



Appeal Decisions

Hearing Held on 25 October 2023

Site visit made on 25 October 2023

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13 November 2023

Appeal Ref: APP/W3005/C/23/3321017 ('Appeal A')

Land adjacent to Woodend Public House, Chesterfield Road, Huthwaite NG17 2QL

- 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 Arram Price against an enforcement notice issued by Ashfield District Council.
- The enforcement notice was issued on 31 March 2023.
- The breach of planning control as alleged in the notice is *Without planning permission, the material change of use of the Land from agricultural use to residential use.*
- The requirements of the notice are to:
 - (i) Cease the unauthorised use of the Land for residential purposes;
 - (ii) Remove the unauthorised buildings from the Land;
 - (iii) Remove the unauthorised close boarded timber fencing and post and rail timber fencing from the Land;
 - (iv) Remove the unauthorised hardstanding from the Land; and
 - (v) Remove all the caravans, vehicles, domestic structures and domestic paraphernalia from the Land.
- The period for compliance with the requirements is three 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 ('the 1990 Act').

Summary Decision: the appeal is dismissed and the notice is upheld (but, pursuant to Appeal B, is subject to the provisions of section 180 of the 1990 Act).

Appeal Ref: APP/W3005/W/23/3320752 ('Appeal B')

Land adjacent to Woodend Public House, Chesterfield Road, Huthwaite NG17 2QL

- 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 Ian Cox against the decision of Ashfield District Council.
- The application Ref V/2022/0391, dated 14 May 2022, was refused by notice dated 16 January 2023.
- The development proposed is the change of use from paddock to residential for static caravans and associated parking of touring and domestic vehicles for use by one family group, plus utility blocks.

Summary Decision: the appeal is allowed and conditional planning permission is granted.

Preliminary Matters

Notifications and consultation

1. Several people were served with the enforcement notice who were not subsequently notified of the appeal or of the hearing date, contrary to the

requirements of the relevant procedure rules. It was confirmed on behalf of the appellants that all other occupants of the site had been made aware of the proceedings. As to those others served with the notice, it appeared that they were former owners of the land no longer having an interest in it.

2. One letter of representation had been received in relation to the planning application (Appeal B) from a former owner contending that the land had been developed in breach of a condition of the sale contract, thus entitling the former owner to compensation. Whilst the sender of this letter had not been notified of the appeal proceedings, the representation did not appear to me to raise any material planning considerations. Therefore any prejudice arising from the lack of notification was unlikely to arise and I proceeded with the hearing.

The notice

3. The notice alleges a material change of use, and as well as requiring that use to cease it requires the removal of various 'unauthorised' buildings, fences and hardstanding from the land. I expressed some concern that it might not be obvious to the recipient of the notice what had to go. The appellants accepted that, prior to the development taking place, there were no buildings or hardstanding present on the site, and thus all buildings or hardstanding would have to be removed. As to the fencing, the Council conceded that a roadside boundary fence up to 1m in height was not intended to be caught by the notice. The appellants accepted that the notice was capable of correction and/or variation if necessary.

Differences between the appeal schemes

4. The parties agreed that what I witnessed on site was broadly the same as when the notice was issued; the Council contending that any additional development since would be subject to the notice's requirements and hence the deemed planning application in Appeal A is for what I saw on the site. The main difference between that and Appeal B is that the present development consists of some buildings on the site in different locations from the utility blocks proposed in Appeal B.

Main Issues

5. The main issues in the appeals arise from the Council's reasons for refusing planning permission and for issuing the enforcement notice. The principal issue is the effect of the development on the character and appearance of the countryside.
6. Other matters for consideration include the need for Gypsy and Traveller sites in the area, whether all or any of the occupants of the site are Gypsies or Travellers, and the suitability and availability of any alternative sites. In the event that conflict with the development plan is found, it may also be necessary to consider any personal circumstances put forward by the appellants to justify any grant of planning permission.
7. Other aspects of alleged harm arise from the Council's case, and I issued a pre-hearing note indicating that I wished to understand these. First, whether a case is being pursued in relation to the effect of the development on heritage assets. Secondly whether any impacts on the living conditions of neighbours, potentially arising out of associated commercial uses of the land, could be

avoided or mitigated through the imposition of planning conditions. Thirdly, the Council's second reason for refusing planning permission cited no development plan (or national) policies but raised issues of sustainability and proximity to nature sites.

8. The Council confirmed at the hearing that they wished to pursue a case in relation to the sustainability of the development, a matter arising under the local policy HG9 concerning the suitability of sites. The Council also confirmed their pursuit of the issues of the effects of the development on heritage assets, and in relation to adverse impacts on nature conservation interests. These were matters upon which the Council did not pursue a positive case of harm but of lack of sufficient information to enable them to conclude otherwise. It was conceded that impacts on the living conditions of neighbouring occupiers was a matter that could be satisfactorily dealt with by imposing planning conditions on any grant of permission.
9. A further issue arose during the course of the hearing whereby the local Ward Member (for both District and County, as well as the local Fire & Rescue Service) Cllr Tom Hollis raised the question of the development having been intentionally unauthorised. A Written Ministerial Statement of 2015 confirms this to be capable of amounting to a material planning consideration in planning decisions.

Reasons

10. The appeal site lies, by common consent, in a countryside location, but beyond the Green Belt, and so to which policy EV2 of the Ashfield Local Plan Review 2002 applies. Permission will only be given to 'appropriate development' which comprises development types listed which do not expressly include Traveller sites. The appellants point out that the list of 'rural uses' is not exhaustive, and contend that Traveller sites are an appropriate rural use not excluded from the ambit of the policy. The Council accept that Traveller sites are not completely excluded and that the policy must be read in the light of Planning Policy for Traveller Sites ('the PPTS') which seeks to strictly limit such developments in the open countryside. The overarching requirement of policy EV2 is to avoid adversely affecting the character of the countryside, particularly its openness. Policies ST1 and ST4 in turn provide that development will be permitted where (inter alia) it will not adversely affect the environment and, in the countryside, only where appropriate as set out in policy (as relevant) EV2.
11. The policy directly applicable to applications for Traveller sites is HG9, which is permissive of sites outside the Green Belt where a number of criteria are met. The supporting text indicates that such sites are unlikely to be acceptable outside the Main Urban Areas or Named Settlements, but is not exclusive of countryside locations subject to criteria including that adverse effects on the visual amenities of the area are avoided. The supporting text also records that, upon drafting the Local Plan Review, investigations had failed to identify any suitable Traveller sites.

Need for a site

12. The first criterion of policy HG9 requires that the need for a site is established. The appellants' case is that this criterion is out of date and should be given no weight here, the need for sites being a relevant local policy matter only when plan-making and deciding upon allocations. The need for a site and the existing

level of local provision is nonetheless a material consideration, as stated by paragraph 24 PPTS.

13. A Gypsy and Traveller Accommodation Assessment (GTAA) for the Greater Nottingham and Ashfield areas dates from March 2021. It describes the existing provision of a single authorised site in the district providing four pitches. Reference is made to a further three authorised sites for 14 pitches, but concludes that these sites are not available and so have been excluded from the pitch supply and need calculations. The GTAA anticipates a need for one additional pitch in the period to 2025 and four pitches in the period to 2038. The appellants contend that such needs are underestimated because of the failure to include authorised (and occupied) sites from which household growth needs are likely to derive, and because the GTAA figures are derived from ethnic identity rather than from merely a nomadic habit of life.
14. The Council place reliance on authorised sites excluded from consideration by the GTAA and in particular on a permission granted on appeal in 2012 for eight pitches at Park Lane. That 2012 permission is understood to be extant, although little development has taken place and the site is not presently occupied. The permission is soon to be affected by a permission for 38 dwellings pending the completion of a section 106 agreement. That permission, although not describing a Traveller site in the operative grant, is understood to allow for the retention of the Traveller site although no planning conditions require its sequential provision and there is no information before me as to whether it is affordable or available. Consequently, and consistently with the findings of the GTAA, the site cannot presently be treated as one that is available.
15. The GTAA does not account for the accommodation needs of the particular occupiers of this site, but it does anticipate a need of one additional pitch in the period to 2025, which is presently unmet. For the reasons suggested by the appellants, the needs anticipated by the GTAA, which has yet to go under examination, are if anything an underestimate. Thus in relation to this policy criterion I conclude that there is an established need for a site.
16. Having reached that conclusion it is strictly unnecessary for me to decide whether the present occupiers of the site are Gypsies or Travellers whose need for accommodation would be met, because in order to give effect to meeting this need a planning condition restricting the occupation of the site to such persons would be necessary. However, from what I have read and heard, with the possible exception of Mr Cox (the Appeal B appellant) who did not attend the hearing and whose circumstances were not explained in detail, I am satisfied that the occupiers of the site are Gypsies or Travellers, the working aged men of the site travelling to find work for at least part of the year.

Accessibility to community services and facilities

17. The site lies to the north of and down the hill from the built-up area of Huthwaite, and is agreed by the parties to be within 1km of a supermarket and 1500m of a GP surgery and a primary school. A footway with street lighting is available for those distances. A bus stop immediately outside the site provides an hourly service. A public house lies next door. I heard that occupants of the site are able to attend health facilities and that some of the children are enrolled in, and attending, school. The Council's statement was somewhat inconclusive on this issue, finding that the site has a certain level of access to

community services and facilities. The distances (and availability of public transport) to services and facilities are not at all excessive in the context of a Traveller lifestyle and I find criterion (b) to be satisfied here. Although concerned with a somewhat larger settlement (Kirkby-in-Ashfield) I note that the 2012 Inspector concluded similarly in that case although the distance of that site from the centre was around 1.5 miles.

18. A distinct but related matter concerns the PPTS advice that new Traveller sites should be very strictly limited in open countryside that is away from existing settlements. The appellants suggested that this requirement has some parity with the National Planning Policy Framework's ('the Framework') objection to 'isolated' houses in the countryside save in certain circumstances; the Council suggested that whether a Traveller site would be 'away from' a settlement would be a subjective evaluation depending on the need and supply situation at the relevant time. I am unpersuaded by either suggestion: whether a site is 'away from' a settlement is a question of fact, and the PPTS does not use the terminology of 'isolated', as found in the Framework.
19. 'Away from' a settlement plainly means something more than 'outside' an existing settlement boundary and suggests some degree of remoteness. The site access here lies within the 30mph vehicular speed restriction applicable to Huthwaite, and it lies within the area of streetlighting. Across the road from the site lies a small triangular area of open space that adjoins some of the houses on Woodland Avenue, presently the furthest extent of the settlement (as defined by planning policy) of Huthwaite. The appeal site is overlooked by some of those houses, although to a limited degree because of extensive tree cover. Adjoining the appeal site to the south are two houses, and as the crow flies the site lies some 100m from the settlement boundary as defined in the Proposals Map. In reality it gives the impression of falling within the wider settlement area which begins at the point of the 30mph signs, The Willows, and the public house. But although perhaps 'outside' the settlement, the site here cannot reasonably be said to be 'away from' it, when it lies within an acceptable and safe walking distance of its centre, and I find no conflict with paragraph 25 of the PPTS in this regard.

Noise and disturbance arising from business activities

20. Although I observed what appeared to be some evidence of car-breaking activities at the site, the appellants confirmed that there is no intention to carry out business activities and would accept a planning condition to this effect. This being the case, the Council confirmed that a condition would control noise and disturbance effects. Thus there is no conflict with criterion (c).

Effects on the visual amenities of the area and landscaping measures

21. I include in this analysis the Council's objection to the effects on the character and openness of the countryside and to the mature landscape setting. Those objections arise from the considerations of policies EV2 and EV4. The former requires any development to be located and designed so as to avoid adverse effects on the character of the countryside, in particular its openness. EV4 is permissive of developments which do not adversely affect the character and quality of mature landscape areas.
22. The site lies within area NC07 of the Nottinghamshire Coalfields regional character area, described in the Greater Nottingham landscape character

assessment ('LCA') document of June 2009 as having a good landscape condition with a moderate strength of character. Huthwaite is recorded as being the highest settlement in the region, with the land falling away on sides including to the north, as here.

23. The characteristic features are described in the LCA as comprising strongly undulating ground with land uses generally a mixture of woodland and agriculture. The appeal site here was formerly in an agricultural use, and with the exception of the road frontage the site remains mostly bounded by established hedgerows although with additional fencing within, both to the site edges and to demarcate the separate pitches. Nonetheless the original field boundaries remain discernible.
24. The actions to be taken by the LCA include conserving the field patterns and conserving hedgerows, avoiding development on high ground and ridgelines and to conserve the undeveloped character of the area, with future change to reflect existing development patterns and to be primarily focussed within settlement areas.
25. Some of these objectives are met by the development: although internally subdivided, the pre-existing field pattern is not disturbed, with no evidence of any hedgerow removal having taken place internally within the site but only to the roadside. The site is not on higher ground but in the valley floor below Huthwaite adjoining the former railway line to the north. Views across the site to the linear settlement at Wild Hill to the north are obtainable, although the site itself is not visible from there because of the boundary hedgerows which are particularly well established along the line of the old railway. Apart from within some of the dwellings on the escarpment to the south, the site is not readily visible except to passing traffic on Chesterfield Road. It is well-related to the existing settlement of Huthwaite and the site is bounded to two sides by existing development in the form of the public house and its carpark to the north and the dwellinghouses to the south. The caravan pitches are located in the three furthest corners of the site from the road, with no development appearing close to the roadside between those pre-existing buildings save for the site access and the new fence.
26. The roadside fence (as well as the close-boarded fences within the site) is uncharacteristic of the area although, as the appellants point out, constructing such fences up to 1m in height next to a road (and 2m otherwise) could amount to permitted development. The imposition of a planning condition requiring boundary treatments to be agreed could lead to improvements. The Proposed Block Plan submitted with the Appeal B application describes all internal boundaries to be post and rail fences 1.2m high with hedge planting to give 1.8m height.
27. Although the LCA advises against any development outside settlements in area NC07 this is unrealistic counsel in the case of a Traveller site that is otherwise well-located, as here. The PPTS envisages that Traveller sites will be found suitable in rural or semi-rural settings, subject to ensuring that their scale does not dominate the nearest settled community. Like the 2012 Inspector considering the site at Park Lane, I consider the Council's countryside protection policies to be somewhat incompatible with national policy insofar as Traveller site developments are concerned. Nonetheless the site meets a broad measure of compliance with what those policies require, once it is accepted

that a Traveller site is not of necessity an unacceptable use of land in the countryside.

28. Turning to HG9 which is the relevant policy applicable to Traveller site development, the relevant criteria (d and e) require that the site does not adversely affect the visual amenities of the area and that adequate landscaping measures are included. A nearby neighbour spoke at the hearing about the positive improvements she considered had been delivered by the development of the site, it having previously, on her account, been a somewhat neglected field. The site lies in close proximity to the Silverhill Trail, a recreational route along the former railway line, but this lies below the site and there appears no intervisibility between the site and the users of the trail. The site is somewhat apparent to users of the adjoining public house but intervisibility there is limited by a tall conifer hedge (and beyond that by internal fencing within the appeal site). There appears little if any intervisibility between the site and the open space area to the other side of the Chesterfield Road owing to the extensive vegetation.
29. The public house, and nearly opposite it the dwellinghouse known as The Willows, are, together with the 30mph vehicular speed restriction immediately after passing over the old railway line, the first indicators of the approaching settlement when arriving from the north. The site appears between the public house and the dwellings where the road begins to rise before bending towards Huthwaite. Both the public house and the dwelling adjoining the site are bounded to the front by low walls, and hence the intervening fence does not appear too incongruous from that approach. The extent of the close-boarded fencing within the site is however more apparent when leaving Huthwaite from the south, where it appears at odds with the vegetative backdrop of the adjoining hedgerows that form the site's northern and eastern boundaries. With suitable landscaping, however, the visual amenities of passing travellers would not be adversely affected. The site appeared mostly tidy at the time of my visit, without unnecessary amounts of hardstanding and with some measures to effect boundary planting having taken place.
30. Thus overall on these criteria I find that the effects on the visual amenities of the area can be overcome with the approval of adequate landscaping measures, and thus that there would be compliance with criteria (d) and (e) of policy HG9.

Other matters

Heritage assets

31. The Council discuss the effects of the development on heritage assets in the vicinity, including that it reduces the landscape buffer between Hardwick Hall and Sutton-in-Ashfield. As also recorded, however, the site does not feature strongly in views from the roof of Hardwick Hall. To the extent that there is intervisibility, the site would be viewed in the context of Strawberry Bank behind it. As acknowledged by the Council, views are generally restricted in the area by topography, and I find that the development of the appeal site has no effect on the setting or other interest of Hardwick Hall, and thus my duties under section 66 of the Planning (Listed Buildings &c) Act 1990 are not engaged.

32. Locally listed heritage assets are the Woodend Inn, which is the public house adjoining the site, and Strawberry Bank which is considered to be the highest point in the County and to be the location of an ancient hill fort.
33. A public house has existed at the site since around 1900, originally associated with the adjoining railway and the subject of various extensions and alterations. The pantile roof appears to be the only remaining original feature. The public house lies opposite a dwellinghouse and adjoins the former railway line. Until the development of the appeal site it was adjoined by the former agricultural field to the east. The development of the appeal site has not reduced the building's prominence in the street scene and the lack of any development at the appeal site to the roadside results in the open gap between the public house and the dwellinghouses further south having been meaningfully maintained.
34. The views of the site from Strawberry Bank (and from the open space area at Woodland Avenue) are limited because of the extensive intervening vegetation, and the development of the site has done nothing to affect or interrupt any views from the Bank across the site to the fields and settlements beyond, with all the development on site sitting substantially below the height of its northern and eastern boundary hedgerows, as well as being dwarfed by the row of conifers separating it from the public house to the west.
35. Thus on this issue I do not find there to be any conflict with the desirability of preserving or enhancing the interests of any heritage assets. No relevant local policies were cited to me by the Council in this respect.

Local nature sites

36. Although receiving scant discussion in the Council's case, and again with no local policy references, the second reason for refusing planning permission was that the development had not been demonstrated to be sustainable in this location adjacent to local nature sites. The Skegby Junction Grassland and the Whiteborough Railway received a first mention in the draft statement of common ground, the parties agreeing that the Whiteborough Railway lay adjacent to the site. The officer report also records that the local wildlife site 'City of Whiteborough Station' adjoins the site to the north.
37. Very little information about these local nature sites has been made available to me. The Whiteborough Station site is recorded of being of geological interest and thus I consider its interests are unlikely to have been affected by putting the adjacent field to a new use. The Whiteborough Railway site is described as a 'biological site' with 'a grassland community of particular note'. Natural England were consulted on the planning appeal but had no specific comments to make. I observed that although adjacent to the appeal site it is separated by extensive vegetation surrounding the former railway line, and again conclude that any grassland or other biological interest of the site is unlikely to have been affected by the development.

Intentional Unauthorised Development ('IUD')

38. Although referring to breaches of the requirements of a Temporary Stop Notice and of an injunction, IUD was not a matter expressly raised by the Council's case on the appeals. It was however adverted to by the Local Member in attendance at the hearing. The appellants conceded that IUD had taken place.

39. Whilst this constitutes a material consideration weighing against the grant of planning permission, given my findings in relation to compliance with the development plan I do not consider it to be a matter of sufficient weight to dictate a departure from the development plan or to justify a refusal of planning permission. The development that has taken place appeared to me to be mostly capable of reversal and the appellants have derived no particular advantage from undertaking the development without prior authorisation. This is particularly so because the fact of the appellants having already settled on the site and having enrolled the children in schools are not matters that in the end affect my decision to grant planning permission.

Planning Balance and Conclusion

40. For the reasons I have set out above, I conclude that the development of the appeal site as a residential caravan site occupied by Travellers is consistent with the development plan for the area, at least insofar as the development plan remains consistent with national policy found in the Framework and the PPTS. I have found no conflict with any of the specific policy requirements of the Ashfield Local Plan Review 2002 policy HG9. Whilst there is some limited harm to the openness of the countryside, the appeal site is not away from a settlement and is in a location supported by the PPTS and, consisting as it does of the development of three pitches, does not dominate the nearest settled community. Although not comprising the redevelopment of previously developed land, it is well and spaciouly planned, and capable of being landscaped in a way that is positive to the environment and to the health of the occupants of the site including play areas for children.
41. It follows that a permission will be granted. Here there are two appeals seeking permission for largely the same development, the main difference being that Appeal A seeks a planning permission for the development alleged in the Council's enforcement notice, whereas Appeal B is rather more specific in its description and includes the provision of utility blocks. Whilst I would potentially be prepared to grant either permission, in the interests of giving certainty to all parties about exactly what is being permitted at the site, and to avoid any unnecessary duplication, I shall grant only Appeal B which is, sequentially, the first application.
42. The development in Appeal A, although potentially acceptable in its own right, appeared to me unfinished and might require further development of utility blocks or dayrooms on some pitches to facilitate the living arrangements of the occupiers. It would not be compatible with also allowing Appeal B and I shall therefore dismiss the appeal in Appeal A and uphold the enforcement notice. Because the appellants have accepted that the site was previously undeveloped, and confirmed it is understood what is meant by the requirements to remove the various 'unauthorised' structures, I do not find that the notice requires any correction or variation.
43. Section 180 of the 1990 Act provides that where, after the service of an enforcement notice, permission is granted for any development already carried out, the notice shall cease to have effect so far as inconsistent with the permission granted. Thus, although I am upholding it, the notice will largely cease to have effect, save in respect of those elements for which permission is not granted by Appeal B such as the additional buildings and any fences that are not authorised by Appeal B or do not amount to permitted development.

Conditions

44. I have been guided by the list of suggested conditions supplied to me and discussed with the parties at the hearing. A condition limiting the occupation of the site to Gypsies and Travellers (applying an extended definition, post-Smith) is required, because of the reliance placed on policy HG9 and the PPTS in reaching my conclusions on the appeals. A limit to pitch and caravan numbers is required in order to maintain the site's spacious layout which has contributed to my conclusions about its acceptability in its landscape and visual amenity impacts. There is no need for a personal permission, because the site occupiers' personal circumstances have ultimately not founded my reasoning to grant a permission. Nonetheless if the land does cease to be occupied for the purposes of the permission, a requirement to reinstate it to its former condition would be needed, because the development is only acceptable in the particular policy circumstances that apply to the provision of Traveller sites. A prohibition on large vehicles and commercial activities is required in order to avoid deleterious impacts on neighbouring residents.
45. A 'plans' condition will be required in order to ensure that the site is laid out broadly as it is at present, avoiding development adjacent to the roadside and securing the spacious separation of the three pitches. Additionally, because the Appeal B permission will allow for the provision of utility blocks for each pitch, a requirement for the existing buildings to be removed will be needed so as to avoid the accumulation of unnecessary built development. A site development scheme covering these and matters such as the boundary treatments, landscaping, external lighting and the provision of refuse storage will also be needed to ensure that the site is developed in a way consistent with my conclusions. Finally, I shall also impose the condition requested by the Local Highway Authority requiring a hard surface to the accessway for a minimum of eight metres from the highway boundary, in order to avoid any deposits of loose stones on the carriageway.

The Appeal A appeal on ground (g)

46. As I have resolved to uphold the enforcement notice on Appeal A, it follows that the appeal against it on ground (g) requires consideration. This ground of appeal will fail, because the reasons for making it are predicated on a refusal of permission for the residential development. As permission is being granted on Appeal B, the residual requirements of the notice would be limited only to those aspects that are not permitted by the Appeal B permission. Crucially, the success of Appeal B means that there is now no need for the present occupiers to vacate the site or find anywhere else to live. The time limit of three months to carry out those minor residual requirements is not unreasonable, and the appeal on ground (g) does not succeed.

Conclusions and Formal Decisions

Appeal B

47. For the reasons given above, I conclude that the development complies with the development plan for the area and that the appeal should be allowed. Planning permission is hereby granted for the use of land adjacent to the Woodend Inn, Chesterfield Road, Huthwaite NH17 2QJ as a residential site for

static caravans and associated parking of touring and domestic vehicles for use by one family group, plus operational development consisting of the construction of utility blocks, in accordance with the application dated 14 May 2022 made under reference V/2022/0391, subject to the following 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 nine 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 three shall be a residential mobile home/static caravan) shall be stationed on the land at any time.
- (3) The site shall consist of three caravan pitches each containing no more than one residential mobile home/static caravan and no more than two touring caravans, and shall be laid out and thereafter retained in accordance with the Proposed Block Plan submitted with the application.
- (4) When the land ceases to be used for the purposes authorised by this permission, within three months of such cessation all caravans, structures, hardstanding, materials and equipment brought onto or erected on the land and all works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development having taken place.
- (5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land and no commercial or business activities, including the storage of materials or any burning of materials, shall take place on the land.
- (6) 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.
- (7) 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 28 days of the failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within three months of the date of this decision a scheme ('the site development scheme')
 - to achieve compliance with the application plans (Site Location Plan @ 1: 1250; Site Layout Plan; Block Plan – Existing; Block Plan – Proposed; Floor plans and elevations of utility building; Plans of electricity box; Photograph of typical static caravan; and Photographs of chicken shed)
 - showing details of the internal layout of the site including the extent of the three residential pitches, the location of

the caravans, vehicle parking and turning, and provision for refuse storage;

- showing hard and soft landscaping including the provision of boundary treatments;
- showing the provision of surfacing in a hard-bound material of all access, parking and turning areas within at least eight metres of the highway boundary; and
- providing for the demolition and removal of buildings and structures not authorised by this permission

shall have been submitted for the written approval of the local planning authority and the site development scheme shall include a timetable for its implementation;

- (ii) within 11 months of the date of this decision if the local planning authority refuse to approve the scheme or have failed 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 paragraph (ii) above, that appeal shall have been finally determined and the site development scheme shall have been approved by the Secretary of State;
- (iv) the approved site development scheme shall have been carried out and completed in accordance with the approved timetable.

Following the implementation of the site development scheme required by this condition, there shall be no change to any of the approved details. The parking and turning areas identified shall be retained for those purposes. The area to be surfaced in a hard-bound material shall be maintained as such thereafter. The loss of any planting comprised in the landscaping including boundary treatments approved under the scheme within five years of such approval shall be replanted within the first planting season following the loss with plants of the same species as those lost.

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

Appeal A

48. For the reasons given above, although the Appeal A proposal is otherwise potentially acceptable, it is unnecessary to duplicate the permission granted under Appeal B and, in the interests of certainty, I decline to do so. Therefore I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

49. Nonetheless I have drawn the parties' attention to the provisions of section 180 of the 1990 Act.

50. The appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

Laura Renaudon

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Philip Brown, agent
Arram Price, appellant (Appeal A)

FOR THE LOCAL PLANNING AUTHORITY:

Bob Woollard, planning consultant
Cllr Tom Hollis, Local Member (District and County)
Mick Morley

INTERESTED PERSONS:

Shirani Situnayake