



Appeal Decisions

Hearing held on 7 February 2024 & 8 May 2024

Site visit made on 7 February 2024

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02nd August 2024

Appeal A Ref: APP/P0240/C/22/3302529

Plot 6, Stanbridge Road, Great Billington, Leighton Buzzard, Bedfordshire LU7 9JH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("The Act").
 - The appeal is made by Mr Richard Casey against an enforcement notice issued by Central Bedfordshire Council.
 - The notice was issued on 31 May 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised material change of use of Green Belt land for use as a Gypsy and Traveller site with the stationing of caravans for residential use.
 - The requirements of the notice are:
 1. Cease the use of the land as a residential Gypsy and Traveller site;
 2. Remove from the land all caravans associated with the residential use;
 3. Remove from the land all items associated with the use of the land; and
 4. Restore the land to Green Belt land.
 - The period for compliance with the requirements is: 12 months from the date the notice comes into effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (g) of the Act. 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.
-

Appeal B Ref: APP/P0240/C/22/3302532

Plot 6, Stanbridge Road, Great Billington, Leighton Buzzard, Bedfordshire LU7 9JH

- The appeal is made under section 174 of the Act.
 - The appeal is made by Mr Richard Casey against an enforcement notice issued by Central Bedfordshire Council.
 - The notice was issued on 7 June 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the Unauthorised Operational Development of the Land, including the installation of electrical wiring, the installation of a sewage provision underground and the laying of hard standing.
 - The requirements of the notice are to:
 1. Remove underground sewage system from the Land and restore the Land to its former condition; and
 2. Remove hard standing material from the Land and return the Land to its former condition.
 - The period for compliance with the requirements is: 13 months from the date the notice comes into effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (g) of the Act. 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.
-

Appeal C Ref: APP/P0240/W/22/3301906

Plot 6, The Stables, Site B, Stanbridge Road, Great Billington, Bedfordshire LU7 9JH

- The appeal is made under section 78 of the Act against a refusal to grant planning permission.
 - The appeal is made by Mr Richard Casey against the decision of Central Bedfordshire Council.
 - The application Ref is CB/21/01648/FULL.
 - The development proposed is change of use of land to use as residential caravan site for 2 gypsy families with a total of 5 caravans, including no more than 3 static caravans/mobile homes, together with the laying of hardstanding and erection of 2 ancillary amenity buildings.
-

Decisions

Appeal A

1. It is directed that the enforcement notice is varied by:
 - In Section 5 (4) deleting all the words and substituting with "Restore the land to its former condition".
2. Subject to the variation, 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 Act as amended.

Appeal B

3. 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 Act as amended.

Appeal C

4. The appeal is dismissed.

Preliminary Matters

5. There are 3 appeals, 1 appellant with respect to the appeal site. Appeal A and Appeal B are on grounds (a) and (g) against the enforcement notices, one relates to the material change of use of the land and one relates to operational development. The change of use of land to use as a residential caravan site with facilitating operational development is proposed to be retained including further proposals for the erection of 2 ancillary / amenity buildings and hardstanding in the appeal against the Council's refusal of planning permission CB/21/01648/FULL in Appeal C.
6. Although, the description of development in the application form and Council's decision notice is in the banner heading above, it was confirmed at the Hearing that Appeal C was made on the basis that the change of use of land to use as a residential caravan site would be for 2 No. gypsy / traveller families (on separate pitches), one with 3 caravans including no more than 2 static caravans, and one with 2 caravans including no more than 1 static caravan, together with laying of hardstanding and erection of two ancillary amenity buildings. As such, I have dealt with the appeals on this basis and Appeal A, B, and Appeal C where necessary together.

7. A revised version of the National Planning Policy Framework (the Framework) and the Planning Policy for Traveller Sites (PPTS) Annex A was published in December 2023. In reaching my decision I have had regard to the revised Framework and PPTS.
8. The Hearing was opened on 7 February 2024 and was subsequently adjourned following late evidence presented from Mr Masters and Mr Brown ('the appellants representatives') on behalf of new occupants at the site. I was also informed that Mr Kiely, who one of the intended pitches was for, and the owner of the site had given up the pitch and moved away. The Council were unaware of these changes in circumstances that were material considerations. I was also presented with late evidence relating to Unilateral Undertakings (UU), which I will return to in the decision.
9. Therefore, it was agreed by the main parties that, in view of new evidence presented that an opportunity should be given to assess their cases. The parties in advance of the 8 May 2024 sitting, were given an opportunity to add to their respective cases and these matters were discussed at the Hearing. In addition, the appellant in the interests of fairness was given an opportunity after the Hearing closed to address matters pertaining to the UU. An accompanied site visit was undertaken on 7 February 2024.
10. The appellants representatives at the Hearing specifically have drawn my attention to an Appeal Decision¹. Having sought the views of the parties, I see no reason why any party would be prejudiced if I were to take this decision in to account insofar it being relevant to this decision.

The Notices

11. A ground (e) argument may be pleaded where the appellant considers that a copy of the enforcement notice was not served on every owner and/or occupier of and/or person having an interest in the land. The appellants representatives at the Hearing raised the issue whether the enforcement notices had been served correctly. The Council subsequently confirmed this and provided a copy of the 'Statement of Service'. Thus, it was agreed there was no reason that Appeals A and B should proceed on the basis of a ground (e).
12. The notice as drafted in Appeal A at Section 5 (4) states "*restore the land to Green Belt Land*". At the Hearing, it was discussed that there is no logical definition, and the requirement should just simply be to restore the land to its former condition. The Council acknowledged their mistake and that this change would be consistent with the allegation and similar requirements of the notice on Appeal B at Section 5 (2). Therefore, I consider there would be no injustice to any party if I were to vary the requirements of the notice accordingly under Appeal A.

Appeal A and Appeal B ground (a) / the deemed applications for planning permission and Appeal C, the s78 appeal

Main Issues

13. At the Hearing, both main parties acknowledge that the appeal site and for the purposes of the appeals that the development and proposals constitute inappropriate development.

¹ APP/P0240/W/20/3258835

14. Appeals A and B have been considered together (as the operational development facilitates the use).

15. Therefore, considering the above the main issues in the appeals are:

- The effect of the proposal on the openness and purposes of the Green Belt;
- The effect of the proposal on the character and appearance of the area;
- Biodiversity, with particular reference to any direct effects on the Chilterns Beechwoods Special Area of Conservation (SAC);
- Whether the proposal would comply with local and national planning policy having regard to drainage, foul and surface water; and
- Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

The site and surroundings

16. The appeal site lies within open countryside and the designated South Bedfordshire Green Belt identified within Policy SP4 of the Central Bedfordshire Local Plan 2015-2035, 2021 (CBLP). It is some 0.2 hectares located to the north of Stanbridge Road and some 700 metres from the built-up area of the village of Great Billington. The appeal site is adjacent to a wider gypsy and traveller site known as 'the Stables' and nearby to 'Ash Tree Paddock'. The Stables is divided into 3 site areas Area A, B and C with the appeal site falling within site B. Site B has been further divided into Plots 4, 5, 6 and 7 and the site consists currently of hardstanding areas and is boarded to the north by open agricultural land with hedgerows.

17. The planning history of the wider adjacent sites is long and complex, and the Council have provided aerial images how the area and the sites have evolved over time. There have been several planning applications, appeal decisions and enforcement notices served in relation to the wider sites and nearby, which the Council have provided in their statement of case², and I have had regard to those. However, it was set out planning permission had been granted for 4 pitches and 11 caravans at Site C. Site B consists of 1 pitch with 3 caravans and Site A was lawful with a total of 11 pitches and 12 caravans.

18. The nearest to the appeal site 'Plot 6' on Site B, which being Plot 7 and Plot 5 at the time of the Hearing had extant enforcement notices for the material change of use of the land and operational development. Plot 4 is currently unoccupied since the family moved off and the personal permission which was granted is therefore no longer relevant. Thus, there are several unauthorised pitches at Site B, and it was acknowledged that the actual number of caravans across all sites on the ground may be greater than the permitted numbers, and others occupied without permission.

² Appendix 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 20

Openness and purpose

19. Policy SP4 of the CBLP sets out there is a general presumption against inappropriate development and that development proposals within the Green Belt will be assessed in accordance with the Framework and National Planning Policy Guidance. The policy expects particular attention to be given to the quality of design, to ensure that development respects and is sympathetic to the character and openness of the settlement and its surroundings.
20. The PPTS states that gypsy and traveller sites are inappropriate development in the Green Belt. Paragraph 142 of the Framework sets out the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics thereof being its openness and permanence.
21. I saw at the time of the site visit, there was only 1 static caravan in situ and the 3 touring caravans. There were several other vehicles on the site, and considerable domestic paraphernalia including a shed, kennels, wiring, pipes, cables, electric points across the site. Thus, the site layout plan on Appeal C was not comparative in any way to what was currently on the site.
22. The proposal in Appeal C incorporates siting for 3 static caravans / mobile homes, 2 touring caravans, hardstanding, parking for some 6 vehicles, additional facilitating operational development. In each of the proposed pitches would be brick amenity buildings, and the pitches further divided by screening of vertical wooden boarding and concrete posts /gravel boards. Although areas are shown to be grass or have hedge planting most of the site would be hardstanding / gravel.
23. It was argued at the Hearing that any loss of openness would only be spatial, and the loss was limited due to the site being contained by other surrounding caravans and nearby scrapyards and transport works on Stanbridge Road.
24. Nevertheless, there is no doubt that what has taken place and is proposed would reduce the visual and spatial openness of the site that was once prior to the unauthorised development a former field and was devoid of any structures or any built form. In addition, the proposed 2 amenity buildings would not be of moveable development or on a temporary basis and be of considerable width, height and volume constructed of brick with a slate roof in each of the individual pitches which would further reduce the openness of the site. Furthermore, the pitches would be somewhat divided, reducing openness further within the site by the addition of a stark large screening fence.
25. For the reasons set out, I conclude that the development and proposal fail to preserve the openness of the Green Belt and would not assist in safeguarding the countryside from encroachment. This would be contrary to the Framework, and Policy SP4 of the CBLP.

Character & appearance

26. Policy H7 of the CBLP requires that the character and wider landscape is not detrimentally affected when assessing planning applications for gypsy and traveller sites, including extensions to existing sites and other relevant policies in the plan. Policy HQ1 seeks to achieve high quality development and is subject to criteria assessment, whilst Policy EE5, requires development to respect, retain and enhance the character and distinctiveness of the local landscape with integrating on-site mitigation in scale with the landscape and the development.

27. The site is located within distinctly wider rural surroundings within the open countryside, and it falls within the 5A Eaton Bray Clay Vale character area which is defined within the Central Bedfordshire Landscape Character Assessment, 2015 (LCA). The LCA characterises the area as low lying, open, rural, arable landscape crossed by several busy roads and is dominated by arable crop production.
28. The existing development is seen from glimpses on the access road from Stanbridge Road, and it is proposed to increase the development which would significantly increase the overall developed and urban appearance of the appeal site including its density. This is particularly due to the inclusion of two substantial brick buildings and dividing screen fencing, adding to the further urbanisation of the site.
29. I accept that given the nature of the surroundings it somewhat displays a suburban character, but the proposal would result in further development and encroachment pushing to the north and eroding the countryside, which was once open, agricultural land prior to any of the development taking place. This would result in a wider negative encroachment into the landscape. Moreover, I have no substantive evidence to the contrary that the appeal site consisted of existing hardstanding and was not agricultural land prior to the appellant occupying the site.
30. Although Policy H7 and the PPTS, does not specifically exclude sites within the countryside, they do require assessment of the wider surroundings. Furthermore, the Framework at paragraph 180(b) recognises that decisions should contribute to and enhance the natural and local environment including the intrinsic character and beauty of the countryside. For the reasons given, I conclude the development and proposal causes adverse harm to the character and appearance of the wider area. Consequently, conflicting with Policies H7, EE5 and HQ1 of the CBLP, as set out above, and the provisions in Chapter 15 of the Framework.

Biodiversity

31. The appeal site lies within the Zone of Influence (500m-12.6km) of the Chilterns Beechwood SAC, specifically the Ashridge Commons and Woods Site of Special Scientific Interest (SSSI). The SAC is designated due to the importance of qualifying features including beech forests on neutral to rich soils, semi-natural dry grasslands and scrub on chalk and stag beetle population. Natural England (NE) advised in March 2022 concerning the effect of additional recreational pressure on the SSSI part of the SAC and new residential development would increase the pressure.
32. Gypsy and traveller pitches constitute residential development for the purposes of CBLP, and it was agreed that the proposal could result in likely significant effects on the SAC in combination with other plans and projects. Therefore, as the competent authority it would be necessary for me to carry out an appropriate assessment (AA), if I were minded allowing the appeals.
33. NE has advised that without appropriate mitigation the development would have an adverse effect on the integrity of the Beechwoods SAC and measures would need to be secure including any planning condition or obligation be attached to a grant of planning permission.

34. During the Hearing I was presented with 2 different UU to secure contributions to the SANG³ and SAMM⁴. The Council raised concerns, initially to the witness details being inconsistent with the signing of the UU in a different Country. Secondly, on the basis that a revised UU was presented that was not executable. The appellant, following the Hearing has put forward another UU with proof of site ownership which secures through the owner of the site a financial contribution to both SANG and SAMM. The Council have commented that this is acceptable.
35. Although, the intended occupiers of the site are not party to the agreement, as I am dismissing for other reasons it is not necessary for me to consider this matter or to undertake an AA, and further whether the UU implementation is secure. Nevertheless, a UU that would meet the relevant tests, and secure the necessary contributions relating to mitigation would accord with Policy EE3 of the CBLP.
36. CBLP Policy EE2 also requires that development proposals will be permitted where they avoid negative impacts on biodiversity and geodiversity. This requires proposals to incorporate and enhance existing and creating new biodiversity features within the design and maximise opportunities to enhance. Appeal C proposes new landscaping throughout the site, and the matter of enhancement and biodiversity net gain should be secured. The main parties agreed that this could be done by a suitably worded condition with details to be submitted to and agreed by the Council. Therefore, for these reasons I consider that subject to a suitably worded condition the development and proposal would not conflict with Policy EE2 of the CBLP.

Drainage, foul & surface water

37. Policy CC5 of the CBLP, sets out development that results in increase of hardstanding area or impacts on surface water flow paths will be required to use SUDS to reduce surface run off, to reduce overall flood risk or reduce discharge rates and volumes, and requires proposals to demonstrate as such. Policy CC6 only grants developments where foul flows are drained separately from surface water run off to an agreed point of connection to a public foul sewer or, from non mains drainage proposals where there would be no detrimental impact on the environment; and foul sewers or sewage treatment facilities (of adequate design and capacity) are available to meet demand, or serve the development to ensure the environment and should not adversely affect the amenity of local residents.
38. The planning application was accompanied by very little detail pertaining to the drainage on the site. The Environment Agency (EA) have objected to the development because it involved the use of a non-mains foul drainage system in a publicly sewered area and no justification has been provided for this method of foul sewage disposal.
39. The appellant's statement of case in support of the appeals also pertains little detail and indicates that the site is connected to mains water with a mains sewer available along Stanbridge Road, within 30 metres of the appeal site. It sets out that suitable arrangements can be made for drainage, sanitation, and access to utilities.
40. As I saw, the public sewer and potential connection runs along the main highway of Stanbridge Road and given the distance to the site, and the reasons why this

³ Suitable Alternative Natural Green Space

⁴ Strategic Access Management and Monitoring

was potentially an unrealistic option, I have no reason to disagree that it would probably be difficult for connection. I also saw there were some connections of water and waste storage across the site. It was further clarified at the Hearing that the development and proposals would utilise a septic tank for disposal of foul sewage.

41. Nevertheless, I have very little technical evidence to address the objections raised by the EA, or that of the Council's Flood Risk Team and in terms of surface water, there is no evidence to suggest this would not be significant and flooding would not arise from the areas of hardstanding across the appeal site. Moreover, I cannot be certain of the current position on the site and whether existing suitable arrangements of maintenance and disposal, specifically to sanitation and foul drainage do not adversely affect the environment.
42. Therefore, in the absence of insufficient evidence I conclude the development and proposal would be in contrary to Policies H7 and CC5, CC6 of the CBLP. These policies taken together amongst other matters, require suitable drainage, sanitation and access to utilities; and SUDS are used to reduce surface water runoff. It would also conflict with the aims of the Framework, at Chapter 15, which amongst other matters, seeks development to improve local environmental conditions.

Other Considerations

Needs / availability

43. The PPTS requires that criteria should be set to guide land supply allocations where there is an identified need. Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. These should be fair and facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community. Policy SP4 of the CBLP sets out the overall need for gypsy and traveller site provision which is in line with the Gypsy and Traveller Accommodation Needs Assessment (GTAA), 2016. There is no dispute regarding the appellant and his family, occupants of the site, would meet the PPTS definition of gypsy and travellers.
44. The GTAA set out there was a total need for some 29 pitches up to 2035 to meet identified needs (23 meet the 2015 PPTS and 6 the local proportion of need from unknown households), and that monitoring data showed it had already exceeded this future and that a five-year supply can be maintained over the plan period. Policy SP4 of the CBLP on this basis sets out that it was not necessary to allocate land within the local plan for additional pitches and where there is no identified need. It states future windfall sites should be determined against the criteria in Policy H7 and other relevant policies in the CBLP.
45. However, the Council at the Hearing provided a further updated position which was undertaken based on reviewed householder data and following the implications of the revised PPTS definition in 2023 arising from the *Smith* judgement⁵. The Council assert that sufficient sites to meet the identified accommodation needs of gypsies and travellers over the plan period has been met as the supply figure is now 34 pitches, which equated to the 29 and 5 further from the new 2023 definition of households. The Council confirmed it has

⁵ *Smith v SSLUHC & Ors* [2022] EWCA Civ 1391

permitted some 51 new pitches meeting the PPTS definition, including 1 new public site with 12 pitches.

46. The appellants representatives disputed the Council's current position and the updated evidence of position. They assert that the GTAA already underestimated the level of need, and the revised figures and methodology have not been tested through public examination. They also questioned the needs for adult children, and that migration was not considered and that the PPTS definition cannot be taken out of context to suit the narrative of the updated position. I am also mindful of the appeal decision at Eversholt Beeches, which has been referred to me, at paragraphs 43 and 46. However, I do not have the precise full details of that case, and I note that the Inspector in that only stipulated that "*...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*".
47. In addition, at the Hearing, it was set out that there were currently no available alternative pitches within the Borough, including the Council owned sites, but many of the sites were also private and full of waiting lists which is a relevant consideration. However, it was not demonstrated that there is a realistic prospect of a roadside existence in the event the appeals were dismissed.
48. Nevertheless, on the evidence before me I find the Council has made proper provision to meet the needs of gypsies and travellers through the local plan processes, however for the purposes of this appeal I am not persuaded that the updated figures are an accurate estimate, and these have not been tested through public consultation and the starting point should be the GTAA. I have also had regard to the Local Development Scheme and timescales which were put before me, and paragraph 12 of the PPTS.
49. There is no doubt that there is a demand for greater pitches in the area, and in the context of 2 additional pitches being provided, it would not have a significant detrimental effect on the Council's strategic approach to site provision. A settled base for the intended occupants would result in several benefits for them and their families, and the lack of alternative sites are significant material considerations that weigh in favour of the appeal.

Personal Circumstances

50. The appellant was not present at either sitting of the Hearing, but a family representative gave evidence. It was difficult to gather any definite information on the appellant, including from the appellants representatives. The oral evidence was somewhat unclear and ambiguous as to where the appellant is currently residing with his family, work, future intentions on the site including that he does not currently own a static caravan/mobile home, medical needs or the current educational, social and medical needs of any of the children.
51. The written evidence presented with the original application and the appeal within the appellants statement of case, relates to the family of Kiely/Casey. I was informed that Mr Kiely is the owner of the site, who had also been served the enforcement notices but not made an appeal and had moved some time ago out of the Country. These details were somewhat contradictory when it was discussed at the Hearing, and in any case the personal circumstances of Mr Kiely are now not a relevant consideration. The Council also disputed that the appellant Mr Casey, is currently residing at the site and asserted they had visited the site on

several occasions with no presence and had been in touch with the educational authority confirming this, albeit I was not presented with any substantive evidence on this matter.

52. In terms of the other occupiers who appear to be on the site and were interested parties to the Hearing confirmed they come from a long line of gypsies and travellers who continue to live a gypsy lifestyle through choice. They moved to the appeal site sometime between August and December 2023 and explained they are related to the owner of the site. Evidence has been provided relating to the family and that there are 7 children and 1 adult dependent who intend to live on one of the pitches. Further information was provided, relating to the ages, medical needs, social activities of the children and 4 were settled in schools in the area. Previously they have utilised other plots / pitches for living on a temporary basis on the wider site.
53. Although, evidence given was contradictory in part, and that the appellant's personal circumstances are limited in weight, taking account of the personal circumstances of the intended occupiers of the site and their current circumstances and need for a settled base especially in the best interest of the children weighs significantly in favour of the development and proposal.

Location / Accessibility

54. The appeal site is located outside any defined settlement and there is an absence of formal footways or public transport linking the site with the wider area along Stanbridge Road. As such, the opportunities to use sustainable modes of transport are restricted. I consider that most journeys to and from the appeal site for either employment or to reach essential services would be made by private motor vehicles, whether to the nearby village of Great Billington, or to the market town of Leighton Buzzard. However, these journeys to reach facilities and services within the nearby village would not be unduly long and Leighton Buzzard offers a range of facilities including shops and schools.
55. I am mindful that paragraph 109 of the Framework explains that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. In any event, the provision of a settled base for 2 gypsy households would facilitate access to local facilities, services and schooling, and reduce the likely extent of long-distance travelling, in line with paragraph 13 of PPTS.
56. The appeal site is not in a location away from settlements where traveller sites should be very strictly limited in accordance with PPTS, and it would enable reasonable and satisfactory access to local schools and other amenities. On this basis, I conclude that the appeal site is a suitable location for gypsy and traveller accommodation in locational and accessibility terms.

Intentional Unauthorised development

57. On 31 August 2015 the government introduced a policy statement on Green Belt protection and intentional unauthorised development. This states that intentional unauthorised development is a material consideration to be weighed in the determination of planning applications and appeals. Intentional unauthorised development has clearly taken place at the site. In addition, following the Council's intervention and serving of the notices further occupants who are related to the owner of the site moved onto the site likely knowing that the site was unauthorised. Consequently, this is the kind of development which the policy

was designed to discourage, and this adds in my view that the development has caused harm.

Other matters

58. I have been referred to other appeal decisions in the written and oral evidence given from both main parties, and several case judgments. I have had regard to these in the decision insofar these are relevant in coming to my decisions. However, I have dealt with the appeals on the basis of my own site observations, and the evidence which has been presented to me in these appeals.

Planning Balance and Conclusion

59. PPTS paragraph 16 states that inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. 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. PPTS paragraph 24 sets out a range of relevant matters to consider when considering development and proposals for traveller sites.
60. The development and proposal are inappropriate development in the Green Belt. This is harmful by definition and to which I attach substantial weight to that harm. The development reduces the Green Belt's openness, which gives rise to additional harm, and it does not assist in safeguarding the countryside from encroachment.
61. Additionally, I have found adverse harm to the character and appearance of the area, which I afford this moderate weight and the development represents intentional unauthorised development to a limited degree. I have found harm arising from drainage, foul & surface water flooding to which I attach substantial weight. The substantial harm renders the development contrary to the requirements of the Council's Development Plan policies and in conflict with the Framework.
62. Against the substantial harm I have identified, the other considerations advanced by the appellant and intended occupiers are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt, and the other harm I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
63. The absence of harm to highway safety, living conditions, biodiversity and the sustainability and accessibility of the site's location are neutral factors in the determination of the appeal.
64. In reaching the above conclusions, I have considered whether suitably worded conditions could make the proposal acceptable. However, although conditions could mitigate the harm to biodiversity, highway access and landscaping they could not mitigate the substantial harm to make the developments acceptable overall.
65. I have also considered whether a temporary or personal permission would be appropriate, if I were to dismiss the appeals on the basis that planning circumstances may change at the end of such a period. Although a temporary permission would time-limit the Green Belt harm and that caused to the character and appearance of the area. A period of occupation of the site would

still lead to considerable harm to the Green Belt, which would not be outweighed by other material considerations. Moreover, I consider there is a degree of uncertainty over the appellants personal and future circumstances in granting a personal permission.

66. I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. The appellants, current occupiers of the site and their families, who intend to occupy the site have protected characteristics for the purposes of the PSED. However, after having regard to all material considerations, I am satisfied that the aim of avoiding unacceptable harm to the Green Belt can only be adequately addressed by dismissal of the appeals. Any interference with the human rights of the appellants, current occupiers and their families of the site is therefore necessary and proportionate.
67. The development and proposals would be contrary to the development plan and the Framework taken as a whole. There are no other material considerations that would indicate that the development should be determined other than in accordance with the development plan.
68. For the reasons set out above, and having regard to all other matters raised, I conclude that Appeal A, B and C should be dismissed.

Appeals A and B, on ground (g)

69. An appeal under ground (g) is made on the basis that any period specified in the notice in accordance with section 173(9) of the Act falls short of what should reasonably be allowed. Notice A requires compliance within 12 months and notice B requires compliance within 13 months of the notices coming into effect.
70. The appellant seeks a period of 18 months to comply with the notices. The stated context is of avoiding the family's residing on the site from becoming homeless. Although I have found that planning permission should not be granted for the proposal and development enforced against on the appeal site, I am mindful that the occupants who are residing at the site, or who intend to reside at the site have sufficient time to find an alternative site or potentially resolve outstanding issues and conflict with the Council.
71. Nevertheless, the suggested alternative of 18 months would be harmful, having regard to my conclusions on the appeals on ground (a) and Appeal C. I acknowledge the practicalities faced by intended occupants while reflecting the expediency of enforcement action and consider that the existing compliance timeframe is a proportionate response to the personal circumstances. On this basis, Appeal A and Appeal B on ground (g) fails.

Overall Conclusions

72. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notices with a variation to Appeal A and refuse to grant planning permission on the applications deemed to have made under section 177(5) of the 1990 Act as amended.

KA Taylor

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

P Brown

A Masters

B Casey – on behalf of the appellant

FOR THE LOCAL PLANNING AUTHORITY:

P Hughes

S Jarman

H Heanes

D Hale

INTERESTED PARTIES:

M Stokes

P Stokes

B Casey

DOCUMENTS

Personal Circumstances / Statement of Witness M Stokes

Appeal Decision APP/P0240/W/20/3258835

Statement of Service

Unilateral Undertaking(s)

Updated PPTS 2023 Calculations

Policy EE2

Central Bedfordshire Council Local Development Scheme