



Appeal Decision

Hearing Held on 8 October 2024

Site visit made on 8 October 2024

by Chris Preston BA(Hons) BPI MRTPI

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

Decision date: 02 December 2024

Appeal Ref: APP/M3645/C/23/3327448

Land at Grid Reference 531413 150617, Deans Lane, Nutfield, Surrey RH1 4HR

- 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 Thomes O'Connor against an enforcement notice issued by Tandridge District Council.
 - The enforcement notice, numbered ENF/2022/64, was issued on 07 July 2023.
 - The breach of planning control as alleged in the notice is:
 - Without planning permission;
 - A. The material change of use of the land from woodland to a use for the stationing of residential caravan in the approximate area shown by 'Y' on the attached Plan 'B' for residential purposes and parking of vehicles.
 - B. The formation of a hard surface in the approximate area marked in black on the attached plan 'A'.
 - C. Erection of fencing in the approximate area marked by a green line on the attached plan 'B'.
 - D. Erection of a utility building in the approximate area shown by 'X' on the attached plan 'B' and other domestic paraphernalia in association with the use of the land for the stationing of residential caravan for residential purposes.
 - The requirements of the notice are:
 - i) Cease the use of the land for the stationing of caravan for residential purposes.
 - ii) Remove the residential caravan from the approximate position shown by 'Y' on the attached plan 'B'.
 - iii) Cease the use of the land for the parking of vehicles.
 - iv) Remove all vehicles from the land.
 - v) Remove the hardstanding from the approximate area marked in black on the attached plan 'A', utility building from the approximate position shown by 'X' on the attached plan 'B', the boundary fence shown by a green line on the attached plan 'B', and all other domestic paraphernalia from the land.
 - vi) Dig out and remove the sub-base for the hardstanding.
 - vii) Following compliance with steps (v) and (vi) above remove all resultant debris and unused materials from the land to an authorised place of disposal, regrade the land to match the profile of the land to the east and west and reseed the land to grass using a native grass seed mix.
 - The period for compliance with the requirements is 12 months from the date the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be corrected by the insertion of the word "a" in-between the words "of" and "residential caravan" in Section 3A. Subject to that correction the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely: A) The material change of use of the land from woodland to a use for the stationing of a residential caravan in the approximate area shown by 'Y' on Plan 'B' (as attached to the enforcement notice) for residential purposes and parking of vehicles. B) The formation of a hard surface in the approximate area marked in black on plan 'A' (also attached to the enforcement notice). C) Erection of fencing in the approximate area marked by a green line on plan 'B'. D) Erection of a utility building in the approximate area shown by 'X' on plan 'B' and other domestic paraphernalia in association with the use of the land for the stationing of residential caravan for residential purposes, subject to the conditions set out in the schedule attached to this decision.

Preliminary Matters

2. The land to which the enforcement notice relates is identified on two plans attached to the notice, referred to by the Council as 'A' and 'B'. At the accompanied site visit it was apparent that the hardstanding that has been formed actually extends over a larger area, somewhat further to the south than the most southerly line marked on those plans. It is not clear if that is down to a failure of the plan to accurately show the area of hardstanding or whether a further area was created after the notice was served. There is nothing on the ground to indicate that it was a separate operation.
3. I cannot correct the notice to encompass that wider area because it is not clear what the land ownership arrangements are or whether anyone may be prejudiced as a result of me doing so. In any event, the caravan and residential element is situated on the northern section of the site that is covered by the notice and I see no reason why I should not continue to determine the appeal on the basis of the land identified within the plans attached to the notice. Clearly, the result of that course of action is that any planning permission granted would not cover any land outside that identified on the plans attached to the notice and, likewise, any upheld requirements would only take effect in relation to land identified in the notice. Any residual issues relating to the land to the south would be for the Council and relevant parties to consider.
4. At section 3A of the enforcement notice the breach of control is described as "Without planning permission, the material change of use of the land from woodland to a use for the stationing of residential caravan in the approximate area shown.....". At the Hearing the Council confirmed that there is a missing "a" in between the words "of" and "residential caravan". In other words, there was a single caravan on site at the time the notice was served and the breach related to that caravan. Whilst the parties were in no doubt the notice related to a single caravan it is important to rectify any potential confusion caused by the typographical error and I shall correct the notice accordingly.
5. Following on from that, the cases of the parties in respect of the appeal related to that single caravan, which is occupied by the appellant and his wife. A

planning application had also been submitted to the Council for two pitches on the site, with the intention that the second pitch would be occupied by one of the appellant's sons, whilst also providing a base for another son who still travels. That application was refused by the Council and the appellant did not appeal within the requisite timescale.

6. When discussing potential conditions in the event that the present appeal be allowed, the appellant aired the suggestion that a condition to allow a second caravan, either a tourer or static could be imposed. Where an appeal on Ground (a) is brought, the deemed application for planning permission is made on the basis that permission ought to be granted for the matters stated in the notice. It is open to me to grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters.
7. Given that the notice explicitly refers to a single caravan it may be that a permission permitting more than one unit would extend beyond the scope of what may be permitted, given the limitations of a ground (a) appeal. I appreciate that use as a residential caravan site is a use of land but the numbers of pitches or units is not immaterial to any decision. Moreover, the parties have put their cases on the basis of the single caravan and any interested parties would also be aware that is what is described in the breach and is presently on site.
8. To grant permission for a greater number of caravans, purely on the basis of a short discussion relating to conditions at the end of a Hearing, has clear potential to cause injustice to both the Council and any parties who may have wished to comment. Accordingly, I have considered the appeal on the basis that permission is sought for the single caravan described in the enforcement notice.

The Appeal on Ground (a)

9. The site is located within the Green Belt. In line with the National Planning Policy Framework (the Framework), and policy DP10 of the Tandridge Local Plan (Part 2) (2014) (the Local Plan) new development within the Green Belt is inappropriate unless it falls within a limited number of exceptions. The material change of use of land is not inappropriate, providing it preserves openness and does not conflict with the purposes of including land within the Green Belt. However, Policy E of the Planning Policy for Traveller Sites (PPTS) confirms that Gypsy/ Traveller sites are inappropriate within the Green Belt. The parties agree that the material change of use in this case amounts to inappropriate development on account of the fact that the development has failed to preserve the openness of the Green Belt. I see no reason to disagree.
10. Accordingly, the main issues in the determination of the appeal on ground (a) are:
 - i) The extent to which the development has effected the openness of the Green Belt and the degree to which it has encroached into the countryside;
 - ii) The effect on the character and appearance of the area;

- iii) Whether the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations, such as to amount to the very special circumstances necessary to justify a grant of permission.

Openness of the Green Belt/ Encroachment into the Countryside

11. Openness is one of the key characteristics of the Green Belt, alongside its permanence. However, whilst that is true of the designation on a wider level, the character of Deans Lane in the vicinity of the appeal site is more enclosed. The lane is a rough track leading from the A25 which serves a small number of properties, including dwellings immediately to the north and south-west of the appeal site. It is narrow and enclosed by fencing and/or mature hedgerows and planting, such that the buildings and development alongside it are extremely well hidden from wider vantage points.
12. Immediately to the east the land falls away steeply on a wooded hillside stretching down to the M23 and that woodland also stretches round to the south of the site. Thus, the prevailing character is of an enclosed lane with development alongside it, surrounded by established vegetation.
13. Given that it is surrounded by other development and mature vegetation the site does not contribute significantly to the openness of the Green Belt in a visual sense. Even at close range, the impact of the development is low key. The entrance gates are the most visible aspect. Although they do add to the sense of enclosure, given the pre-existing enclosed nature of the lane, the effect is minimal.
14. The caravan is discreetly located within the site and the associated utility room is very small in its proportions and set well to the rear. Consequently, the visual impact on the openness of the Green Belt is limited.
15. The development has had a spatial impact on account of the volume of the caravan and utility building, associated cars and paraphernalia and the enclosure of the fencing. In other words, development and associated structures are now present when previously the site was free from such development. However, taking account of the nature of the local area, as described, the overall impact of the development on the openness of the Green Belt is limited, albeit harmful. That said, the development could not be said to preserve the openness of the Green Belt and the loss of openness is contrary to the objectives of policy DP10 of the Local Plan and paragraph 142 of the Framework.
16. Safeguarding the countryside from encroachment is one of the key purposes of including land within the Green Belt. The development has encroached onto previously undeveloped land outside of any defined settlement, within the countryside as defined by the Local Plan. However, the land is enclosed and is situated between existing residential properties. In effect, the site does not visibly extend the development at Deans Lane beyond its existing confines into the wider countryside beyond such that the extent of encroachment is very limited.
17. Although any encroachment is contrary to the aims of the Framework and policy DP10 of the Local Plan, the extent of harm is limited on account of the nature and location of the site.

Character and Appearance of the Area

18. As described above, Deans Lane is a narrow, enclosed, track which serves a limited number of properties, to the west of the M23. The motorway, which runs through a significant cutting at that point, effectively segregates the lane from the village of Bletchingley, to the east, in a visual sense. Ribbon development does stretch out along the A25 but the lane forms a discreet pocket of development, surrounded by woodland and agricultural land.
19. The residential development to the north and south-west appears to be Edwardian in style and there are various other activities and storage uses taking place along the lane, some that are lawful and some not, according to evidence presented at the Hearing. The residential use associated with the occupation of the caravan does not sit uneasily against that prevailing pattern in terms of the character of the use. As with any caravan, the materials do not reflect traditional building materials or the materials used on neighbouring dwellings but the siting of the unit is such that any visual impact is minimal. The fencing and entrance gates are the most prominent aspect and they do not appear incongruous in the context of various uses, all of which have their own boundary treatments abutting the lane.
20. I have not been provided with any photographs or evidence to demonstrate what the site looked like prior to the development taking place, save for overhead images. That does show that tree cover has been reduced across the site but it is hard to estimate how many trees have been removed simply by looking at the canopy spread. There is no suggestion that any of the trees were protected but, nonetheless, the contrast between the greenery that was present and the lifeless form of the hard-surfacing and fencing is stark. The site remains well-screened on account of trees on neighbouring land but the lack of greenery within the site and coverage of every square centimetre with crushed road plantings provides an unsympathetic image.
21. Thus, at a very localised level there has been some harm to the character and appearance of the area resulting from the erosion of the verdant character arising from the removal of trees and the replacement with a barren environment. That could be mitigated to some extent through a condition to secure planting within the site, particularly alongside the boundaries close to the entrance, something that would be readily achievable due to the size of the site relative to the space taken up by the caravan and necessary parking areas.
22. Subject to that, I am satisfied that the residential use of the site is compatible with the established character of the area and that the current harm to the appearance could be largely mitigated. As such, I find no particular conflict with design related aims of policy CSP18 of the Tandridge District Core Strategy (2008) (the CS) or the similar aims of policy DP7 of the Local Plan. It follows that there has been no significant harm to visual amenity or character of the area such that the development complies with policy CSP9(b) of the CS.
23. The site is located within an Area of Great Landscape Value, as defined by policy CSP20 of the CS. The Council did not rely on that policy in its reasons for issuing the enforcement notice. In any event, the concealed nature of the site is such that the development has no wider impact on the AGLV and no impact on its function of providing a buffer to the Surrey Hills AONB.

Other Material Considerations

24. The caravan at the site is occupied by the appellant and his wife, both of whom are of Traveller heritage, having travelled all of their lives for work. Due to poor health and age they now require a settled base in order to gain access to healthcare and to be close to other family members who are able to provide care and support. The Council accepted at the Hearing, correctly in my view, that they meet the definition of Gypsies and Travellers set out within the PPTS, as amended in December 2023 to reflect the *Smith* judgment¹.
25. The Council also accepts that it cannot demonstrate a five-year supply of deliverable sites as required by paragraph 10 of the PPTS and that there is an unmet need for more Gypsy and Traveller sites in the district, although the precise quantum of that need is uncertain. The most recent Gypsy and Traveller Accommodation Assessment (GTAA) was produced by the Council in 2017 as part of the evidence base for the emerging local plan. That identified a need for 5 pitches between 2016 and 2021 with a potential need for a further 15 pitches up to 2033.
26. However, importantly, the 2017 GTAA was produced on the basis of the PPTS definition of Gypsies and Travellers prior to the *Smith* judgment and would not therefore have taken account of the needs of those who had ceased to travel permanently. The fact that the definition has subsequently been amended means that it is likely that the need based on the current definition will be greater. Moreover, the 2017 GTAA is now somewhat out of date and cannot be relied upon as an accurate assessment of current need².
27. I also share the concerns of the Inspector in the Beech Farm appeals³ who noted that anticipated need in the 2017 GTAA had reduced markedly from that identified in the 2013 GTAA without an obvious explanation. Overall, the evidence points to a significant level of unmet need, albeit not defined due to the absence of an up-to-date GTAA that has been tested at examination.
28. The Council also accepts, in line with previous appeal decisions, that there has been a failure of policy in relation to the provision of Gypsy and Traveller accommodation within the area. Policy CSP9 of the CS, adopted in 2008, identified that the Council would make provision for Gypsies and Travellers through a Site Allocations Development Plan Document but that never occurred and no sites have been allocated since that time.
29. The Emerging Local Plan failed to allocated any sites and has now been found to be unsound. The result is that the Council remains a long way from addressing the needs of the Gypsy and Traveller community through an up-to-date development plan. Thus, there has been a stark failure of policy over a significant period. That failure, along with the unmet need for further sites are matters that add substantial weight in favour of the appellant's case. In addition, there are no available sites within the local area which is a matter that attracts significant weight, given the clear local need, including the need of the appellant and his wife to reside close to family in an area where they have local connections.

¹ Lisa Smith v SSLUHC [2022] EWCA Civ 1391

² As pointed out by the Examining Inspector in relation to the emerging Local Plan – paragraph 3.18 of the appellant's statement of case

³ APP/M3645/C/21/3284447 & 8

30. The appellant and his wife both have respective health related issues which entail that they are no longer fit to carry on travelling and that they benefit from a settled base where access to medical appointments are more accessible. The pair have connections to the local area and their daughters live nearby such that they can assist with healthcare and general day to day care. I shall not repeat the details in writing due to the sensitive nature of the information but the evidence in that respect is compelling and has not been disputed factually by the Council.
31. Thus, the benefits in terms of the health and well-being of the appellant and his wife are matters that attract significant weight, even more so when one considers the absence of any alternative sites in the local area and the likely consequence of a roadside existence if the notice was upheld.
32. The PPTS advises that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh the harm to the Green Belt and any other harm so as to amount to very special circumstances. However, Policy CSP9(a) of the CS states that the lack of alternative sites in non-Green Belt locations may be a factor in determining whether very special circumstances exist. In that regard it is notable that 94% of the District lies within the Green Belt, including all land outside built up areas. At the Hearing, the Council acknowledged that sites within the Green Belt are likely to be necessary in order to meet the needs of Gypsies and Travellers in the local area. That seems inevitable.
33. Whilst the criteria-based aspect of the policy may not fully comply with the wording of the PPTS in respect of the above, the policy was adopted in 2014, after the PPTS was published in 2012 and responds directly to local circumstances relating to the extent of Green Belt coverage in the district. In a situation where the Council has failed abjectly in its duties to allocate any sites it seems somewhat perverse for it now to claim that limited weight should be given to the criteria-based policy on account of the conflict with the PPTS, particularly so given the acknowledgement that sites will be needed within the Green Belt. That was so at the time the plan was adopted and that need is now likely to be more pressing, given the consistent failure to address the issue through the plan making process in the intervening period, or to grant permission for sufficient sites to meet local needs.
34. Sub-section (a) of CSP9 is a direct response to local circumstances and criteria (b) to (f) are broadly consistent with the aims of the Framework and PPTS in respect of other matters. In respect of (f), the PPTS does not explicitly require preference for sites that are accessible by non-car modes of transport but is not wholly out of sync with the aims of ensuring access to service provision and reducing long-distance travel, as set out at paragraph 13. Moreover, policy CSP9(f) is merely stated as a preference and not an absolute requirement. Consequently, I do not share the view that limited weight should be given to policy CSP9 and the criteria-based element of the policy remains a valid basis upon which to assess proposals.
35. There is no conflict with any of the criteria (b) to (f). The impact on the visual amenity of the area is not significant, the pitch is appropriate to the size of the site and there are no highway safety issues relating to the access. Given the recognition that sites within the Green Belt will be needed to meet local need, such sites are likely to be in the rural area where travel choices will be more

limited. The site is within reasonable distance of services within Bletchingley to the east and Redhill to the west.

Whether Very Special Circumstances Exist

36. The development has failed to preserve the openness of the Green Belt and has resulted in encroachment into the countryside, albeit minor. However, for those reasons, the material change of use of land to a caravan site represents inappropriate development within the Green Belt having regard to paragraph 155 of the Framework. Inappropriate development is, by definition, harmful to the Green Belt and I am required to give substantial weight to that harm and the associated loss of openness and encroachment.
37. There are numerous matters that weigh heavily in support of the development. There is significant unmet need for further sites in the district, which attracts considerable weight of itself. There are no other available sites in the district to meet the clear local need, including the need of the appellant and his wife. That also attracts significant weight. The persistent failure of policy over a number of years, attracts substantial weight particularly given the likely level of unmet need and the planning constraints in an area covered by Green Belt outside the urban area.
38. The Council accepts that sites within the Green Belt will be needed in order to meet the needs of Gypsy's and Travellers. Policy CSP9 recognised that as far back as 2012 and the need is likely to be greater now, given the failure to allocate sites and the limited number of planning permissions granted since that time. In that context, one would be hard pressed to find a site within the Green Belt where the harm to the openness of or encroachment into the Green Belt was as limited as the appeal site, given its concealed nature, surrounded by existing built development and mature trees.
39. The combined weight of all of those matters clearly outweighs the harm to the Green Belt and any other harm so as to amount to the very special circumstances needed to justify the development in my view. I reach that conclusion without taking account of the specific personal and medical needs of the appellant and his wife or the benefits that living close to other family members would bring. Those personal circumstances add significantly to the weight in favour of a grant of permission but are not critical to the conclusion on very special circumstances. Matters of unmet need, failure of policy, absence of alternative sites, the local policy context and recognition that sites within the Green Belt are needed is sufficient.

Conditions

40. A condition is necessary to restrict the occupation of the site to Gypsies and/or Travellers, in line with the definition in Annex 1 of the PPTS because the rationale for granting permission is based upon the local accommodation needs of that particular group and the use would not be acceptable otherwise. Given that I have found that very special circumstances exist regardless of the personal circumstances of the appellant and his wife I see no reason, in planning terms, to attach a condition limiting the use to a personal permission. The site conforms to the criteria based policy CSP9 and is a suitable site to meet local needs regardless of specific personal circumstances.

41. For the reasons set out above, the site presently houses a single static caravan and that is the basis upon which the respective cases have been made. It is not clear how any further pitches would be accommodated. Furthermore, there is no evidence that a touring caravan is needed by the appellant because he and his wife have ceased to travel on grounds of age and health. For all of those reasons, I shall attach a condition restricting occupation to a single pitch with one static caravan.
42. A condition preventing the stationing, parking or storage of vehicles over 3.5 tonnes in weight is necessary in the interests of the character and appearance of the area.
43. A number of matters need to be addressed in a "site development scheme" condition. Those include the means of foul and surface water drainage, to avoid flooding and pollution; details for waste collection and storage, in the interests of visual amenity; details of any external lighting, in the interests of preventing unnecessary light pollution; and details of landscaping within the site to mitigate the effect on the character and appearance of the area.
44. Biodiversity net gain requirements do not apply to retrospective development and the suggested condition in that respect is not necessary. There was also ample parking and turning provision within the site and I see no reason for the condition to reserve parts of the site solely for parking and turning in that context. There appears to be no local policy that requires an electrical vehicle charging socket and I am not convinced that is necessary to make the development acceptable in planning terms. The utility room is already in situ so no further details are necessary. Planning permission would be required to construct another dayroom and it is not necessary to attach a condition in that regard.

Conclusion on Ground (a)

45. Whilst the breach of planning control amounts to inappropriate development within the Green Belt very special circumstances exist to warrant the grant of planning permission because the material considerations in favour clearly outweigh the harm to the Green Belt and any other harm. As such, the development complies with the criteria based element of policy CSP9(a) which notes that unallocated sites within the Green Belt will only be acceptable where very special circumstances exist. The development complies with all other criteria of CSP9. In the absence of any significant conflict with any other development plan policy, the proposal complies with the development plan taken as a whole.
46. Whilst I have taken a different view, if policy CSP9 was considered out of date and given reduced weight on account of the inconsistency with the Framework/PPTS, as suggested by the parties, the proposal would be inappropriate development, contrary to policy DP10 of the Local Plan, and the criteria-based mechanism for assessing such development provided by CSP9 would carry little weight. However, even in that scenario, the substantial material considerations in favour of the development would clearly outweigh any harm and provide a reason for granting planning permission, notwithstanding any conflict with the development plan that may arise.

47. Accordingly, the appeal on ground (a) succeeds and I shall grant planning permission for the development, based on the corrected description of the breach and subject to the necessary conditions described above.

Appeal on Grounds (f) and (g)

48. Given my decision in respect of the appeal on ground (a) it is not necessary to consider the appeal on grounds (f) and (g).

Overall Conclusion

49. For the reasons given above I will correct the enforcement notice, in order to clarify the terms of the deemed application under section 177(5) of the 1990 Act as amended. Subject to that correction I conclude that the appeal should succeed on ground (a) and I will grant planning permission in accordance with the application deemed to have been made under section 177(5) of the 1990 Act as amended and the enforcement notice will be quashed.

Chris Preston

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ms Emily Temple	Director, ET Planning
Mr Will Hossack	Principle Planner, ET Planning
Ms Mary O'Connor	Daughter of appellant
Ms Ann O'Connor	Daughter of appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr John Langdown	Senior Enforcement Officer
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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) No more than one static caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended shall be stationed on the site at any time.
- 3) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 4) The use hereby permitted shall cease and the caravan, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 30 days 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 a scheme (which shall include a timetable for implementation of the respective elements) for the following matters shall have been submitted for the written approval of the local planning authority (hereafter referred to as the site development scheme):
 - The means of foul and surface water drainage of the site;
 - Details of facilities for the storage and collection of refuse and waste;
 - Details of any proposed external lighting;
 - Details of a scheme of landscaping including details of species, plant sizes, proposed numbers and densities and details of ongoing maintenance and management. The scheme shall include for the replacement of any trees, hedges or plants that are removed, die or become seriously damaged within 10 years of completion of the scheme, such trees, hedges or plants to be replaced with others of a similar species and size to that originally approved.
 - ii) If within 12 months of the date of this decision the local planning authority refuse to approve the 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 scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained/retained/remain in use for the lifetime of the development.

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.