



Appeal Decisions

Hearing held on 30 January 2024

Site visits made on 29 & 31 January 2024

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2024

Appeal A: APP/E3715/W/23/3328404

Plot 14, Top Park, Top Road, Barnacle CV7 9FS

- 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 Darren Lee against the decision of Rugby Borough Council.
 - The application Ref R22/0772, undated, was refused by notice dated 15 May 2023.
 - The development proposed is the Retention of 1 Gypsy and Traveller pitch comprising 1 static caravan, 1 touring caravan, 1 timber dog kennel, block paved parking area, gravel pathway, red brick walls and metal gates to front boundary, timber fencing to side and rear boundaries, and vehicular and pedestrian access off Top Park access road. Proposed erection of a brick outbuilding with a tiled roof.
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Appeal B: APP/E3715/W/23/3328398

Plot 15, Top Park, Top Road, Barnacle CV7 9FS

- 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 Milo Lee against the decision of Rugby Borough Council.
 - The application Ref R22/1055, undated, was refused by notice dated 15 May 2023.
 - The development proposed is the Retention of 1 Gypsy and Traveller pitch comprising 1 static caravan, 1 touring caravan, 1 stable, 1 brick outbuilding, a gravelled parking area, a block paved pathway, walls and gates along the front boundary, fencing along the side and rear boundaries, and vehicular access off Top Park access road.
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Appeal C: APP/E3715/W/23/3328397

Plot 16, Top Park, Top Road, Barnacle CV7 9FS

- 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 Charles Calladine against the decision of Rugby Borough Council.
 - The application Ref R22/0664, dated 5 July 2022, was refused by notice dated 15 May 2023.
 - The development proposed is the retention of 1 pitch for Gypsy and Traveller use, including retention of 1 utility building (timber), 1 shed, gravel hardstanding, small area of block paving, small grass area, vehicular access off access track, and pedestrian access off Top Park access road, together with the retention of gates across both accesses and boundary fencing, the replacement of 1 existing tourer with 1 static caravan and siting of a second static caravan.
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Appeal D: APP/E3715/W/23/3328399

Plot 17, Top Park, Top Road, Barnacle CV7 9FS

- 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 Adolphus Buckland against the decision of Rugby Borough Council.
 - The application Ref R22/0665, dated 5 July 2022, was refused by notice dated 15 May 2023.
 - The development proposed is the retention of 1 pitch for Gypsy and Traveller use, including retention of 1 tourer, dog kennels, 1 shed, gravel hardstanding, a paved patio, 2 amenity buildings, vehicular access off access road and pedestrian access off Top Park access road, together with the retention of gates across both accesses and boundary fencing, the siting of 2 mobile homes, and removal of 1 existing shed.
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Appeal E: APP/E3715/W/23/3328396

Plot 18, Top Park, Top Road, Barnacle, CV7 9FS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Ann Marie Connors against the decision of Rugby Borough Council.
 - The application Ref R22/0666, dated 5 July 2022, was refused by notice dated 15 May 2023.
 - The development proposed is the retention of 1 pitch for Gypsy and Traveller use, including 1 static caravan and 1 tourer caravan, 1 wooden shed, gravel hardstanding, vehicular access off access track and pedestrian access off Top Park access road together with the retention of gates across both accesses and fencing around boundary and the erection of a utility building.
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Appeal F: APP/E3715/W/23/3328395

Plot 19, Top Park, Top Road, Barnacle, CV7 9FS

- 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 John Lee against the decision of Rugby Borough Council.
 - The application Ref R22/0637, dated 29 June 2022, was refused by notice dated 15 May 2023.
 - The development proposed is the retention and occupation of 2 mobile homes and use of the site as 2 Gypsy and Traveller pitches, together with the retention of 2 sheds, 1 outbuilding for use as a sensory room, fencing and gates, vehicular access via the existing access track, and surfacing of the plot with gravel.
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Decisions

Appeal A: APP/E3715/W/23/3328404

1. The appeal is dismissed.

Appeal B: APP/E3715/W/23/3328398

2. The appeal is dismissed.

Appeal C: APP/E3715/W/23/3328397

3. The appeal is dismissed.

Appeal D: APP/E3715/W/23/3328399

4. The appeal is dismissed.
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Appeal E: APP/E3715/W/23/3328396

5. The appeal is dismissed.

Appeal F: APP/E3715/W/23/3328395

6. The appeal is dismissed.

Procedural matters

7. The above descriptions are based on those given on the application forms but reflect the current intentions for each site.

Main Issues

8. For each of these 6 appeals, the main issues are
- a) whether it is inappropriate development in the Green Belt
 - b) its effect on openness, the purposes of including land in the Green Belt and the character and appearance of the area;
 - c) whether a suitable access has been demonstrated;
 - d) whether it would give rise to other harms and,
 - e) if harm would be caused by any or all of the above issues, whether this harm is clearly outweighed by other considerations so as to amount to very special circumstances.

Reasons

9. In 2023 planning permission was granted for land to be used for 10 Gypsy and Traveller sites at what is known as Top Park (which I shall refer to collectively as the Top Park site) for a temporary period until June 2028 (the 2023 decision). The sites subject of that decision are arranged along the eastern side of an unadopted road that runs southwards at right angles from Top Road. This unadopted road is called the Top Park access road in the descriptions above but I shall refer to it as the service road.
10. These current appeals concern 6 separate individual plots, all roughly of the same size, on the western side of the service road. Together they fill a gap that was between Top Road itself to the north, and various buildings and structures further south, and are on land that was formerly part of a paddock. All the developments subject of these appeals have been implemented to a greater or lesser extent. On some the site is now as in its description but, on others, elements are still to be formed or put in place. I was told that each plot would be occupied by Gypsies and Travellers and I have considered the appeals accordingly.
11. In the *Rugby Borough Council Local Plan 2011-2031* (the Local Plan) Gypsy and Traveller provision is assessed principally against Policy DS2, which lays down as bullet points the criteria that such proposals need to meet to be supported. It does not refer to the Green Belt, but it was confirmed at the Hearing that this policy or compliance with its criteria does not override the approach to Green Belt development in Local Plan Policy GP2 concerning inappropriateness and other related matters.

Inappropriateness

12. Local Plan Policy GP2 states that only where national policy allows will development in the Green Belt be permitted.
13. Government policy in Policy E of *Planning policy for traveller sites* (PPTS) states that traveller sites in the Green Belt, whether temporary or permanent, are inappropriate development. As they lie in the midst of an area so designated, I therefore conclude each of these Gypsy and Traveller sites constitutes inappropriate development in the Green Belt.

Openness, Green Belt purposes and character and appearance

14. The appeal sites are within a relatively flat, gently undulating landscape, that broadly comprises a scatter of villages and other development amongst an arrangement of fields, roads and lanes that tend to be bound by hedges. As a consequence, it has a generally open, rural character. The *National Planning Policy Framework* (the Framework) states that there is a need to recognise the intrinsic character and beauty of the countryside while the PPTS says that new traveller sites in the open countryside should be strictly limited. Moreover, this area of Green Belt plays an important purpose in preventing Coventry merging with the settlements to the north.
15. Each of the developments subject of these appeals broadly seeks to change part of the former paddock into land used for the siting of caravans (including mobile homes), along with the erection of other ancillary structures. There would also be further paraphernalia associated with each site, such as parked vehicles or play equipment, and all though it could be subject to some control, there would be a certain amount of associated light pollution. Each site would be enclosed by fencing, and there is little if any prospect of any meaningful planting to screen or soften the works.
16. Views of the developments from the east are limited as they are screened by the Top Park site, and this makes the individual impact of caravans and structures on any one of these 6 sites difficult to distinguish. It was also said that the developments could be seen from the Coventry Way long-distance footpath to the south, but from there it is substantially concealed by hedging and topography, while there is a far greater awareness of caravans sited in the foreground.
17. However, Plot 19, which is the most northerly of the 6, is apparent when on Top Road immediately next to the site, due to the patchy nature of the boundary hedge, while all 6 can be seen to a greater or lesser extent over the intervening field when travelling eastwards along the road. Although this concern relates to each of the appeal schemes, in making this assessment I accept that the impact of them in this regard would vary. For example, Plot 19, although visible from the road, would be tucked against the hedge when looking from the west, while some of the other plots would be more isolated and prominent in their location.
18. I accept that, even from these viewpoints, until possibly 2028, none of the 6 appeal schemes would be seen in isolation, but rather would be set against the Top Park site. The presence of that site behind would also mean none would block longer views that would otherwise exist. Even accounting for this

though, I consider that, by extending the development around the Top Park site in this way, each case would serve to erode the sense of openness in the Green Belt and unacceptably detract from the rural character and appearance of the area. As a result, they would each constitute an encroachment into the countryside, diminishing to some degree the sense of separation between Coventry to the south and the other settlements to the north.

19. Moreover, the 2023 decision means I have no reason to consider, at this stage, that the Top Park site will remain after 2028. Once that neighbouring development is removed these impacts on the openness, the character and appearance and the Green Belt purposes will be even greater. This is because, each of these 6 appeal schemes will be far more noticeable from the east, unscreened by what is there now, and whether seen from that direction or from the west, they will interrupt and break what would otherwise be relatively long and open views across this landscape.
20. I accept that in the vicinity are caravans on various other sites, which are in the Green Belt and some, at least, are located in prominent and isolated positions. However, even if these are all authorised, the cases before me would each still constitute an additional impact in relation to this issue. Consequently, the presence of those other sites is not sufficient, to my mind, to lead me to different findings.
21. Plots 16, 17, 18 & 19 are accessed from the opposite side to the service road, along what used to be a rough track that crossed the paddock but has now been upgraded (this is termed the access track or access road in the descriptions above but I shall call it the track). Although the effect of these works to the track is to extend the encroachment into the Green Belt still further, it lies outside of all the appeal sites and so is not part of any of the schemes before me. Consequently, its impact has not formed part of this assessment.
22. Finally, it may well be that even if the development subject of the 2023 decision was totally removed after 2028, some structures would still remain around that site as they were not, for whatever reason, covered by that decision. Further caravan sites to the east would also be present. However, I have no basis to consider that what would still be there would be sufficient to change my findings on the impacts of these appeals after that date.
23. Accordingly, I conclude that each development would detract from the character and appearance of the area, in conflict with Local Plan Policies NE3 and DS2 (bullet points 6 & 8), which seek landscape protection, consideration of the landscape context and a mitigation of visual impacts. I also conclude they would each erode the sense of openness and undermine the purposes of including land in the Green Belt.

Access

24. Plots 14 and 15, which are the 2 southernmost ones subject of these 6 appeals and are furthest from Top Road, are shown to be gaining access from the service road. As stated above, the remaining 4 plots would take vehicular access off the track. However, none of the 6 sites includes either the track or the service road within its site boundary, and to my mind this has 2 main implications.

25. Firstly, it has not been shown that all relevant owners of the service road and the track have been notified of the schemes, with the consequent effect on their potential engagement in the application and appeal processes. I was told that the track has recently come under the joint ownership of the appellants, but there is not yet any evidence to show this as the land transfer is taking some time. However, even if this is so, the conveyancing details that have been submitted in relation to that acquisition only extend up to the hedgeline with Top Road and do not run to the carriageway itself. As such, it is unclear whether consent to cross that land would need to be obtained from the Highway Authority or someone else.
26. Secondly, no planning permission exists for the track to be used in connection with development of the nature now before me. Rather, I anticipate its planning status is for agricultural use, although I was unclear about the nature of the activity being undertaken at the parcel of land at its southern end. As a result, as it is outside of the various appeal sites, its use to serve Plots 16 to 19 would not be authorised if I were to grant any or all of those appeals as they currently stand. Moreover, while the 2023 decision grants planning permission for Gypsy and Traveller use of the service road, that is only on a temporary basis and does not appear to support its retention after June 2028.
27. I recognise that the description for each scheme stipulates from where access will come, and it has been suggested that the red line around every individual site could be extended to include the track. I do not have plans showing such an amendment. However, I consider that changing the boundaries in that way would be evolving each scheme, and would constitute a fundamental change to the appeals that, for the reasons given above about notifying owners, could cause unlawful procedural unfairness. Therefore, it would, in my opinion, be contrary to the long-standing principles set out in *Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]*, and the more recent judgement of *Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)*, which have both been cited by the Council (Document LPA1 below).
28. It was further suggested that, in order to overcome the issue of the track not being within any of the appeal sites, conditions could be imposed to require the 4 plots using that to take access instead off the service road on their other side. That though would again be an evolution of the scheme and a departure from the appeals' precise descriptions, which, if I supported, would deny the residents around and the owners of the service road opportunity to comment. It would therefore once again be a fundamental change that could give rise to procedural unfairness.
29. Based on what I saw on my visit though, the gateway to the track and the visibility at its junction with Top Road seemed adequate to allow its safe use, while I have no basis to find any additional movements through the service road junction with Top Road would be sufficient to compromise its safety.
30. Accordingly I conclude it has not been shown a reasonable and appropriate access to the highway is possible in connection with each site, in conflict with Local Plan Policy DS2(bullet point 5).

Other Matters

Intentional Unauthorised Development

31. On the evidence before me I have no reason to consider those who laid out the sites did not know that they required planning permission, especially as an injunction already related to this area. I therefore consider them to be intentional unauthorised development. Consequently, in accordance with the Government's *Planning Policy Statement* of August 2015 this is a material consideration. While Plot 14 was formed before that date, the *Planning Policy Statement* says its guidance should be applied to all applications received after 31 August 2015. The presence of the injunction though does not prevent applications being submitted for consideration.

Dominance of settled community

32. The PPTS advises that sites in rural areas should respect the scale of, and not dominate, the nearest settled community. A plan was submitted on behalf of the Parish Council (Document PC1) showing a number of sites in the vicinity that I was told together contained some 40 to 50 caravans. It was contended that when taken together this showed the Gypsy and Traveller community dominated Barnacle, both visually and in terms of its population. However, while those sites on Shilton Lane or the B4109 might be relatively close when measured in a straight line, the road network does not relate them strongly to the village. Furthermore, mindful that not all of them were in this Borough, I am unaware as to how many of the sites on the Parish Council's plan are authorised, or whether those sites that have a permission to be used for the siting of caravans are operating within the terms of that permission. Moreover, I was told that not all of the sites were being used by Gypsies and Travellers, as some provided temporary accommodation for agricultural workers, and some were mobile home parks or occupied by those who were not members of the Gypsy and Traveller community.
33. Reference was made to possible abusive behaviour towards the settled community in Barnacle, but I have no reason to consider that has necessarily arisen as a consequence of the developments subject of these appeals.
34. Accordingly, on the evidence before me I consider that none of these schemes would result in the Gypsy and Traveller community dominating Barnacle, either visually or in terms of population.

Access to and impact on local services

35. Bulkington, with its relatively wide range of day-to-day services, is quite close, while the edge of Coventry is not far away. However, the roads in the area tend not to have pavements, have limited lighting, and carry relatively fast traffic, and so walking to these services is unattractive and unrealistic. Therefore, to access them from these sites would require a reliance on the private car. These journeys though would not be long, and I consider they would not be sufficient to render these sites as being unsustainable locations for Gypsy and Traveller pitches.
36. I have no firm evidence to show that these 6 appeals would have a detrimental effect on the delivery of any services or infrastructure in the area.

Other considerations

37. Above I have found Green Belt harm arising with each appeal through inappropriateness and the scheme's effect on openness and the purposes of including land in the Green Belt, as well as due to the effect on the character and appearance of the area and the failure of the schemes to show a suitable access can be secured. I have also noted that the sites can be deemed intentional unauthorised development.
38. As stated above, the Borough's approach to Green Belt development in Local Plan Policy GP2 aligns itself with Government guidance. The Framework states that substantial weight should be given to any harm to the Green Belt. It adds that inappropriate development should not be approved except in very special circumstances. These circumstances will not exist unless the development's harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
39. In relation to traveller sites the PPTS elaborates on this position in Policy E (and re-iterates it in Policy H) by saying

'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.'

What would give rise to one of the 'unlikely' instances envisaged by the policy is not specified. I consider though that it is not saying that (subject to the best interests of the child) personal circumstances and unmet need would never outweigh harm in the Green Belt and other harm by themselves, but just that it is not probable. Moreover, whilst personal circumstances and unmet need are 'unlikely' to outweigh harm, there is nothing in the PPTS to say that they could not contribute to outweighing the harm when taken with other material considerations.

40. With regard to supply, the Council accepts that it has a shortfall of some 28 Gypsy and Traveller sites when using the definition found in the PPTS. On the evidence before me a shortfall of this magnitude appears to have been on-going for a while. It accepts though that this shortfall is likely to be greater now given the recent court judgements. Furthermore, the Council has no outstanding allocations in the Local Plan and, mindful that there was no positive response to the recent call for sites, it can identify no alternative sites and no supply going forward. It therefore does not have a 5-year supply of deliverable sites. It is hoped to adopt a new local plan by the end of 2026 that will resolve this matter. However, even assuming that date is achieved and suitable sites are in fact identified, until then the only means of addressing this shortfall will be through windfall proposals being assessed against the criteria-based Local Plan Policy DS2 and other relevant policies. This is, in effect, the approach the Council has taken over recent years yet, whether because of a lack of schemes coming forward, the manner in which the policy context is applied or a combination of the 2, it clearly has not delivered the required number of pitches.
41. Turning to the personal circumstances of the adults, I am aware that every appeal does or will provide a settled base and a home for its occupiers, and I was told that in each case the alternative would be a roadside existence or

'doubling up'. Under the Public Sector Equality Duty (PSED) I have also had regard to the 3 aims given in *The Equality Act 2010* to eliminate discrimination, to advance equality of opportunity between those who share a protected characteristic and those who do not, and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

42. I was told of adults on Plots 16 and 19 who have serious health problems that are being addressed at nearby hospitals. They would therefore be disadvantaged if they had to return to a roadside existence with its associated stress and its difficulties of maintaining consistent care. I was also informed explicitly that on Plots 15, 16 and 19 there were strong family links with residents on the Top Park site, including caring responsibilities, while someone on Plot 17 had a caring role for a sibling who lived nearby.
43. The development plan context provides little opportunity for these appellants and their families to have a settled base from which to maintain their cultural way of life, and this appears to have been the situation over a period of time. I accept as well that each of the sites provides the appellant and their family with a home. Consequently I afford these factors significant weight. Moreover, when considering the appeals on the relevant plots, I also afford significant weight to the presence of adults with more acute needs for a settled base. The caring responsibilities though do not, of themselves, attract great weight as it has not been shown they are so necessary as to justify pitches here.
44. However, PPTS Policy E, by definition, is meant to be applied in instances where there is an unmet need, and while the unmet need is significant in this instance, I consider it is not so great as to mean it should be deemed to be outside of the general direction of this policy. The appellants invited me to weigh separately the unmet need, the lack of alternative sites, the policy failure and the lack of a 5-year supply. In this instance though and when considering the schemes against PPTS Policy E, I consider they are, to a great degree, interrelated facets, and I do not read the reference to unmet need in that policy as meaning these other concerns, which are often alongside an unmet need and a component of it, should always be weighed separately.
45. Furthermore, the appellants placed weight on much of the Borough being in the Green Belt, so increasing the difficulty of finding sites. PPTS Policy E though, by its nature, is to be applied to Green Belt authorities, a number of whom could have a greater proportion of their area designated thus. I therefore see no reason to consider that a statement expressly intended for areas of Green Belt should be outweighed because an authority has a large amount of land so designated.
46. Therefore, putting aside the best interests of the child for now, I consider that the unmet need and personal circumstances in each of these cases are not sufficient to mean that, even if taken together, they constitute the '*unlikely*' occurrence where considerations clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. Indeed, even if I had accepted the appellants' suggestion and given separate weights to what I saw as the various facets of unmet need my findings in this regard would be no different.

47. In making this assessment I was also invited to give weight to matters such as the sustainable location of the site, and the absence of amenity or ecology issues. These though are matters that one would expect in all new development in any event, and so are afforded neutral weight in the balance.
48. Finally, I turn to consider the best interests of the children in connection with these appeals. At the outset I have regarded no other consideration as more important or, in advance of the subsequent assessment of the individual circumstances, I have given none greater weight. However, these best interests will not always outweigh other considerations including those that could impact negatively on the environment. I have nonetheless kept the best interests of the children at the forefront of my mind in reaching my decisions.
49. I was told children lived, or would live, on each site. A settled base would benefit them all, as it would allow them security, and consistent access to general health care and to social groups. It would also enable them to have a stable education if already at school, while for those of a pre-school age, a settled home established beforehand would allow their time at school to begin as seamlessly as possible. These benefits though apply to most if not all Gypsy and Traveller children, and, even taken with the unmet need, the facets of unmet need and the personal circumstances of adults, are not sufficient to justify occupancy of any of these sites when weighed against the harm I have identified to the Green Belt and to the character and appearance of the area.
50. On Plots 14, 15, 17, 18 and 19 I was told of children with additional health or educational needs of varying severity that were being addressed locally or indeed on site. For these children, I accept that the safeguarding and promotion of their welfare would be harder if their respective families had a roadside existence, and these are weights in favour of those appeals that are over-and-above the more widely applicable benefits for children discussed in the preceding paragraph.
51. Even taking into account these factors though, and including them with the other considerations of the personal circumstances of the adults and the unmet need, I still consider the schemes on Plots 14, 15, 17, 18 and 19 would not clearly outweigh the harms identified to justify the grant of permanent permissions. This is because the temporary nature of the 2023 decision and the required removal of the Top Park site means that after 2028 the developments before me would no longer be set against an existing and more extensive array of caravans and associated paraphernalia. Rather, a permanent permission would allow them to remain indefinitely in an open, prominent location, visible from both the east and the west, relating poorly to any existing development.
52. I have though considered the grant of a temporary permission for Plots 14, 15, 17, and 18, to authorise the use of the sites until the same date arising from the 2023 decision, namely June 2028. Until that date they would still be inappropriate development under PPTS Policy E and this should continue to be afforded substantial weight. They would also still harm openness, the purposes of the Green Belt and the character and appearance of the area. However, the presence of the Top Park site over that period and the limited timescale for which each scheme would be present would together serve to limit the duration and extent of these harms, and this should have a bearing on how they are balanced against the other considerations. Furthermore, drawing comfort from

the Council's aim to accord with the Government's deadlines, by that date there should be a material change in planning circumstance, as the new local plan should have been in place for a while. This would give opportunity for each of the appellants to seek alternative sites by making use of whatever approach the new local plan had given to guide Gypsy and Traveller development, while at the same time allowing alternative means of addressing their children's needs to be secured if necessary. Such factors would, to my mind, mean that for a temporary period until June 2028 the various other considerations given in connection with Plots 14, 15, 17, and 18 would clearly outweigh the harms to the Green Belt, the character and appearance of the area and any weight afforded to them being intentional unauthorised development.

53. Despite these points though, I am unable to grant a temporary permission for any of those schemes as the above considerations would not outweigh the issues that remain with the failure to demonstrate that each site would have a suitable access that could be used in connection with the development.
54. Turning to Plot 19, a child living there now has issues that, as described to me, appear far more severe than those of the children on Plots 14 to 18. Given this child's specific needs I recognise that a settled base is particularly important for them. By itself, and without the presence of the other sites before me or the Top Park site, this plot would still harm the openness of the Green Belt and the character and appearance of the countryside. However, if all surrounding Gypsy and Traveller development were to be removed the harm resulting from its prominence, its effects on openness, and its sense of isolation would be limited to a degree as it is immediately at the roadside, by the hedge of the former paddock. When looking from the east or west it would therefore be tucked away to some extent, so lessening its visual impact.
55. Mindful of these factors, in considering a temporary permission for Plot 19 the severity of the issues concerning the child, when taken with the other considerations, would clearly outweigh, for a suitable limited period, the harm to the Green Belt, the adverse impact on the character and appearance of the area and any weight attached to it being intentional unauthorised development. However, given the weight afforded to the nature and severity of the child's condition, the duration of any such temporary permission should be connected in some way to the child's occupation of the site, rather than to June 2028. Again though, I am unable to grant such a temporary permission as the considerations would not outweigh the issues relating to the access.
56. In making this assessment I have had regard to appeal decisions from May 2022 (the previous appeals) concerning enforcement notices that had been served on these plots to require the cessation of each of the unauthorised uses. One of the notices was found to be a nullity. The appeal against the other proceeded just on grounds (b), (e) and (g), while the ground (g) appeal was pursued only on the basis of the timings for the sowing of new grass. Despite this, and mindful of his duties under the PSED among other things, the Inspector also had regard to the personal circumstances of those then resident on the site, who are generally the appellants before me. Having done this, he extended the period for compliance by a short time to October 2022.
57. Whilst that Inspector did not increase the compliance period to the length I have explored under the possible grant of temporary permissions, he was not being asked to grant a planning permission for the works. No appeal was

made under ground (a) and no arguments to that effect were advanced. As such, he had no need to consider if very special circumstances existed and, in such a context, the personal circumstances were not part of the case presented to him before he, himself, explored them. As a result, he was making an entirely different decision to those before me. Accordingly, I consider my reasoning above in relation to temporary permissions does not conflict with his.

58. I recognise that, with the enforcement proceedings subject of the previous appeals, my decisions could well interfere with the rights of the appellants and their families to peaceful enjoyment of, and respect for, their possessions, their private and family life and their home, which are rights they enjoy under Article 1 of the First Protocol and Article 8 as set out under the *Human Rights Act 1998*. However, those are qualified rights and interference with them in this instance would be in accordance with the law and in pursuance of a well-established and legitimate aim. Given the importance of the need to demonstrate that a suitable access is achievable, I consider the protection of the public interest cannot be achieved by means that involve less interference with their rights. In each case it is therefore proportionate and necessary to refuse to grant planning permission.

Conclusions

59. For the above reasons I conclude that each of these 6 appeals should be dismissed.

JP Sargent

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Mrs E Temple	Planning Consultant
Mr A Buckland	Appellant Appeal D
Mr C Calladine	Appellant Appeal C
Mr R Jones	Resident Appeal E
Mr J Lee	Appellant Appeal F
Mr L Lee	Resident Appeal F

FOR THE LOCAL PLANNING AUTHORITY:

Ms C Davies	Principal Planning Officer with the Council
Nr C Hawley	Barrister instructed by the Council
Mr N Holly	Development Strategy Manager with the Council
Mr Holt	Development Enforcement Manager with the Council (site visit only)

INTERESTED PARTIES:

Mr Barton	Local resident
Mr Bryant	Barnacle Parish Council
Linda Burton	Local resident
T Byrne	Local resident
Lesley Hill	Local resident
S Rudge	Local resident

DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

FROM THE APPELLANT

APP1: Plans showing amended site boundaries for each appeal
APP2: Email to the Planning Inspectorate concerning descriptions of the developments and land registry details (dated 9 February 2023).
APP3: Email to the Planning Inspectorate concerning land registry details (dated 14 February 2023).

FROM THE LOCAL PLANNING AUTHORITY

LPA1: Observations from the LPA and the Highway Authority regarding the inclusion of the Access Tracks into the Appeal Site boundaries
LPA2: Email to the Planning Inspectorate concerning descriptions of the developments (dated 5 February 2023)
LPA3: Email to the Planning Inspectorate concerning descriptions of the developments and land registry details (dated 21 February 2023).

FROM PARISH COUNCIL

PC1: Map and aerial photographs of other caravan sites in the vicinity submitted by Mr Bryant