
Appeal Decisions

Hearing held on 8 January 2025

Accompanied site visit made on 7 January 2025

by **Nick Fagan BSc (Hons), DipTP, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 January 2025

Appeals A-P Refs: APP/V1505/C/24/3344638-3344653 (consecutive numbering) Land North West of Hillview, Southend Arterial Road, Nevendon, Wickford, Essex SS12 9JD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr C deStokes and 15 other appellants (see below) against an enforcement notice issued by Basildon Borough Council (the Local Planning Authority, LPA).
- The notice was issued on 2 May 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change in use of the Land for the stationing of caravans for residential occupation.
- The requirements of the notice are to:
 - i. Cease the use of the Land for the stationing of caravans for residential occupation.
 - ii. Remove the caravans and all residential paraphernalia from the Land.
 - iii. Remove all internal fences from the Land which create the individual pitches and facilitate the change in use of the Land for the stationing of caravans for residential occupation.
 - iv. Remove all associated utility/day rooms, outbuildings, trailers, fixtures and fittings from the Land.
 - v. Break up and remove all non-organic matter forming the hardstanding within the site from the Land, including all associated construction waste and detritus.
 - vi. Return the Land to its former condition by levelling and allowing the ground to naturally afforest.
- The periods for compliance with the requirements are: Six (6) months for requirements i and ii above; and twelve (12) months for requirements iii-vi after the notice takes effect.
- The appeals are proceeding on the grounds set out in section 174(2)(a), (c), (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 Decisions: Appeal A is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision. No further action is taken in respect of Appeals B to P, in view of my allowing Appeal A.

Full appeal references and appellants can be found within the table at the end of the decision.

Decision

1. Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change in use of the Land for the stationing of caravans for residential occupation at Land North West of Hillview, Southend Arterial Road, Nevendon, Wickford, Essex SS12 9JD as shown on the plan attached to the notice and subject to the conditions set out in the Schedule below.

Preliminary Matters

2. I conducted the site visit on the afternoon prior to the Hearing. I made clear at the start of the event that, following the issues raised in the Hearing, I would revisit the

site if any party considered this to be necessary. I checked at the end of the Hearing as to whether any party wished me to revisit the site. No one did, and since I saw everything that I needed to see at my visit, I did not revisit the site.

3. It is not contested by the Council that all the occupiers of the site are gypsies/travellers as defined by the Glossary in the latest (December 2024) version of Planning Policy for Traveller Sites (PPTS).

Reasons

Ground (e)

4. Ground (e) is that copies of the notice were not served as required by s172 of the Act, essentially on all owners and occupiers of the Land and anyone else who has an interest in it.
5. The agent's point in relation to ground (e) was not that the notice appealed against was not served properly, but that the Council has a history of getting authority for the service of one notice and then serving another one (with different wording). However, no evidence was submitted of that occurring here. In any case, he confirmed to me that the notice served on all the appellants in these appeals is the notice as set out above. Consequently, there is realistically no appeal on ground (e), or if there is, it must fail.

Ground (c)

6. Ground (c) is that if the matters stated in the notice have occurred, they do not constitute a breach of planning control.
7. The appellants' sole issue in respect of this ground is the area of hardstanding. They maintain that the eastern-most third of the site has been hardstanding for way over 10 years. An area of hardstanding in the southeast corner of the site (together with what looks like a touring caravan) is present on the January 2023 aerial photo. The appellants produce no other documentation or photos to back up their allegation.
8. Mr Bevis confirmed that he used to cut grass on the site, which was a field used to produce hay, until 2003 and that any hardstanding was only pushed onto this part of the site in connection with the development of the pitches at Hillview. The Council confirmed, by reference to its aerial photo of 2017 (Appendix A to its Statement of Case), that 2019 was the earliest time that any hardstanding was put on this part of the appeal site.
9. I agree. Any dumping of hardstanding on this part of the site was unauthorised, whether it occurred in connection with the development of the pitches at Hillview, land to the west of Hillview, or of this appeal site. It was effectively part and parcel of the current unauthorised use of the Land as a residential caravan site and took place well within the last 10 years. Consequently, permission is required for it and the ground (c) appeal therefore fails.

Ground (a)

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

The Main Issues

11. The main issues are:

- Whether the material change of use would be inappropriate development in the Green Belt;
- The development's effect on the openness of the Green Belt;
- The need for gypsy/traveller sites/pitches in Basildon;
- Intentional Unauthorised Development?
- The personal circumstances of the site occupiers;
- The effect of the development on sensitive coastal habitats;
- The Green Belt balance – if the development is inappropriate, whether the harm to the Green Belt by way of such inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the 'very special circumstances' (VSCs) necessary to justify the development.

Inappropriate Development?

12. The site lies within the metropolitan Green Belt. Paragraph 153 of the (latest, December 2024 version) of the National Planning Policy Framework (NPPF) states: *'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness'*, and Footnote 55 adds: *'Other than in the case of development on previously developed land or grey belt land, where development is not inappropriate.'* Policy E of the PPTS confirms: *'Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development unless the exceptions set out in Chapter 13 of the National Planning Policy Framework apply.'*
13. The appellants allege that the site was previously developed land (PDL) on the basis that it comprised of a plotland common to this area. Whilst the wider area is an area characterised by plotlands (in this case the Fairmead Plotland¹), including Honiley Avenue adjacent to the west on which built development has occurred, no documentation has been put forward by the appellants to evidence that there was ever any development on the appeal land, apart from the hardstanding mentioned above, which was only dumped there within the last 10 years. On the contrary, Mr Bevis's account, who used to cut the grass for hay on the site until 2003, confirms that it never was developed prior to the unauthorised use attacked by the notice. It is clear to me that the site does not comprise PDL.

¹ As described in paragraph 13 of the Council's additional update Statement submitted on 6 January 2025

14. Is the site grey belt? NPPF paragraph 155 a. states that development utilising grey belt land and that would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the (Basildon in this case) plan should not be regarded as inappropriate. Grey belt is defined (within the NPPF's Glossary) as *'land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.'*
15. NPPF paragraph 143 sets out the five purposes of the Green Belt:
 - 'a) to check the unrestricted sprawl of large built-up areas;*
 - b) to prevent neighbouring towns merging into one another;*
 - c) to assist in safeguarding the countryside from encroachment;*
 - d) to preserve the setting and special character of historic towns; and*
 - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.'*
16. The Council's recent Basildon Green Belt Study 2023 – prepared to inform the emerging new Local Plan – characterises Parcel W19, within which the site sits, as an area of mixed farmland and plotland development, which associates it with the urban area and diminishes its perception as 'countryside'. Nonetheless, the Study identifies this Parcel as part of the strategic gap between Wickford and Basildon preventing these two significant urban areas from merging, in light of the narrowness of the gap between them.
17. I agree with this characterisation. Restricting development including in terms of preserving openness in Parcel W19 is crucial in my view to Green Belt purposes a) and b). Any infilling of plots or sites within this Parcel, including the development on the appeal site, spreads additional development north of the A127 Southend Arterial Road. This is one of the only remaining open and (partially) undeveloped areas between Basildon and Wickford and I agree with the Study that it would cause very high harm to purpose b) because it would contribute to the erosion of the strategic largely open gap between the two towns, the gap that prevents the towns physically merging with each other. In terms of purpose a), Basildon, with a population of nearly 116,000 in 2021, and Wickford, with a 2021 population of nearly 33,500, are by any reasonable description clearly large built-up areas. Consequently, I agree with the Study that this development would cause very high harm to purpose a) as well. For these reasons I conclude that the site is not grey belt.
18. NPPF paragraph 155 b. also sets out that where there is a demonstrable unmet need for the type of development proposed, including the lack of a 5-year supply of deliverable traveller sites assessed in line with the PPTS, development would not be inappropriate. Paragraph 155 c. makes clear that such development must be in a sustainable location by reference to NPPF paragraphs 110 and 115.
19. Addressing 155 c. first, the Council does not in-principle suggest that the site is in an unsustainable location, probably because of the previous Inspector's conclusions regarding the adjacent Hillview site and Land to the West of Hillview

site on this matter, which I agree with.² In essence, there is a shop catering for a variety of basic day-to-day food needs in the nearby Esso petrol filling station to the west along the A127, which is only a short walk away from the site along a paved footway. Whilst it would be necessary to travel to Wickford by car for a full range of services and facilities, the NPPF at paragraph 110 acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and the Inspector concluded that the length and duration of such car journeys necessary to access such wider services would be modest. I agree that the appeal site, next door to those sites, is in a relatively sustainable location.

20. In terms of NPPF paragraph 155 b, I find below that the Council only has a 0.002 years' supply of gypsy and traveller pitches and hence there is a demonstrable unmet need for such pitches.
21. However, in order to be an exception that excludes the site from the definition of inappropriate development under paragraph 155, all three criteria a-c must be met. Since criterion a. is not – in that the site does not comprise grey belt land for the above reasons – the proposed development would still be inappropriate.

Openness

22. NPPF paragraph 142 states: *'The fundamental aim of Green belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green belts are their openness and their permanence.'*
23. The Court of Appeal has confirmed that the openness of the Green Belt has a spatial and visual aspect.³
24. The appeal site is rectangular in shape and orientated from east to west, measuring an estimated 0.32 Hectares in overall size. It has been laid to hard standing, enclosed and subdivided by close-boarded timber fencing. It has been divided into six pitches (as per Plan 1 submitted with the Council's original Statement, the aerial photo dated January 2024, which is attached below to this decision), which are roughly equal in area and accessed via a hard surfaced road running next to the southern boundary, which turns west at a right-angle off the main access road which provides access to the pitches on the adjacent traveller sites the subject of the 2022 appeal decisions set out above, which in turn is accessed directly from the A127's eastbound carriageway.
25. Plan 1 encloses the site in a red line and gives numbers to each of the 6 pitches. There are now more concrete bases, more caravans and more sheds on the site overall than there was in January 2024. For instance, Plots 1 & 2 both have large concrete bases installed, on which to site large static caravans, albeit there are no statics on those pitches currently. Plot 1 has two large touring caravans and a dayroom/bathroom, whereas there was nothing on it at all in January 2023. Plot 2 only had a small tourer sited on it. Plot 3 has two statics, one with a shed attached to it and a large touring caravan. Plot 4 has several tourers on it, as do Plots 5 & 6, which also has some sheds.
26. In terms of spatial impact, the development has introduced various caravans and a variety of sheds and outbuildings, most of which can be seen from outside the site

² The sites the subject of planning permissions granted on appeal: APP/V1505/C/19/3243848 & C/20/3265821 Allowed 23 December 2022, and APP/V1505/C/20/3265750 et al Allowed 16 November 2022 (same Inspector on both sets of appeals)

³ *Turner v SSCLG & East Dorset District Council [2016]*

over the timber fences, which themselves can be seen as obviously enclosing a caravan site. The hardstanding on which all this sits is obviously development designed to accommodate its use as a caravan site.

27. In terms of visual impact, the caravan site is obviously seen from the existing authorised pitches and from the rear gardens and other land in Honiley Avenue that backs onto it on its western boundary. It is not seen from the A127 because of the substantial frontage hedge and the adjoining development between it and the road. It is glimpsed across the fields from the bend in Cranfield Park Road to the northeast as well as inevitably from the rear garden land of houses on the plotlands on Fairway and Meadow Way about 300-400m to the north, albeit that it is very much seen from all these viewpoints as part and parcel of the block of development comprising the existing caravan site and the built development at Honiley Avenue.
28. However, these are distant views. Whilst there is no doubt that spatial openness is affected, it is relatively limited and I agree with the previous Inspector that the impact of the hardstanding area itself on openness, due to its lack of substantial 3-dimensional form, is limited. Whilst visual impact is significant on adjacent residents abutting the site in Honiley Avenue, for the above reasons, visual impact is generally limited.

Need for sites/pitches in Basildon

29. Policy A c) of the PPTS states that LPAs should use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions. Policy B (paragraph 10) requires LPAs to identify and update annually a supply of specific deliverable gypsy/traveller sites sufficient to provide 5 years' worth of sites against their locally set targets. Policy H (paragraph 28) states: *'If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply.'*
30. The Council's most up-to-date need assessment for pitches is set out in its Gypsy and Traveller Accommodation Assessment 2024, which addresses the period 2024-2042 (the GTAA). This identifies a total need for 235 pitches during that period, of which 172 pitches are required in the first five years, 2024-2028. Only 3 pitches have been granted planning permission since 1 April 2024, which amounts to a **0.002 year supply**, leaving an unmet need of 169 pitches.
31. The GTAA forms the evidence base for the emerging new Local Plan, which is currently still at the Regulation 18 phase. The Council are seeking to address the need for pitches via the new Local Plan, with Regulation 19 submission of the Plan proposed for later this year, with an ideal adoption date of summer 2026. Clearly, this is some time hence. Even if the requisite number of pitches are allocated in that new Plan, they are unlikely to be available for a number of further years, since they have not as yet been granted planning permission.
32. In the meantime, there is no policy in the Local Plan Saved Policies document of 2007 (which actually dates back to the Basildon Local Plan adopted in 1998) that sets out criteria for assessing planning applications for new traveller sites or pitches. Policy BAS GB1, which references the existing boundaries of the Green Belt in the Proposals Maps, is the only (vaguely) relevant policy. But, as the previous Inspector said, 63% of the Council's area lies within the Green Belt, and it

is therefore likely – and in my view probably inevitable – that at least some of any allocated sites for traveller pitches will be in the Green Belt. I also agree with the previous Inspector that there is no evidence that the Green Belt harm arising here – definitional and in terms of reduction of openness – would be greater than from any other site that may be allocated in the Green Belt, given the geography and topography of the Borough.

33. I accept that not all the Plots appear to be fully occupied at present: for instance, no static caravans have been installed on the concrete bases on Plots 1 & 2 and it appears that the families that control these plots are currently travelling, and another related family is currently abiding on Plot 1 in touring caravans. Nonetheless, each of the 6 Plots are being used, theoretically, by different (albeit related) traveller families and hence there is clearly a need for additional plots.
34. However, the Council point out that at least two of the pitches on the Land to the West of Hillview are vacant and empty, with no one living on them, in particular the nearest plot to the appeal site which is overgrown and clearly has never been occupied since its creation at the end of 2022. I acknowledge this and, since I understand that all the occupiers of all three adjoining caravan sites are related to each other through wider family ties, I accept in principle that two of the 6 Plots on the appeal site may presently be additional to the needs of the current occupiers since wider family members could in principle occupy these two vacant pitches.
35. But Plots 3-6 each have a large number of caravans on them, all of which appear to be being lived in, which indicates a need for more than 4 pitches here. Additionally, it is likely that at least some of the identified 173 pitches required by the GTAA in the next 5 years may be required by other wider family members of the current occupiers of the 3 caravan sites here. Certainly, there is an unidentified need for 173 more pitches in Basildon and it is unclear where those pitches are going to be provided. In conclusion, I am in no doubt that there is a pressing need for more pitches. The 6 pitches provided here are a very small proportion of the overall need.

Intentional Unauthorised Development ((IUD)?

36. A Government Written Ministerial Statement was laid before Parliament on 1 December 2015 making IUD a material consideration in the determination of applications and appeals, and this is still extant. Council enforcement officers first visited the site on 6 February 2023 following complaints about the laying of hardcore and erection of fencing to create additional pitches at the site. There was therefore IUD at that time, because it was inevitable that given the appeal history of the two recent adjoining caravan sites, those responsible for such unauthorised works knew that planning permission was required.
37. However, the application for ‘change of use of the land to enable standing of 6 static caravans, 6 touring caravans and ancillary works to meet the accommodation needs of an extended Gypsy/Traveller family’ was submitted two days later on 8 February 2023. So, the appellants applied for permission, which was ultimately refused on 2 May 2024. Works had ceased but re-commenced before the refusal of the application, since officer site visits on 16 & 22 April 2024 revealed that statics, tourers and motor vehicles had been brought onto the land and were being lived in at that time.

38. However, given the extent of the need for pitches in Basildon, this is hardly surprising and consequently I struggle to accept that the unauthorised development would not have been an inevitable outcome. Planning conditions could still be attached to any permission, and I note in this context that the appellants do not have any substantial objections to the conditions set out in the Council's original Statement in this respect.
39. The Act makes provision for the grant of retrospective planning permission, and planning enforcement is remedial rather than punitive. In light of all the above considerations I attach limited weight to the IUD nature of the proposal.

Personal Circumstances

40. Article 8 of the Human Rights Act 1998 states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. Article 8(2) provides that interference may be justified where it is in the interests of, amongst other things, the economic well-being of the country, which has been held to include the protection of the environment and upholding planning policies. I am also mindful that Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children.
41. Furthermore, in exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity. The Act recognises that race constitutes a relevant protected characteristic for the purposes of PSED. Romany Gypsies and Irish Travellers are ethnic minorities and thus have the protected characteristic of race. The occupiers are Irish Travellers.
42. The appellants have provided a Table detailing who was living on the 6 pitches on 22 November 2024. It appears that there are 8 young children (of 12 years and under) that attend Crays Hill Primary School, which is about 3 miles away, albeit that the families living on Plots 1 & 2 are currently travelling with their children. Some of the adults have health conditions and one of these children has a learning disability/health issue.
43. The Council did not dispute these personal circumstances but pointed out that none of them were evidenced in any way. At this point in the Hearing Mr McDonagh, one of the occupiers who I had met on site the previous afternoon, asked if he could give me some relevant letters evidencing them, which I allowed him to. A letter of 4 December 2024 from the headteacher of Crays Hill Primary School confirms that his daughter has attended the school since 3 October 2023. Another letter from a GP practice in Wickford confirms that she is registered there since May 2024. Another recent letter confirms that his older daughter is receiving treatment at a local NHS Trust.
44. Given that this information confirms the personal circumstances of some of the occupiers listed in the appellants' Table, I see no reason for supposing it is inaccurate. If the appeal was unsuccessful, there is no doubt that it would take away a settled base for the occupying households, who may need to resort to roadside living, given the acknowledged lack of available alternative sites for them

to move to. This would almost certainly lead to disruption to the children's education and probably lead to disruption of access to various health services for them and the adults on the site who currently rely on such services regularly. Clearly, these considerations weigh strongly in favour of the development.

Coastal Habitats

45. The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (the SPD) was adopted by all the Essex Councils in May 2020 to accompany the original Essex Coast RAMS Habitats Regulations Assessment (HRA) Strategy document 2018-2038. These documents are intended to raise money (nearly £9M) for measures to avoid significant adverse effects as a result of recreational pressure⁴ from residents of Essex on the integrity of national and international wildlife designations (SACs, SPAs, Ramsars, which include several SSSIs⁵) that cover a large proportion of the Essex coastline. Research has shown that residents from inland Council areas including Basildon, as well as coastal Councils, are also likely to travel to the coast for recreation.
46. The aim of the HRA process is to maintain or restore, at favourable status, natural habitats and species of wild fauna and flora of community interest. Mitigation measures against recreational pressures have been identified, which apply to the 12 Essex LPAs, which reflect the identification of 'in-combination' effects (principally disturbance to birds) across all these areas. Funding such mitigation measures is best tackled strategically by securing a financial payment per each new residential dwelling, including caravans. Any new dwelling within the Zone of Influence (Zol) must therefore pay the appropriate fee (which this year is £163.86 per unit) in order to secure such mitigation, which will then be spent on information and awareness raising, habitat-based measures such as fencing/waymarking/ access, enforcement etc. The Zol was calculated by ranking the distances travelled by visitors to the various coastal designations based on their home town postcode data. This approach was recommended and endorsed by Natural England.
47. The appellant's agent has paid the fee per residential pitch (6 x £163.86), as acknowledged by the Council, and so there is no impediment in terms of adverse impact on coastal habitats should I decide to grant planning permission for the development.
48. However, he nonetheless argues that the appellants should not have to pay this fee because, essentially, his survey of the gypsy/traveller population indicates that they do not visit European habitats sites and because many of these sites are fenced off so that people cannot access them anyway. His survey appears to be a one-off survey on one single occasion, which cannot possibly lead me to conclude that gypsies/travellers never visit such coastal habitats. The agent provided no evidence of any of the sites, let alone all of them, being fenced off such that no one could access them for recreational purposes; that seems extremely unlikely.
49. The RAMS process appears to be a sound way of mitigating any recreational impact on the nearby Essex coast European habitats sites (which has also been applied successfully nationally in other areas), including for the proposed

⁴ For instance, by walking, sailing, cycling, jet-skiing, dog-walking, fishing and bait-digging

⁵ Special Areas of Conservation, Special Protection Areas, wetlands designated under the Ramsar Convention 1971 and Sites of Special Scientific Interest

development in this appeal. If the agent wants to challenge this process in earnest, he will have to make a stand in another case and refuse to pay the tariff, and, if necessary, challenge any adverse appeal dismissal as a result through the High Court challenge process if he really believes that his arguments add up to anything cogent.

50. In conclusion the required tariff required by the RAMS SPD has been paid, and so there would be no adverse effect on the integrity of the above coastal habitats sites.

The Green Belt Balance

51. So, the question is whether the other considerations in this case would clearly outweigh the harm caused by the inappropriate development, its adverse effect on openness and the harm by reason of IUD. The other considerations comprise the pressing need for gypsy/traveller pitches in Basildon and the lack of virtually any supply, especially given the current progress of the emerging plan that envisages allocating a new supply, and the personal circumstances of the site occupiers including the lack of any other sites for them to move onto if I were to refuse the deemed planning application for these 6 pitches.
52. The proposal would, in my opinion, round off what seems to comprise a rectangle of development that includes what are now the 3 adjoining caravan sites, the land to the south of the western part of the appeal site – which also appears to be in use as a traveller site (although I am not aware of its planning history) – and the built development on and around Honiley Avenue. As such, the 3 caravan sites in particular, have a clear, consistent and defensible boundary with the open countryside to the north and east, which provides a logical backstop to the spread of any more development into this part of the Green Belt.
53. The impact on openness is limited, both in spatial and visual terms. As such the strategic gap between Basildon and Wickford, although diminished, is not diminished to such an extent that there is a perception of the two towns joining together. Consequently, the overall harm to the metropolitan Green Belt within Basildon Borough is not substantial.
54. For these reasons I conclude that the other considerations set out above clearly outweigh the definitional harm, limited harm to openness and the limited weight that I attach to IUD in this case. These are the VSCs of this case, which means that the proposed development complies with the NPPF and comprises sustainable development.
55. The ground (a) appeal consequently succeeds, and I shall grant the deemed planning application.

Conditions

56. I consider all the Council's suggested conditions to be necessary and meet the other tests for conditions as set out in NPPF paragraph 57, although I have slightly altered Condition 1 to reflect the amended definition of gypsies and travellers as set out in the new PPTS Glossary. It is necessary, given the need for gypsy/traveller pitches in Basildon, to ensure that these pitches are reserved for gypsies/travellers accordingly.

57. Some of the Plots are overcrowded, so Condition 2 is important in that it specifies only one static and one tourer shall be sited on each Plot or pitch. Owing to the lack of soft landscaping or children's play areas on the site in particular, Condition 3 (the 'site development scheme' condition) is required to address the proper planning and layout of each of the pitches and the site as a whole.
58. Condition 4 preventing commercial activity on the site is necessary because it simply isn't big enough to allow any such activity in addition to the residential use. For the same reason, Condition 5 prevents the parking of lorries on the site. Equally, Condition 6 restricts any permitted development for additional structures, means of enclosure or structures for the same reason.

Conclusion

59. For the reasons given above, I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the use as described in the notice. The enforcement notice is quashed.
60. In these circumstances the appeals on grounds (f) and (g) do not fall to be considered. Since I have allowed appeal A, there is no need for me to consider the other appeals.

Nick Fagan

INSPECTOR

Schedule of Conditions

1) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

2) There shall be no more than six pitches on the site; these pitches are indicated nos. 1 to 6 on the attached plan (Plan 1 attached below). On each of the six pitches hereby approved no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than one shall be a static caravan), shall be stationed on the pitch at any time.

3) The residential use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within **28 days** of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

(i) Within **3 months** of the date of this decision a scheme with details for:

(a) the internal layout of the site including the extent of the residential pitches, the location of the caravans and vehicle parking, any buildings and hardstandings;

(b) all boundary treatments and all other means of enclosure (including internal sub-division);

(c) the means of foul and surface water drainage of the site;

(d) proposed and existing external lighting on the boundary of and within the site;

(e) hard and soft landscaping and screen planting including details of species, plant sizes and proposed numbers and densities and details of a schedule of maintenance for a period of 5 years;

(hereafter referred to as the 'site development scheme') shall have been submitted for the written approval of the local planning authority and the site development scheme shall include a timetable for its implementation.

ii) If within **11 months** of the date of this decision the local planning authority refuse to approve the site development scheme or fail to give a decision within the prescribed period, an appeal shall have been made to the Secretary of State.

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

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

4) No commercial, industrial or business activities, including the storage of materials and goods, shall take place on any part of the site.

5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification), no buildings, structures or means of enclosure other than those approved in accordance with Condition 3 above shall be erected on the site.

End of Conditions

Plan 1 as referred to in Condition 2) above



Plan 1

APPEARANCES

FOR THE APPELLANT:

-Stuart Carruthers, agent

-7 gypsy occupiers of the site including Mr McDonagh (one of the appellants), who handed to me Document 3 listed below

FOR THE LOCAL PLANNING AUTHORITY:

-Ryan Funnell, Basildon Borough Council (BBC) Planning Enforcement Officer

-Katie Ellis, BBC Principal Planning Officer

-Ian Cummings, BBC Planning Enforcement Team Leader

INTERESTED PARTIES:

-Peter & Jayne Bevis, local residents

-Anonymous friend of another local resident

End of Appearances

DOCUMENTS SUBMITTED AT THE HEARING

1. Bundle of 12 aerial photographs of the site from January 2023 to November 2024 given to me by the Council.
2. Extract from recent Green Belt Study 2023 given me by the Council.
3. Letters from Crays Hill Primary School and the NHS regarding the registration and treatment of Mr McDonagh's daughters (as described in more detail in paragraph 46 above).
4. Additional objection email dated 6 January 2025 from local resident.
5. Essex Coast Recreational Disturbance Avoidance & Mitigation Scheme (RAMS): Habitats Regulations Assessment Strategy document 2018-2038.
6. Various documents concerning the RAMS issue given to me by Mr Carruthers.

End of Documents

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/V1505/C/24/3344638	Mr C deStokes
Appeal B	APP/V1505/C/24/3344639	Mr T McDonagh
Appeal C	APP/V1505/C/24/3344640	Ms N Maughan
Appeal D	APP/V1505/C/24/3344641	Ms A McDonagh
Appeal E	APP/V1505/C/24/3344642	Mr M Mcdonagh
Appeal F	APP/V1505/C/24/3344643	Ms M McGinley
Appeal G	APP/V1505/C/24/3344644	Mr A McGinley
Appeal H	APP/V1505/C/24/3344645	Ms N Doherty
Appeal I	APP/V1505/C/24/3344646	Ms M McDonagh
Appeal J	APP/V1505/C/24/3344647	Ms G Stokes
Appeal K	APP/V1505/C/24/3344648	Ms A McDonagh
Appeal L	APP/V1505/C/24/3344649	Ms K Dunden
Appeal M	APP/V1505/C/24/3344650	Mr J Mongan
Appeal N	APP/V1505/C/24/3344651	Mr P McDonagh
Appeal O	APP/V1505/C/24/3344652	Ms E McDonagh
Appeal P	APP/V1505/C/24/3344653	Mr W McDonagh