

## Appeal Decision

Hearing held on 28 August 2024

Site visit made on 28 August 2024

**by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12<sup>th</sup> September 2024**

**Appeal Ref: APP/M3645/C/24/3341199**

**Land at Bones Lane, Newchapel, Lingfield, Surrey, RH7 6HR**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Levi Harbour against an enforcement notice issued by Tandridge District Council.
- The notice was issued on 21 February 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the Land to a mixed use of residential and agriculture, the stationing of a residential campervan, stationing of shipping containers, parking of a commercial lorry, parking of a horsebox, the creation of an access with associated hardstanding and the laying of a separate hardstanding in the approximate area shaded blue on the attached.
- The requirements of the notice are to:
  - (i) Permanently cease the unauthorised residential use of the land.
  - (ii) Permanently remove from the Land all associated miscellaneous items associated with the unauthorised residential use of the Land.
  - (iii) Permanently remove the campervan and lorry from the land.
  - (iv) Permanently remove all shipping containers from the land.
  - (v) Permanently remove all timber, building materials stored on the land not required for agricultural purposes on the Land.
  - (vi) Dig up the hardcore, rubble and other material to create the hardstanding area including the material used to create and surface the newly created access to the land marked blue on the attached plan.
  - (vii) Remove from the highway drainage ditch all material used to create the new access and restore the ditch to its condition and profile before the unauthorised works on the land commenced.
  - (viii) Reinstall the section of hedge that was removed to form the unauthorised access marked in yellow on the attached plan, as per the Schedule attached to this Notice Annexure 1.
  - (ix) Remove all resultant materials generated from compliance with Steps vi and vii above.
- The period for compliance with the requirements (i) – (vii) & (ix) is 9 months and requirement (viii) shall be implemented in the first planning season following the date of the Notice coming into effect.

- The appeal is proceeding on the grounds set out in section 174(2) (a), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

**Summary of Decision: The appeal is dismissed, and the enforcement notice is upheld with corrections and a variation in the terms set out below in the Formal Decision.**

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### **Preliminary Matters**

1. During the appeal process and prior to the submission of hearing statements, the Council confirmed that they no longer intend to defend their fourth reason for issuing the enforcement notice which related to alleged harm to the living conditions of the occupants of the site by reason of noise nuisance relating to the Gatwick flight path. This matter was not therefore pursued further in the appeal and was not a matter for my consideration.
2. The appellant advised at the hearing that he had recently delivered by hand a bundle of documents in support of his appeal to the Council. The Council could not find any evidence of those documents being received by them. Given the circumstances and nature of the documents it was agreed that the appellant would have an opportunity to resubmit copies of those documents. The appellant subsequently provided the documents, and the Council has had an opportunity to comment on them and has not therefore been prejudiced. I have had regard to all of those documents in my determination of the appeal.
3. The appellant's representative made a request at the start of the hearing to make an audio recording of the event. Mr Green confirmed that the recording was solely for the purposes of the appellant who is unable to read or write. The Council did not raise any objections to that request and neither did I. An audio recording was thus made of the event by Mr Green.

### **The Notice**

4. The breach of planning control alleged in the notice is the material change of use of the Land to a mixed use of residential and agriculture, the stationing of a residential campervan, stationing of shipping containers, parking of a commercial lorry, parking of a horsebox, the creation of an access with associated hardstanding and the laying of a separate hardstanding in the approximate area shaded blue on the attached plan.
5. From discussions at the hearing, which included clarification on the site uses by the appellant, it was clear that in addition to the Land being in a mixed residential and agricultural use, it was also being used for the keeping of horses. The appellant breeds and trades horses, and the commercial lorry which is kept on the site is used to bring in feed for those horses. One of the containers sited on the Land is used to store feed in the winter months. The keeping of horses is not an agricultural use, it is a separate use which forms part of the mixed-use taking place on the Land.
6. The main parties agreed that the breach would be more accurately described as "a material change of use of the Land to a mixed use of residential, keeping of horses and agriculture....". It was also agreed that the notice could be corrected to include the keeping of horses within the mixed use

without causing any injustice to any party. I shall therefore correct the notice to that effect and correct the requirements of the notice accordingly.

### **Appeal on ground (c)**

7. The issue in this legal ground of appeal is that those matters alleged to have occurred, do not constitute a breach of planning control. The onus is on the appellant to make out their case and the test is the balance of probability.
8. Although the initial grounds of appeal included a ground (c) appeal, the appellant accepted at the hearing that a change of use of the Land from use as agriculture to a mixed use for residential, keeping of horses and agriculture was development for which planning permission is required. No planning permission has been granted for that use by the local planning authority and a breach of planning control has occurred. The appeal on ground (c) fails.

### **Appeal on ground (a), deemed planning application**

#### **Main Issues**

9. There is no dispute between the parties that the site is in the Green Belt and, in accordance with Policy E of the PPTS, the development the subject of this appeal is a form of development which constitutes inappropriate development in the Green Belt. Having regard to the evidence before me in respect of the location of the site and the type of development, I see no reason to disagree and conclude that the appeal relates to inappropriate development in the Green Belt.
10. The main issue is whether the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the unauthorised mixed use, is clearly outweighed by other considerations to provide the very special circumstances necessary to justify the development.
11. The potential harms of the development relate to:
  - the effect on the openness and purposes of including land in the Green Belt;
  - the effect on the character and appearance of the area; and
  - the effect of the development on biodiversity.
12. Other considerations, potentially weighing in favour of the development, include the existing level of local provision and need for sites, the availability (or lack) of alternative accommodation for the appellant and their other personal circumstances.
13. Integral to my decision-making will be exercising duties under the Human Rights Act 1998. Article 8, a Convention Right<sup>1</sup>, affords a person the right to respect for their private and family life, their home and their correspondence. It is a qualified right that requires a balance between rights of the individual and the needs of the wider community. In applying Article 8 there is a positive obligation to facilitate the Gypsy way of life to the extent that the vulnerable position of Gypsies as a minority group means that some special

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<sup>1</sup> Article 8 of the European Convention on Human Rights, enshrined into UK law by the Human Rights Act 1998.

considerations should be given to their needs and different lifestyle in the regulatory planning framework and in reaching decisions on particular cases. Under the Equality Act 2010 I will have regard to the public sector equality duty (PSED).

## **Reasons**

### *Green Belt openness and purposes*

14. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. It is also established case law that the openness of the Green Belt has a spatial as well as a visual impact. This means that absence of visual intrusion does not in itself mean that there is no impact on openness of the Green Belt as a result. But equally this does not mean that the openness of the Green Belt has no visual dimension.
15. Policy DP10 of Tandridge Local Plan Part 2: Detailed Policies (LP) contains a general presumption against inappropriate development in the Green Belt, and in accordance with the National Planning Policy Framework (the Framework) states that inappropriate development will only be permitted where very special circumstances exist, to the extent that other considerations clearly outweigh any potential harm to the Green Belt by reason of inappropriateness and any other harm.
16. Prior to the unauthorised development taking place, the appeal site comprised open grassland bounded by hedgerows. Apart from a small timber barn situated adjacent to the site access and Bones Lane, the site was free from any development and had an open character. It is that condition which is the baseline against which the impacts on the openness and purposes of the Green Belt should be assessed.
17. A new vehicular access has been created into the site and from which a new hard surfaced track, finished with loose stone/ gravel, extends into the site. A further area of hard surfacing has been created adjacent to the barn where the campervan, lorry and horsebox are stationed. A little further into the site to the west and beyond the hardstanding, two large shipping containers have been sited on the Land. I noted on my site visit that adjacent to the containers an oil tank has also been installed on the Land. In addition, there were various piles of building materials, including timber and old plastic window frames on the Land and new gates/fence installed across the original site entrance adjacent to the barn.
18. The development is readily visible from Bones Lane, both from the original access point and through the large new entrance where the hedgerow has been removed. I also noted that the lorry and containers could be seen from East Park Lane across the fields and above the hedge line which abuts the western boundary of the appeal site. Taking into consideration the flat landscape and relatively low boundary hedgerows, the development on the site is visually conspicuous within the landscape.
19. Furthermore, the hardstanding, campervan, containers, commercial lorry, and horsebox, which the appellant confirmed would be permanently parked on the Land, introduce a footprint and a form of bulk development onto the site

where there was previously none. However, considering the size of the site and confinement of the new development to the eastern corner of the field, a good proportion of the site remains open. There is a modest loss of Green Belt openness in spatial terms and a degree of encroachment into the countryside. Nevertheless, that is a matter which carries substantial weight against the development.

### *Character and appearance*

20. The appeal site comprises a large rectangular field, with access off Bones Lane. The site adjoins other fields to the north and south with hedgerow boundaries. The landscape in this location is relatively open and flat. It is characterised by sporadic housing and farmsteads with some small, wooded areas. Whilst there are pockets and small clusters of commercial development and larger Gypsy and traveller sites along the Eastbourne Road (A22) and West Park Road (B2028), overall, I find that the character and appearance of the wider area is predominantly that of a rural countryside landscape.
21. The nature of the appeal proposal as a gypsy and traveller site does not of itself confer an adverse effect on the character and appearance of the area. Indeed, PPTS<sup>2</sup> acknowledges that traveller sites can be appropriately located in the countryside. Furthermore, while Policy CSP9 of the CS seeks to prevent development which significantly harms the visual amenities and character of the area, the policy does not exclude site locations in the countryside.
22. The single pitch, which would comprise a maximum of two caravans, would be at the smallest scale of traveller provision. The appellant's campervan is positioned behind the existing barn and close to the hedgerow boundary, thus limiting its visibility from the road. However, whilst I appreciate that it is not unusual for a horse box to be found in the countryside, and perhaps also a container for storage of feed/machinery within an agricultural unit, the two containers, oil tank, commercial lorry and horse box together with the campervan have resulted in a consolidated form of development and are a visual distractor. The local countryside's open character has been eroded.
23. Furthermore, the loss of a large section of hedgerow and wide entrance which has been created onto Bones Lane, has increased the visibility of the unauthorised development on the Land and detracts from the visual and rural qualities of Bones Lane. However, I am mindful that a new hedgerow is proposed to close the existing access to the site adjacent to the small barn and this would provide some compensation for the hedgerow which has been removed.
24. To conclude, there has been significant harm to the character and appearance of the area from the development and thus failure to comply with Policy CSP9 (b) of the CS and Policy CSP18 of the CS which seek to ensure, amongst other things, that new development in the countryside is of a high standard and reflects and respects the character, setting and local context. I also find conflict with Policy DP7 of the LP which seeks to ensure, amongst other things, that all new development integrates effectively with its surroundings. Considering local and national planning policies which

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<sup>2</sup> Planning Policy for Traveller Sites, December 2023, Policy C.

acknowledge that traveller sites can be located in the countryside, the small scale of the proposed site and the potential for replacement hedgerow planting to soften the appearance of the development, the weight that I attach to the harm in the planning balance is moderate.

### *Biodiversity*

25. Policy CSP17 of the CS and Policy DP19 of the LP are consistent with Section 5 of the Framework and seek to ensure protection, management and enhancement of the natural environment. Development proposals should protect biodiversity and provide for the maintenance, enhancement, restoration and, if possible, expansion of biodiversity.
26. The appeal site comprises grassland bounded by hedgerows with the occasional hedgerow tree. In the absence of a Preliminary Ecological Assessment undertaken prior to development commencing, the condition of the grassland and hedgerow is unknown.
27. The unauthorised development, including the site access track and hard surfaced area created within the site, has resulted in the loss of some of the original grassland. In addition, a ten-metre length (approximately) of hedgerow has been removed from the site frontage to create a new vehicular access, and the highway drainage ditch has been infilled in the same location. Consequently, the unauthorised works have resulted in a loss of biodiversity.
28. Nevertheless, the Council accepted at the hearing that the appeal site would provide a sufficient area to provide biodiversity mitigation and enhancement, including through the provision of a new hedgerow to physically stop up the original site access and excavation of the ditch in that location. It was acknowledged that a soft landscaping and biodiversity mitigation scheme/management plan could be secured by a suitably worded planning condition.
29. I conclude, subject to the imposition of a condition to require the submission and implementation of an approved site development plan, to include a landscaping and biodiversity mitigation scheme/management plan, the development would not have a harmful effect on biodiversity. There is no conflict with Policy CSP17 of the CS or Policy DP19 of the LP, the aims of which are set out above. There is also no conflict with the Framework in that regard.

### *Need and supply of traveller sites*

30. There is a generally accepted national need for more traveller sites. The Framework expects that the housing needs for different groups in the community should be reflected in planning policies. The PPTS, which is itself a material consideration, makes it clear that a relevant matter in the consideration of planning applications for traveller sites is the existing level of local provision and need for sites. More specifically, local planning authorities should identify and update annually a supply of deliverable sites sufficient to provide 5 years' worth of sites against their local set targets.
31. The Tandridge Gypsy and Traveller Accommodation Assessment January 2017 (the GTAA) is the last published study of Gypsy and traveller pitch provision to be carried out for the District. In December 2023 the Council

commissioned Opinion Research Services (ORS) to complete a new GTAA. I was told at the hearing that this has now been completed and will be considered by the Council at their planning committee in September 2024. The Council expects the findings of that study to be used to inform a new policy within the Council's emerging new Local Plan and is expected to include allocated sites. However, until the new GTAA is published and adopted by the Council as their new evidence base, the 2017 GTAA is the most up to date assessment of the need for Gypsy and traveller sites before me. The baseline date of the study was March 2016 when all the site interviews were completed. For the period 2016 - 2033 the GTAA identified a need for 5 additional pitches for households that meet the definition of Gypsies and travellers in the 2015 PPTS, a need for up to 15 additional pitches for unknown households and 23 additional pitches for households that did not meet the 2015 PPTS definition.

32. In support of this appeal, the Council in conjunction with ORS, have produced an adjusted assessment of need, based on evidence from the 2017 GTAA and having regard to the 2023 PPTS definition of Gypsy and travellers. The adjusted target is to deliver a total of 9 pitches for the 5-year period 2024/25 – 2028/29 (including residual need for the period 2016/17-2023/24 for households that met the 2015 PPTS definition) and for the local proportion (19%) of unknown/undetermined need, plus need for 1 pitch which they estimate will move across with households that now meet the 2023 definition. Having regard to the number of pitches that have been approved for Gypsy and travellers since the baseline date of 2017 GTAA, i.e. 21 permanent pitches and 4 temporary pitches, the Council believe they have substantially exceeded their adjusted 5-year target to deliver 9 pitches for the period to 2028/29 by 12 pitches and are able to deliver a 5-year supply<sup>3</sup>.
33. The 2017 GTAA, whilst a starting point, is out of date and is not a robust evidence base to establish accommodation needs in the District now. Thus, whilst I appreciate that the Council has sought to adjust their required need figure, having regard to the 2023 PPTS definition of Gypsy and travellers and to take account of unknown/undetermined need (adjusted to 19%); those adjustments have been made based on the evidence produced through the 2017 GTAA. That said, I am mindful that when giving evidence at an Inquiry in late 2023 and as set out in the Inspector's decision, dated January 2024<sup>4</sup> (the latest permission granted planning permission for a permanent Gypsy and traveller pitches in the District)<sup>5</sup>, the Council accepted the need figure in the 2017 GTAA was an under estimate due to failings in methodology and assumptions. Indeed, the January 2024 Inspector's decision found the need for pitches in the District to be significant. No further permanent pitches have been granted consent since that permission.
34. The Core Strategy states that the needs of Gypsies and travellers must be met. A Site Allocations Development Plan Document (DPD) was the mechanism for doing so. The stated preference was for allocating urban sites, although, considering approximately 93% of the District falls within the Metropolitan Green Belt surrounding London, allocation of sites within the

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<sup>3</sup> LPA Hearing Statement, dated July 2024.

<sup>4</sup> Appeal ref: APP/M3645/C/19/3239286, 2 The Paddocks, Crab Hill Lane, Surrey.

<sup>5</sup> LPA Hearing Statement, dated July 2024, Table 1: Planning permissions for permanent gypsy/traveller site in Tandridge DC, January 2017-January 2024.

Green Belt was also anticipated. A DPD was not progressed, and all additional pitches have come forward through the development management process. A total of 21 pitches were granted from July 2019 to the January 2024<sup>5</sup>. This demonstrates that acceptable sites do exist. The sites are small, consistent with the direction in Policy CSP9.

35. The emerging Local Plan to 2033 was found to be unsound following examination and was withdrawn in April 2024. The Examining Inspector made it clear in his February 2024 Report that given the passage of time since the 2017 GTAA was undertaken, he had serious doubts about its applicability and the robustness of the survey of needs, concluding that it does not provide an up-to-date picture of the current supply of pitches and sites. The Plan was found to be unsound regarding providing for the accommodation needs of Gypsies, travellers and travelling showpeople.
36. There is an absence of site allocations and pressure on existing authorised sites. The appellant advised that he was aware of 35 families who were looking to find a site in the District. It is also the case, confirmed by the Council, that many travellers live in bricks and mortar in the area, albeit that is not their preference.
37. Although an updated GTAA has now been completed, and preparation of a new Local Plan has commenced, it is clear that a strategy for providing traveller sites through the development plan is some way off. Having regard to the evidence before me and taking into consideration the findings of the Inspector in a recent decision<sup>4</sup>, there is currently an unmet need for site provision. Also, at present a five-year supply of sites is lacking.
38. In addition to general need, the availability (or lack) of alternative accommodation for the current occupier is a relevant consideration, as indicated by the PPTS. The Council was not able to suggest alternative, acceptable, affordable and available site(s) for the occupier to move to if their appeal is not successful. There is no obligation on a local planning authority to provide a site. However, the probability is that finding a suitable alternative pitch would be very difficult, bearing in mind the absence of the Council progressing a DPD as part of their local plan process, the extent of the Green Belt in the District, and the wider shortfall in traveller site provision.
39. The lack of suitable alternative sites, unmet need for all Gypsies and travellers and policy failure are all factors that weigh in favour of the development.

*Personal Circumstances of the occupier, including the best interests of any children, all in the context of Human Rights considerations and the Public Sector Equality Duty (PSED)*

40. Article 8 of the European Convention on Human Rights (ECHR) is incorporated into UK law through the Human Rights Act 1998 and provides that everyone has the right to respect for their private and family life, home, and correspondence. The duty to facilitate the Gypsy way of life is part of that, and Article 8 must also be considered in the context of Article 3(1) of the United Nations Convention on the Rights of the Child. This states that the best interests of the child shall be a primary consideration. Whilst these

interests can be outweighed by other factors, no consideration can be inherently more important.

41. Dismissing the appeal would give rise to an interference with the occupant's Article 8 rights. Any interference must be in accordance with the law, necessary in a democratic society in the interests of national security, public safety, or the economic well-being of the country, for the presentation of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
42. The site is currently occupied by the appellant who resides in his campervan. He explained that his family are originally from Tandridge and that when his wife sadly passed away a couple of years ago, he made a decision to return to the area. He sold his permanent pitch in Essex and last year bought the appeal site as it was close to other relatives and would provide him with the Land he needs for his animals, including the five horses he breeds. Due to his age, he no longer travels.
43. Mr Harbour explained that he has a health condition and needs to attend regular appointments at the hospital. He is not currently registered with a local doctor in Tandridge, but attends hospital appointments in Basildon and Epsom. He also recognises that he will need care in the future, and he has a desire for his granddaughter and her three children to join him on his pitch in a mobile home. His granddaughter currently lives on Canvey Island in traditional housing, along with her three children, aged four, six and seven and who attend school there. His granddaughter is currently receiving treatment at both Broomfield and Southend Hospital in Essex for a medical condition.
44. There are no children currently living on the site. Although the appellant would like his granddaughter and her children to come and live with him on the pitch, the children currently have a home and are in full time education. The appellant has some healthcare needs, however, his hospital care is currently at Epsom and Basildon and he does not have a local doctor. Thus, there is no evidence that a particular medical facility or specialist close to the site is essential to his health, nor indeed that of his granddaughter. However, a roadside existence for the appellant would make access to health care more difficult for him. Living together as an extended family group would enable the family to care and support each other and facilitate the Gypsy way of life.
45. Nevertheless, considering the facts, it is difficult to escape the conclusion that the development of the site in this case, insofar as it relates to the appellant's personal circumstances, is more a matter of personal preference than absolute necessity, understandable though the reasons behind this may be. This must temper the weight that I give to personal circumstances, in favour of the development, in this case.

#### *Other considerations*

46. Policy CSP9 of the CS advises that in allocating and determining applications for planning permission for sites for Gypsies and travellers', consideration should be given to a number of identified criteria. The site is small scale and capable of being provided with the necessary service infrastructure (criteria (c)). There is a safe access to the highway and adequate space for on-site

parking and turning facilities (criteria (d)). The site does not have safe and convenient access by foot or public transport to local services, but the location is not remote and journeys by car would be short. Accessibility does not count significantly against the proposal given that criteria (f) states a preference, not a requirement, for sites accessible by non-car modes of transport.

47. The appellant has produced several letters in support of the development from local residents. Whilst I appreciate that this correspondence shows that there is generally a peaceful and integrated co-existence between the site and local community, this consideration does not, in itself, attract positive weight in the overall planning balance.

### **Green Belt Balance**

48. National planning policy attaches great importance to Green Belts. Therefore, when considering any planning application substantial weight should be given to any harm to the Green Belt. The appeal proposals are inappropriate development in the Green Belt. In addition, the residential use and associated structures cause a loss of openness and harm to one of the purposes of including land in the Green Belt.
49. I have found that the development results in harm to the character and appearance of the area to which I attach moderate weight, whilst the effect on biodiversity is neutral in the balance.
50. On the other side of the balance, there are considerations which support the appeal. Having regard to advice in the PPTS when considering sites in Green Belt locations, I attach moderate weight to the present unmet need for sites including the lack of any alternative site being available now to the appellant; and also, to the present lack of an up-to-date 5-year supply of deliverable sites in the District. I also attach moderate weight to the appellant's personal circumstances, all in the context of human rights considerations and the PSSED.
51. The PPTS states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. I have balanced the harm to the Green Belt and the other harm identified against the other considerations referred to above. However, for the reasons given, having regard to the PPTS, I find that they do not clearly outweigh the harm identified.
52. The very special circumstances necessary to justify the development have not therefore been demonstrated. Consequently, the development conflicts with the Green Belt protection aims of the Framework and with Policy DP10 of the LP, which seek to resist inappropriate development in the Green Belt except in very special circumstances in accordance with national policy. On this basis it would also conflict with Policy CSP9 of the CS which requires the impact on the Green Belt of Gypsy and traveller sites to be taken into account. The grant of a permanent permission would not therefore be appropriate.

53. I also need to consider, by way of alternatives, the possibility of temporary or personal planning permissions instead. In principle, a temporary permission (personal to the appellant) would serve to reduce the severity of harm identified. This must be the case, because the generation of harmful impacts and duration of exposure to harm would be less than in the case of permanent occupation. However, whilst a temporary permission might assist the appellant in relocating in the future to an alternative site within the District, by way of 'bridging the gap', I am mindful that in this context, it remains open to me to extend the compliance period, should I consider this to have merit. Given the circumstances, I conclude that this scenario still fails to clearly outweigh the harm identified and to justify quashing the notice. Therefore, a personal planning permission, limited to a temporary period, would also not be an appropriate outcome.
54. It follows that a temporary planning permission, that was not personal to the appellant would also not be appropriate, as the grant of temporary permission cannot be justified even by the additional weight of the appellant's personal circumstances.

### **Appeal on ground (f)**

55. The appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose of the notice. With regard to the unauthorised change of use, in broad terms the objectives of the notice are to discontinue the use of the Land and to restore the Land to its condition before the breach took place, by removing various works and items and reinstating a section of hedgerow and drainage ditch. It follows that the purpose of the notice is to remedy the breach in accordance with the provisions of section 173(4) of the Act.
56. It is the appellant's case that it is unreasonable to require the removal of the lorry and shipping containers, and the timber and building materials which are reasonably required for agricultural use. which is the lawful use of the site. However, it was clear from discussions at the hearing that if the appellant could no longer reside on the site to care for any of his horses and animals, he would not continue with the agricultural use of the Land. The appellant explained that he occasionally traded in salvaged goods, but those items are not stored on the Land. The building materials which I noted on my visit, were odd bits of timber and plastic windows. There is no evidence that these items are required for agricultural purposes. At the time of my site visit one of the containers was storing the appellant's cart for his horse and the other had a few tools in it. The lorry is utilised to bring feed onto the Land for livestock and the appellant made it clear at the hearing that if he was not residing on the Land, he would not be utilising it for any other purpose.
57. For the reason given above it is not excessive for the notice to require the removal of the lorry, shipping containers, and the timber and building materials. Those items were brought onto the Land to facilitate the mixed use and only their removal would remedy the breach and achieve the purpose of the notice.
58. The appeal on ground (f) therefore fails.

### **Appeal on ground (g)**

59. The appeal is that the compliance period falls short of what should reasonably be allowed. I need to balance the public interest in the notice being complied with expeditiously against the private interests bound up in the development. In this regard I am keen to ensure that the appellant is given the most reasonable opportunity to find an alternative solution, in the context of the harm identified. I consider that extending the compliance period to twelve months, with an additional two-month period for the remediation of residual works in relation to the removal of the hardstanding and reinstatement of the highway drainage ditch would amount to the optimum position. The ground (g) appeal therefore succeeds to this limited extent.

### **Conclusion**

60. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### **Formal Decision**

61. It is directed that the enforcement notice be corrected by the deletion of all the wording describing the breach in **paragraph 3** and substitution of the following wording instead: "Without planning permission, the material change of use of the Land to a mixed use of residential, keeping of horses and agriculture, the stationing of a residential campervan, stationing of shipping containers, parking of a commercial lorry, parking of a horsebox, the creation of an access with associated hardstanding and the laying of a separate hardstanding in the approximate area shaded blue on the attached plan"; and

**With regard to paragraph 5**, deleting the wording "Within 9 months from the date on which this Notice takes effect, except for requirement viii which will be implemented in the first planting season following the date of the Notice coming into effect-" and substituting the wording "Within 12 months from the date on which this Notice takes effect, comply with Steps i – v; and within 14 months from the date on which this Notice takes effect, comply with Steps vi, vii and ix. Step viii shall be implemented in the first planting season following the date of the Notice coming into effect-"

**With regard to paragraph 5 i**, deleting the word "residential" and substituting the word "mixed" instead;

**With regard to paragraph 5 ii**, deleting the word "residential" and substituting the word "mixed" instead.

62. Subject to these corrections and variation the appeal is dismissed, 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 as amended.

*Elizabeth Pleasant*, INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Terry Green      Colleague of the Appellant and representative of the Gypsy and Traveller Community.

Mr Levi Harbour    The Appellant.

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Clifford Thurlow, BA(Hons), DipTP, MRTPI      Planning Advisor to  
Tandridge District Council.

### DOCUMENTS at the hearing

Document 1:      Council's Letter of Notification of the Hearing, dated 5 August 2024

Document 2:      Schedule of suggested conditions from the Council.

### DOCUMENTS after hearing

Document 1:      Bundle of documents from the appellant, including: letters of support; medical correspondence; ALPA registration; incidents of crime reports; land registry document; photographs.