



Appeal Decisions

Inquiry held on 9, 10, 11 and 25 April 2024

Site visit made on 11 April 2024

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 September 2024

**Land known as Field Adjacent to Burial Ground Driveway off B4526
Reading Road, Goring, Oxfordshire, RG8 0LL**

Appeal A: APP/Q3115/C/23/3315454

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Nelson Rogers against an enforcement issued by the South Oxfordshire District Council.
- The enforcement notice was issued on 15 December 2022.
- The breach of planning control alleged in the notice is without planning permission, the material change of use of Land from the keeping of horses to a mixed use, namely 1) the keeping of horses; and 2) the storage of a static caravan in the approximate location shown edged blue on the Plan.
- The requirements of the enforcement notice are:
 - (i) Stop using the Land for the storage of the static caravan referred to in Section 3 above;
 - (ii) Permanently remove from the Land the static caravan referred to in section 3 above;
 - (iii) Permanently remove from the Land any material and waste resulting from steps (i) and (ii) above.
- The period for compliance with the requirements is 4 months.
- The appeal is proceeding on grounds set out in section 174(2)(a) and (f) of the Act. As such, 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 as corrected and varied in the terms set out below in the Formal Decision.

Appeal B: APP/Q3115/C/23/3315455

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the Act").
- The appeal is made by Mr Nelson Rogers against an enforcement issued by the South Oxfordshire District Council.
- The enforcement notice was issued on 15 December 2022.
- The breach of planning control alleged in the notice is without planning permission, the undertaking of building, engineering and other operations on the Land comprising:
 - i) earthworks to dig up, move, deposit and store soil on the Land in the approximate location shown edged blue on the Plan (ii) the installation of a septic tank and soakaway in the approximate location shown edged orange on the Plan (iii) the laying of a hardcore hardstanding/driveway in the approximate location shown edged green on the Plan; iv) the laying of a concrete base in the approximate location shown edged purple on the Plan.
- The requirements of the enforcement notice are:
 - (i) Break up the concrete base referred to in Section 3(iv) above;
 - (ii) Dig up the hardcore hardstanding/driveway referred to in section 3(iii) above;

- (iii) Dig up the septic tank and soakaway referred to in section 3(ii) above;
- (iv) Permanently remove from the Land all materials and waste resulting from steps (i),(ii) and (iii) above;
- (v) Reinstate the soil excavated to facilitate the installation of the septic tank and soakaway using the stored soil referred to in section 3(i) above and grade areas disturbed by steps (i),(ii),(iii) and (iv) above to levels and a slope commensurate with adjoining undisturbed areas of the Land.
- (vi) Sow all areas disturbed as a result of steps (i), (ii), (iii), (iv) and (v) above with an appropriate meadow grass mix.
- The period for compliance with the requirements is 4 months.
- The appeal is proceeding on grounds set out in section 174(2)(a), (c), and (f) of the Act. As such, 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 as corrected and varied in the terms set out below in the Formal Decision.

Appeal C: APP/Q3115/W/24/3336646

- The appeal is made under section 78 of the Town and Country Planning Act 1990 ("the Act") against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Nelson Rogers against South Oxfordshire District Council.
- The application Ref: P23/S3743/FUL is dated 3 November 2023.
- The development proposed is material change of use of land for mixed use of Equestrian and Residential, through the formation of 1 no. Gypsy/Traveller pitch providing 1 Static Caravan/Mobile Home and 1 Touring Caravan, alongside ancillary development.

Summary of Decision: The appeal is allowed.

PROCEDURAL MATTERS

1. **Appeal A** above relates to the Council's enforcement notice (ENA) alleging a material change of use of the land, that being the entire field adjacent the Whitehill Burial Ground driveway as outlined in red on the plan attached to the notice.
2. During the course of the Inquiry the main parties agreed that no injustice would arise if the wording of ENA was varied so as to allege a mixed use of the land for keeping horses and the stationing of a static caravan for residential use (rather than storage), with the notice requirements to be varied to require cessation of the residential use, and the period for compliance with the notice be varied from 4 to 12 months. On that basis the appellant confirmed the appeal on grounds (b)¹ and (g)² would be withdrawn.
3. Since evidence from the main parties and from local people concerning residential use of the site was a main issue before the Inquiry in any event (subject of Appeal C) I also agree there would be no injustice arising. I have therefore varied the terms of ENA accordingly using powers available to me under section 176(1) of the Act. As such, the appeal on grounds (b) and (g) were withdrawn and ground (a) is considered on the basis of a mixed use for keeping horses and the stationing of a static caravan for residential use.
4. Notice ENA as originally drafted by the Council, and as varied, only seeks the residential element of the mixed use to cease. As such, it does not attack the use for keeping horses. As such, compliance with all of the requirements of

¹ Ground (b): - the matters stated in the notice have not occurred as a matter of fact

² Ground (g): - the period for compliance with the notice falls short of what should reasonably be allowed

ENA would grant a deemed planning permission for use of the field for keeping horses by virtue of s173(11) of the Act.

5. **Appeal B** relates to a second enforcement notice (ENB) with the same appeal site area as ENA, alleging the carrying out of operational development. The reference to storage of soil in the allegation is a use of land rather than operational development. Correcting the notice by removing this element from the allegation would not result in any injustice. Also, given the compliance period to cease the use of the land in ENA is to be varied to 12 months it was agreed that ENB should allow the same period of time for compliance. That being the case ground (g) was also confirmed as withdrawn. I will therefore correct and vary ENB accordingly using powers available to me under section 176(1) of the Act.
6. **Appeal C** is against the Council's non-determination of a planning application which sought permission for a mixed equestrian and residential use. However, different to the appeal site area in Appeals A and B, it relates to a much smaller (northern) part of the field and includes the access adjoining the highway, as shown by the red line on the location plan³ submitted with the application.
7. Given there are overlapping and related issues across the three appeals, I will deal them together as far as possible to avoid unnecessary duplication.
8. On 22 November 2023 all designated Areas of Outstanding Natural Beauty (AONB) in England and Wales were renamed as National Landscapes to reflect "*..their national importance: the vital contribution they make to protect the nation from the threats of climate change, nature depletion and the wellbeing crisis, whilst also creating greater understanding and awareness for the work that they do*". I will therefore refer to the former Chilterns AONB as the Chilterns National Landscape (CNL).
9. All oral witness evidence to the Inquiry was given under Oath or Affirmation.

GROUND OF APPEAL

APPEAL B - ground (c)

10. The appellant's case on this ground relates solely to the laying of hardcore hardstanding/access track alleged at Section 3(iii) of ENB.
11. As defined by the Act the carrying out of development⁴ without the required planning permission constitutes a breach of planning control. For an appeal on ground (c) to succeed the onus is on the appellant to show, on the balance of probability, that the works carried out do not constitute a breach of planning control.
12. In summary the appellant's case is that the works carried out did not go beyond the re-surfacing of a pre-existing track which runs from the boundary access into the field, and which he contends does not amount to development.
13. Mr Nelson (junior) and Mr Nelson (senior) stated that a hardcore track running down the centre of the field, separating it into two paddocks, had

³ LOC-001

⁴ Development includes the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change in the use of any buildings or other land.

existed for many years, and that over time it had become overgrown with grass such that it was not obvious in the various aerial images submitted in evidence.

14. I acknowledge the imagery shows there was a central track running into the site from Reading Road, but further into the field it shows no more than compacted mud in earlier years, likely resulting from vehicle 'tracking', and later grassed over, However none of the images shows evidence of the form and nature of the track now in place.
15. From my own observations on site and from my review of all the aerial imagery, including the Council's photographs taken during site inspections, I find the evidence overall indicates the material imported onto the site to create the hardstanding/track area, as now exists, together with its laying out and compaction, was an engineering operation in its own right that exceeded what could reasonably be described as simply re-surfacing of an existing track.
16. Consequently I find on the balance of probability that the works carried out amount to development for which no planning permission exists.
17. It thereby constitutes a breach of planning control and the appeal on ground (c) in Appeal B therefore fails.

APPEALS A and B - ground (a), and APPEAL C

Main Issues

18. The main issues, having regard to local and national planning policies, are:

- (i) whether the site provides a suitable location for a gypsy and traveller site with particular regard to accessibility to services and facilities;
- (ii) the effect on the character and appearance of the area, having regard to its location in the CNL;
- (iii) the effect on the amenity of occupiers of neighbouring properties;

and, if there is any conflict with the Council's Development Plan with regard to (i) to (iii) above, whether other considerations indicate planning permission should be granted, including:

- (iv) the local need for gypsy and traveller pitches and whether a 5 year supply exists;
- (v) whether the development was intentional unauthorised development and, if so, the weight that ought to be attached;
- (vi) the proposed occupiers' personal circumstances.

Reasons

Main Issue (i) - Whether a suitable location – access to services and facilities

19. The appeal site lies in the countryside outside of the defined settlement of Goring-on-Thames (Goring). In this regard the Council argue it is physically separate and isolated from the settlement, thereby in conflict with national

planning policy at paragraph 84 of the National Planning Policy Framework (2023) (NPPF).

20. However, the NPPF at paragraph 4 states that it should be read in conjunction with PPTS⁵, and that regard should be had to the policies in the NPPF, where they are relevant. With particular regard to site provision for Gypsies and Travellers, footnotes 28 and 41 of the NPPF make it clear that PPTS is the relevant policy document for setting out how travellers' housing needs should be assessed, and also that a 5-year supply of deliverable sites for travellers should be assessed separately, in line with the policy in PPTS. Neither the NPPF or PPTS prohibits traveller sites in the countryside or in designated national landscapes.
21. The overarching strategy for sustainable development in South Oxfordshire is set out in Policy STRAT1 of the South Oxfordshire Local Plan (2020) (LP). It aims to direct the majority of new development to within the defined hierarchy of settlements in the area. While it does not prohibit development in the CNL, it states at criterion (ix) that outside of settlements it seeks to protect and enhance the countryside, including the CNL, by ensuring that outside of towns and villages any change relates to very specific needs. It gives two examples of such needs; those related to the agricultural industry and enhancement of the environment.
22. Another specific need exception to Policy STRAT1 is provided for in LP Policy H14 which specifically relates to the need to provide pitches for Gypsies and Travellers. In this regard Policy H14 also does not prohibit the location of pitches in the countryside or in the CNL. Policies STRAT1 and H14 are therefore consistent with national planning policy in PPTS and the NPPF.
23. The appeal site is approximately 0.6km outside of the main built-up area of Goring which in the LP is designated as a 'larger village' recognising that it has a wide range of services and facilities. There are other residential properties nearby and several others located on Reading Road between the appeal site and Goring. Walking distances to services and facilities from the appeal site include: a medical practice (0.9km); grocery shopping (1.1km); primary school (1.8km); and public house (1.6km). Access to wider services and facilities at larger centres can be made from the nearest bus stop and Goring railway station, both approximately 1.3km away.
24. Despite the relatively close proximity of services in Goring I consider there would likely be a strong reliance on trips by motor vehicle to access the village services and facilities, given the nature of the steep and unlit hill route along Reading Road with no separate footpath.
25. However, PPTS recognises that many traveller sites will be in rural areas. As such it advises that local planning authorities should very strictly limit new traveller site development in the open countryside that is "away from" existing settlements. In this context the distance and duration of such trips to access village facilities would not be excessive, nor in terms of the number of trips given this appeal relates to the smallest scale of traveller site, comprising a single pitch. Additionally, there would be opportunities for some more sustainable travel to locations further away by combination with bus and rail, such that some journeys need not be totally car dependent. The NPPF

⁵ Planning Policy for Traveller Sites (2015) updated in 2023

also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

26. Having regard to all of these factors I find overall that the appeal site is in a relatively sustainable location, having reasonably good access to local services and facilities, and not so far away from the village that it should be regarded as being 'away from' the nearest settlement in PPTS terms. As such, with regard to this first main issue, I find no conflict with the requirements of LP Policies STRAT1 or H14.

Main Issue (ii) - character and appearance - Chilterns National Landscape (CNL)

27. LP policies DES1 and DES2 relate to all new development. Amongst other matters they collectively seek to ensure that new development reflects the positive features that make up the character of the local area, respects the existing landscape character, takes into account layout, building orientation, massing and landscaping, and leads to no net loss of habitat.
28. With specific regard to the provision of traveller sites LP Policy H14.2(iii) states that proposals for additional pitches will be permitted where it has been demonstrated that *"the proposal will not have an unacceptable impact on the character and appearance of the landscape and the amenity of neighbouring properties, and is sensitively designed to mitigate visual impacts on its surroundings"*.
29. I have taken account of Policy 16 of the Goring Neighbourhood Plan (2019) (GNP) and the Design Guide⁶ only in so far as they relate and align with Policy H14.2(iii), requiring a contextual analysis of the proposed development on the character and appearance of the area.
30. In the context of Policy H14.2(iii) above I am also statutorily required⁷ to seek to further the purpose of conserving and enhancing the natural beauty of the CNL. In this regard LP Policy ENV1 and GNP Policy 11 are broadly consistent with paragraph 182 of the NPPF, which states that great weight should be given to conserving and enhancing the landscape and scenic beauty of designated areas, and that the scale and extent of development within them should be limited.
31. The roughly rectangular field of approximately 1.9Ha lies adjacent to part of the driveway to the Whitehill Burial Ground off Reading Road, and within the defined Chilterns Escarpment Character Area, accurately described in the Council's detailed evidence⁸. It has a history of use for keeping horses, sometimes with internal fencing dividing the field into paddocks. The northern boundary with the highway verge comprises mixed native hedgerow and trees and some tall close boarded fencing and gates. The western boundary with the burial ground driveway is fairly enclosed with mixed native vegetation and mature trees. The southern boundary of the field is separated from the open burial ground by a wooded area. The eastern site boundary, having less trees, is more open along the length of the field.
32. Planning permission (P10/W1731) was granted for an 'L' shaped stable block located towards the field's north-eastern corner, which the Council accepts

⁶ South Oxfordshire and Vale of White Horse Joint Design Guide

⁷ Section 85(A1) of the Countryside and Rights of Way Act 2000

⁸ Council's proof of evidence – Avril Williams

has been implemented. Hence it needs no further planning permission for it to be completed. This, along with what one might reasonably expect to see in a field that can in any event be used for keeping horses, such as field shelters, forms part of the 'existing' baseline for assessing the effects of the proposed development on the character of the landscape. The driveway and the burial ground itself, together with the few residential properties on the other side of the driveway also form part of the overall character and appearance of the area.

33. As set out in the Council's landscape evidence, and as I saw for myself when walking the public right of way footpath in Great Chalk Wood, there are some longer distance views of the field from the east as well as shorter ones through gaps, including in the boundary vegetation along the burial ground driveway. As such, these views reveal the development that has been carried out thus far and which introduces an urbanising development into the rural landscape. The Council assessed the overall effects of the proposed development as having major adverse landscape effects on the site itself, and major to substantial adverse effects on the wider landscape.
34. Given the relatively small nature of the proposed development, comprising only a single residential pitch with equestrian use, the site area in Appeal A for such a proposal is excessive and unjustified. In terms of the requirements of LP Policy H14.2(iii) and NPPF paragraph 182 it could not be described as forming part of a "sensitive design" so as to "mitigate visual impacts on its surroundings", or regarded as "limited" development in the CNL. Hence, I agree with the Council's assessment on landscape effects insofar as I consider them with regard to Appeal A, the whole field, and in the context of the wider landscape. Furthermore, with regard to harm to the character and appearance of the area, I am not convinced on the evidence before me that matters such as noise, lighting and disturbance from other typical domestic activities, as part of a mixed use across the whole field, can be adequately controlled in the longer term through the imposition of planning conditions. This is because the 'principle' of such a mixed use over a substantial area of land would be acknowledged and underpinned by virtue of such planning permission having been granted.
35. For these reasons, with regard to Appeal A, I find the harm to the character and appearance of the area would be significant and unacceptable and would fail to conserve or enhance the scenic beauty of the CNL, thereby in conflict with the Council's Development Plan policies.
36. However, harmful effects on the character of the landscape would be reduced and minimised in respect of the area of land in Appeal C. Unlike Appeal A the principle of the proposed mixed use development would relate to a much smaller site area, with the physical layout of the residential element occupying only the north-eastern corner of the field. As such, operational development, landscaping, external lighting and other related matters could be controlled and limited through the use of planning conditions. Thus the character and appearance of most of the (whole) field would remain as it is now. Conditions could also secure significant planting of native hedgerow and trees to better assimilate the site with its surroundings, and to ameliorate the shorter and long distance views of the site as part of the landscape character.

37. The Council argue the static caravan, by its very nature, does not respect the local distinctiveness, character or vernacular of the area, being of a standard, modern and utilitarian design. However, it should be noted that the nature of the planning permission being sought is specifically for Gypsy and Traveller accommodation. In this regard living in caravans, including in rural areas, is a fundamentally intrinsic part of their culture and lifestyle, provided for in national planning policies and in Policy H14 of the local Development Plan. Consequently, I consider the design of the caravan (as a standard twin unit caravan) is entirely appropriate for Gypsy and Traveller accommodation and consistent with local and national planning policies.
38. Following on from the above, planting of native species to the boundaries as described earlier would better assimilate the development with its surroundings. That would also be consistent with the limited external views of nearby residential properties which also have well vegetated boundaries. As such, there would be no need for the suggested colour change or cladding of the static caravan.
39. Residential activity at nearby properties and gardens do not in my view harm the tranquillity of the area or the burial ground. I see no reason why similar residential activity within the proposed development, adequately controlled as described, would have any greater impact.
40. Following on from the above, with development limited to that in Appeal C and with suitable planning conditions in place, I find the harm overall to the character and appearance of the area and to the wider landscape would be quite limited in scale and extent, consistent with NPPF paragraph 182. The harm to the scenic beauty of the CNL would be minor with an associated level of minor conflict with LP Policies ENV1, H14.2(iii) and GNP Policy 11.

Main Issue (iii) - effect on the amenity of occupiers of neighbouring properties

41. For reasons set out earlier I consider that planning conditions could not adequately control or mitigate noise and lighting beyond the site area defined in Appeal C.
42. During my visit to the appeal site and the surrounding area I was able to listen to the generator in operation at various points, both within and outside of the field. At those times the generator was positioned between the static caravan and the eastern boundary, such that it was furthest away from the nearest residential dwellings. It was inaudible on the southern end of the burial ground driveway and beyond. However, at points on the driveway immediately adjacent to the windows and garden of East Cottage, and also at the garden boundary with North Cottage, it was audible when there was no background noise from traffic passing on the main road. I would describe it at those points as being a constant low level hum.
43. In my experience this low level humming noise would fall below the level which would constitute a statutory noise nuisance. Nonetheless, given that typical residential occupation of the appeal site is currently dependent upon the generator running for considerable periods of time, such continuous low level noise would be unacceptably harmful to the amenity of occupiers of the nearest dwellings during quiet periods. This would be particularly so during evenings and night time with their facing windows open, or while residents were outside in their gardens.

44. I note the appellant's intention to connect mains electricity to the site if a permanent planning permission were granted. In my consideration this would overcome the harm from noise I have described. Also, any lighting on the site should be commensurate with the types and level of lighting typically found at other residential properties in the CNL. These matters could be adequately controlled through the imposition of suitably worded planning conditions.
45. Overall therefore, with regard to Appeal C only, and subject to appropriately worded planning conditions being imposed, the proposed development would meet the requirements of LP Policies DES6 and H14.2(iii) which together seek to ensure developments do not result in unacceptable impacts on the amenity of occupiers of neighbouring properties.

Main Issue (iv) - need and supply of Gypsy and Traveller pitches

46. PPTS sets out that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets.
47. In this regard the Council acknowledges that its most recent assessment in its 2017 GTAA⁹ does not provide an accurate picture. The Council estimates there could be a current need within the next 5 years for up to 22 pitches¹⁰ based on the GTAA, but until a more up to date assessment is undertaken an accurate figure is unknown.
48. In terms of supply of sites LP Policy H14.1 refers to 3 strategic sites¹¹ which would provide 10 pitches. However, none of these are expected to deliver pitches within the next 5 years. Overall, the Council has zero years supply against the 5 year requirement for deliverable pitches.
49. A new South Oxfordshire and Vale of White Horse Joint Local Plan 2041 (JLP), which will establish accurate and up to date targets for need and supply of pitches is to be informed by a new GTAA. However, the new JLP is not expected to be adopted until at least the end of 2025 and so does not address the immediate need for pitches.
50. PPTS paragraph 27 indicates that outside of designated areas¹² if a local planning authority cannot demonstrate an up to date 5 year supply of deliverable sites this should be a significant material consideration when considering applications for temporary planning permission. Other than in those particular circumstances PPTS does not indicate what significance or weight should be applied to a lack of a 5 year supply. As such, it remains a matter for the decision maker.
51. To conclude on this issue, the significant need for additional pitches in this case attracts great weight in support of granting planning permission in Appeal C. I also attach great weight to the likely continuing lack of deliverable sites to address such current and future ongoing need.

⁹ Cherwell, Oxford City, South Oxfordshire and Vale of White Horse Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (June 2017)

¹⁰ Council's statement of need and supply of Gypsy/Traveller sites – Ryan Hunt

¹¹ Chalgrove Airfield, Culham Science Centre and Didcot North East

¹² Designated areas includes national landscapes (AONB's)

Main Issue (v) - whether intentional unauthorised development

52. The 2015 WMS¹³ has not been withdrawn and is a statement of Government policy which is a material consideration in cases where development has been carried out in advance of obtaining planning permission.
53. It seems to me from all the evidence I heard that the appellant was aware of the need to secure planning permission but continued to develop and occupy the site. This is therefore a case of intentional unauthorised development.
54. I will deal with the weight I should attach to this matter in the overall balance that follows.

Planning Balance and Conclusion

55. I have found in Appeal C, subject to appropriate planning conditions, there would be only limited harm to the character and appearance of the area with a minor level of harm to the scenic beauty of the CNL. Thus there would be an associated level of minor conflict with LP Policies ENV1, H14.2(iii) and GNP Policy 11, and with the Development Plan overall.
56. My conclusions that the appeal site is in a sustainable location, and that subject to conditions there would be no harm to occupiers of neighbouring properties are neutral in the balance.
57. I attach substantial weight collectively to the significant need for pitches for Gypsies and Travellers in the District and to the current and ongoing lack of deliverable sites. This would not outweigh the harm I have identified in Appeal A. However, in Appeal C the substantial weight I attach to this consideration alone significantly outweighs the limited and minor harm I have identified and the associated conflict with the Development Plan.
58. Although I have found there to be intentional unauthorised development it should be noted that when attaching weight to this matter the Act itself provides for the grant of retrospective planning permission through sections 73A and 177. As such the enforcement code contained in Part VII of the Act is intended to be remedial rather than punitive. Having regard to these factors this matter carries only very limited weight against granting planning permission and does not tip the balance against allowing Appeal C.
59. Consequently, I conclude that planning permission should be granted in Appeal C subject to planning conditions. Since I have found the site is justified for occupation by any Gypsy or Traveller due to the significant need and lack of supply of deliverable sites, there is no need for me to go on to consider the personal circumstances of the intended occupiers.
60. Since Appeal A will be dismissed the enforcement notice will be upheld and will continue to have effect. However, with regard to the smaller site in Appeal C, section 180(1) of the Act provides that where planning permission is granted after the issue of an enforcement notice for any development already carried out, the notice shall cease to have effect insofar as it is inconsistent with the planning permission granted. I will also dismiss Appeal B for the same reason since any operational development permitted in Appeal C is to be approved by planning condition. As such, the notice in Appeal B would also

¹³ Written Ministerial Statement: Green Belt protection and intentional unauthorised development, 17 December 2015

cease to have effect insofar as it is inconsistent with the planning permission granted.

Other matters

61. Both main parties referred to a number of appeal decisions at other locations in support of their cases. In so far as these provide some background relevance I have taken account of them in reaching my decision. However, none of them are identical to the particular circumstances of the appeal before me which I have determined on its own merits. In reaching my decision I have also taken account of the written and verbal submissions to the Inquiry from local people and from the Chilterns Conservation Board.

Conditions

62. A list of conditions to be imposed in the event that planning permission were to be granted was discussed at the Inquiry. Conditions are required to be reasonable in all respects, necessary, and enforceable. Where necessary I have altered the wording of the proposed conditions to meet these requirements. Numbers in brackets (x) below refer to the condition numbers in the attached schedule.
63. The site is justified for occupation by those meeting the definition of gypsies and travellers and so a condition (1) restricting occupancy to such persons will be required. A condition (2) is required to limit the scale of the development in terms of occupancy and number of caravans.
64. Conditions (3) and (4) are necessary to ensure that the site is laid out in accordance with details to be submitted and approved by the local planning authority including; the residential pitch, mobile home and concrete base, touring caravan, vehicle parking, buildings, hard-standings, septic tank, soakaway, all boundary treatments and other internal means of enclosure, landscaping, lighting, and groundworks to secure connection to mains electricity services.
65. A condition (5) is required to ensure that the development when completed will not result in a net loss of biodiversity. Condition (6) is necessary to ensure that any contamination of the site is identified and, if identified, remediated appropriately.
66. In the interest of the character and appearance of the area conditions (7), (8) and (9) are required to limit commercial vehicle parking, to exclude commercial storage and to prohibit "permitted development" rights to erect additional structures. The permitted use of the land for mixed use of equestrian and residential through the formation of 1 no. Gypsy/Traveller pitch is clearly defined and limited by the description of development itself and the previously referred to planning conditions. I have therefore altered the wording of condition (8) to refer only to excluding commercial storage.

APPEALS A and B - Ground (f)

67. Section 173(4)(a) and (b) of the Act state two purposes the requirements of an enforcement notice can seek to achieve. The first (a) is to remedy the breach of planning control which has occurred, the second (b) is to remedy any injury to amenity which has been caused by the breach. Hence, an appeal on ground (f) is a claim that the notice requirements exceed what is

necessary to remedy the breach of planning control, or, as the case may be, to remedy any harm to amenity resulting from the breach.

68. Notice ENA (the whole field) requires the use of the land for stationing of a static caravan for residential use to cease, and the removal of the static caravan from the land. Notice ENB requires the removal of the concrete base for the static caravan, the hardstanding/driveway and the septic tank and then restoration of the land. It is clear therefore that the purpose of the notice falls under 173(4)(a) to fully remedy the breach of planning control.
69. The suggestion that the caravan, designed and fitted out as a dwelling, could be retained as a tea room in conjunction with keeping horses is unjustified. In that scenario it would far exceed in size what would be reasonably required for such purposes, and could not in my view be described as 'limited' development in the CNL. Retaining the concrete base for manure and the septic tank are also unjustified. There was no convincing evidence put before me to suggest otherwise. Since the enforcement notice requirements go no further than remedying the breach of planning control they are not excessive.
70. The appeals on ground (f) therefore fail. However, the effect of s180 of the Act I have set out earlier should be noted.

FORMAL DECISIONS

APPEAL A

71. It is directed that the notice be corrected and varied by:

- in Section 3 deleting all the words therein and substituting the following words: "Without planning permission the material change of use of the land from the keeping of horses to a mixed use of keeping horses and the stationing of a static caravan for residential use, in the approximate location shown edged blue on the plan"; and
- in Section 5(i) deleting all the words therein and substituting the following words: "Cease the use of the land for stationing of a static caravan for residential use"; and
- in Section 6 substituting 12 months for 4 months.

Subject to the corrections the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

APPEAL B

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

- in Section 3, line 2, after the word "move" insert the word "and"; and after the word "deposit" delete the words "and store"; and
- in Section 6 substituting 12 months for 4 months

Subject to the corrections the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

APPEAL C

73. The appeal is allowed and planning permission is granted for change of use of land for mixed use of equestrian and residential, through the formation of 1 No. Gypsy/Traveller pitch providing 1 Static Caravan/Mobile Home and 1 Touring Caravan, alongside ancillary development at land known as Field Adjacent to Burial Ground Driveway off B4526 Reading Road, Goring, Oxfordshire, RG8 0LL in accordance with the terms of the application dated 3 November 2023, Ref. P23/S3743/FUL, subject to the conditions in the attached Schedule.

Thomas Shields

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Alan Masters, Counsel	One Pump Court
He called:	
Nelson Rogers (junior)	Appellant
Kristine Lamb	Appellant's partner
Nelson Rogers (senior)	Appellant's father
Brian Woods	Director, WS Planning & Architecture

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ben Du Feu, Counsel	Cornerstone Barristers
He called:	
Julia Huggins	Local resident
Avril Williams	Senior Landscape Officer, South Oxfordshire District Council
Robert Cramp	Principal Planning Officer, South Oxfordshire District Council

INTERESTED PARTIES

Stephanie Bridle	Parish Council - objector
Mr Ricard	Local resident - objector
Mr and Mrs Christie	Local residents - objectors

DOCUMENTS SUBMITTED AT THE INQUIRY

ID 1	Copies of birth certificates
ID 2	Statement from Kristine Lamb
ID 3	Opening submissions for the local planning authority
ID4	Statement of Mr Edward Christie
ID5	Jointly produced draft schedule of planning conditions
ID6	Closing submissions for the local planning authority
ID7	Closing submissions for the appellant

SCHEDULE OF CONDITIONS

1. The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
2. There shall be no more than one pitch on the site and on this pitch no more than 1 mobile home and 1 touring caravan shall be stationed at any time.
3. The development hereby permitted shall be carried out in accordance with the following approved plans: LOC-001, NR-02, NR-03, and NR-04, except where details are required to be submitted and approved under conditions 4, 5, and 6.
4. The use hereby permitted shall cease and all caravans, hard-standings, the concrete base for the mobile home, septic tank, soakaway and others materials and equipment brought on to the land, and all works undertaken to it in connection with the use, shall be removed from the land and the land restored to its former condition by the grading and levelling the soil and the sowing of an MG5 grass mix to all disturbed areas, within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within 4 months of the date of this decision, and notwithstanding the details shown on plans NR-03 and NR-04, a 'site development scheme' (SDS) shall be submitted to the local planning authority for their written approval. The scheme shall include:
 - a. the proposed internal layout of the site, including the full extent of the proposed residential pitch, the location of the mobile home and concrete base, touring caravan, vehicle parking, buildings, hard-standings, septic tank, soakaway, all boundary treatments and other internal means of enclosure;
 - b. details of proposed landscaping to better assimilate the development into the existing landscape, including a planting schedule and specification;
 - c. details of all proposed external lighting to a standard compliant with an E1 Environmental Management Zone as defined by the Institute of Lighting Professional Guidance for the reduction of obtrusive light, including full technical specifications for all equipment to be used and shown on isolux diagrams overlaid over the site and adjacent areas;
 - d. details of all groundworks to provide for connection to mains electricity services;
 - e. a timetable for the implementation of the SDS and for the disconnection and permanent removal of any and all generators from the site.
 - (ii) If within 8 months of the date of this decision, the local planning authority refuse to approve the SDS or fail to give a decision within the

prescribed period, an appeal shall have been made to, and accepted as validly made, by the Secretary of State.

(iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted SDS approved by the Secretary of State.

(iv) The approved SDS shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved SDS, the SDS shall thereafter be retained and all generators permanently removed from the land. Thereafter, only mains electricity shall be used. In the event of any of the soft landscaping so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, replacement planting, as the case may be, of a species and position first approved by the local planning authority, shall be planted and retained.

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

5. The use hereby permitted shall cease and all caravans, hard-standings, the concrete base for the mobile home, septic tank, soakaway and others materials and equipment brought on to the land, or works undertaken to it in connection with the use, shall be removed from the land and the land restored to its former condition by the grading and levelling the soil and the sowing of an MG5 grass mix to all disturbed areas, within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

(i) Within 4 months of the date of this decision, and notwithstanding the details shown on plans NR-03 and NR-04, a Biodiversity Compensation Scheme (BCS) for the site, prepared by a qualified ecologist, shall be submitted to the local planning authority for their written approval. The BCS shall demonstrate that the approved development will not result in a net loss of biodiversity. The BCS shall include details, including plans and habitat descriptions as necessary, and a method statement for the provision and ongoing management of any post-development habitat creation and/or enhancement, including a timetable for its implementation.

(ii) If within 8 months of the date of this decision the local planning authority refuse to approve the BCS or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted BCS shall have been approved by the Secretary of State.

Upon implementation of the approved BCS specified in this condition, the BCS shall be retained and managed thereafter in accordance with the approved details.

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

6. The use hereby permitted shall cease and all caravans, hard-standings, the concrete base for the mobile home, septic tank, soakaway and other materials and equipment brought on to the land, or works undertaken to it in connection with the use, shall be removed from the land and the land restored to its former condition by the grading and levelling the soil and the sowing of an MG5 grass mix to all disturbed areas, within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

(i) Within 4 months of the date of this decision, and notwithstanding the details shown on plans NR-03 and NR-04, a phased contamination risk assessment shall be carried out by a competent person in accordance with current government and Environment Agency Guidance and Approved Codes of Practice, and submitted to the local planning authority for their written approval, as follows:

- a) Phase 1 - a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model. If potential contamination is identified in Phase 1 then a Phase 2 investigation shall be undertaken;
- b) Phase 2 - a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to all receptors and if significant contamination is identified to inform a Phase 3 remediation strategy; and
- c) Phase 3 - a remediation strategy to ensure the site will be rendered suitable for its proposed use, including a timetable for implementation.

(ii) If within 8 months of the date of this decision the local planning authority refuse to approve the phased contamination risk assessment in respect of any phase or fails to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted phased contamination risk assessment shall have been approved by the Secretary of State.

(iv) The implementation of the Phase 3 remediation strategy (if required) shall be carried out and submission of a validation report shall be submitted confirming completion of all required works within the approved timeframe.

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

7. No vehicles over 3.5 tonnes shall be parked or stationed on the site at any time, and not more than one commercial vehicle shall be kept on the land at any time.
8. No commercial storage of materials shall take place on the land.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds, amenity/utility buildings, or other buildings or structures, walls, fences or other means of enclosure shall be erected or placed on the site unless details of their size, materials and location have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

END