the interests of both ecology and the site's appearance in its countryside location. As to the site boundary treatments, I shall impose this as suggested but for a limited period of five years as regards the replacement of any failed specimens.
48. I shall also, consistently with the 2016 permission, impose a condition prohibiting the use of the site for any business or commercial activities, together with a weight limit condition commonly found in such consents. Additionally, at my site visit I observed that the surfacing of the entrance to the site was rather unsatisfactory, with gravel spilling onto the highway and with some pot holes in the site entrance. Accordingly I shall impose a condition requiring these details to be submitted for approval. There was no complaint that the relevant condition of the 2016 approval had not been met, but in view of the increased number of site occupants I consider that the surfacing of the entrance requires revisiting.

Concluding remarks

49. The Council are presently in receipt of an application to 'vary conditions' attached to the 2016 approval, and at the hearing sought my guidance about that. That is however a different application, although the Council will no doubt have regard to my findings in this decision that a material change of use from the one authorised by that 2016 permission has since taken place. As the permission I am granting is retrospective, the 2016 permission would appear to be spent, and now superseded by this one.
50. For the reasons given above I conclude that the appeal fails on the legal grounds raised, but that it should succeed on ground (a) and planning permission will be granted for the corrected allegation, subject to the conditions described above and set out in the Schedule below. It follows that I shall quash the notice and thus the remaining grounds of appeal (grounds (f) and (g)) do not fall to be considered.

Formal Decision

51. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of land at Sandy View, Sandy Lane, Melton Mowbray LE13 0DL as a residential caravan site and the associated installation of services, subject to the conditions set out in the Schedule of Conditions below.

Laura Renaudon

INSPECTOR

SCHEDULE OF CONDITIONS

- (1) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- (2) No more than ten caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended (of which no more than two shall be a touring caravan) shall be stationed on the land at any time.
- (3) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land and no commercial or business activities shall take place on the land.
- (4) There shall be no external lighting on the land other than in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority.
- (5) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 56 days of the date of the failure to meet any one of the requirements set out in (i) to (vi) below:
 - (i) Within three months of the date of this decision a scheme for the means of surface and foul water drainage shall be submitted to the Local Planning Authority for approval.
 - (ii) Within six months of the date of this decision those drainage measures shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the measures or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - (iii) Within one month of the date of approval of those drainage measures, they shall have been implemented and shall thereafter be adhered to for the lifetime of the development.
 - (iv) Within three months of the date of this decision a scheme for the surfacing of the vehicular access to the site shall be submitted to the Local Planning Authority for approval.
 - (v) Within six months of the date of this decision those vehicular access surfacing measures shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the measures or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

- (vi) Within one month of the date of approval of those surfacing measures, they shall have been implemented and shall thereafter be maintained for the lifetime of the development.
- (vii) If an appeal is made in pursuance of (ii) or (v) above, that appeal shall have been finally determined and the relevant drainage or surfacing measures shall have been approved by the Secretary of State.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedures set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- (6) The existing site boundary treatments shall be retained and maintained. Any loss of specimens within five years of this decision shall be replanted within the first planting season following the loss with plants of the same species as those lost.

APPEARANCES

For the appellant:

Philip Brown BA (Hons) MRTPI

Planning Agent

For the Council:

Richard Redford

Senior Planning Development Officer