



Appeal Decisions

Hearing held on 26 November 2024

Site visit made on 26 November 2024

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 11 December 2024

Appeal A Ref: APP/J0540/C/24/3350446

Land adjacent to 1705 Lincoln Road, Peterborough, PE6 7HH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Martin McDonagh against an enforcement notice issued by Peterborough City Council.
- The notice was issued on 8 August 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the Land for the siting and residential use of caravans for 4 gypsy/traveller families and the laying of hardstanding.
- The requirements of the notice are to:
 - a) Cease the use of the Land for the siting and use of caravans and motorhomes for residential use.
 - b) Remove from the Land all caravans and motorhomes.
 - c) Take up the hardstanding on the Land and return this area of Land to its original profile and condition, before the hardstanding was laid.
- The period for compliance with the requirements is 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) 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 Decision: The appeal is dismissed and the enforcement notice is upheld in the terms set out in the Formal Decision.

Appeal B Ref: APP/J0540/W/24/3350444

Land adjacent to No. 1705 Lincoln Road, Peterborough, Cambridgeshire, PE6 7HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Philip Brown Associates Limited against the decision of Peterborough City Council.
- The application Ref is 24/00711/FUL.
- The development proposed is Change of use of land to use as residential caravan site for 4 gypsy/traveller families, each with two caravans including no more than one static caravan/mobile home, including laying of hardstanding, erection of 2 amenity buildings and improvement of existing access.

Summary Decision: The appeal is allowed and planning permission is granted in the terms set out in the Formal Decision.

Preliminary Matters

1. It was confirmed at the Hearing that the development which has been carried out on the site to date is different to that which is the subject of the planning application, differences include the amount of hardstanding laid, site layout, sheds erected, lighting installed and unknown drainage works. The appellant

confirmed that they are not seeking consent for what is currently on site and it was accepted that some works would need to be undone. Consequently, I have dealt with Appeal B on the basis that the planning application seeks approval for proposed development and does not seek to regularise the development which has taken place on site. I have dealt with it on that basis.

2. There is no dispute that the site would be occupied by people who meet the definition of Gypsies and travellers as set out in the Planning Policy for Traveller Sites (PPTS) and that the PPTS is material to the consideration of both appeals.
3. Integral to my decision -making will be exercising duties under the Human Rights Act 1998. Article 8, a Convention Right¹, affords a person the right for their private and family life, their home and their correspondence. It is a qualified right that requires a balance between the rights of the individual and the needs of the wider community. In applying Article 8 there is a positive obligation to facilitate the Gypsy way of life to the extent that the vulnerable position of Gypsies as a minority group means that some special considerations should be given to their needs and the different lifestyles in the regulatory planning framework and in reaching decisions on particular cases. Under the Equality Act 2010 I will have regard to the public sector equality duty (PSED).

Appeal B

Main Issues

4. The main issues are:
 - the provision of and need for and supply of Gypsy and traveller pitches;
 - the effect of the development on the character and appearance of the area;
 - the effect on the aims and function of the Green Wedge;
 - whether the development provides acceptable living conditions for the occupiers of the site, having particular regard to noise; and
 - whether the development makes adequate provision for surface water and foul drainage.
5. Other considerations, potentially weighing in favour of the development, include the availability (or lack) of alternative accommodation for the occupiers of the site and their other personal circumstances.

Reasons

Provision of and need for and supply of Gypsy and traveller sites

6. There is a generally accepted national need for more traveller sites. The National Planning Policy Framework (NPPF) expects that the housing needs for different groups in the community should be reflected in planning policies. The PPTS makes it clear that a relevant matter for consideration of planning applications for travellers is the existing level of local provision and need for sites. More specifically, local planning authorities should identify and update annually a supply of deliverable sites sufficient to provide 5 years' worth of sites against their local set targets.

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

7. The Cambridgeshire, King's Lynn & West Norfolk, Peterborough and West Suffolk Gypsy and Traveller Accommodation Assessment, 2016 (GTAA) is the last published study of Gypsy and traveller pitch provision to be carried out for Peterborough. It is common ground² that the GTAA is out of date and following the change in the definition of Gypsies and Travellers in December 2023 there is a cultural need which must be provided for. There are no vacant pitches on existing lawful sites, nor are there any allocated sites in Peterborough.
8. The PPTS indicates only that the ability to demonstrate a 5-year supply should be a significant material consideration when assessing an application for temporary accommodation. Weight is therefore a matter for the decision maker. I find that, when taken together, the inability to demonstrate a 5 year supply and the lack of alternative sites this carries significant weight in favour of the appeal, even when considering a grant of planning permission.
9. Nevertheless, the development plan is clear that, in accordance with the PPTS, any applications for pitches to meet the needs of Gypsies and travellers will be considered against criteria-base Policy LP10 of the Peterborough Local Plan, 2016-2036, adopted 2019 (LP).
10. It is common ground between the parties that this is the correct approach in this case and the remaining dispute is focussed upon those remaining issues identified above.

Character and appearance

11. Prior to the unauthorised development taking place, the appeal site comprised an area of open grassland situated to the East of and fronting onto Lincoln Road. To the South and East of the site, open fields characterise the landscape, whilst to the North and adjoining the site, there is a cluster of residential properties forming ribbon development along this part of Lincoln Road. Immediately to the West of Lincoln Road is the A15 by-pass. Overall, I find that the character and appearance of this area is that of a semi-rural countryside landscape.
12. The proposal is for a residential caravan site for 4 Gypsy/traveller families, each with a static caravan/mobile home and for the storage of one touring caravan. The development would include the laying of hardstanding and improvement to the vehicular access, the construction of two brick amenity blocks and the installation of a package sewage treatment plant. It is proposed to erect post and rail fences to delineate the individual pitches and new hedgerow planting is proposed along the site's eastern boundary, with new shrubs around the site access.
13. The National Planning Policy Framework (Framework) recognises the intrinsic character and beauty of the countryside, and thus the impact of the development on its character and appearance is a relevant consideration in the context of the Framework. However, the Framework and PPTS do not establish an objection in principle to Gypsy and traveller development in rural areas. Furthermore, while Policy LP10 of the LP seeks to prevent development which does not protect the natural environment and landscape character, the policy does not exclude site location in the countryside.

² Agreed Statement of Common Ground, October 2024.

14. As set out above the appearance of the area is semi-rural, and generally characterised by fields, ditches and lanes bounded by hedgerows and occasional trees. There is some sporadic and ribbon development alongside Lincoln Road, including residential, equestrian and agricultural uses.
15. Policy LP27 of the LP relates to landscape character and advises that new development in and adjoining the countryside should be located and designed in a way that is sensitive to its landscape setting; retaining, enhancing and restoring the distinctive qualities of the landscape character area and sub area in which it would be situated. The appeal site lies within the Welland Valley Fringe which is characterised as '*a very gently sloping open and low lying arable landscape with some transitional characteristics close to the boundary with the Nassaburgh Wooded Plateau*' in the Peterborough Landscape Character Assessment. The key characteristics being flat open farmland with gappy fragmented hedgerows.³
16. It is well established that in practice and reality the development of a site as a residential caravan site for the Gypsy and traveller community will have some urbanising impact on the appearance of the countryside, by its very nature. In this case the Council accept that in terms of its location, the site is located within reasonable travelling distance of a settlement which offers local services and community facilities, including schools. From the evidence before me I see no reason to disagree. They are also satisfied that the scale of the proposed development would not dominate the nearest settled community.⁴ Whilst I have considered local residents' concerns in this regard, it seems to me, that even if I were to regard the occupiers of the residential properties on this stretch of Lincoln Road as a community in itself, the introduction of four additional families could not be considered to overwhelm that community given the scale and number of existing properties and their occupiers on Lincoln Road.
17. However, it is the Council's view that the proposed development would have a harmful and urbanising impact on the open countryside and would be an undue visual intrusion, detrimental to the character and appearance of the rural landscape.
18. The laying of hardstanding with the proposed mobile homes and associated vehicles parked on it, and the amenity blocks would result in some encroachment into the countryside. However, the proposed development would not be isolated, it would be well related to existing built development which adjoins the site. The site does not extend any further East than the neighbouring residential plots and buildings which adjoin the site to the North. Furthermore, the mature trees along the site's western boundary would ensure that development is predominantly screened from the road with views restricted to those through the site access. The existing hedgerows along the southern boundary will also provide some vegetative cover, and as the hedgerow matures, it will provide further screening.
19. I viewed the site from the A15 and from the viewpoints suggested by interested parties. However, I do not consider that the proposed development would be visually conspicuous from those vantage points, including long range views within the wider rural landscape nor from neighbouring settlements.

³ LPA Statement of Case.

⁴ Policy C: Sites in rural areas and the countryside, PPTS.

Although the caravans and amenity buildings would be visible at closer range when travelling along Lincoln Road, they would be seen in the context of the existing neighbouring development. Thus, any harm to the appearance of the area would be localised. I am also mindful that caravans are not an uncharacteristic form of development within the countryside. New planting of native hedgerows/trees along the site boundaries would also help to assimilate the development into the landscape in the longer term and along with other measures recommended within the Preliminary Ecological Appraisal⁵ (PEA) which has been undertaken, would provide an opportunity on the site for biodiversity net gains which could be secured by a planning condition.

20. For the reasons given above, considering local and national planning policies, and subject to proposed landscape planting and a condition to agree details of the building materials for the amenity buildings, I find that harm to the character or appearance of the area would not be significant. There would be no material conflict with Policies LP10 (a), and LP27 of the LP, the aims of which are set out above. I also find no conflict with the design aims of the Policy LP16 of the LP or the provisions of the Framework and PPTS.

Green Wedge

21. The appeal site lies within the Green Wedge that is identified in the LP, and has the function and policy aims of: preventing the merging of the settlements of Glington and Werrington, protecting their setting and preserving their separate identity, local character and historic character; and the provision of an accessible recreational resource, with both formal and informal opportunities, close to where people live, where public access is maximised without compromising the integrity of the Green Wedge.
22. Policy LP26 of the LP requires development within a Green Wedge to have regard, amongst other criteria, to the need to retain the open and undeveloped character of the Green Wedge and the physical separation between settlements.
23. The Council are satisfied that the proposed development would safeguard the function and policy aims of the Green Wedge. In particular, they consider the separate identities of the settlements of Glington and Werrington and their local and historic character would be preserved. Nevertheless, I recognise that there will be some encroachment into the open character of the Green Wedge because of the siting of the mobile homes and amenity blocks. However, I am also mindful that Policy LP10 of the LP does not preclude the development of residential caravan sites for the Gypsy and traveller community, and this development by its very nature will have some impact on openness. Having regard to the scale and nature of the proposed development, its relationship to adjoining existing development and the surrounding open land within the Green Wedge, I consider that the proposal would not adversely impact on the function of the Green Wedge and proposed landscaping would provide some biodiversity enhancements.
24. I have had regard to an appeal decision relating to a proposed Gypsy and traveller site in a Green Wedge in Hinckley and Bosworth District.⁶ I do not know the exact details of the Green Wedge Policy in Hinckley and Bosworth's

⁵ PEA, Cotswold Wildlife Surveys, 24 May 2024.

⁶ APP/K2420/W/24/3343996.

Local Plan, although the Inspector says that Policy 6 lists forms of the development that would be acceptable within the Green Wedge. There is no such list within Policy LP26, which is the relevant policy in this appeal. Thus, that decision is not directly comparable to this appeal which is for a different site, within a different district and where a different policy applies. The weight that I give to that decision is therefore limited and I have made my assessment based on the site development and policy circumstances relevant to the appeal case.

25. I conclude that there will be a small degree of harm to the open characteristics of the Green Wedge. However, for the reasons give above that harm would be limited and there would be no adverse impact on the overall aims and function of the Green Wedge. There would thus be no material conflict with Policy LP26 of the LP, the aims of which are set out above.

Living conditions

26. The appeal site lies close to the A15 and thus development on the site would be sensitive to traffic noise. Noise is a material consideration in the planning process where new development would be sensitive to prevailing acoustic conditions. Paragraph 135 of the Framework states that new development should, amongst other things, create a high standard of amenity for existing and future users.
27. Having regard to Planning Practice Guidance (PPG), the appellant submitted supporting information relating to noise exposure, including day and nighttime noise levels taken from the England Noise and Air Quality Viewer, mobile home construction standards and external noise. The Council's Principal Environmental Health Officer has reviewed the information and is satisfied that provided the mobile/static homes comply with BS 3632:2015 (updated 2023), which provides a specification for residential mobile homes to ensure they are designed to achieve a minimum sound insulation for the external walls and roof, and appropriate ventilation is achieved, the internal noise environment for the occupiers of the mobile homes would be acceptable and commensurate with the guidance in BS8233:2014, *Guidance on sound insulation and noise reduction for buildings*.
28. In relation to outdoor amenity space, Professional Practice Guidance on Planning & Noise (ProPG) recommends a series of considerations as part of the design process for external areas. Where external amenity spaces are an intrinsic part of the overall design, the acoustic environment of those spaces should be considered so that they can be enjoyed as intended and should ideally not be above the range of 50-55dB LAeq, 16hr. Where this is not achievable, development should be designed to achieve the lowest practicable noise levels in these external amenity spaces. Orientation of structures on the site may provide protected areas for outdoor use.
29. The appellant's noise report advises that noise contours shown on the England Noise and Air Quality Viewer indicate, as a rough guide, the daytime noise levels likely to be experienced on the application site are between 55.0 and 59.9 LAeq 16hour. Thus, the levels are above those recommended in ProPG. However, the caravans would be sited parallel to the road, and in that regard could provide some protection for adjoining amenity areas. Furthermore, the appellant owns the adjoining field to the East of the appeal site, where

recorded noise levels are below 55 dB, and this area could provide additional recreational space. Moreover, I noted on my site visit that despite road traffic noise being clearly audible, it did not have an adverse effect. It was not necessary for me to change my behaviour, for example, I did not need to raise my voice to be heard. The Council's noise specialist advises that the levels of noise are not such that planning permission should not be granted, but conditions imposed to ensure an adequate level of protection.

30. I was told at the Hearing that local residents were being increasingly disturbed by intermittent noise generated by emissions from the Gas Works, which lies to the West of the A15. However, I have not been provided with any substantive evidence which would suggest that noise from those emissions would have a significant adverse effect on the noise climate at the appeal site. Furthermore, this was not an issue which the Council's pollution expert had raised as a consideration for the amenity of the living conditions of future occupiers. Thus, in the absence of any substantive evidence I therefore give this consideration little weight.
31. I conclude that subject to the imposition of conditions to ensure an adequate level of protection against noise, the proposed development would provide for acceptable living conditions for future occupiers. There would be no conflict with Policy LP17 of the LP which seeks to ensure that development proposals are designed and located to ensure that the needs of future occupiers are provided for, including noise attenuation. I also find no conflict with the amenity provisions of the Framework.

Site Drainage

32. The appeal site lies within Flood Zone 1 and is thus in an area which is at the lowest risk from fluvial flooding. It is also not located within any Critical Drainage Area. However, the Framework advises that when determining any planning application, local planning authorities should ensure that flood risk is not increased elsewhere. Local residents advise that the appeal site is located in an area where there is a high water table and that the area suffers from ground water flooding for a number of months a year. There is concern that the introduction of hard surfacing, and the installation of package treatment plants/septic tanks, would have the potential to increase the risk of ground and surface water flooding on and off the site. Residents have provided photographic evidence of standing water on the site. Considering their knowledge of the existing land drainage conditions, including the location of a nearby spring, and absence of flowing water systems in the locality, neighbouring residents believe the development will overwhelm the local infrastructure and have a harmful effect on their amenity. Furthermore, there is no mains sewer in the area and neighbouring properties must discharge their foul waste to private package treatment plants. Residents told the Hearing that they often experience problems with those systems during the winter months after days of heavy rain.
33. The appellant acknowledges the need for a sustainable drainage strategy, and is committed to complying with a condition suggested by the Lead Local Flood Authority to ensure that the proposed development does not increase the risk of flooding and protects water quality. All hard surfacing would be permeable. However, the development which includes new built development, would undoubtedly have some impact on surface water drainage. Nevertheless,

considering the size of the site, including Land owned by the appellant which adjoins the site, there would be sufficient space to accommodate any required infiltration system, drainage field, swale or underground storage system which may be required. Having regard to the Council's advice from the Leading Flood Authority, I am satisfied that there would be a technical solution to dealing with any increase in surface water resultant of development on the site. This matter could be secured by a planning condition. Details of the proposed foul water/sewerage system can also be controlled by condition, and the appellant would also be required to meet the general binding rules for small sewage discharge to the ground.

34. I conclude that subject to a condition to require a drainage strategy for the site to be submitted, approved, and implemented, there would be no conflict with the requirements of Policy LP10 (d) of the LP which require the development to have an adequate mains water and sewerage connection, and not to place unacceptable pressure on local infrastructure. I also find no conflict with Policy LP32 of the LP which requires, amongst other things, development proposals to protect the water environment.

Other Matters

35. Local residents have raised concerns regarding the impact of the development on ecology and biodiversity. The application was accompanied by a PEA, including a biodiversity checklist and metric. The land surveyed included the appeal site and the field to the East of it which is also in the appellant's ownership. Whilst residents consider that the survey may have incorrectly categorised the nature of the grassland, there is no evidence to support that contention. The PEA was carried out by a qualified professional and in accordance with the Chartered Institute of Ecology and Environmental Management's Code of Professional Conduct. Furthermore, the PEA has been reviewed by the Local Planning Authority's Wildlife Officer who raised no objections to the proposal subject to the imposition of a condition on any planning permission granted. The condition would require a Habitat Management and Monitoring Plan to be submitted to address the creation of mitigation and compensation habitats as outlined in the PEA and Biodiversity Metric. Thus, the development complies with Policy LP28 of the LP and the provisions of the Framework.

Planning Balance

36. I have found no conflict with Policy LP10 of the LP nor with the development plan read as a whole. For decision taking this means approving development proposals that accords with the development plan. The development would also accord with the provisions of the Framework and national planning policy set out in the PPTS. There are no material considerations which by themselves or cumulatively would indicate that planning permission should be withheld.

Conditions

37. I have considered the need for conditions put forward by the Council in the light of Planning Practice Guidance and the discussion at the Hearing. It is necessary to specify the approved plans to provide certainty. A condition is necessary to restrict the occupation of the site to gypsies and travellers to secure the site as part of the Council's supply of traveller sites against future

identified need. It is also necessary to condition the number of pitches and caravans to safeguard amenity.

38. In the interests of the appearance of the site, it is necessary to require details of the materials of construction of the amenity buildings, and to require a scheme of soft landscaping to be submitted, approved and retained. It is also necessary to control the hard surface materials, any external lighting, fencing and other means of enclosure and to prevent the stationing and storage of vehicles over 3.5 tonnes and ensure there is no commercial activities, including storage of vehicles, equipment and materials.
39. To minimise the risk of flooding from surface water and to provide a suitable foul water/sewerage system to protect the water environment, it is necessary to impose a condition to require a scheme of surface water and foul drainage.
40. In the interests of highway safety, it is necessary to impose conditions to require details of the vehicular access arrangements and to secure space within the site for the parking and turning of vehicles.
41. To safeguard the living conditions of the occupiers of the site a condition is required to secure sound insulation and ventilation to the mobile homes, and to provide a scheme of noise attenuation measures for the site.
42. In the interests of securing biodiversity net gain and in the interests of ecology, it is necessary to impose a condition to require the submission and implementation of a Habitat Management Monitoring Plan.

Conclusion of Appeal B

43. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should succeed.

Appeal A

Ground (a), deemed planning application.

44. An appeal under ground (a) is on the basis that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to have been granted.

Main Issues

45. The main issues are:
 - the effect of the development on the character and appearance of the area;
 - the effect on the aims and function of the Green Wedge;
 - whether the development provides acceptable living conditions for the occupiers of the site, having regard to noise and privacy;
 - whether the development makes adequate provision for the surface water and foul drainage; and
 - the effect of the development on biodiversity/ecology
46. Other considerations, include the need for Gypsy and traveller sites, the availability of alternative accommodation for the occupiers of the site and their other personal circumstances.

Character and appearance

47. I found in Appeal B that the character and appearance of this area is that of a semi-rural countryside landscape. Prior to the unauthorised development taking place, the appeal site comprised an area of open grassland situated to the East of and fronting onto Lincoln Road. To the South and East of the site, open fields characterise the landscape. Whilst to the North and adjoining the site, there is a cluster of residential properties which form ribbon development fronting onto Lincoln Road. Immediately to the West of Lincoln Road is the A15 by-pass.
48. The key difference between Appeal B and the appeal against the enforcement notice and deemed application, is that the planning application was supported by plans and documents which provide certainty about matters such as site layout, amount of hardstanding, the proposed boundaries to the pitches, and proposed biodiversity enhancements. Whilst the Land the subject of the enforcement notice and deemed planning application have the same site boundary, the unauthorised development that has taken place comprises a larger area of hardstanding than proposed in the planning application. The hardstanding laid covers the majority of the appeal site, extending right up to its southern boundary and close to its western boundary. Thus, opportunities for additional soft landscaping and biodiversity enhancement on the Land are limited and the appearance of the site is dominated by a hard surfaced area, which has an unacceptable impact on the visual qualities of the landscape. In addition, the mobile homes and amenity buildings have been sited in an adhoc manner. One of the mobile homes and an amenity building lies close to the site frontage and in a position which projects beyond the frontage of neighbouring dwellings. The siting of the mobile home in this location conflicts with the existing pattern of development along Lincoln Road.
49. The most visually intrusive element of the development at present is the amount of external lighting that has been installed on the fencing that has been erected throughout the site. During the hours of dusk and darkness the site is extensively lit and the lighting detracts from the rural qualities of the landscape, including the dark skies which previously characterised this part of the countryside. However, I accept it would be possible to secure a more suitable scheme of external lighting and luminance by a planning condition.
50. This is not a site which is located in an area of undeveloped, open countryside. Nevertheless, the development to which the notice relates has led to a change in the appearance of the land, with hard standing extending over the majority of the site, and the adhoc siting of caravans, buildings, lighting and fencing. As constructed the development has an unacceptable impact on landscape character.
51. I conclude that the development has a harmful effect on the character and appearance of the area. Consequently, there is conflict with Policies LP10 (a), and LP27 of the LP, which seek to prevent development which does not protect the natural environment and landscape character and to ensure that new development in and adjoining the countryside is designed in a way that is sensitive to its landscape setting. I also find conflict with the design aims of Policy LP16 of the LP or the provisions of the Framework and PPTS.

Green Wedge

52. I concluded in Appeal B, that whilst the proposed development would result in a small loss to the open characteristics of the Green Wedge, that harm would be limited and there would be no adverse impact on the overall aims and function of the Green Wedge.
53. Having regard to the Land the subject of the enforcement notice and alleged breach of planning control from which the deemed planning application is derived, I draw the same conclusion in this appeal. Whilst I have found the extent of the hardstanding to have a harmful impact on the appearance of the Land, considering its close relationship to adjoining existing development and the extent of the surrounding open land within the Green Wedge, the separate identities of the settlements of Glinton and Werrington and their local and historic character are to be preserved.
54. For these reasons I conclude that the development does not adversely impact on the function of the Green Wedge and there is no material conflict with Policy LP26 of the LP, the aims of which are set out above.

Living Conditions

55. Noise is a material consideration in the planning process where new development would be sensitive to prevailing acoustic conditions. Paragraph 135 of the Framework states that new development should, amongst other things, create a high standard of amenity for existing and future users. The appeal site lies close to the A15 and thus development on the site is sensitive to traffic noise.
56. There is no evidence provided to confirm that the mobile homes that have been brought onto the site comply with BS 3632:2015 (updated 2023), and thus have been designed to achieve minimum sound insulation for the external walls and roof, nor provided with appropriate ventilation. However, as set out in my conclusions on this issue in Appeal B, compliance with BS 3632:2015 (updated 2023) could be secured by a condition. Furthermore, a condition could also be imposed to require adequate noise protection measures to be agreed and implemented, including securing a site layout which would provide for additional noise attenuation to external amenity areas.
57. The existing siting of the mobile homes does not provide adequate privacy for the occupiers of the site or their neighbours. In particular, the positioning and proximity of the mobile home closest to the northern boundary of the site has resulted in overlooking between the mobile home and habitable rooms within the neighbouring property No 1705 Lincoln Road. Although a fence has been erected along this site boundary, the juxtaposition of the mobile home and the neighbour's first floor windows means there is not adequate privacy for either the site occupiers or for neighbouring residents. However, considering the size of the appeal site, a site development plan condition could be imposed on any consent granted to secure the siting and layout of the mobile homes whereby recommended privacy distances could be achieved.
58. I conclude that subject to the imposition of conditions to ensure an adequate level of protection against noise and privacy in a site development plan, the proposed development would provide for acceptable living conditions for future occupiers. There would be no conflict with Policy LP17 of the LP which seeks to

ensure that development proposals are designed and located to ensure that the needs of future occupiers are provided for, including noise attenuation and privacy. I also find no conflict with the amenity provisions of the Framework.

Site Drainage

59. I concluded in my decision on Appeal B, that having regard to the application site, and the amount of adjoining land within the appellant's control, a sustainable site drainage strategy scheme could be provided for the site, including provision for the disposal of foul water/sewerage. This could be secured by a planning condition and would prevent the risk of increased flooding on and off the site.
60. However, the deemed planning application relates solely to Land the subject of the enforcement notice, and in order to achieve a satisfactory solution, the layout and hard surfacing would need to be significantly altered and proposals for a sustainable drainage system, including foul drainage brought forward on that Land. There is no certainty that the imposition of planning conditions and compliance with them could be successfully achieved utilising only the Land the subject of the Notice, indeed the evidence before me suggests that foul sewerage is currently being treated by a package plant which is not on the Land. The imposition of a condition which required works to be undertaken on Land not covered by the Notice would not be enforceable.
61. For the reasons given above I conclude that there would be conflict with the requirements of Policy LP10 (d) of the LP which requires the development to have an adequate mains water and sewerage connection, and not to place unacceptable pressure on local infrastructure. I also find conflict with Policy LP32 of the LP which requires, amongst other things, development proposals to protect the water environment.

Biodiversity/Ecology

62. Policy LP28 of the LP requires, amongst other things, all development proposals to avoid negative impacts on biodiversity and deliver a net gain in biodiversity, where possible, by creating, restoring and enhancing habitats and enhancing them for the benefit of species. In addition, it requires all development proposals to complete the council's biodiversity checklist to identify features of value on and adjoining the sites. Development proposals must be informed by the results of both the checklist and survey. Paragraph 180 of the Framework requires decisions to contribute to and enhance the natural and local environment by, amongst other things, minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
63. The PEA was undertaken to support the planning application the subject of Appeal B. Whilst it was undertaken prior to the unauthorised development the subject of Appeal A taking place, the survey, BNG Metric and recommendations were based on the site layout and proposals the subject of the planning application (Appeal B). Those plans and proposals are different from the development which has taken place on the Land, and the subject of the deemed planning application. The unauthorised development has resulted in a much larger area of hard surfacing being laid, and thus more disturbance to the original ground cover. Furthermore, the proposed biodiversity gains in the PEA included oversowing of the retained grassland which adjoins the Land with a

wildflower seed mix. That grassland is not comprised in the Land the subject of the deemed planning application, and thus it would not be reasonable nor enforceable to impose a condition to require the proposals put forward in the PEA.

64. Considering the unauthorised development that has taken place, and in the absence of an accurate PEA relating to those works and the Land, there is no substantive evidence that would lead me to conclude that the development has not had a negative impact on biodiversity nor that biodiversity net gains can be achieved on the Land.
65. For the reasons given above, I conclude that the development has had a harmful effect on biodiversity and there is conflict with Policy LP28 of the LP and the Framework, the aims of which are set out above.

Material Considerations

Need for/supply of Gypsy and traveller sites

66. The PPTS, which is itself a material consideration, makes it clear that a relevant matter in the consideration of planning applications for traveller sites is the existing level of local provision and the need for sites.
67. Notwithstanding that the need for Gypsy and traveller sites was not quantified, there is no dispute between the parties that there is a need for such sites within the Council area, and the Council accepts that it has no adopted policy in terms of site allocations, and it has no 5-year supply of deliverable sites.

Availability (or lack) of alternative accommodation

68. This is also defined as a relevant matter in the PPTS. In this case, there is no evidence that the appellant has an alternative site available to him and his family. Consequently, in view of the requirements of the Notice the four families would be likely to have to relocate to the roadside. This would make access to education and health services more difficult for the families and it is also not in the public interest to have families living on the road with no access to drainage or facilities for the storage of waste.

Other personal circumstances

69. The development provides pitches to accommodate a family group allowing a degree of mutual support and co-operation which is acknowledged as of importance in the Gypsy and traveller community. The site will also provide a stable base from which the families can access essential services such as schools and health care. This is particularly important in this case given the number of young children on the site and three of the adults receiving regular health care treatment.
70. Some of the children attend the local school and others are awaiting places. As the younger children grow up it is anticipated that they too will attend school. The children's teacher has confirmed that the children have been attending school since July 2024 and their attendance is good.

The Planning Balance

71. Policy H of the PPTS is a reminder that planning law requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
72. In this case I have concluded that there is conflict with the development plan in terms of those policies which seek to protect landscape character, interests of biodiversity and requirements to provide a sustainable drainage system and protect the water environment. There is conflict with criteria (a) and (d) of Policy LP10 of the LP. There is also conflict with Policies LP16, LP27 And LP28. This impact has not been shown to be capable of being successfully mitigated through the use of planning conditions. This matter attracts significant weight against allowing the appeal and granting the deemed planning application.
73. Policy LP10 of the LP contains three other criteria against which sites for Gypsies and travellers are assessed. The evidence and my site visit have shown that these criteria have been met or could be met by the imposition of planning conditions. These matters weigh in favour of this site being an appropriate one for a Gypsy and traveller site, but the weight is limited given that the development that has taken place is not wholly in accordance with Policy LP10.
74. I have had regard to concerns from residents in relation to trees being cut down during the nesting season and an increase in anti-social behaviour by the occupiers of the site. With regard to the effects on nesting birds, this matter is controlled by legislation which falls beyond planning control and is therefore not a matter before me. There is no substantive evidence to suggest there would be any increase in anti-social behaviour were I to allow the appeals. Consequently, these matters attract no weight and have a neutral effect in the planning balance.
75. The need for Gypsy and traveller sites, the lack of alternative accommodation and other personal circumstances of the occupiers of the site all weigh in favour of allowing the appeal and granting the deemed planning application.
76. Drawing all of the relevant considerations together, and in view of the significant weight that I have attached to the harmful effect of the development in relation to landscape character, interests of biodiversity and absence of a sustainable drainage scheme, including foul drainage, I do not find that those matters which weigh in favour of the appeal and the approval of the deemed application, outweigh the scale of harm which I have identified. The planning balance in relation to the development, which is the subject of the enforcement notice, does not justify a decision other than in accordance with the development plan.

Human Rights and the Best Interests of the Children

77. The occupiers of the caravans are members of the Gypsy and traveller community which is recognised as having special needs which are protected through positive obligations in terms of their human rights. Furthermore, the caravans are occupied as residential accommodation which are the homes of four families.
78. My decision to dismiss Appeal A, to uphold the enforcement notice and refuse the deemed planning application would lead to the loss of four pitches, which

would affect the ability of the appellant to live a Gypsy way of life and result in the loss of their home. This would be an interference with the appellant's right under the Human Rights Act 1998.

79. I have concluded that the harm arising from the development which is contrary to the development plan is not outweighed by the material considerations, including the need for Gypsy and traveller sites and the personal circumstances of the occupiers in this case. I have considered whether the imposition of conditions, allowing the residents to stay on the site, would protect the public interest by means which would have less interference with an individual's rights. However, in this case, given the lack of certainty that a satisfactory outcome in terms of site drainage, protection of the natural environment, including biodiversity gains could be achieved, I am of the view that the imposition of planning conditions would not adequately protect the public interest.
80. There are children on the site and any action which resulted in those children not being able to live at the site would not be in the best interests of those children. Living on the roadside would make access to school and health care appointments difficult. The best interests of the children are a primary consideration and no other consideration is more important, however, they are not a determinative factor.
81. In this case, whilst allowing Appeal A and granting the deemed planning application would be in the best interests of the children, this does not outweigh the harm which I have found in terms of the impact of the development.
82. In reaching these conclusions in terms of the Public Sector Equality Duty and in respect of human rights and the Best Interest of the Children, I am mindful of my intention to allow Appeal B, which would afford the option to the appellant of implementing a planning permission and would allow the families to remain on the site.
83. The time for compliance with the enforcement notice, which is upheld under Appeal A, allows the opportunity for the appellant to implement the planning permission for four pitches thus enabling the families to remain on site. In this context my determination of both appeals provides the families with an option to stay on the site and strikes a fair balance and would be a proportionate response in terms of my positive obligations under the Human Rights Act and the Best Interests of the Children, and it discharges my obligations under the Public Sector Equality Duty.

Conclusion on Appeal A

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

Decisions

Appeal A

85. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

86. The appeal is allowed and planning permission is granted for change of use of land to use as residential caravan site for 4 gypsy/traveller families, each with two caravans including no more than one static caravan/mobile home, including laying of hardstanding, erection of 2 amenity buildings and improvement of existing access at Land adjacent to No. 1705 Lincoln Road, Peterborough, Cambridgeshire, PE6 7HH, subject to the conditions set out below:

- 1) The development hereby permitted shall be carried out in accordance with the following drawings: Existing Site Location Plan (Scale 1:1250); Proposed Site Layout Plan (Scale 1:500); Proposed Amenity Building, Scale 1:100.
- 2) Prior to the construction of the amenity buildings hereby permitted above slab level, all external finishes of the amenity buildings shall be submitted to and agreed in writing with the local planning authority. The amenity buildings shall be constructed in full accordance with the approved details.
- 3) Unless within 3 months of the date of this decision a scheme for the disposal of foul and surface water drainage, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the use of the site shall cease and all caravans, vehicles, structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

The drainage scheme shall include but not be limited to:

- Demonstration of the discharge surface run off being as high up the hierarchy of drainage options as reasonably practicable.
- Minimise the areas of hardstanding and if hard surfaces are necessary, incorporate permeable paving.
- Information regarding existing surface water risk of the site.
- Discharge rates should be limited to the greenfield 1 in 1 year rate or 1l/s, whichever is greater. Where it is not possible to meet the greenfield 1 in 1 rate, demonstration of its unfeasibility shall be provided, and rainwater re-use should be used to reduce the run off rate from the site.
- Sufficient water treatment for all the site.
- Sufficient storage should be provided to ensure no internal flooding as a result of the development during all storm events up to and including the 1 in 30 year storm event and no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.

- Infiltration testing/ground investigation to assess the viability of using infiltration on site there should be some ground testing for geology and then the worst case rates for that soil type should be used.
- If the site is directing water to a single point of infiltration, then we would need to see infiltration testing for that location. However, if the water is being distributed evenly across the site as the rain lands on the ground then we do not require infiltration testing as it is mimicking natural processes.
- A site layout, levels, location of features, outfall location and conveyance.
- Exceedance flows should be considered to ensure potential off -site flooding is managed
- A 10% allowance for urban creep should be included within the storage calculations.
- Engineering drawings should be provided detailing the SuDS components used within the drainage system.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the site shall cease and all caravans, vehicles, structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

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

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.

- 4) Unless within 3 months of the date of this decision a scheme for noise attenuation measures, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 5 months of the local planning authority's approval, the use of the site shall cease and all caravans, vehicles, structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the site shall cease and all caravans, vehicles, structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

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

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

- 5) Unless within 2 months of the date of this decision plans detailing the alterations to the vehicular access to the site are submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's

approval, the use of the site shall cease and all caravans, vehicles, structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

The plans must show, but not limited to, the following:

- a bell mouth access design incorporating 6m junction radii;
- an access width of 5.5m;
- gradients/levels;
- methods/materials of construction;
- details of the required extension to the existing culvert.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the site shall cease and all caravans, vehicles, structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

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

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

- 6) Unless within 3 months of the date of this decision a Habitat Management and Monitoring Plan (HMMP) addressing the creation of mitigation and compensation habitat as outlined within the Preliminary Ecological Appraisal and Biodiversity Metric is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented in accordance with the approved timetable comprised in the HMMP, the use of the site shall cease and all caravans, vehicles, structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

The HMMP must include, but not limited to, the following:

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance.
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

The use of the recently released Habitat Management and Monitoring Plan Template (HMMPT) would be acceptable in order to demonstrate how the habitats responsible for demonstrating a Biodiversity Net Gain are created, managed and monitored.

If no HMMP in accordance with this condition is approved within 6 months of the date of this decision, the use of the site shall cease and all caravans, vehicles, structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved HMMP specified in this condition, that Plan shall thereafter be retained.

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

- 7) Unless within 3 months of the date of this decision a scheme for soft landscaping is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented in accordance with the approved implementation programme, the use of the site shall cease and all caravans, vehicles, structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

The scheme shall include details of the following:

- planting plans including retained trees, hedgerows, species, numbers, size and density of planting;
- an implementation programme;
- proposed planting plans including trees, hedgerows, species numbers, size and density;
- position, type and recommended number of biodiversity enhancements.

Any trees, shrubs or hedges forming part of the approved landscaping scheme that die, are removed, or become diseased within five years of the implementation of the landscaping scheme shall be replaced during the next available planting season by the developers, or their successors in title with an equivalent size, number and species to those being replaced. Any replacement trees, shrubs or hedgerows dying within five years of planting shall themselves be replaced with an equivalent size, number and species.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the site shall cease and all caravans, vehicles, structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

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.

- 8) Unless within 2 months of the date of this decision a scheme for external lighting is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the use of the site shall cease and all caravans, vehicles, structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the site shall cease and all caravans, vehicles, structures, equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

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

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

- 9) The parking/turning spaces shown on the approved site layout plan shall be laid out for vehicles to park, turn clear of the public highway and those areas shall not thereafter be used for any purpose other than the parking and turning of vehicles.
- 10) Any static caravan shall comply with BS 3632:2015 (revised 2023) in relation to sound insulation and ventilation requirements.
- 11) No commercial activities, including storage of vehicles, equipment and materials, shall take place on the Land, and no vehicles above 3.5 tonnes in weight shall be stationed, parked or stored on the site.
- 12) The site shall not be occupied by any other persons other than Gypsies and travellers defined as personas of nomadic habit or life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependant's educational health or old age have ceased to travel temporarily or permanently, but excluding members of an organised group or travelling show people or circus people travelling together as such.
- 13) There shall be no more than four pitches on the site laid out in accordance with the approve Site Layout Plan (Scale 1:500).
- 14) No more than 8 caravans, 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, and of which no more than 4 shall be static caravans/mobile homes.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no walls, fences or other means of enclosure, other than shown on the approved plans shall be erected on the site unless details of their size, materials and location shall have previously been submitted to and

approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Elizabeth Pleasant

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Philip Brown (BA (hons) MRTPI	Philip Brown Associates
Mr Martin McDonagh	Appellant
Mr William McDonagh	Appellant's Brother

FOR THE LOCAL PLANNING AUTHORITY:

Molly Hood	Principal Planning Officer
Heather Wakefield	Principal Enforcement Officer

INTERESTED PARTIES:

Councillor Peter Hillier	Glington & Castor Ward
Gerry Kirk	Chair, Glington Parish Council
Jan Clark	Local Resident
Stuart Clark	Local Resident
Professor Tracy Harwood	Local Resident

DOCUMENTS at the Hearing

1. Appeal Ref: APP/J0405/W/23/3334857