

Appeal Decisions

Inquiry held on 23-26 July & 5 August 2024

Accompanied Site visit made on 22 July 2024

by Nick Fagan BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2024

Appeal A Ref: APP/H1515/C/21/3271421

Land at and adjacent to Craigielea, Chivers Road, Stondon Massey, Brentwood, Essex CM15 0LJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Leasons Property Ltd against an enforcement notice issued by Brentwood Borough Council.
 - The notice was issued on 17 February 2021 (hereinafter known as the first notice).
 - The breach of planning control as alleged in the notice is Without planning permission:
 - 1) The unauthorised change of use of land from commercial use to residential use (as shown in BLUE on the attached plan)
 - 2) The unauthorised siting of a mobile home for residential use within greenbelt land outside of the curtilage of the main dwelling (as shown on the attached plan marked "A" etched PINK).
 - 3) The unauthorised erection of new buildings within the green belt (as shown on the attached plan marked "A" etched PINK).
 - 4) The unauthorised erection of front boundary walls and gates with associated light fittings (within the area etched in RED on the attached plan).
 - 5) The unauthorised importation and levelling of hardcore and hardstanding materials on greenbelt land (within the area etched in GREEN on the attached plan).
 - The requirements of the notice are to:
 1. Permanently cease the unauthorised residential use of the land etched in BLUE on the attached plan.
 2. Permanently remove from the land etched in BLUE the unauthorised residential mobile home and outbuildings etched in PINK marked "A" on the attached plan.
 3. Permanently reduce the height of the unauthorised front boundary walls, gates and pillars (and associated light fittings) to 1 metre in height, to the satisfaction of the LPA, within the area etched RED on the attached plan.
 4. Permanently remove from the land to the satisfaction of the LPA, all unauthorised imported hardcore and hardstanding and reinstate the land to its original condition prior to the unauthorised development within the area etched GREEN on the attached plan.
 - The periods for compliance with the above 4 requirements are 2, 2, 6 and 6 months respectively.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (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.
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Appeal B Ref: APP/H1515/C/23/3333940

Land at and adjacent to Craigielea, Chivers Road, Stondon Massey, Brentwood, Essex CM15 0LJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Leeson Property Ltd against an enforcement notice issued by Brentwood Borough Council.
 - The notice was issued on 16 November 2023 (hereinafter known as the second notice).
 - The breach of planning control as alleged in the notice is Without planning permission:
 1. the unauthorised change of use of the Land by the stationing of two mobile homes marked with a 'X' and 'Y' on the Land for residential occupation
 2. the unauthorised operational development in the form of the creation of concrete gullies and hardstanding on the Land as shown in the attached photos [appendix 1].
 - The requirements of the notice are to:
 1. Permanently cease the residential use of the two mobile homes marked with an 'X' and 'Y' and remove the mobile homes from the Land.
 2. Permanently remove from the Land all concrete hardstandings and gullies.
 3. Remove from the Land all material arising from compliance with steps 1 & 2.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (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.
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Decisions

Appeal A – The First Notice

1. It is directed that the enforcement notice is varied by deleting all the original allegations and replacing them with the following allegations:
 - Allegation 1) to now read: *The unauthorised change of use of land edged in BLUE on the attached plan from commercial storage use to a mixed use comprising the stationing of mobile homes for residential use (within the land edged in PINK on the attached plan) and commercial storage.*
 - Allegation 2) to now read: *The unauthorised erection of front boundary walls and gates with associated light fittings (within the area marked in RED on the attached plan).*
 - Allegation 3) to now read: *The unauthorised importation and levelling of hardcore and hardstanding (within the area marked in GREEN on the attached plan).*

The requirements are varied as follows:

- Requirement 1 to now read: *Permanently cease the mixed use of the land edged in BLUE on the attached plan comprising the stationing of mobile homes for residential use (within the land edged in PINK on the attached plan) and commercial storage.*
- Requirement 2 to now read: *Permanently remove from the land the unauthorised residential mobile homes and associated mobile structures (within the area marked in PINK on the attached plan).*

- Requirement 3 to now read: *Permanently reduce the height of the unauthorised front boundary walls, gates and pillars (and associated light fittings) to 1 metre in height (within the area marked in RED on the attached plan).*
- Requirement 4 to now read: *Permanently remove from the land all unauthorised hardcore and hardstanding and reinstate and restore the land to its condition before the breach took place.*

The compliance period for these requirements is altered to 12 months.

And the substitution of the plan annexed to this decision for the plan attached to the enforcement notice.

Subject to these variations, Appeal A is **allowed** and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for part of the development already carried out, namely the mixed use of the BLUE land as commercial storage and the stationing of mobile homes for residential use and associated mobile day rooms and sheds (on the PINK land only), the hardstanding to the west of the caravan site (the PINK land) and the erection of the front boundary walls and gates with associated light fittings at Land at and adjacent to Craigielea, Chivers Road, Stondon Massey, Brentwood, Essex CM15 0LJ, subject to the conditions in the Schedule below. Otherwise, in respect of the hardcore/hardstanding, the appeal is **dismissed**, and the enforcement notice is **upheld**.

Appeal B – The Second Notice

2. It is directed that the enforcement notice is varied by deleting the two original allegations and replacing them with the following single allegation:

- *Without planning permission, the unauthorised operational development in the form of the creation of concrete gullies/planting beds and hardstanding on the Land as shown in the attached photos [in Appendix1].*

In terms of the requirements, the original Requirement 1 is deleted, and they now read as follows:

- Requirement 1 to now read: *Permanently remove from the Land all hardstanding and concrete gullies/planting beds.*
- Requirement 2 to now read: *Remove from the land all materials arising from compliance with step 1 above.*

The compliance period for these requirements is altered to 12 months.

Subject to these variations Appeal B is **allowed** and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for part of the development already carried out, namely the hardstanding to the west of the caravan site (the PINK land) and erection of the concrete gullies/planting beds at Land at and adjacent to Craigielea, Chivers Road, Stondon Massey, Brentwood, Essex CM15 0LJ, subject to the conditions in the Schedule below. Otherwise, in respect of the

hardcore/hardstanding, the appeal is **dismissed**, and the enforcement notice is **upheld**.

Applications for Costs

3. Part 6 of the appellant's Closing Submissions indicate that if I quash the notices for the reasons set out in Mr Brownjohn's Proof, then it wishes to make a full costs application. The reasons set out in his Proof and also in the Closings is that the notices should be quashed as a nullity or because they cannot be amended without prejudice to the appellant. I do not accept that; they can be amended without any such prejudice, and they are not nullities. I am granting permission for part of the development because the appeals succeed on ground (a), but I am not quashing the notices. Therefore, no costs application has been made.

The Notices

4. Mr Lee bought the site in May 2016 and moved his mobile home onto it shortly after. He originally lived in this with his wife and four sons, albeit the two older boys mainly lived in the adjacent touring caravan. His two younger sons still live with him and his wife in this caravan. Levi Joe Lee, his second eldest son, married in October 2020 and brought the second mobile caravan onto the PINK land in January 2021 and lives in it with his wife and infant son. Billy Lee junior, Mr Lee's eldest son, says that he married in June 2023, brought his mobile home onto the site in May 2023 and continues to live in it with his wife and now new baby son. The second notice was served in November 2023.
5. In 2019 Mr Lee says he imported a crusher and screeder onto the site to crush, grade and screed the mounds of hardcore he claims were on the site when he bought it. He says this hardcore was spread around the site in 2019/20 with a top dressing of road scalpings imported to the site at that time. Prior to this Mr Lee says he cleared most of the site of the scrap vehicles that were on it by cutting them up for their scrap metal value and stated that 140 tonnes of such scrap metal has been removed from the site as a result, although Mr Mahoney continued and still continues to pay him rent for keeping several old buses and lorries at the western end of the site.
6. There is no dispute that the frontage wall and gates were erected by Mr Lee within the 4-year period prior to the serving of the first notice in February 2021. At the same time the grass verge in front of the wall was removed and replaced with hardcore and bullnosed brick edging up to the entrance gates, although it appears that this is actually highway land.
7. There is no doubt that the concrete gullies attacked by the second notice post-dated the issue of the first notice. Whether or not Billy Lee junior's mobile home was brought onto the site before or after the first notice was issued is largely immaterial because both notices together attack all three mobile caravans and associated touring caravans and structures located on the land – the PINK land lies within the BLUE land on the first notice and the second notice covers the whole site. Consequently, my above variation of the first notice to attack any and all mobile homes on the PINK land causes the appellant no injustice. In any case, I am granting planning permission for the

use of this part of the land as a residential caravan site subject to the various conditions in the Schedule below.

8. For the reasons set out below, there are no 'buildings' located on the PINK land, only the siting of various mobile day rooms and timber sheds that can be easily disassembled and moved. These structures are in any case associated with and ancillary to the stationing of the caravans for residential use. Consequently, they don't need to be mentioned in the allegations to the first notice.
9. There is no prejudice to the appellant in substituting the original plan – which only showed Miles Connor's mobile home etched in PINK – for the new plan appended to these decisions below (which shows the whole residential caravan site etched in PINK), because that was obviously a mistake that can be corrected without any prejudice to the appellant, given it has been able to put its full case at the Inquiry; that is because the second notice covered the sons' mobile homes. The new plan attached to the first notice covers the whole of the caravan site and encompasses correctly all the mobile homes and mobile sheds and day rooms.
10. In respect of Requirement 4 of the first notice, there is no need to refer to the 'original' condition of the land. It is sufficient, and clear, merely to require the land to be restored to its condition prior to the breach of planning control, and there is no prejudice to the appellant in doing so.
11. In terms of the second notice, the appellant made clear that the area between the twin parallel concrete gullies was designed as a planting bed for an evergreen hedge (laurel or suchlike). The Council did not contest that, and it appears to me that it could be effectively used for such planting. Accordingly, I have referred to these items as concrete gullies/planting beds.
12. The appellant points out that there is also ancillary equestrian use of the site in that one of the former military buildings at the rear of the BLUE land has been turned into stables for the wider family's business of training, breeding and dealing in trotting horses. I acknowledge this equestrian use, but since it is ancillary to and associated with the residential use of the site, I see no need to mention it in the varied notices, although it does of course serve to demonstrate the current mixed commercial storage and stationing of caravans for residential purposes use of the BLUE land.

Reasons

Ground (b)

13. Ground (b) is that the matters alleged in both notices have not occurred – as a matter of fact. The purpose of the original notices was clearly to attack the use of the PINK land – the land within the central part of the site with the southerly bulge – for the siting of caravans for residential use. It is an incontrovertible fact that this land is being used for this purpose and that it contains the three mobile homes and ancillary mobile structures (the 3 pitches) used by the appellant and his two sons (Levi Joe Lee and Billy Lee junior) and their families.
14. This use is not the same as the residential use of the dwelling, Craigielea, at the front part of the site. Craigielea's curtilage does not include the BLUE land

and all the caravans are located on the PINK land, the whole of which lies within the BLUE land; its curtilage is defined by the red line on the prior approval¹ and CLU² applications. Because the Council accepted these applications as valid and determined them, Craigielea remains a dwelling, which still has that same curtilage – the use has not been abandoned, despite the fact that the bungalow is currently incapable of habitation. The siting of caravans for residential use is a different use to a dwellinghouse and is clearly not commercial storage.

15. The land as a whole was previously one mixed use planning unit comprising a dwelling and commercial storage prior to Mr Lee's purchase and residential occupation, for the reasons explained below; it comprised one planning unit. The use of the central part of it (the PINK land) now for the siting of caravans for residential use is a different use, which lies outside Craigielea's curtilage. There are now two planning units: first the BLUE land, comprising one mixed use of commercial storage and the stationing of mobile homes for residential purposes (and ancillary equestrian use), and secondly the residential dwelling, Craigielea and its curtilage.
16. Nonetheless, original Allegation 1) in the first notice was incorrect in that it alleged the unauthorised change of use of the BLUE land from commercial use to residential use, whereas the correct allegation is: *The unauthorised change of use of land edged in BLUE on the attached plan from commercial storage use to a mixed use comprising the stationing of mobile homes for residential use (within the land edged in PINK on the attached plan) and commercial storage*, as set out in the Decision above. To that limited extent only, the appeal on ground (b) is partially successful.
17. As set out above, I have deleted original Allegation 3) in the first notice because the mobile structures are ancillary to the stationing of caravans for residential use. These structures comprise 4 day-rooms (it appears 2 for the appellant and one each for his two sons' pitches). The larger day room next to the appellant's mobile home can clearly be lifted onto a flat-bed truck and driven away; the others are small easily demountable structures and the timber shed, although large, is also clearly demountable. None of these structures therefore comprises a building, hence my variations to the requirements of the first notice. Nonetheless, these structures clearly exist and are consequently attacked by the notice.
18. The dispute concerning the 'concrete gullies' in the second notice is no more than one about their correct description – which I have addressed by my variation above – rather than the fact they have been constructed. Consideration of the hardcore/hardstanding is a matter for ground (c) below. I use the terms hardcore and hardstanding interchangeably as referring to the current hard surfaced nature of the site's ground surface.

¹ Prior approval application LPA Ref 18/01020 for 8m deep single storey rear extension – prior approval not required by the Council as determined on 26 July 2018.

² Certificate of Lawful Proposed Use or Development application for single storey rear and side extensions to the bungalow LPA Ref 18/00535 granted 30 May 2018.

Ground (c)

19. Ground (c) is that those matters (if they occurred) do not constitute a breach of planning control.
20. There is some dispute as to the amount of new material brought onto the site that currently forms its level hardstanding surface. The appellant maintains that most of the hardstanding was already on the commercial part of the site (the BLUE land), albeit contained in piles or mounds (some of up to 6 feet high, apparently), which he says he crushed, screeded and graded before relaying such hard material across most of the site including the curtilage of the frontage bungalow, Craigielea.
21. Whether or not that is so, he admits that he also brought road scalpings onto the site, which is what comprises the surface dressing material of the existing hardcore. For this reason alone, I do not accept that all the current hardstanding was already on the site. The Council also maintain that the crushing, and screeding of existing hardcore on the site, which Mr Lee confirms took place on site with hired machinery for this purpose, amount to an engineering operation in itself. I agree; clearly this was a substantial operation which required a crusher and screeder and took some time to complete (at least 6 months in 2019 according to Mr Lee). For both these reasons the laying of the current hardcore required planning permission.
22. In terms of the hard surface within the curtilage of Craigielea, the appellant relies on Class F of Part 1 of Schedule 2 of the GPDO³. However, Craigielea is not currently habitable and so I do not understand how the provision of such a hard surface across the whole of its curtilage can reasonably be described as *'the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such'*. There can be no such incidental purpose simply because the dwellinghouse is not currently being 'enjoyed' as such.
23. For these reasons the appeal on ground (c) regarding the first notice fails.

Ground (d)

24. Ground (d) is that, at the date when the (first) notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters.
25. This ground is pursued in respect of the hardcore. I have explained above the reasons why the current hard surface covering the majority of the site requires planning permission. Mr Lee acknowledges that the crushing and the screening of the existing hardcore on the site took place in 2019 and that the road scalpings were brought onto the site either that year or in 2020.
26. The time limits for enforcement action are set out in s171B of the Act. Although the time limits for operational development is now 10 years, it was only 4 years pre-April 2024, when the laying of the new hard surface on the site took place. However, given the first notice was served in 2021, plainly 4 years had not elapsed since 2019. The works to form the hard surface,

³ The Town and Country Planning (General Permitted Development) (England) Order 2015

including the imported road scalplings, are therefore within the 4-year immunity period.

27. For this reason, the appeal on ground (d) in respect of the first notice must fail.

Ground (a)

28. Ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.

The Main Issue

29. The main issue in terms of ground (a) is whether the inappropriate development of the residential caravan site and the associated operational development (the hardstanding, concrete gullies/planting beds, and frontage wall and gates) in the metropolitan Green Belt – acknowledged by the appellant – and any other harm, is clearly outweighed by other considerations that would lead to very special circumstances (VSCs) justifying granting planning permission, as per NPPF⁴ paragraphs 152 and 153.

The Use of the Land

30. To make this judgement it is necessary for me to consider what the lawful use of the site is, if indeed it has one. The appellant maintains that the lawful use of the whole site, which it could revert to, is a mixed use comprising a dwellinghouse, Craigielea and its curtilage, and commercial storage.⁵ It argues that the storage use continues and has never been abandoned because part of the rear of the site is still used by Mr Mahoney to store his old lorries and buses on, a use which has occurred continuously since at least the 1970s.
31. I agree. Mr Mahoney's evidence was not challenged by the Council. The aerial photographic evidence shows that the whole of the site (excepting the rear garden of Craigielea) was used to store vintage/old lorries and buses continuously over many years. They were stored on the vast majority of the site, including along the northern boundary of the site next to the bungalow and in its front garden area. It is also clear from the evidence that part of the bungalow – a rear timber lean-to extension to it (now demolished) – was used up to 2001 as an office and tea/refreshment room in connection with this commercial storage use, when the Denyer family (the previous owners) lived in Craigielea.
32. This vintage vehicle storage use continues at the rear of the BLUE land to this day. The Council argue that the shipping containers, which Mr Lee has brought onto the land and some of which he rents out to others for storage, is a materially different use. I disagree. The fact that goods stored in these shipping containers are not vehicles is immaterial because it is still a commercial storage use, similar to the way in which the land to the north of the site (Rearlands Farm site) occupied by Storage Solutions Essex is used. I

⁴ National Planning Policy Framework (current version, December 2023)

⁵ It is accepted by the Council – in Footnote 32 of its Closings – that curtilage and planning unit are not necessarily the same thing. Craigielea, as a dwelling, continues to have a curtilage, even though this dwelling is part of a single mixed use of the whole site comprising the dwelling, caravan site and commercial storage.

accept the appellant's arguments that the intensity of such storage uses can wax and wane, without resulting in a material change of use.

33. For these reasons I agree with the appellant that the lawful use of the land attacked by the notices is a single mixed use comprising a dwellinghouse and commercial storage. The land could revert to that use because it has never been abandoned, as per s57(4) of the Act. Given that, I consider that this mixed lawful use is the realistic fallback position if I was to dismiss the ground (a) appeal. The BLUE land, including the PINK land on which the caravan site is sited, would be very unlikely to revert to open agricultural land, simply by reason of comparative land values for these different uses.
34. Therefore, the apt comparison in terms of assessing any harm to the openness of this Green Belt location and the area's character and appearance, is the comparison between the commercial storage use on all the BLUE land and at least part of Craigielea's curtilage of such a lawful fallback use, as against the appellant's acceptance (via an appropriately worded condition) that only the BLUE land to the west of the caravan site will be used for commercial storage in the future.
35. The previous storage use on the site meant that most of it was covered in old vehicles up to at least 2014 and much of it until at least 2017. It could revert to this commercial storage, with the exception of the rear garden of Craigielea, which as far as I can tell from the submitted aerial photographs, was never used for such purposes. That storage use had a far more adverse impact on the openness and on the character and appearance of this rural area than the garden curtilage of Craigielea and the residential caravan site would have because most of this land would remain open, as opposed to being used to store vehicles or to site shipping containers for other commercial storage.
36. The adverse impact of such a use on the openness and character and appearance of this part of the Green Belt are exemplified by such commercial storage uses on Rearlands Farm to the north of the site and Stondon Storage to the west of it, albeit these sites are larger in area than the appeal land.
37. For all these reasons I conclude that the development proposed, with the exception of the hardstanding area on Craigielea's curtilage and part of the caravan site and with the agreed conditions set out below, will result in a lesser level of harm than the fallback commercial storage use of the land would in terms of both Green Belt openness and the character and appearance of the area. Consequently, it would comply with Policies MG02 A. and HP10 d. of the Brentwood Local Plan 2016-2033 (the LP).
38. Policy HP10 a. requires such windfall traveller sites to be well related to existing communities and accessible to local services and facilities, such as shops, primary and secondary schools, healthcare and public transport. The site is in the middle of the countryside on a small road with no footways or streetlighting, and no bus service as far as I'm aware. It is about 2km to the nearest primary school and grocery shop. Realistically, the occupiers of the site will use their own vehicles to access all such facilities. Consequently, the proposal breaches Policy HP10 a.

39. I give little weight to the Council's very late suggestion that it also breaches HP10 f. in terms of their being a significant risk of the site being contaminated by virtue of it being used in the past as a vehicle scrap yard. No evidence was produced by the Council to back up this late claim and, in any case, the occupiers of the site live in static caravans that have been sited on concrete plinths on the new hard surface, so the risk of contamination to them is slight from any oil or fuel having previously leaked into the ground.
40. I turn now to the other benefits (the other considerations required of Green Belt policy) of the proposal, in particular the need for traveller pitches. The most recently adopted Gypsy and Traveller Accommodation Assessment (GTAA) was published in October 2017, and its assessment of need was based on the now acknowledged discriminatory definition of gypsies and travellers in the 2015 PPTS, which has been changed in the 2023 revised version to include those who have stopped travelling permanently as well as temporarily because of their own or their family's or dependents' educational or health needs or old age, following the *Lisa Smith*⁶ judgement. The 2017 GTAA sets out a total need, including the updated definition, of 78 pitches, including 11 to cater for the 2015 definition.
41. LP Policy HP07 set out allocations for 13 pitches, although the allocation of 5 at Dunton Hills Garden Village remains unfulfilled. The LP was only adopted in March 2022, but the Council now acknowledges that there is an unmet need and no 5-year supply of sites. Work on a new GTAA has commenced but it is unclear when this will be published. Consequently, I give significant weight to the unmet need for pitches in the Borough, its lack of a 5-year supply of pitches and the Council's acknowledgement that there is no site currently available for the occupiers of the site to move onto.
42. I accept that traveller sites in the Green Belt are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish VSCs, as per PPTS paragraphs 16 and 24. But in this case I consider, with the site development scheme condition below, that the proposed use and its associated operational development as set out above would be preferable in environmental terms, specifically in terms of its effect on openness and local character and appearance, to the lawful fallback use of the site as commercial storage.
43. That conclusion, together with the unmet need and lack of a 5-year supply of pitches as well as the lack of any suitable sites for the occupiers of the site to move onto, clearly outweighs the harm to the Green Belt by reason of inappropriateness and the conflict with Policy HP10 a. in terms of the site's relative inaccessibility to local services and facilities, so as to establish the VSCs that would justify granting planning permission.
44. That is so without the need for me to even consider the personal circumstances of the site occupiers, including the best interest of the children living here or the occupants' human rights. I have also taken into account the likelihood that at least some of the (hopefully) future allocated traveller pitches/sites will inevitably be located in the Green Belt, given that 87% of Brentwood's area lies within it.

⁶ *Smith v SSHCLG & Ors* [2022] EWCA Civ 1391

45. For these reasons I will grant permission for the current mixed use of the BLUE land for the stationing of caravans for residential purposes and commercial storage.

The Operational Development

46. The laying of the present hard surface on most of the site, whether or not it mainly consisted of piles of existing hardcore, has clearly raised the overall level of much of the land. But not significantly or noticeably, especially when viewed from neighbouring land. The hard surface does look fairly white when standing on the site itself but is not particularly noticeable from adjoining land or from the road because of the frontage wall and side boundary fencing, and in any case is likely to weather darker through the passage of time.
47. The concrete gullies/planting beds are in effect designed to act as a planting barrier between the caravan site and the access road and commercial storage area next to it. I can see no particular objection to such a means of separation.
48. Mr Lee claims that he is slowly renovating the bungalow in order to inhabit it, since he himself (unlike his sons) has no aversion to living in bricks and mortar. It is therefore unclear why he has hard surfaced the whole of Craigielea's curtilage. He argues that the benefits of granting planning permission would be that only the rear of the land to the west of the caravan site would be used for commercial storage.
49. I take that offer at face value. Craigielea and its curtilage should be restored so that its curtilage resembles a typical residential curtilage. Although there would realistically be a hard surfaced parking area to its frontage accessed from the southern gate in the frontage wall, I would expect the hard surfacing to be lifted and removed from the whole of the rear garden, which should be restored to a lawn and landscaped beds to resemble a normal domestic garden, as should much of the frontage and southern boundary area of Craigielea's curtilage.
50. The northern access would be retained solely for access to the caravan site and the commercial storage area to the west of it. The caravan site itself should also contain some soft landscaping, including a lawned area of sufficient size where the children living on the site could play within site of the mobile homes. Accordingly, in terms of the details to be submitted with the site development scheme (Condition 1 in the Schedule below), the submitted site layout and landscaping scheme should reflect such a requirement.
51. This is the reason why I am not quashing the notices. Both notices attack the hardstanding on the whole site. The hardstanding on most of Craigielea's curtilage, excepting a frontage access, turning and parking area, is unnecessary and harmful to Green Belt openness and the character and appearance of this rural area and contrary to LP Policies MG02 A. and HP10 d. and g. It is also harmful and contrary to these Policies because it covers the whole of the residential caravan site. Although I accept that part of the caravan site, such as where the concrete plinths of the mobile homes are situated, requires hardstanding, much of it does not. At least part of the caravan site should, in the interest of the children living on it and in the interests of openness and the area's character and appearance, comprise a

soft landscaped area (including a natural – not artificial – grass lawn) for the children to play on, as required by PPTS⁷ paragraph 26 c). Other than those areas, the rest of the hardstanding on the wider site, given that it is required to access the commercial storage land to the west of the caravan site and is compatible with that storage use, is acceptable.

52. I therefore grant permission for the hardstanding on the BLUE land to the west of the caravan site itself (the PINK land), and s180(1) of the Act means that the retained varied notices cease to have effect on this part of the hardstanding, whereas they still do on the above unacceptable hardstanding. The appellant is expected, via the submission of the landscaping scheme in the site development scheme – (i) (c) of Condition 1 below – to ensure that the hardcore is removed from most of Craigielea’s curtilage and part of the caravan site sufficient to create a natural grass lawn of a reasonable size there.
53. It would appear that the area in front of the wall may be highway land given that it has a post on it for either telephone or electricity wires. In any case, that area lies outside the land attacked by the notice, although it is unfortunate that the appellant appears to have taken up the grass verge in front of his wall so that it now no longer matches the verge on the land to the south. Ideally, this hard surfaced gravelled area in front of the wall should be removed and a grass verge restored in keeping with the appearance of this rural area; this should certainly be done if the appellant owns this land.
54. In terms of the wall itself, I acknowledge the occupiers’ need for security, specifically in terms of their personal safety reasons for having to leave the caravan site they previously lived on, which were uncontested by the Council. Consequently, I acknowledge that the site realistically requires a frontage barrier of at least 2m high in order to prevent unwanted intruders accessing the site. Because of the current wall’s pillared and curved design, it is over 2m high. So, even accepting that it abuts the highway, it requires planning permission. Although slightly ornate in appearance with its lantern-style lamps on top of the pillars, it is generally well designed, solidly built and together with the gates at the two access points, satisfies the occupants’ personal security needs. On balance, when compared with other front boundary treatments in the vicinity, I consider it to be acceptable for these reasons.
55. I have accepted above that the other considerations put forward by the appellant clearly outweighs the harm to the Green Belt so as to establish the VSCs that would justify granting planning permission in terms of the use of the PINK land for the stationing of caravans for residential purposes. I accept the above operational development is acceptable because the frontage wall and gates are necessary to protect the security of the caravan site’s occupiers, part of the hardstanding is necessary associated development in conjunction with this use and the commercial storage use of the land to the west of the caravan site itself, and the concrete gullies/planting beds are necessary to form an acceptable boundary between the caravan site, the commercial storage land to its west and the access road to its north. As such these other considerations also clearly outweigh the harm to the Green Belt so as to establish the VSCs that would justify granting planning permission.

⁷ Planning policy for traveller sites, December 2023

Conclusion on Ground (a) Appeals

56. Consequently, for these reasons, the appeals on ground (a) succeed in respect of the use enforced against and some of the operational development, i.e. the frontage wall and gates, the concrete gullied/planting beds and some of the hardcore.

Ground (f)

57. Ground (f) is that the steps required by the notice(s) to be taken, or the activities required by the notice(s) to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters.

58. I have varied the notices to ensure they address the current use and operational development on the site. I have granted planning permission for the reasons set out above, subject to the conditions in the Schedule below. The amended requirements of both notices reflect my reasoning and are therefore necessary and proportionate.

Ground (g)

59. Ground (g) is that the compliance period for the notices' requirements falls short of what should reasonably be allowed.

60. The Council acknowledges the landowners' circumstances and considers that the compliance period should be extended to 12 months so that Mr Lee may complete the renovation of the bungalow to make it habitable.

61. For this reason, and to ensure the time periods set out in Condition 1 below can be satisfactorily met, I agree that the compliance period should be extended to 12 months for all the requirements of both notices.

Conditions

62. Condition 1 below encompasses the site development scheme. In terms of the landscaping scheme set out in (i) (c) I have already indicated above that the curtilage of Craigielea should be predominantly restored to soft landscaping and a lawned area be provided within the caravan site itself so that the children on site have some natural green area on which to play in the future. The other requirements are also necessary, and standard in such conditions.

63. Condition 2 is necessary because there is no dispute that the current occupants are all gypsies and travellers that meet the definition of such in the PPTS. Permission would be unlikely to be given for a caravan site other than for gypsies and travellers because no evidence has been put forward to suggest that such a caravan site would comply with the VSC test in national Green Belt policy. Hence it is necessary to secure the caravan site's use for gypsies and travellers only.

64. Condition 3 limits the number of caravans on the site to the needs of this extended family and puts into effect the mitigating circumstances argued by the appellant: the fact that their caravan site is only as large as it needs to be and that their residential use of the site is confined to this area and to the bungalow's curtilage.

65. Conditions 4 and 5 constrain commercial activities including vehicles to the land to the west of the caravan site, where there is already a fallback commercial storage use.

Conclusion

66. For the reasons given above, I conclude that the appeals succeed on ground (a). I shall grant planning permission for the use and operations as described in the notices as varied. The enforcement notices as varied are upheld.

Nick Fagan

INSPECTOR

Schedule of Conditions

1. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the site restored to its condition before the breach within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-

- (i) Within 3 months of the date of this decision a site development scheme for:
 - (a) a site layout clearly identifying the extent of the Open Storage Use, the extent of the C3 Dwellinghouse, and the Gypsy/Traveller site; the location of all pitches, including the siting of caravans on pitches; areas for vehicular access and turning and manoeuvring; areas of hardstanding on the PINK land required for the caravan site use; fencing and other means of enclosure; and the location of services;
 - (b) the means of surface and foul water drainage;
 - (c) landscaping of the site, including details of species, numbers, and plant sizes as well as provisions for maintenance of the landscaping for 5 years. These details shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within five years of planting or, in the opinion of the Local Planning Authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted;
 - (d) ecological enhancement plan,
 - (e) details of all existing and proposed external lighting on the boundary of and within the site; and

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

- (ii) If within 9 months of the date of this decision the local planning authority refuse to approve the site development scheme 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 site development scheme shall have been approved by the Secretary of State.

- (iv) The approved site development scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved site development scheme specified in this condition, that scheme shall thereafter be maintained 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.

2. The Residential Caravan site (marked in PINK) hereby approved shall not be occupied by any persons other than Gypsies and Travellers as defined in Annex 1 of Planning Policy for Traveller Sites December 2023 (or its equivalent in replacement national policy).
3. There shall be no more than 3 pitches located within the caravan site area hereby approved, and no more than two caravans per pitch (of which no more than 1 caravan shall be a static), as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on each pitch at any one time.
4. No commercial storage activities shall take place on the land marked in PINK (the residential caravan site), including the storage of materials, except in the area to the west of it shown marked in BLUE and no materials shall be stored above a height of 3.5 metres. No burning of materials shall take place on the land and no commercial activities shall take place outside the hours of 8am and 6pm, Monday - Saturday and not at any time on Sundays or on Bank or Public Holidays.
5. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the residential caravan site (marked in PINK) hereby approved nor within the residential curtilage of Craigielea.

End of Conditions

APPEARANCES

FOR THE APPELLANT: *Alan Masters* (1 Pump Court) called:-

- Peter Brownjohn*, WS Planning & Architecture (WSPA)
- Ian Mahoney*, occupier of part of commercial site on BLUE land
- Billy Lee*
- Billy Lee junior*
- Levi Joe Lee*

FOR THE LOCAL PLANNING AUTHORITY (LPA, the Council): *Giles Atkinson* (6 Pump Court) called:-

- Andrea Pearson*, Senior Planning Policy Officer (only took part in Round Table Discussion on GTAA/Need and was not cross-examined as such)
- Neil Foreman*, Planning Enforcement Officer
- Sian Griffiths*, RCA Regeneration

DOCUMENTS GIVEN TO ME AT THE INQUIRY

1. Final list of agreed Conditions
2. Revised versions of the two notices presented by the LPA on Day 1 of the Inquiry (together with the revised plan to be attached to them)
3. Article from Bus & Coach Preservation magazine, July 2008, showing Ian Mahoney's father together with various colour photos of Ian Mahoney next to vehicles on the site handed to me on Day 2
4. Opening Statement on behalf of the LPA
5. Closing Submissions on behalf of the LPA
6. Closing Submissions on behalf of the Appellant

PLAN

The Plan on the next page is the substitute plan to be attached to the first enforcement notice in place of the original plans attached to the notices.

