



Appeal Decisions

Hearing held on 8 and 9 October 2024

Site visit made on 9 October 2024

by Diane Lewis BA(Hons) MCD MA LL M MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2024

Land at Greenacres, Gypsy Lane, Little Billington, Leighton Buzzard LU7 9BP

Appeal Ref: APP/P0240/C/19/3221159

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Mark McCarthy against an enforcement notice issued by Central Bedfordshire Council.
- The enforcement notice, numbered CB/ENC/18/0256, was issued on 19 December 2018.
- The breach of planning control as alleged in the notice is: Without planning permission, the use of the Land as a residential caravan site without complying with conditions attached to planning permission CB/14/01479/VOC dated 16 June 2014.
- The development to which the permission relates is: Variation of condition 6 attached to the permission granted in accordance with the Town and Country Planning Act 1990 Section 177(5) appeal reference APP/N0220/C/02/1089332 and as previously amended by planning permission reference SB/TP/07/00606.
- The conditions in question are condition 1 and condition 2.
- Condition 1 states: No caravan located on the Site shall be occupied for residential purposes by persons other than Gypsies and Travellers, as defined in annexe 1 of Planning Policy for Traveller Sites 2012.
- Condition 2 states: No more than 26 caravans shall be stationed on the land at any one time, of which no more than 16 shall be static caravans, of this number:
 - no more than 2 caravans, of which no more than 1 shall be a static caravan shall be stationed on Plot 6a;
 - no more than 3 caravans, of which no more than 1 shall be a static caravan shall be stationed on Plot 3;
 - no more than 3 caravans, of which no more than 1 shall be a static caravan shall be stationed on Plot 3a;
 - no more than 3 caravans, of which no more than 1 shall be a static caravan shall be stationed on Plot 3b.
- The notice alleges that the conditions have not been complied with because: in relation to condition 1, caravans on the Land are occupied by persons who do not meet the definition of Gypsies and Travellers, as defined in annexe 1 of the Planning Policy for Traveller Sites 2012, and in relation to condition 2 there are more caravans on the Land than are permitted under the above permission.
- The notice also alleges: Without planning permission the use of a former dayroom building shown marked in red on Plot 5 as an independent residential dwelling and occupation by persons who do not meet the definition of Gypsies and Travellers as defined in annexe 1 of the Planning Policy for Traveller Sites 2012.
- The requirements of the notice are:
 1. You must comply with condition 1 by ceasing the occupation of any caravans by persons who do not meet the definition of Gypsies and Travellers as defined in annexe 1 of the Planning Policy for Traveller Sites 2012, which stated: '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 permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.'

2. You must comply with condition 2 by ceasing the use of the Land for the residential use or storage of caravans in excess of 26 including no more than 16 static caravans.
 3. You must remove those caravans from the Land identified in paragraph 5.4 below which are in excess of the authorised number of 26 including no more than 16 static caravans.
 4. The following caravans shall be removed from the following plots within the Land and as edged in red and identified as the named plot:
Plot 1 all caravans
Plot 1b all caravans in excess of 2 including no more than one static.
Plot 1a all caravans in excess of 1 including no more than one static.
Plot 2a all caravans in excess of 2 including no more than one static.
Plot 2 all caravans in excess of 3 including no more than three static.
Plot 2b all caravans in excess of 1 including no more than one static.
Plot 3 all caravans in excess of 3 including no more than one static.
Plot 3a all caravans in excess of 3 including no more than one static.
Plot 3b all caravans in excess of 3 including no more than one static.
Plot 4a all caravans in excess of 3 including no more than two static.
Plot P4 all caravans in excess of 1 including no more than one static.
Plot 4 all caravans in excess of 1 including no static caravan.
Plot J5 all caravans.
Plot 5a all caravans.
Plot 5 all caravans.
Plot 6a all caravans in excess of 2 including no more than one static.
Plot 6b all caravans.
Plot 6 all caravans in excess of 1 including no more than one static.
 5. You must cease the occupation for independent residential purposes of the building marked in red on Plot 5.
- The period for compliance with the requirements is six months.
 - The appeal was made on the grounds set out in section 174(2)(a), (b), (c), (d), (e), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

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

Appeals Refs: APP/P0240/C/19/3221160, APP/P0240/C/19/3221161, APP/P0240/C/19/3221162, APP/P0240/C/19/3221163, APP/P0240/C/19/3221164, APP/P0240/C/19/3221165, APP/P0240/C/19/3221166

- The additional appellants who made appeals against the enforcement notice are listed at Appendix 1. These appeals were made on the grounds set out in section 174(2)(a), (b), (c), (d), (e), (f) and (g) of the Act. Since the prescribed fees were not paid within the specified period, the appeals on ground (a) and the applications for planning permission deemed to have been made under section 177(5) of the Act have lapsed.

Summary of Decisions: The appeals succeed in part and the enforcement notice as corrected is upheld with variations in the terms set out below in the Formal Decision.

Preliminary Matters

1. The Council issued three enforcement notices on 19 December 2018, in relation to Land at Greenacres, Plots 1 and 2 The Stables and Plots 3 to 10 The Stables. The three sites are located close together and the alleged breaches of planning control were similar in terms of non-compliance with planning conditions controlling occupation and the number and type of caravans. In March 2019 the Council reported 146 caravans on the three sites, whereas the authorised total is 46 caravans. The number had reduced to 97 caravans by May 2024. A total of 17 appeals were made against the three notices. All appeals were linked in order that they could be determined together.
2. The appeals were held in abeyance pending the determination of a planning application made by Central Bedfordshire Council in May 2020 (ref CB/20/01719/REG3) for "Continued use of the land for the stationing of 77 caravans (67 statics and 10 tourers) for Gypsies and Travellers, retention of two buildings for unrestricted C3 (residential) use together with the addition of a landscape buffer and associated development including drainage works, access road and fencing" (the Regulation 3 application). The application covered all three appeal sites and an additional strip of land owned by the Council approximately 12 metres in width running along the northern and eastern boundaries of the sites. The proposal would result in an increase of 31 caravans across the site (46 to 77). The number of plots would increase by 2, both on the Greenacres site.
3. In October 2021 the Council resolved to grant planning permission for the development proposed in the Regulation 3 application, subject to completion of a section 106 agreement and the receipt of a positive consultation response from National Grid (National Gas Transmissions). A third criterion was met in January 2023 when confirmation was received the application would not be recovered for determination by the Secretary of State (having been referred on 25 July 2022).
4. After a further year, outstanding matters were not resolved and the appeals were taken out of abeyance. At the beginning of 2024 the appeals were programmed to be heard at an inquiry in October 2024. A case management conference was held on 22 March 2024 to discuss appeal management, arrangements and programme for the inquiry and expectations on all participants. In July the procedure for determining the appeals was changed to a hearing which was held on 8 and 9 October 2024. Time was allowed after the oral proceedings for the section 106 agreements to be finalised.
5. Three signed section 106 agreements, dated 22 October 2024, were submitted within the agreed timescale. The deeds include obligations regarding surface and foul water drainage and contributions towards the mitigation strategy for the Chilterns Beechwoods Special Area of Conservation (the SAC). The hearing was closed in writing on 11 November 2024. Nevertheless, following the issue of an appeal decision on 11 November concerning a Traveller site in the District, the main parties were given the opportunity to comment in view of the Inspector's conclusions on the need for sites.
6. There are issues common to all appeals but also matters specific to each enforcement notice and use of each appeal site. The three notices and appeal

sites are the subject of separate decision letters for clarity but inevitably there will be repetition in parts of the reasoning.

Enforcement Notice

7. On appeal an Inspector may correct any defect, error or misdescription in the enforcement notice or vary the terms of the enforcement notice, if satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority (section 176(1) of the Act).
8. After the appeal had been taken out of abeyance the Council proposed corrections to the enforcement notice, as detailed on an annotated version of the document included with appeal representations. The notice was not re-issued and any corrections to the notice would result from the appeal decision.
9. The enforcement notice states in section 1 there appears to have been a breach of planning control under section 171A(1)(b) of the Act, which is failing to comply with any condition or limitation subject to which planning permission has been granted. However, section 3 of the notice alleges two unauthorised types of development – non-compliance with conditions and a material change of use of a dayroom. The material change of use would amount to carrying out of development without the required planning permission under paragraph (a) of section 171A(1) of the Act.
10. The Council confirmed in writing in February 2024 they were no longer seeking to enforce against the use of the former dayroom because the breach of planning control was immune from enforcement action before the notice was issued.
11. The notice will be corrected by deleting the reference to the use of the former dayroom from the alleged breach of planning control. The associated requirement in paragraph 5.5 will be deleted. A new plan for Plot 5 will be substituted, which omits identification of the former dayroom in red. For consistency the four year time limit and reference to the use of a building should be deleted from the Reasons for issuing the notice.
12. The description of the matters appearing to constitute the breach of planning control will be corrected to ensure accuracy and consistency with the wording in the 2014 permission. Condition 1 restricts residential occupation, rather than use, of the caravans sited on the Land to persons who are Gypsies and Travellers. The alleged breach of condition 2 is adequately described and does not require correction. Attached to the notice is a series of plans to identify each plot within the blue edged Land of the Greenacres site. Section 2 should refer to the attached plans.
13. No injustice to the appellant or the local planning authority will be caused by these corrections. Additional matters regarding the enforcement notice will be addressed through the grounds of appeal.

Grounds of Appeal

14. The appeals were made on all grounds in January 2019. The updated grounds of appeal submitted on 22 March 2024 confirmed the ground (e) appeals were withdrawn. Subsequently the appellants confirmed grounds (b), (c) and (d)

were not being pursued. That being so, the appellants accept the alleged failure to comply with conditions 1 and 2 occurred as a matter of fact, and the non-compliance amounts to a breach of planning control that is not immune from enforcement action. The appeal by Mr Mark McCarthy is proceeding on grounds (a), (f) and (g) and the seven linked appeals on Greenacres, listed in Appendix 1, have proceeded on grounds (f) and (g).

15. In the updated statement of case the appellants questioned the validity of the notice because in their view the notice fails to clearly tell the recipients what they have done wrong. Reference is made to several matters including the planning history, inadequacies of the previous planning permission on which the notice is based and the failure to cite up-to-date policies. Having carefully considered these submissions I am satisfied that the statutory test set out in s173(2) is met. The notice explains the alleged breaches of planning control, based essentially on the failure to comply with the planning conditions identified. Any errors, defects or misdescriptions are able to be corrected without injustice, where necessary.
16. At the hearing the Council did not pursue their concern over the validity of the appeals on the matter of standing of the appellants and I will not consider the matter further.

Appeal Ref: APP/P0240/C/19/3221159 Appeal on ground (a), deemed planning application

17. In summary, where a breach relates to non-compliance with conditions attached to a planning permission, the deemed planning application is to carry out the development granted permission without complying with the condition(s) being enforced against. It is not possible to review any of the other conditions imposed on the relevant permission because to do so would widen the scope of the enforcement notice. However, it is possible to impose new conditions to replace the condition(s) under appeal. If the ground (a) appeal is successful a new planning permission is granted. It may also be necessary to discharge the condition(s) that is subject to the notice and impose any new conditions on the extant planning permission to ensure consistency.
18. Greenacres is located to the south of Gypsy Lane. The plots are served by an internal access road that runs through the centre of the site. Toddbury Farm Travellers site lies to the west and The Stables lies to the north of Gypsy Lane.

Planning history

19. The planning history of the Land goes back to a refusal of planning permission in 2002 for a 'change of use from agricultural and the siting of six static mobile homes'. Appeals were made against this refusal and against an enforcement notice, alleging the stationing of mobile homes and caravans for residential use. Both appeals were allowed by the Secretary of State by decisions dated 14 March 2003. The planning permission granted on the deemed planning application was subject to six conditions. Condition 1 restricted occupation to persons defined as gypsies in section 24(8) of the Caravan Sites and Control of Development Act 1960. Condition 2 required no more than 16 caravans to

be stationed on the land of which no more than 10 could be statics. Condition 6 made the permission personal to named individuals.

20. Over the period 2007 to 2014 the permissible number of caravans including static caravans was gradually increased and the named occupiers were broadened through a series of permissions for variation of conditions. Latterly the description of the approved development gave the reference of the enforcement appeal decision. No specific limit was placed on the number of pitches. Permission ref. CB/11/01911/VOC dated 6 September 2013 was the first permission to specify a number of caravans on a plot, Plot 6a. Shortly after in December 2013 permission ref. CB/09/06109/VOC placed a specific control on the number/type of caravans on Plots 3, 3a, 3b, and 6a and named the residents authorised to live on Plots 3, 3b, and 6a.
21. The enforcement notice cites the most recent permission dated 16 June 2014, ref. CB/14/01479/VOC (the 2014 permission). This permission was directed primarily at varying the named residents, referring back to condition 6 of permission ref. SB/TP/07/00606. Condition 2 specified the total number and type of caravans for the site and the caravans allowed on Plots 3, 3a, 3b and 6a. Condition 6 followed the format of permission ref. CB/09/06109/VOC in that all residents authorised to live on the land were named and the residents authorised to live on Plots 3, 3a, 3b, and 6a were named.
22. The planning history leads to the conclusion that the Land has permission for a development described as 'the stationing of mobile homes and caravans for residential use'. The description does not state the number and type of caravans and control on caravans, and occupation, is by planning conditions. This position is different to that at the two sites on The Stables where the descriptions of development included the number and type of caravans. Currently in accordance with the 2014 permission a maximum of 26 caravans may be stationed on the Greenacres Land for residential use, of which there should be no more than 16 statics. The control on distribution across the site was limited to a small number of plots, as derived from earlier permissions.
23. The permission relates to plan CBC/001, which has been provided by the Council. The plan identifies the numbered plots and indicates mobile homes, touring caravans and fixed buildings on the plots. The detail on the caravans is not totally clear. Nevertheless, planning condition 2 controls the number and type of caravan across the site and more specifically on Plots 3, 3a, 3b and 6a. The Council is not taking action in relation to condition 6, which names the people who may live on the site in their caravans.
24. The appellant is seeking an increase in the number of caravans to 55 caravans including 48 statics on 18 plots, equivalent to the capacity in the Regulation 3 application. In support of the proposal the appellant placed a lot of weight on the Council's favourable consideration of the Regulation 3 application, the resolution to grant permission for that scheme and the decision by the Secretary of State not to call-in the application.
25. The Regulation 3 scheme is an important consideration, particularly given the stage reached in the planning process. However, planning permission was not granted and additional information has come forward since the Committee resolution, notably from National Gas and from the Health and Safety

Executive in relation to public safety. The scheme is not a fallback and does not amount to a precedent that I must follow. The Council has not withdrawn the enforcement notice and is opposed to a grant of a planning permission through the current appeal.

Main Issue

26. The National Planning Policy Framework (the Framework) states that planning conditions should only be used where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (the six tests).
27. The deemed planning application is for the use of land approved in March 2003, the stationing of mobile homes and caravans for residential use, without complying with conditions 1 and 2 imposed through the 2014 permission. The main issue is whether conditions 1 and 2 meet the six tests and if not whether one or more new conditions should be imposed instead of the condition(s) under dispute. If the ground (a) appeal is successful a new planning permission would be granted.
28. The determination will be informed by consideration of the effects on the Green Belt, public safety, the SAC and site drainage. Additional considerations include aspects of need and supply of traveller sites, the personal circumstances of the occupiers of the site, human rights and equality issues. Article 8, a Convention Right¹, affords a person the right to respect for their private and family life, their home and their correspondence. This qualified right requires a balance between the rights of the individual and the needs of the wider community. There is a positive obligation to facilitate the Gypsy way of life to the extent that the vulnerable position of Gypsies and Travellers as a minority group means some special consideration should be given to their needs and different lifestyle in the regulatory planning framework and in reaching decisions on particular cases.
29. The public sector equality duty (PSED) set out under section 149 of the Equality Act 2010 requires that I have due regard to the three aims identified in the Act – to eliminate discrimination, advance equality of opportunity and foster good relations. Romany Gypsies and Irish Travellers are ethnic minorities and have the protected characteristic of race under section 149(7). The PSED is engaged. The decision must be proportionate to achieving the legitimate planning aims.

Planning policy

30. The reasons for issuing the notice refer to policies that were current at the date of issue in 2019. The Central Bedfordshire Local Plan 2015-2035 was adopted in July 2021 (the Local Plan) and now provides the development plan policies relevant to determining the appeal.
31. The appeal site is within the Green Belt. Policy SP4 states the general presumption against inappropriate development in the Green Belt and that development proposals will be assessed in accordance with national policy in

¹ Article 8 of the European Convention on Human Rights, which was enshrined into UK law by the Human Rights Act 1998.

the Framework. Policies SP8 and H7 are specific to providing pitches for Gypsies and Travellers. Policy EE3 protects important habitats and reinforces the requirements of the Habitats Regulations.

32. The Framework sets out the Government's planning policies for England and how they should be applied to contribute to the achievement of sustainable development. The policy document should be read in conjunction with the Government's Planning policy for traveller sites 2015 (the PPTS). Following the judgement of the Court of Appeal in the *Lisa Smith* case² the definition of Gypsies and Travellers in Annex 1 to the PPTS was updated in December 2023. The amended wording is the same as in the definition in the Planning Policy for Traveller Sites 2012. Both definitions include persons who have ceased to travel temporarily or permanently because of their own or their family's or dependants' educational or health needs or old age.

Condition 1

33. The reason for the condition stated in the 2014 permission is "To ensure that the occupation of the residential caravans on the site is restricted to Gypsies and Travellers". This reason is just as relevant now as a means of facilitating the Gypsy way of life. The Greenacres site should continue to contribute to the stock of Gypsy and Traveller sites within the District to address a general need for such accommodation. No substantive case has been presented to justify removing the condition. The condition remains necessary.
34. The ground (b) appeal was withdrawn and it is for the local planning authority to enforce the condition. It is not necessary to determine through this appeal whether all the residents on site now have gypsy status.

Condition 2

35. The approved site plan for the 2014 permission showed a layout with 14 pitches/plots. Condition 2 allows a total of 26 caravans, of which no more than 16 should be static caravans.
36. The Council reported that in August 2018 there was a total of 87 caravans stationed on the site (61 static and 26 touring caravans). When the notice was issued in December 2018 the number of caravans across the three sites had increased. By May 2024 there had been a reduction to a total of 62 caravans (47 static, 14 touring caravans and 1 motor home).
37. On the appeal site visit in October there were the same number of static caravans and a smaller number of touring caravans compared to May 2024. Most plots have a dayroom. Additional structures included sheds, a container and utility blocks. Domestic paraphernalia was also present across the site plus derelict vehicles on one plot. Hard surfacing extends across the site area and is used to varying degrees for vehicle parking within the plots. Plot 6a looked vacant apart from a few old sheds. Overall, the site is intensively occupied, with around three times more static caravans than permitted under condition 2. Plots have been sub-divided and the enforcement notice lists 18 plots, as opposed to the 14 plots identified on the plan for the 2014 permission.

² *Smith v Secretary of State for Levelling Up, Housing and Communities and Others* [2022] EWCA Civ 1391

38. Development of land for a residential caravan site is inappropriate development in the Green Belt. The large increase in the number of caravans, has resulted in a significant reduction in openness when compared to the authorised position. Even though the additional caravans have not led to a physical extension of the Greenacres site, the degree of encroachment into the countryside has intensified. The density of the residential development, with little greenspace, does not respect the character of the surrounding rural area. To that extent there is conflict with criterion 2 of Policy H7.

Public safety

39. Greenacres and The Stables lie within the Health and Safety Executive (HSE) consultation distance of two high pressure natural gas pipelines. National Transmission Network (NTS) Feeder 7 crosses Greenacres at the southern end of the site (Plots 3a and 4a) and NTS Feeder 9 follows a route to the north of The Stables. Feeder 7 was laid in October 1977 and Feeder 9 in September 1997 when the land was in agricultural use. The pipelines are important infrastructure within the national gas distribution network.
40. The Local Plan, through Policy HQ1 requires all new development to promote health and wellbeing, with consideration to design and layout of a development. Policy H7 requires a good standard of amenity for all existing and future occupants.
41. Public safety is reflected in the social objective of sustainable development that supports strong, vibrant and healthy communities. Ensuring a safe built environment contributes to this objective and the Framework promotes healthy and safe places.
42. Planning Practice Guidance on Hazardous Substances underlies the importance of controlling sites where hazardous substances could be present and where development is proposed near them. The Guidance explains that a decision on whether to grant permission rests with the local planning authority. In view of its acknowledged expertise, any advice from the HSE that planning permission should be refused for development for, at or near to a hazardous installation or pipeline should not be overridden without the most careful consideration. I also have had regard to human rights and equality, where a fundamental responsibility of the State arising from Article 2 of the Convention is to take appropriate steps to protect the safety of its citizens. The rights of an individual should never be allowed to obscure public safety. This applies equally to the settled population and the traveller community.
43. The HSE has set consultation zone distances around the major accident hazard pipelines, based on available scientific knowledge and study of major accidents. The Greenacres site is located within the inner, middle and outer zones for the Feeder 7 pipeline and the middle and outer zone of the Feeder 9 pipeline. Having applied the HSE Land Use Planning Methodology, HSE has advised against three or more dwelling units located in an inner zone and advised against more than 30 dwellings located between the pipeline and the extent of the middle zone boundary.
44. The HSE has no record of being consulted on the planning application ref. CB/14/01479/VOC. Decisions on an increase in the number of caravans

probably were made without the benefit of HSE's advice. HSE, in their consultation response to the current appeals, stated they would have advised against permission for the previous development due to there being 3 or more dwelling units in the inner zone of the Feeder 7 pipeline. Also significant is the HSE consultation on the Regulation 3 application, which took place in 2023 after the Committee resolution. Overall, the HSE advised against the grant of planning permission on safety grounds.

45. Major accidents are rare but when they occur the effects can be devastating for people living nearby. The consequences of a small incident could be very serious. The aim is to manage population growth close to major accident hazard pipelines to mitigate the consequences of a major accident.
46. The southern part of the Greenacres site is within the inner zone of the Feeder 7 pipeline. The plans show the inner zone covers plots 2b, 3, 3a, 3b, 4a, 4, 4b³, J5⁴ (apart from a small corner) and most of plot 2. The authorised number of caravans on the 9 plots is well in excess of the advisable number of homes. The proposal would allow a total of 27 caravans, including 23 statics. This very substantial increase would be on the area of the site where any increase in the number of caravans is unacceptable on public safety grounds.
47. The remainder of the Greenacres site falls within the middle zone related to the Feeder 7 and Feeder 9 pipelines, except for a narrow area of the outer zones across part of plots 1b, 6b and 6a. The proposal is to increase the number of caravans to 28 (including no more than 25 statics), which would be unacceptable, especially in view of the number of caravans in the inner zone.
48. National Gas carried out its most recent Quantitative Risk Assessment (QRA) in 2023 focused on the risks presented. On the individual risk measure, the highest individual person risk of fatality, the combined risk value for the two pipelines was substantially above the level considered to be broadly acceptable. The Feeder 7 pipeline contributed a large proportion of the value and is the driver of the primary risk. On societal risk, the QRA demonstrated that if a pipeline failure (leak or rupture) occurred the maximum number of casualties would be 333 due to population proximity and density. Pipeline failure also would lead to potential supply loss to the distribution networks, industrial and domestic users. The QRA reinforces the conclusion based on the advice from the HSE.
49. From an operational point of view, there is a 12 metre easement either side of the Feeder 7 pipeline, which primarily affects plots 3a and 4a⁵. This area should be kept free of caravans and structures, including dayrooms and sheds. The purpose of the easements is to allow for full and free access at all times for inspection, maintenance, repairs, remedial and emergency action. The ability to carry out such activities expeditiously when required contributes to a reduced risk of an incident and enhancing public safety. National Gas explained pipelines are subject to corrosion and that small leakages of gas occur which require emergency action. Data from the 1960's shows third party interference is the biggest area of concern, when operations such as

³ Plot identified as plot 4b on the enforcement notice plan but listed as plot P4 in requirement 5.4 of the notice and identified as plot 4P on the appellant's plan.

⁴ Identified as plot 5B on the appellant's plan.

⁵ See Appendix 1 to Statement of Case of National Gas June 2024 for a plan of the easement.

construction, earth movement and changes in drainage can lead to rupture of pipelines.

50. From all the evidence presented my conclusion is the easement areas should be kept clear, free of obstruction and structures in a layout for the site. An increase in the number of caravans permitted on the site would seriously jeopardise achievement of that position.
51. Planning Practice Guidance advises that when considering public safety in planning decisions account should be taken of the total number of people that are present in the consultation zones around major hazard sites. Toddbury Farm Travellers site, to the west, is heavily developed with 22 authorised pitches and 39 caravans (up to 23 statics). This site is partly located in the middle zone of the Feeder 7 pipeline and so would be likely to be seriously affected in the event of a major accident at the pipeline. The Stables is at risk from the proximity to the Feeder 9 pipeline. The cumulative development around the major accident hazard pipelines, increasing the population at risk, adds to the weight against any increase in caravans on the Greenacres site.
52. To conclude, in view of the presence of major accident hazard pipelines the safety of residents on the site is of paramount importance. There are sound operational, safety and public interest reasons for ensuring the easements for the Feeder 7 pipeline are kept clear. Condition 2 is necessary and to vary the condition to allow any increase in the number of caravans is not acceptable. The proposal is contrary to Policy HQ1 and criterion 3 of Policy H7.

Chilterns Beechwoods Special Area of Conservation (the SAC)

53. The SAC was designated in 2005 and Ashridge Commons and Woods SSSI is one of the component Sites of Special Scientific Interest (SSSI). The Citation for the SAC describes The Chilterns Beechwoods as representing a very extensive tract of ancient semi-natural beech forests. The woodland is an important part of a mosaic with species-rich chalk grassland and scrub. A distinctive feature of the woodland flora is the occurrence of the rare coralroot. Standing and fallen dead timber provide habitat for dead-wood invertebrates, including stag beetle.
54. Ashridge Commons and Woods SSSI is almost entirely publicly accessible. New housing, increased population and recreational pressure was having adverse impacts on the important habitats and species. Damage included vegetation wear, soil compaction, erosion and removal of deadwood. Other impacts included contamination and fire. An ecological survey in 2021 recorded substantial evidence of recreational impacts, which were severe in some hot spots. Impacts are widespread and recreation pressure is affecting the integrity of the designated site. Housing growth will result in further damage to the SAC.
55. Avoidance or mitigation measures are required for new residential development and some other forms of development within a 12.6 km Zone of Influence. Measures have been put in place to deflect visitors away from the SAC, better manage visitor numbers and distribution and reduce impacts of recreation. Development proposals are expected to contribute towards or directly deliver Strategic Access Management and Monitoring ('SAMMS') and

Suitable Alternative Natural Greenspace ('SANG'). SAMMS involves access management and engagement work wholly within the boundary of the SAC, whilst SANG involves the provision of alternative recreation opportunities away from the SAC.

56. The appeal site is within the zone of influence of the SAC. The proposal to increase the number of caravans would result in an increase in the residential population on the site. Applying the precautionary principle, a likely significant effect on the qualifying features of the European site cannot be ruled out when the proposal is considered in combination with other plans and projects. The owners of the site have entered into a section 106 agreement that includes planning obligations to secure financial contributions towards the Mitigation Strategy for the SAC. Subject to an appropriate assessment (which would be necessary before granting planning permission) there is no conflict with Policy EE3 of the Local Plan.

Need and supply of pitches

57. There is a generally acknowledged national need for additional traveller sites. The level of need varies from region to region and district to district. The biannual national caravan count figures provided by local authorities is not an accurate expression of need and for various reasons has to be treated cautiously but it is an indicator of a broader picture that was cited in the evidence. The count showed 3,531 or 14% of all caravans were on unauthorised sites in England in July 2023. The appellant noted that in January 2024 the count recorded 3,781 caravans without permission⁶. Of this total 1,051 caravans were in the East of England and 67 caravans were in Central Bedfordshire.
58. The PPTS, through Plan-making Policy B, requires local planning authorities to set pitch targets for gypsies and travellers (as defined in Annex 1) which address the likely permanent and transit site accommodation needs of travellers in their area. In producing their Local Plan, 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. Where there is no identified need, criteria-based policies should be included to provide decisions in case applications nevertheless come forward.
59. Local Plan Policy SP8 states that the Council has already approved a sufficient number of pitches to meet the Gypsy and Traveller accommodation need in the District over the plan period. No land allocations are made for traveller sites. Proposals for new windfall sites are to be determined against the criteria in Policy H7 and other relevant policies in the Plan.
60. The policy approach was based on a Gypsy and Traveller Accommodation Assessment undertaken in 2016 (the GTAA) which concluded 23 pitches were needed over the plan period for Travellers who met the planning definition in the 2015 PPTS. Further work was undertaken during preparation of the Local Plan which resulted in a revised figure of 29 pitches to include need related to a local proportion of the 'unknown households' (households not interviewed). The examining Inspectors concluded in their Report no site-specific allocations

⁶ This figure of 3,781 includes 424 caravans on authorised sites with temporary planning permission but excludes caravans on unauthorised encampments.

were required because an additional 39 pitches had been granted planning permission since the base date of the GTAA and that the proposed policies (subject to the recommended modifications) were justified.

61. In response to the December 2023 update to the definition of gypsies and travellers in Annex 1 to PPTS the Council reviewed the outcomes of the GTAA. This resulted in a revised need for 34 new pitches⁷. Even with the slightly increased need, the Council concluded well in excess of a five year supply is demonstrated because permission had been granted for a total of 72 pitches between 2015 and 2024.
62. The adopted Local Plan was scrutinised through the Local Plan examination and was found to comply with the PPTS policy requirements. The methodology used in the GTAA was described as 'robust' by the examining Inspectors. The reasoned explanation for the development plan policies should not be set aside lightly. Reliance on windfall sites has proved successful in delivering a significant number of additional pitches. The 'failure of policy' argument has little weight in this case.
63. Even so, the factor I find most troubling is the big discrepancy between the identified local target of 29 and now 34 pitches to meet identified need for the whole of the plan period to 2035 and the relatively high number of 72 pitches granted permission over at most a nine year period. Experience shows that usually sites come forward to meet a specific family need. There is no evidence to demonstrate that the pitches granted permission have catered for the needs identified through the GTAA. The families on the additional 72 pitches would be likely to lead to an increase in need during the plan period through new household formation and family requirements. The number of unsuccessful applications has not been quantified or up to date information provided on the number of unauthorised traveller sites. Whilst the need figure has been revised to 34 pitches the process has not been transparent and the data was the household interviews carried out some time ago to inform the GTAA in 2016. The base information requires a refresh and in fact in January 2024 the Council commissioned a new GTAA. The expectation is that the study will be published in February 2025 as part of the evidence base for a review of the Local Plan.
64. The 'locally set target' is critical to the five year supply of specific deliverable sites. In effect the Council's position is that because the locally set target has been far exceeded by permissions granted for additional pitches, a five year supply is demonstrated. However, for the residents of this appeal site no supply of specific deliverable sites or alternative sites/pitches have been identified in the event the appeal is unsuccessful. The same applies to the residents of The Stables sites.
65. The Committee report on the Regulation 3 application includes interesting commentary on pitch need. The proposed site was predominantly for the then occupiers of the land with Gypsy and Traveller heritage who had ceased to travel for a number of reasons, including old age, health and to access education for their children. At that time those occupiers did not fall within the PPTS definition of Gypsies and Travellers. That being so, the residents were

⁷ The Council's statement on need summarises the review of the GTAA figures at paragraphs 62 to 65

'non-travelling' Travellers. The GTAA was said to have identified a need to provide an additional 139 pitches for 'non-travelling' Travellers between 2016 and 2035, a requirement which at the time was considered to fall under the CBC Housing SHMA. The report stated that 23 additional pitches had been consented since 2016. The proposal was considered as a windfall development to go towards meeting this identified need. No other plots were said to be available in the Council area.

66. The approach followed in the Committee report appears inconsistent with the reasoning in the Need Statement, where a need for an additional 5 pitches, related to the updated PPTS definition, was identified. In discussion at the hearing the appellant disputed the conclusion that those who ceased to travel do not generate much if any need, with particular reference to Irish Travellers.
67. In 2016 there were three public Traveller sites in Central Bedfordshire, providing a total of 47 pitches⁸. The GTAA did not include any 'current need' arising from this category of site, mainly to avoid double counting⁹. A fourth site opened at Woodlands in 2018 with 12 pitches. The appellant stated 18 families were on the Council waiting list in May 2024 and they had to reapply every year to remain on the list. The Council considered the waiting list was not a useful indicator of need, because a family did not have to be homeless or be in Central Bedfordshire to be on the list and they could be on waiting lists elsewhere. Even with these various caveats, no vacant pitches on a local authority site were identified and pitches on a public site were not proposed as an alternative for residents at Greenacres. The appellant also drew attention to other indicators of need, including Traveller sites in Central Bedfordshire refused planning permission, dismissed on appeal and where the families became homeless.
68. Overall, there are a number of factors that lead me to conclude there is a significant unmet need for pitches in the District. This important consideration weighs strongly in favour of increasing the number of plots at Greenacres. The personal need for a pitch by the residents and the absence of alternative sites reinforce this conclusion.
69. The issue of need and supply of sites has been considered two recent appeal decision. In the Home Farm appeal decision, issued 13 August 2024¹⁰, the Inspector considered there has been an expansion of need in the area, the caravan count information being one indicator and there was sufficient uncertainty to cast doubt on whether the Council has a five year supply of sites. At the Gypsy Lane appeals hearing the Council challenged the accuracy of the caravan count and explained why there was no uncertainty - the 'unknown households' in the GTAA now have been addressed and the locally set target was the relevant factor. In the Thorncote Road decisions, issued on 11 November 2024¹¹, the Inspector found several matters that cast doubt on whether the GTAA can be relied on in terms of considering the extent of need for pitches in the area and the Inspector was unable to conclude the Council can demonstrate a five year supply of sites.

⁸ The GTAA paragraph 3.6

⁹ The GTAA paragraphs 5.20-5.22 and Figure 5

¹⁰ Appeal refs APP/P0240/C/23/3331075 and APP/P0240/C/23/331077

¹¹ Appeal refs APP/P0240/W/22/3291001, APP/P0240/C/24/3346787 and APP/P0240/C/24/3346788

70. My conclusions on the issue are primarily based on the evidence presented and discussed for the Gypsy Lane appeals. The two appeal decisions cited above do not lead me to change my conclusions. A sufficient number of pitches may have been provided to meet the locally set target in the Local Plan but there are strong indicators of a need within the District for additional pitches to cater for the needs of Gypsies and Travellers within the updated PPTS definition.

Personal circumstances

71. The provision of a pitch as a stable base enables substantial benefits in terms of families being able to access health services, education, community and welfare facilities. Research has shown the high level of disadvantage experienced by Gypsies and Travellers and that the lack of culturally appropriate accommodation is a major factor impacting negatively on educational attainment, life expectancy and health outcomes. The main social facilities serving Greenacres are in the town of Leighton Linlade/Leighton Buzzard some two miles to the north.
72. Over recent years many changes in occupation have occurred on Greenacres. As of September 2024, 43 adults and 59 children were resident on 13 of the 18 plots. Extended families appear to occupy the site, which is likely to be valuable and supportive of family life. The site provides a home for many children which would assist in their care, welfare and opportunities for education. Their best interests are a primary consideration. No information was available for plots 3a, 3b, 4, 4b and 6a, although plot 6a has been vacant. Individuals' personal circumstances are unknown, even though there has been opportunity to provide such information throughout the appeal process.
73. In sum, the Greenacres site is a very valuable resource for many traveller families. Personal and social needs at a broad level reinforce the role this site has in fulfilling pressing accommodation needs for Gypsies and Travellers. Increasing the capacity as proposed would further support these objectives.

Policy H7: Additional Criteria

74. The increased capacity being sought through the deemed planning application corresponds with the capacity proposed in the Regulation 3 application. The Committee report describes the very limited local infrastructure in the nearby small village of Billington. The anticipation was that residents of Greenacres and The Stables would travel to the nearest town of Leighton Linlade for shops, schools, health and other community facilities. That being so the increase in the number of pitches and caravans would not put undue pressure on local infrastructure. Consideration of the relationship to the nearest villages of Little and Great Billington and Slapton led to a conclusion the development would not dominate the nearest settled community. Since that assessment no new evidence has emerged to support a different conclusion. Criterion 1 of Policy H7 is met.
75. The section 106 agreement includes obligations to secure (i) a cess pit to an approved specification on each plot, and (ii) the installation of a surface water drainage scheme to an approved plan. Criterion 6 of Policy H7, which requires suitable arrangements to be made for drainage and sanitation, is met.

Summary and conclusions

76. Success on the ground (a) appeal would result in a new planning permission. The issues weighing heavily against the proposed increase in caravans are the harm to the Green Belt which has substantial weight and the increased risk to public safety which has very substantial weight. In favour of the proposal are the considerations related to need and supply of traveller sites, which together have substantial weight. Nature conservation is neutral in the planning balance. The Regulation 3 application is not a fallback position and given the changes in circumstances since January 2023 it now provides very limited support. The identified harm is not clearly outweighed by other considerations and consequently very special circumstances do not exist to allow a new permission to be granted with a replacement condition. The proposal fails to comply with Policy SP4 and Policy H7.
77. Condition 2 is necessary and reasonable to control the number and type of caravans on the Greenacres site. The proposed increase in the number of caravans, including statics, would not be in the interest of public safety and this is the decisive factor.
78. A different distribution or a smaller increase in the total number of caravans are not acceptable alternatives. The maximum number of caravans permitted under the 2014 permission already exceeds the advisable number on a site constrained by the risk associated with the two major accident hazard gas pipelines.
79. A lack of success in this appeal probably would require some residents to move to a pitch on a site elsewhere. Disruption to home and family life would be likely and children may experience disruption to education. This interference with their article 8 rights would be necessary and proportionate, where their personal safety and public safety are the priority.
80. The proposal is not supported by the development plan when read as a whole and is unacceptable. Other considerations do not indicate otherwise.

All Appeals: Appeals on ground (f)

81. The issue is whether the requirements are excessive to achieve the purpose of the notice.
82. The first requirement sets out the action to achieve compliance with condition 1. The wording of the requirement is based on the definition of gypsies and travellers in Annex 1 Planning Policy for Traveller Sites 2012 but the definition is misquoted in the notice. The actual wording in the 2012 document stated "have ceased to travel temporarily or permanently", whereas the requirement omits the words 'temporarily or'. The 2012 definition was the same as the 2015 PPTS definition as updated in 2023 after the *Lisa Smith* judgement. There was agreement at the hearing that reference should be to PPTS 2015 as updated, rather than a policy document that has been replaced.
83. The second requirement is directed at achieving compliance with condition 2 in terms of the number and type of caravans stationed on the land. More specifically, the requirement states "by ceasing the use of the land for the residential use or storage of caravans". Storage is not part of the breach and

the Council accepted indicated storage should be replaced by 'stationed'. The appellant also highlighted that condition 2 does not restrict the use of the land. The wording of the requirement will be amended to align with the wording of condition 2 which uses the word 'stationed'.

84. The third requirement aims to secure removal of caravans in excess of the authorised number and type, with the fourth requirement specifying the distribution, taking account of the subdivision that occurred after 2014. At the hearing the appellant was of the view that the numbers in the requirement were made up and just fiction. The Council did not argue against deleting requirement 4, although considered its deletion unnecessary. Little explanation was forthcoming on how the distribution was decided.
85. Having gone through the series of planning permissions and related information on the planning history, there is not the detail to fully explain or justify the distribution set out in the notice. Only the reduction of caravans on Plots 3, 3a, 3b and 6a relates back to condition 2 on the 2014 permission. In addition, requirement 4 allows for only 15 statics whereas the authorised number is 16 statics within the overall total of 26 caravans. No proposal was made to correct this error. I conclude the requirement, in stating caravan distribution across the site, goes further than the condition being enforced against. The requirement is excessive and should be deleted. Requirements 2 and 3 are sufficient to the remedy to the breach of planning control and to ensure compliance with condition 2. I will combine requirements 2 and 3 to reflect the wording of condition 2.
86. The appeals on ground (f) succeed in the terms set out above.

All Appeals: Appeals on ground (g)

87. The issue is whether the compliance period of six months is reasonable and proportionate. The Council considered that it is, in the context of a notice that was issued over 5.75 years ago. In the Council's opinion the appellants have had the opportunity to submit alternative proposals for development at the appeal sites and to allow additional time to do so would not be appropriate. The appellants have requested a period of 18 months, with a view to submitting a planning application for a development that would not be constrained in the same way as the deemed planning application.
88. The existing planning permission remains in place allowing for 26 caravans, 16 of which may be static caravans, for occupation by Gypsies and Travellers. The Framework states effective enforcement is important to maintain public confidence in the planning system. Public safety is a major concern that requires the breach of condition 2 should be resolved expeditiously. At least some of the residents would have moved onto the site after the issue of the enforcement notice and therefore their position is less strong. However, residents probably had their hopes raised that the planning position would be sorted out through the Regulation 3 application and they would be able to continue living on the site. That application remains to be determined. No alternative site or pitches have been identified for the families who would not be able to continue living at Greenacres. A dialogue would need to continue with the Council.

89. In conclusion, a compliance period of 18 months is too long because of the risk to public safety. The various considerations support an increase in the length of the period to nine months. This extended period is reasonable and proportionate. The appeals on ground (g) succeed to this extent.

Conclusions

90. For the reasons given above, I shall uphold the enforcement notice with corrections and variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

91. This decision does not violate the appellants' or residents' human rights. In this case protection of their personal safety as well as the public interest cannot be achieved by means that are less interfering with their rights.

92. I have had due regard to the PSED in coming to my decision, but the risks caused by an increase in caravans and hence the resident population on the site outweigh the benefits in terms of eliminating discrimination against persons with the protected characteristics, advancing equality of opportunity for those persons and fostering good relations between them and others. It is proportionate and necessary to uphold the notice.

DECISIONS

93. It is directed that the enforcement notice is corrected by:

- In section 2 the deletion of the word "plan" and the substitution of the word "plans".
- In section 3 second paragraph the deletion of the words "Condition 1 restricts the use of the Land to persons" and the substitution of the wording "Condition 1 restricts occupation for residential purposes of the caravans located on the Land to persons".
- the deletion of the last paragraph of section 3.
- in section 4 Reasons for Issuing the Notice the deletion of the words in paragraph (a) "and the use of the building as a dwelling in the last four years" and in paragraph (b) the deletion of all phrases "and the use of a building as a dwelling".
- the substitution of the plan annexed to this decision for the plan attached to the enforcement notice showing Plot 5.

94. It is directed that the enforcement notice is varied by:

- In section 5 What You are Required To Do the deletion of the text of paragraphs 5.1, 5.2, 5.3, 5.4 and 5.5 and the substitution of the requirements:
 - 1) You must comply with condition 1 by ceasing the occupation of the Land by persons who do not meet the definition of Gypsies and Travellers in Annex 1 of Planning policy for traveller sites as updated in December 2023, which states: "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) You must comply with condition 2 by (i) ceasing the use of the Land for the residential use of caravans in excess of twenty six (26) caravans, including no more than sixteen (16) static caravans, and (ii) removing from the Land all caravans in excess of twenty six (26), which shall include no more than sixteen (16) static caravans. Within these totals, no more than 2 caravans, of which no more than 1 shall be a static caravan, shall be stationed on Plot 6a; no more than 3 caravans, of which no more than 1 shall be a static caravan shall be stationed on Plot 3; no more than 3 caravans, of which no more than 1 shall be a static caravan shall be stationed on Plot 3a; no more than 3 caravans, of which no more than 1 shall be a static caravan shall be stationed on Plot 3b.

- In section 6 the substitution of nine (9) months as the Time for Compliance.

95. Subject to the corrections and variations, the enforcement notice is upheld and in respect of Appeal ref. APP/P0240/C/19/3221159 the appeal is dismissed and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Diane Lewis

INSPECTOR

APPENDIX 1

List of those who have appealed against the enforcement notice related to the Land at Greenacres

Appeal Reference	Appellant
APP/P0240/C/19/3221159	Mr Mark McCarthy
APP/P0240/C/19/3221160	Mr Brian McDonagh
APP/P0240/C/19/3221161	Mr Martin Ward
APP/P0240/C/19/3221162	Mr Jason Stokes
APP/P0240/C/19/3221163	Mr Felix Rooney
APP/P0240/C/19/3221164	Mr Steven McCarthy
APP/P0240/C/19/3221165	Mr Jonathan Maughan
APP/P0240/C/19/3221166	Mr John Rooney

APPENDIX 2

APPEARANCES

FOR THE APPELLANTS:

Joseph G Jones, BFSGC Planning

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Henderson, barrister

Phillip Hughes, Principal of PHD Chartered Town Planners

Steve Jarman, Opinion Research Services Ltd

David Hale, Gypsy and Traveller Planning Manager, Central Bedfordshire Council

FOR NATIONAL GAS TRANSMISSIONS PLC:

Darren Thomas, National Gas

Naomi Bull, Eversheds Sutherland (International) LLP

FOR HEALTH AND SAFETY EXECUTIVE:

Stuart Reston, HM Principal Specialist Inspector of Health and Safety

Kate Wagner, HSE Land Use Planning Advisor

INTERESTED PARTIES:

Mark Boyce, resident of Greenacres

DOCUMENTS submitted at the hearing:

Submitted by the appellants:

Letter from Manderstam International Group dated 7 October 2024

Site Plans and application site areas

Plan of caravans on the appeal sites 7 October 2024

Plan of plots and residents Greenacres

Submitted by the Council:

Ownership information October 2024

Corrected plans for Plots 1 and 2 The Stables and Greenacres

List of pitch approvals since GTAA base date

Lists of proposed planning conditions

Note on Standing.

Plan

This is the Plan referred to in the decision dated: 06 December 2024

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

Land at: Greenacres, Gypsy Lane, Little Billington LU7 9BP

Reference: APP/P0240/C/19/3221159 and linked appeals listed in Appendix 1

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