



Appeal Decisions

Hearing Held on 18 April 2023

Site visit made on 18 April 2023

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28TH JULY 2023

Appeal A Ref: APP/P0240/W/20/3258835

Land adjacent to the north of Eversholt Beeches, Watling Street, Caddington, Dunstable LU6 3QP

- 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 Jim Price against the decision of Central Bedfordshire Council.
- The application Ref CB/19/04321/FULL, dated 15 December 2019, was refused by a notice dated 6 March 2020.
- The development proposed is described as change of use of land to use as a residential caravan site for two gypsy families with a total of 4 caravans, including one static caravan/mobile home, together with laying of hardstanding and erection of amenity building.

Summary Decision: The appeal is allowed and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B Ref: APP/P0240/C/21/3285140

Land adjacent to the north of Eversholt Beeches, Watling Street, Caddington, Dunstable LU6 3QP

- 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 Jim Price against an enforcement notice issued by Central Bedfordshire Council.
- The enforcement notice was issued on 21 September 2021.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of agricultural field to a residential caravan site, the stationing of a mobile home and two touring caravans and the associated siting of an amenity block.
- The requirements of the notice are:
 - (i) Cease using the Land as a residential caravan site, the stationing of a mobile home and two touring caravans and siting of amenity block;
 - (ii) Remove from the Land all caravans, mobile homes, amenity block and other items associated with the use of the Land.
- The period for compliance with the requirements is 12 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 as amended.

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.

Appeal C Ref: APP/P0240/C/21/3285147

Land adjacent to the north of Eversholt Beeches, Watling Street, Caddington, Dunstable LU6 3QP

- 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 Jim Price against an enforcement notice issued by Central Bedfordshire Council.
- The enforcement notice was issued on 21 September 2021.
- The breach of planning control as alleged in the notice is: Without planning permission, the creation of an area of hardstanding and the erection of a stable building used as a dayroom and storage.
- The requirements of the notice are: Removal of the hardstanding and stable building from the Land and restoration of the Land to its former condition.
- The period for compliance with the requirements is 12 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 as amended.

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. Since the Council issued its decision the subject of Appeal A, the Central Bedfordshire Plan 2015-2035 (LP) has been adopted (July 2021). The courts have established that Inspectors need to make their decisions on planning appeals on the basis of the development plan which is in place at the time of their decisions. Copies of the relevant policies have been provided as part of the appeal process and submissions made in the light of the adoption of the LP. The Council confirmed at the Hearing that the Area of Great Landscape Value referred to in their reasons for refusal was no longer relevant because this designation no longer appears in the LP.
2. During the appeal process and after statements had been submitted, the Court of Appeal¹ (CoA) found that the Planning Policy for Traveller Sites (PPTS) definition of Gypsies and Travellers was unlawfully discriminatory. The main parties were given the opportunity to comment on the implications of the judgement during the Hearing. The PPTS, which sets out the Government's policy for traveller sites remains extant, albeit some parts of it are affected by the judgment.
3. Since the Council issued the enforcement notices and its refusal of planning permission the subject of these appeals, Natural England has advised that evidence in the form of ecological research has identified rising recreational pressures on Chilterns Beechwoods Special Area of Natural Conservation (SAC). A 12.6km zone of influence has been identified and endorsed by Natural England which represents the core area surrounding that part of the SAC where significant effects on the SAC from net increases in development due to recreational impacts cannot be ruled out, triggering the need for an appropriate assessment. The appeal site lies within that zone of influence and the Council has recently published their Mitigation Strategy which sets out measures necessary to mitigate the impact of new residential development on

¹ Smith v SSLUHC & Ors [2022] EWCA Civ 1391

the conservation objectives of the SAC. I am duty bound to carry out an Appropriate Assessment (AA). However, adequate information was not available at the Hearing to enable me to undertake the AA and the appellant was provided with time to complete a Unilateral Undertaking to address mitigation. I will return to this matter later.

Appeal A

Main Issue

4. There is no dispute between the parties that the site is in the Green Belt and, in accordance with Policy E of the PPTS, the development the subject of this appeal is a form which constitutes inappropriate development in the Green Belt. Having regard to the evidence before me in respect of the location of the site and the type of development, I see no reason to disagree and conclude that the appeal relates to inappropriate development in the Green Belt.
5. The main issue is whether the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the caravan site, is clearly outweighed by other considerations to provide the very special circumstances necessary to justify the development.
6. The potential harms relate to the effect of the development on:
 - the openness and purposes of including land in the Green Belt;
 - the character and appearance of the area, designated as an Area of Outstanding Natural Beauty (AONB);
 - the integrity of the Chilterns Beechwoods Special Area of Conservation.
7. The carrying out of intentional unauthorised development is an additional matter.
8. Other considerations, potentially weighing in favour of the development, include the existing level of local provision and need for sites, the availability (or lack) of alternative accommodation for the families who occupy the site and their other personal circumstances, including the best interests of the child.
9. Integral to my decision-making will be exercising duties under the Human Rights Act 1998. Article 8, a Convention Right², affords a person the right to respect for their private and family life, their home and their correspondence. It is a qualified right that requires a balance between rights of the individual and the needs of the wider community. In applying Article 8 there is a positive obligation to facilitate the Gypsy way of life to the extent that the vulnerable position of Gypsies as a minority group means that some special considerations should be given to their needs and different lifestyle in the regulatory planning framework and in reaching decisions on particular cases. Under the Equality Act 2010 I will have due regard to the public sector equality duty (PSED).

Reasons

Openness and purposes

10. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are

² Article 8 of the European Convention on Human Rights, enshrined into UK law by the Human Rights Act 1998.

their openness and their permanence. It is also established case law that the openness of Green Belt has a spatial as well as a visual aspect. This means that absence of visual intrusion does not in itself mean that there is no impact on openness of the Green Belt as a result. But equally this does not mean that the openness of the Green Belt has no visual dimension.

11. Policy SP4 of the LP contains a general presumption against inappropriate development in the Green Belt and advises that development proposals within the Green Belt will be assessed in accordance with government guidance contained in the National Planning Policy Framework (the Framework) and National Planning Policy Guidance (NPPG).
12. I heard from the appellant at the Hearing that prior to him purchasing the site and occupying it, it had been used in part for fly tipping. However, an aerial image, dated 2017³ shows the site to be open grassland and free from development. It is that condition which is the baseline against which the impacts on the openness and purposes of the Green Belt should be assessed.
13. The site is enclosed by a close boarded fence to the west, north and east and there are entrance gates set back from Watling Street. To the south the site shares a residential boundary with Eversholt Beeches residential caravan site and bungalow. The site contains a timber stable converted to use as an amenity building, a large expanse of hardstanding, a static mobile home and three touring caravans. It is this development for which planning permission is sought.
14. Close views into the site and from Watling Street are restricted by the boundary fencing, entrance gates and the mature trees and hedgerows which bound it. In addition, views from the public footpaths which run to the north and south of the site (FP14 and FP15) are limited to the tops of the caravans which are viewed as part of the existing consolidated ribbon development that characterises this part of Watling Street. The development is thus not visually conspicuous.
15. However, the hardstanding, caravans and amenity block introduce a footprint and a form of bulk development onto the site where previously there was none. Considering the size of the site and number of static and touring vans proposed, a large proportion of the site remains open. There is therefore only a small loss of Green Belt openness in spatial terms and a degree of encroachment into the countryside. However, that is a matter which carries substantial weight against the development.

Character and appearance

16. The site lies within the Chilterns AONB. Policy EE7 of the LP, amongst other things, restricts development in the AONB to that which conserves and enhances its distinctive character. This accords with the Framework which requires that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which are included in those areas which have the highest status in relation to these attributes.
17. The site lies within Area 12B Ver Chalk Valley as identified in the Central Bedfordshire Landscape Character Assessment (LCA). It is centred on Watling Street and bounded to the east by Area 11B Caddington – Slip End Chalk

³ Council's Statement of Case, Appendix 5.

Dipslope, and to the west by Area 11A Whipsnade Chalk Dipslope. The LCA notes that in this location development is dispersed along Watling Street and comprises a mix of uses creating an urban-fringe edge to Dunstable. Furthermore, the LCA advises that the strategy for the Ver Chalk Valley is to enhance the condition of the landscape and renew elements of the landscape that have been lost in order to strengthen the character overall. Consequently, the LCA guidelines for new development is to ensure that new development respects the rural location, for example in terms of boundary treatment, security measures, roadside access and tree planting and the open views across the undeveloped sloping valley sides are conserved. Furthermore, Policy EE5 of the LP requires all development to respect, retain and enhance the character and distinctiveness of the local landscape.

18. The PPTS does not discount suitable sites in rural areas and the countryside, and it is accepted that such uses may have consequences in respect of visual impact and a degree of visual harm. In addition, the PPTS allows weight to be attached to soft landscaping that positively enhances the environment.
19. As set out in the first main issue, the site is well screened by mature hedgerows/tree planting. Close views from the roadside and pavement are limited to when the gates are open, and the site itself is not visually conspicuous from more distant views travelling south from Dunstable on Watling Street and when traversing the public footpaths nearby. The site shares a boundary with an existing authorised gypsy site which itself adjoins other commercial uses and caravan sites. As a whole, there is currently an extensive area of development on this part of Watling Street which dominates local views. Consequently, I agree with the appellant that the site is seen in the context of the existing neighbouring development and that views of it are largely seen against the backdrop of existing development to the south and/or rising land to the east. Moreover, I concur with the previous Inspector's finding⁴ that considering the limited site frontage contained by mature hedgerows, relative to the substantial undeveloped frontage and swathe of open countryside between the appeal site and Dunstable, the development does not have a material effect in terms of extending ribbon development. In addition, unlike the more recently refused development at Jockey Farm⁵, the development in this case does not encroach onto the upper slopes of the valley, the open character of which would not be harmed.
20. I appreciate that the development which has taken place, and now proposed, includes an amenity building which did not form part of the previous Inspector's considerations. In addition, the area of hardstanding laid is slightly larger than permitted under the temporary consent, and this facilitates access to Watling Street in the location where the refuse bins are stored. However, the amenity building is a timber stable which has been converted and as such its design and appearance is not uncharacteristic in a rural location.
21. The Council accept that given the size of the site, which includes large areas which would remain undeveloped, there is scope to enhance the landscape with additional planting. Hedgerow planting could be reinforced, and trees planted to complement the neighbouring woodland areas which are an identified landscape feature of this part of the AONB. Consequently, although there would be some encroachment into the countryside and loss of pasture to

⁴ APP/P0240/W/17/3167872

⁵ APP/P0240/C/20/3248824, APP/P0240/C/20/3248828 & APP/P0240W/20/3254578

hardstanding on the site, this could be mitigated and enhanced by additional landscaping.

22. I conclude that the development, with a condition to secure landscape enhancements, would conserve and enhance the character and appearance of the landscape and AONB. It would thus comply with Policies DP1 and DP2 of the Chilterns AONB Management Plan 2019-2024 which seek to protect the scenic beauty and landscape character of the AONB. There would also be no conflict with the development plan, including landscape Policies EE5 and EE7 of the LP the aims of which are set out above and Policies H7 and HQ1 of the LP which require, respectively, the character and appearance of the wider landscape not to be detrimentally affected by gypsy and traveller sites, and all development to respond positively to its context. Furthermore, there would be no conflict with the statutory purposes of the AONB nor paragraphs 174 and 176 of the Framework which seek to protect and enhance valued landscapes.

Chilterns Beechwoods SAC

23. The SAC is the most extensive area of native beech woodland in England and is an important conservation site due to the habitats it provides and species which are present. By reason of the international designation, the SAC is afforded the highest protection through UK legislation and Government policy⁶.
24. The conservation objective for the SAC is to ensure the integrity of the site is maintained or restored as appropriate and to ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features. These features are Beech Forests on neutral to rich soils, dry grasslands and scrublands on chalk or limestone and Stag Beetle. The SAC is made up of nine separate sites scattered across the Chilterns, including Ashridge Commons and Woods Site of Special Scientific Interest (SSSI).
25. Natural England has advised, in summary, that recreational pressures should not be considered an impediment to a favourable determination of the planning appeal provided that the proposed development is coming forward in accordance with the Council's Mitigation Strategy and secured with a planning obligation⁷.

Habitats Regulations Assessment

26. The appeal site is within the 12.6km zone of influence around Ashridge Commons and Woods SSSI which has been established through research and visitor surveys. Recreational pressures have long been a concern, and the evidence indicates that public access and disturbance can have an impact on the conservation interest of the site, including damage from trampling, soil compactions and erosion, contamination, e.g. litter and dog fouling, increased incidence/risk of fire and other impacts.
27. The Habitats Regulations, as amended, requires that where any proposal is likely to have a significant effect on a European site either alone or in combination with other plans or projects, an AA is necessary to establish whether there would be adverse effects on the integrity of the features of the

⁶ The Conservation of Habitats and Species Regulations 2017, as amended ('the Habitats Regulations') set out the provisions and procedures which must be followed to assess the implications of plan and projects on European sites (Regulations 63 and 64)

⁷ Natural England, Planning Consultation Response, dated 6 June 2023.

European site and if there are, whether they could be modified through mitigation. Circular 06/2005 sets out that the decision on whether an AA is necessary should be made on a precautionary basis.

28. I have had regard to the research carried out in 2021 by Footprint Ecology on the impacts of recreational and urban growth at Chilterns Beechwoods SAC, their evidence base⁸ and Chilterns Beechwoods SAC Mitigation Strategy for Ashridge Commons and Woods Site of Special Scientific Interest which was adopted by the Council in February 2023 (MS). The proposed use of the small site alone probably would not affect the integrity of the European site, but it would contribute to a cumulative adverse impact together with other plans and projects. The MS promotes a regime of financial contributions towards the maintenance, improvement, management, access management and monitoring of the European Site to mitigate the recreational impact of the Development on the European Site (SAMB) and towards the provision of Suitable Alternative Natural Green Space within the Borough (SANG). I consider the provision of a financial contribution towards strategic mitigation measures enables it to be ascertained that the proposal would not adversely affect the integrity of the SAC protected under Habitats Regulations.
29. In accordance with the MS, the appellant has submitted a planning obligation, in the form of a unilateral undertaking ('UU'). This UU secures the aforementioned financial contributions. The provisions of the UU are necessary to make the development acceptable in planning terms, they are directly related to the development and fairly and reasonably related in scale and kind to the development. The UU meets the relevant tests, and the planning obligation is a material consideration which satisfactorily mitigates harm in this case.
30. For these reasons, the proposal accords with Policy EE3 of the LP, which seeks to protect, maintain and enhance habitats and protected species, including sites of international, national and local importance including the SAC. The development also complies with the Habitat Regulations.

Other Material Considerations

Intentional Unauthorised Development

31. The Council contends that although temporary consent was granted for the residential caravan site, the appellant has also extended the amount of hardstanding permitted by that consent and built an amenity building which is unauthorised. This is not disputed by the appellant and constitutes Intentional Unauthorised Development (IUD).
32. 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. It places particular emphasis on IUD in the Green Belt.
33. The amenity building and hardstanding were developed along with the pitches when the site was developed, following the grant of a temporary consent in

⁸ Panter. C, Liley. D, Lake. S, Saunders. P & Caals. Z, March 2022, Visitor Survey, recreation impact assessment and mitigation requirements for the Chilterns Beechwoods SAC and the Dacorum Local Plan.

2017/18. Although the appellant clearly has some awareness of the need to gain planning permission for development, given his previous application for development on the site, I understand that he had not anticipated the need for an amenity building at the outset.

34. I am mindful that the additional hardstanding and amenity building, which is a converted timber stable, can be easily removed. Part of the underlying reason for seeking to deter IUD is to avoid prejudicing the opportunity to mitigate the impact of the development through the use of planning conditions. In this case an application for planning permission has been made and an opportunity is provided to impose conditions to mitigate the development. I am also mindful that the 1990 Act as amended makes provision for a grant of retrospective planning permission, and planning enforcement is remedial rather than punitive. In the light of these provisions, I attach a small amount of weight to the intentional unauthorised nature of the development.

Need for/supply of gypsy and traveller sites

35. There is a generally accepted national need for more traveller sites. The Framework expects that the housing needs for different groups in the community should be reflected in planning policies. The PPTS, which is itself a material consideration, makes it clear that a relevant matter in the consideration of planning applications for traveller sites is the existing level of local provision and need for sites. More specifically, local planning authorities should identify and update annually a supply of deliverable sites sufficient to provide 5 years' worth of sites against their local set targets.
36. At the Hearing there was some discussion around the issue of need for Gypsy and Traveller sites within the district. The Gypsy and Traveller Accommodation Assessment (GTAA) was commissioned by the Council and published in August 2016 to provide evidence to support their emerging LP. The LP has subsequently been adopted (July 2021). The GTAA identified a need for 23 pitches for the period 2015-2035 based on the PPTS (2015) Annex 1 definition of a Gypsy and Traveller. However, in view of the Council's monitoring data at that time, which showed that this number of pitches had already been exceeded, and a 5 year supply could be maintained over the plan period, no new pitches were allocated in the adopted LP and this was confirmed in LP Policy SP8. However, as required by the PPTS, Policy H7 of the LP sets out the criteria which the Council will use to assess windfall planning applications for Gypsy and Traveller sites along with other relevant policies in the LP.
37. At the Hearing the Council advised that since the start of the LP 47 pitches, that would meet the Annex 1, PPTS definition for a Gypsy and Traveller, have been granted planning permission. 39 of those pitches have been implemented or remain extant, and 8 have lapsed. In addition, there have been grants of planning permission for a further 23 pitches that would not meet the PPTS definition and a resolution to grant a further 25 additional pitches on existing sites at Greenacres/The Stables, Little Billington. It is the Council's case that considering the extant PPTS guidance, they have met their identified need for Gypsy and Traveller sites and have a 5 year supply of deliverable sites to accommodate growth.
38. On the other hand, the appellant disputes the Council's evidence. He argues that the GTAA is now seven years old and there is not therefore an up to date understanding of need. Furthermore, considering the high number of absent

occupiers (58% of Gypsies were not interviewed), and taking into account the needs of the households who do not meet the PPTS definition, disputed figures used for household formation rates, and no account for concealed adults, the appellant considers that there is at least a shortfall of 51 pitches for the years 2016-2028 and a substantial unmet need for Gypsy and Traveller sites within the Borough.

39. Mr Jarman of Opinion Research Services Limited (ORS) responded in writing and at the Hearing to the appellant's concerns over the methodology used in the preparation of the GTAA and how those identified as 'unknown' are provided for. His evidence included extracts from various appeal decisions and Inspector's Reports in relation to Local Plan Examinations to demonstrate that many Inspectors have been satisfied that the ORS GTAA methodology is sound and robust. In addition, my attention was again drawn to the appeal decision for a nearby site, Jockey Farm, where in February 2022 the Inspector concluded that on the basis of the information before her, the Council can demonstrate an up to date 5 year supply of deliverable Gypsy and Traveller sites.
40. Mr Jarman stated at the Hearing that he did not dispute the appellant's analysis that 138 new pitches would be required to meet the needs of all Gypsy and Travellers⁹ for the period of 2016-2028, with a current consequent shortfall of some 51 pitches. However, whilst he recognised that the CoA judgment suggests that it is not lawful to distinguish between those who have temporarily or permanently ceased travelling, Mr Jarman contends that until Central Government change their policy, it is difficult to know which Gypsy and Travellers would be captured by the CoA judgement. As the PPTS remains extant, it is his opinion that the Council can demonstrate a 5 year supply of deliverable Gypsy and Traveller sites.
41. Paragraph 7 b) of the PPTS states that local planning authorities should prepare and maintain an up-to-date understanding of the likely accommodation needs of their areas over the life span of the development plan. However, the GTAA which is now seven years old, has not been updated. The Council indicated at the Hearing that although it is their intention to commission an updated GTAA, this has not been progressed.
42. The GTAA was undertaken shortly after the 2015 PPTS change to the definition of Gypsy and Travellers for planning purposes. Based on the 2015 PPTS definition, the 2016 GTAA reduced the Gypsy and Traveller need within Central Bedfordshire by 48% compared to that identified in the December 2014 GTAA. It is also relevant that the needs of 146 households were not assessed, either because they refused or were unavailable for interview. A recent Inspector's decision¹⁰, determined since the CoA judgement, considered that it would be a reasonable objective having regard to paragraph 62 of the Framework to meet the total need of all Gypsy and Travellers.
43. I appreciate that the ORS GTAA methodology seeks to address the need arising from undetermined households, and that methodology has been endorsed by Planning Inspectors when undertaking Local Plan Examinations¹¹. However, with such a large percentage of households identified as 'Unknown' or not

⁹ my emphasis

¹⁰ APP/Z3635/W/22/3292634

¹¹ Paras 34-37 ORS Statement of Case.

meeting the 2015 PPTS definition, which the CoA has now found to be discriminatory, whilst also considering the age of the GTAA, these factors cast doubt on the Council's ability to meet the accommodation needs of all Gypsy and Travellers within Central Bedfordshire. To that extent there is probably an underestimate of need. Having regard to the aforementioned considerations, I am unable to conclude that the Council has a 5 year supply of specific deliverable sites.

44. In addition to general need, the availability (or lack) of alternative accommodation for the current occupiers is a relevant consideration, as indicated by the PPTS. The Council was not able to suggest alternative, acceptable, affordable and available site(s) for the occupiers to move to if their appeal is not successful. There is no obligation on a local authority to provide a site. However, the probability is that finding suitable alternative pitches would be very difficult, bearing in mind the site search undertaken by the Council as part of the local plan process, the extent of the Green Belt in the District, the wider shortfall in traveller site provision, the high number of people on the waiting list for the Council's sites, and the particular needs of the current occupiers. In addition, I am mindful that when temporary planning permission for this site was granted in 2017¹², the Council had advised that there was a clear intention to allocate new Gypsy and Traveller sites through the plan-making process. The LP is now adopted and no new sites were allocated.
45. Consequently, in view of the requirements of the Notice the subject of Appeal B, the families would be likely to have to relocate to the roadside. This would make access to education and health services more difficult for those families. It is also not in the public interest to have families living on the road with no access to drainage or facilities to store waste etc.
46. This lack of suitable alternative sites and unmet need for all Gypsy and Travellers provide substantial weight in support of the development.

Personal Circumstances

47. The site comprises two pitches. The first is occupied by Mr Jim Price, his wife, mother-in-law and four children, including his eldest daughter who is now 18. Mr Price's sister and her husband Samson Price occupy the second pitch with their four young children. Mr Jim Price and his sister had previously lived with their parents and other family members at Eversholt Beeches which adjoins the appeal site. However, since they are no longer dependants, their occupation of Eversholt Beeches is no longer permitted under the terms of the planning permission granted for that site.
48. The development thus allows for the expansion of neighbouring Eversholt Beeches caravan site to accommodate a growing and close family group allowing a degree of mutual support and co-operation which is acknowledged as of importance to the Gypsy and Traveller community. Eversholt Beeches has been the family home for some 30 years. The appeal site will provide a stable base from which the families can support each other and access essential services such as schools and healthcare. This is particularly important in this case given the eldest daughter of the appellant needs to attend regular hospital appointments.

¹² APP/P0240/W/17/3167872

49. Three of the children on the site attend the local school and the two eldest are home schooled. It is anticipated that as the youngest two children reach school age, they will also attend the local schools in Caddington. It is accepted that it is important that the children of school age need a settled base to access full-time education and that is also essential for continuity of health care provision for the family.
50. The personal circumstances of the appellant have changed since temporary consent was granted in 2017, with two further children and an elderly relative also now occupying the site. It is established case law that the best interests of the children are a primary consideration. A settled base rather than a predominantly road-side existence is clearly in the best interests of the seven children who occupy the site and provide substantial weight in support of the development.

Other Matters

51. The PPTS advises that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Policy H7 of the LP advises that in assessing sites for Gypsies and Travellers, including extensions to existing sites, consideration shall be had to adequate schools, shops, health care and other community facilities being within reasonable travelling distance. Although not a reason for refusal, the Council consider that the site is remote from such facilities and occupiers of the site are therefore reliant on the private car. I accept that the site is in the open countryside where new development is not allocated, and the nature of Watling Street is such that there are limited opportunities for walking or cycling to the nearest settlement of Dunstable, approximately 2.8km to the north of the site. However, I was told at the Hearing that shops and other facilities in Dunstable are accessible by a regular bus service and there is a bus stop outside of the site. Furthermore, the children who attend school in Caddington are collected by a school bus. There are therefore adequate shops, schools and other facilities within a reasonable travelling distance, and I find no conflict with Policy H7 of the LP in this regard.
52. I have had regard to the permissions and other appeal decisions which have been drawn to my attention by the Council and included in the appendices to their Statement of Case. Many of those relate to the planning history of neighbouring sites on this part of Watling Street and date back to the early 1990s. However, I have made my decision based on the circumstances of this case, which is a different site, where the occupiers have different personal circumstances and taking account of the current relevant policy considerations.

Planning Balance

53. The harm to the Green Belt by reason of inappropriateness and a small loss of openness and encroachment into the countryside has substantial weight. The matter of intentional unauthorised development has a small degree of weight. The effect on the wider landscape character of the area and AONB and the SAC are neutral in the balance.
54. In support of the development, the outstanding level of need in the District for all Gypsy and Travellers and lack of available alternative accommodation has

substantial weight, and the personal circumstances and their need for pitches have substantial weight.

55. Substantial weight should be afforded to Green Belt harm, and I have had regard to paragraph 16 of the PPTS which states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. However, in my judgement, the circumstances of this case are such that the harm to the Green Belt and other identified harm would be clearly outweighed by the combination of other considerations which weigh in favour of the development and because the level of harm is towards the bottom of the scale. Those considerations provide the very special circumstances necessary to justify the development. My finding on very special circumstances is made without the need to have regard to the local planning authority's 5 year supply position. I conclude that there would be no conflict with the Framework, nor with Policy SP4 of the LP.

Conditions

56. The Council provided draft planning conditions which were discussed at the Hearing. I have considered the conditions in the light of the advice within the Framework and PPG and I have also taken the views of the parties into account.
57. The personal circumstances of the occupiers are of particular importance in the balance in favour of a permission and so a personal condition is appropriate rather than a requirement that the caravan site shall only be occupied by gypsies and travellers.
58. The development is acceptable whilst it is being occupied by those specified in the permission. A requirement for the use to cease at the end of their occupation and restoration of the land is therefore also necessary.
59. The approved land use is a caravan site and so it is necessary to control the number and type of caravans and to specify two pitches to preclude sub-division. It is also necessary to specify the approved plans. Such restrictions provide certainty and safeguard the appearance and openness of the site and preclude increased intensity of use.
60. In the interests of the appearance of the site, it is necessary to require the submission and approval of a site development scheme to include soft landscaping enhancements, which should include the retention of all existing boundary hedging, trees and additional planting and also to control all external lighting and security cameras. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter. The condition therefore provides for the loss of the effective benefit of the grant of planning permission where the detailed matters in question are not submitted for approval during the time set by the condition, approved (either by the local planning authority ("LPA") or by the Secretary of State on appeal), and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the planning permission falls away.

61. In the interests of the appearance of the site, it is also necessary to control any further fencing, means of enclosure, buildings, and to prevent the stationing and storage of vehicles over 3.5 tonnes.
62. It is not necessary to impose a condition in relation to drainage as the site currently has a sewage treatment plant in operation.

Conclusion

63. For the reasons given above, I conclude that Appeal A should succeed and planning permission is granted subject to conditions set out in the formal decision below.

Enforcement Notice (Appeal B)

64. The breach of planning control alleged is described as the material change of use of agricultural field to a residential caravan site, the stationing of a mobile home and two touring caravans and the associated siting of an amenity block. There are currently four caravans on the Land, including one static caravan/mobile home, and planning permission is sought by the appellant for those four caravans (Appeal A). The unauthorised development is the use of the Land as a residential caravan site. Consequently, the breach of control does not need to refer to the number of caravans which are stationed on the land, this is a matter that should be controlled by a condition on a grant of planning permission. I shall correct the notice to remove reference to the stationing of a mobile home and two touring caravans and in doing so there would be no injustice to either party as the purpose of the notice would not be changed.

Appeal B and C on ground (a), deemed planning applications

65. The description of the development in a deemed planning application is derived directly from the wording of the breach of planning control. In the case of Appeal B, the development, as corrected, is the material change of use of agricultural field to a residential caravan site and the associated siting of an amenity block. In the case of Appeal C, the development is the creation of an area of hardstanding and the erection of a stable building used as a dayroom and storage. It is evident that the operational development alleged and the subject of Appeal C, is development carried out solely to facilitate the material change of use of the site to a residential caravan site. Furthermore, the amenity building alleged in Appeal B is the same "stable building" alleged as operational development in Appeal C.
66. The main issue in both Appeal B and Appeal C is whether the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the caravan site and associated development, is clearly outweighed by other considerations to provide the very special circumstances necessary to justify the development. That said, considering the description of the development the subject of the retrospective planning application the subject of Appeal A, there is no dispute that the unauthorised development enforced against is cumulatively the same development for which planning permission has been sought in Appeal A. For that reason, I adopt my reasoning on Appeal A and conclude that the other considerations set out in Appeal A provide the very special circumstances necessary to justify the unauthorised development.

Furthermore, for those reasons set out in Appeal A, I find there to be no conflict with the development plan when considered as a whole.

Conditions, Appeal B

67. As set out above, the development the subject of Appeal B is for the material change of use of the Land to a residential caravan site, the same use for which I have granted planning permission on the Land in Appeal A. For the same reasons set out in paragraphs 54-59 above, it is also necessary for those conditions to be imposed in this appeal. In addition, it is necessary in the interests of the appearance of the site for details of the siting of the caravans and amenity building to be provided and agreed within the site development scheme.

Conditions, Appeal C

68. I appreciate that it is unusual to require operational development to be removed once it has been granted consent. However, in this case there is no dispute that the hardstanding created and stable/amenity building erected were constructed solely to facilitate the use of the Land as a residential caravan site. The change of use of Land was granted as a personal permission and is only acceptable whilst it is being occupied by those specified in the permission. Therefore, it is necessary to impose a condition to require the operational development that facilitated the use to be removed and the land restored once that use by those specified in the permission has ceased.

Conclusions

Appeal B

69. For the reasons given above, I conclude that Appeal B should succeed on ground (a). I shall grant planning permission for the material change of use of agricultural field to a residential caravan site and the associated siting of an amenity block as described in the notice. The appeal on ground (g) does not fall to be considered.

Appeal C

70. For the reasons given above, I conclude that Appeal C should succeed on ground (a). I shall grant planning permission for the creation of an area of hardstanding and the erection of a stable building used as a dayroom and storage as described in the notice. The appeal on ground (g) does not fall to be considered.

Decision on Appeal A

71. The appeal is allowed and planning permission is granted for the material change of use of land to use as a residential caravan site for two gypsy families with a total of 4 caravans, including one static caravan/mobile home, together with laying of hardstanding and erection of amenity building at Land adjacent to the north of Eversholt Beeches, Watling Street, Caddington, Dunstable LU6 3QP in accordance with the terms of the application, Ref CB/19/04321/FULL, dated 15 December 2019, and the plans submitted with it, subject to the conditions set out in the Schedule below.

Decision on Appeal B

72. It is directed that the enforcement notice be corrected by:

- Deletion of the wording below the heading to paragraph 3 and the substitution of the wording "Without planning permission, the material change of use of agricultural field to a residential caravan site and the associated siting of an amenity block."
- Deletion of the wording in paragraph 5 (i) and the substitution of the wording "Cease using the Land as a residential caravan site and siting of amenity block."

73. Subject to these corrections the appeal is allowed, and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the material change of use of agricultural field to a residential caravan site and the associated siting of an amenity block on the Land adjacent to the north of Eversholt Beeches, Watling Street, Caddington, Dunstable LU6 3QP, as shown edged red on the plan attached to the enforcement notice, subject to the conditions set out in the Schedule below.

Decision on Appeal C

74. The appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the creation of an area of hardstanding and the erection of a stable building used as a dayroom and storage on Land adjacent to the north of Eversholt Beeches, Watling Street, Caddington, Dunstable LU6 3QP, as shown edged red on the plan attached to the enforcement notice, subject to the following condition:

- 1) When the use of the hardstanding for the stationing of caravans and the amenity building ceases, the hardstanding and amenity building, including all waste materials and debris shall be removed from the land, and the land restored to its condition before the development took place.

Schedule of Conditions (Appeal A)

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Scale 1:1250; Site Layout Plan, Scale 1:500 and associated Key; and plans of Amenity Building, Wheelie Bin Enclosure for Two Bins, Post & Rail Fence, and Close Boarded Fence, all stamp dated 27 December 2019.
- 2) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Mr Jim Price, Emma Price, Mr Samson Price and Ashley Price.
- 3) When the land ceases to be occupied by those named in condition 2 above, the use hereby permitted shall cease and all caravans, buildings, structures, hardstanding, materials and equipment brought on to the land, or works undertaken to it in connection with the use, shall be removed and the land restored to its condition before the development took place.

- 4) There shall be no more than two pitches on the site and on each of the pitches hereby approved no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended shall be stationed at any time, of which no more than one shall be a static caravan/mobile home.
 - 5) The use hereby permitted shall cease and all caravans, structures, buildings, hardstanding, equipment, materials brought onto the land for the purposes of the use shall be removed within 60 days of the date of failure to meeting any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a site development scheme (hereafter referred to as the scheme) to include:
 - a) A soft landscaping scheme, including species, plant sizes, proposed numbers and densities and a landscape maintenance plan; and
 - b) proposed and existing external lighting and security cameras on the boundary and within the site;shall have been submitted for the written approval of the Local Planning Authority and shall include a timetable for its implementation.
 - ii) Within 11 months of the date of this decision the scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the scheme 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) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable and shall thereafter be maintained for the duration of the use of the site and development.
- In the event of a legal challenge to this decision, or a decision made pursuant to the procedure 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) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no building or structures, walls, fences or other means of enclosure other than those shown on the approved plans shall be erected on the site.
 - 7) No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.

End of Schedule

Schedule of Conditions (Appeal B)

- 1) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Mr Jim Price, Emma Price, Mr Samson Price and Ashley Price.
- 2) When the land ceases to be occupied by those named in condition 2 above, the use hereby permitted shall cease and all caravans, buildings, structures, hardstanding, materials and equipment brought on to the land, or works undertaken to it in connection with the use, shall be removed and the land restored to its condition before the development took place.
- 3) There shall be no more than two pitches on the site and on each of the pitches hereby approved no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended shall be stationed at any time, of which no more than one shall be a static caravan/mobile home.
- 4) The use hereby permitted shall cease and all caravans, structures, buildings, hardstanding, equipment, materials brought onto the land for the purposes of the use shall be removed within 60 days of the date of failure to meeting any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a site development scheme (hereafter referred to as the scheme) to include:
 - a) A soft landscaping scheme, including species, plant sizes, proposed numbers and densities and a landscape maintenance plan;
 - b) Details of the siting of the caravans and amenity building; and
 - c) proposed and existing external lighting and security cameras on the boundary and within the site;shall have been submitted for the written approval of the Local Planning Authority and shall include a timetable for its implementation.
 - ii) Within 11 months of the date of this decision the scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the scheme 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) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable and shall thereafter be maintained for the duration of the use of the site and development.

In the event of a legal challenge to this decision, or a decision made pursuant to the procedure 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.

- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no building or structures walls, fences or other means of enclosure other than those shown on the approved plans shall be erected on the site.

- 6) No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.

End of Schedule

Elizabeth Pleasant

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Philip Brown BA (Hons) MRTPI	Philip Brown Associates Ltd
Mr Jim Price	Appellant
Mr Oram Price	Appellant's Father

FOR THE LOCAL PLANNING AUTHORITY:

Mr Phillip Hughes BA (Hons) MRTPI, Dip Man, MCMI	Representing the Council
Mr Steve Jarman	Opinion Research Services Ltd
Miss Luran Rance	Central Bedfordshire Council
Mr David Hale	Central Bedfordshire Council

DOCUMENTS

1. Signed and Completed Statement of Common Ground, dated 18 April, 2023

Submitted to the Hearing by the Appellant

2. Plan of Amenity Building, dated 19 December 2019.
3. Appeal Decision – 1 Minerva Close, Horton Road, Stanwell Moor, Staines-upon-Thames (Appeal Ref: APP/Z3635/W/22/3292634).
4. Appeal Decisions – Sunset Park Homes, Whitfield, Brackley (Appeal Ref: APP/J0405/W/22/3295746 with linked others, dated 23 December 2023).
5. Draft Unilateral Undertaking.

Submitted after the Hearing by the Appellant

6. Signed Unilateral Undertaking