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## Appeal Decision

Site visit not required

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 March 2025

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### Appeal Ref: APP/W3520/C/25/3358735

### Hawks Mill Meadow, Hawks Mill Street, Needham Market, Suffolk, IP6 8LU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr S Parnell against an enforcement notice issued by Mid Suffolk District Council.
  - The notice was issued on 11 December 2024.
  - The breach of planning control as alleged in the notice is without planning permission, the unauthorised material change of use of the land from agriculture to a mixed use of agriculture and use of the land for the stationing of caravans for residential purposes; and, without planning permission, the unauthorised operational development involving the installation of a cesspit, close boarded fencing and associated entrance gates, and an area of hardstanding.
  - The requirements of the notice are to a) cease the use of the land for the stationing of caravans for residential purposes, b) remove any caravans in their entirety from the Land and disconnect and make safe all services to the caravans, c) remove the entrance gates and close boarded fencing, d) remove the cesspit from the land, e) remove the hardstanding (as shown black cross-hatched on the plan attached to the notice) in its entirety, and (f) restore the land to its former condition.
  - The period for compliance with the requirements is six months.
  - The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 (as amended).
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### Decision

1. It is directed that the enforcement notice is varied by the deletion of the words "*The requirements detailed in section 4 of this Notice must be completed within 6 months of the date this notice takes effect*" in section 5, and their substitution with the words "*The requirements detailed in section 4 of this Notice must be completed within 9 months of the date this notice takes effect*". Subject to the variation, the enforcement notice is upheld.

### Preliminary Matters

2. The appellant appealed on grounds (a) and (g) of section 174(2) of the Act. However, the Planning Inspectorate has confirmed that the ground (a) appeal is barred given the requirements of section 174(2A) of the Act. This is because the notice was issued within the two-year period after the making of a related planning application<sup>1</sup> that is no longer under consideration.
3. The appeal is therefore proceeding solely on ground (g) of Section 174(2) of the Act. In this context, the appellant has appealed for the sole reason of securing more time regarding the compliance period and in the expectation that the notice will be upheld. This is a relevant consideration in so far that in these circumstances, I can consider time that has lapsed since the issue of the notice in deciding what period for compliance is reasonable. Moreover, and, as there is no ground (a)

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<sup>1</sup> Planning application DC/23/03917

appeal, it must be assumed that the breach of planning control has caused harm as identified in the reasons for issuing the notice. This a relevant matter when balancing the public interest in the notice being complied with expeditiously with any identified private interests of occupiers of the site.

## Reasons

4. The appeal made on ground (g) is that the period specified in the notice in accordance with section 173(9) of the 1990 Act (as amended) falls short of what should reasonably be allowed.
5. The evidence is that the occupiers of the site are two adult Travellers (Romani Gypsy). The Council does not dispute that the occupiers of the site meet the definition of a Traveller in annex 1 of Planning Policy for Traveller Sites 2024. The two adults are married and that there are no children on the site. The evidence is that the adults are registered at a local doctor's practice in Needham Market and the adult male works as a landscape gardener.
6. The appellant has commented that the family has mainly lived a roadside or transit site existence and that they have only had one settled base previously which was in 2007. He comments that any savings that he had, have been spent on the planning process.
7. In considering this ground (g) appeal, 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 Equality Act 2010 recognises that race constitutes a relevant protected characteristic for the purposes of the PSED. Romani Gypsies and Irish Travellers are ethnic minorities and thus have the protected characteristic of race. I have also considered Article 8 of the European Convention on Human Rights, as incorporated into the Human Rights Act 1998 (HRA), which 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.
8. The period for compliance with the requirements of the notice is six months. The appellant states that as the breach of planning control involves the residential use of the land, and as there are currently no suitable and available alternative Traveller sites/pitches to accommodate the needs of occupiers of the site, a compliance period of twelve months would be reasonable.
9. There is some confusion about whether the appellant considers that a compliance period of eighteen months rather than twelve months would be reasonable and necessary. There is conflicting evidence from the appellant in this regard. I have therefore determined this appeal based on the appellant's claim that between twelve and eighteen months is reasonable and necessary.
10. The planning harm caused by the breach of planning control, as outlined in the reasons for issuing the notice, includes the unsustainable location of the site; the harm caused to the significance of Needham Market Conservation Area and to the setting of Hawks Mill which is a grade II listed building; the harm caused to the character and appearance of the area including to landscape character; the flood risk and safety implications of living on a site which is within functional floodplain (flood zone 3b) and based on a 'highly vulnerable' residential use; and the uncertainty relating to possible adverse impacts arising

from the development of the site in terms of biodiversity. Collectively, these are harms to which substantial weight must be afforded when considering the reasonableness of the compliance period.

11. The appellant states that there are currently no suitable and available alternative sites/pitches to accommodate the needs of the two adults. This does not appear to be disputed by the Council. Unless the adults can source an alternative site elsewhere, including, if necessary, obtaining any necessary planning permission, the evidence does suggest that they may have to resort to a roadside existence. In relative terms, I find that this would have negative impacts for them.
12. The notice was issued on 12 December 2024. As this is only a ground (g) appeal, the appellant will have been aware that the notice would be upheld. In other words, the appellant has already had some time to plan to look for or secure an alternative site. I do not know from the evidence whether efforts have been made to find or secure an alternative site elsewhere (including the option of applying for planning permission if that were to be needed), although I find that to be unlikely given the claim about lack of spare money. The evidence is that there are currently no suitable and available alternative Traveller sites/pitches for the occupiers of the site. In this regard, I find that there is some justification for a longer compliance period.
13. I acknowledge that the evidence indicates that there is a real concern regarding flood risk and hence danger to life. Nonetheless, and, on balance, I find that some additional time is justified to ensure that the adults continue to have the stability of a settled base while they try to find, and, if necessary, secure planning permission for a settled residential base elsewhere. Moreover, some additional time would perhaps enable the appellant to put aside some additional money from his landscaping business to assist in any move to a site elsewhere.
14. Furthermore, the evidence is that adults take medication for specified health conditions. In respect of this appeal, I have treated such conditions as disabilities in so far that they are likely to affect normal day to day activities. A slightly longer compliance period would, to some extent, seek to minimise the symptoms of the identified health conditions.
15. The collective planning harm that has been caused to the site/area, as outlined in the reasons for issuing the notice, is significant. Moreover, there is a need for the appellant and his wife to vacate the site expeditiously given the potential for a flood risk event to occur and hence danger to life. However, in the absence of any suitable and available alternative Traveller site for the appellant and his wife, and, given the other matters outlined, I find, on balance, that a slightly longer compliance is justified. In this regard, and, also considering the period between lodging the ground (g) appeal and making this decision, I find that a compliance period of nine months is justified in respect of all the requirements in the notice.
16. I recognise that while I have decided to extend the compliance period to nine months, it will nonetheless mean that the notice is upheld and the hence the occupiers of the site will lose a home. Furthermore, it remains possible that the appellant's efforts to find/secure a site elsewhere within this extended compliance period may not be successful and hence upholding the notice may potentially result in the appellant and his wife having to live a roadside existence. Nonetheless, I find that the protection of the public interest cannot be achieved by means that are less

interfering of the Article 8 HMA rights of the occupiers of the site. I therefore find that a compliance period of nine months is reasonable, necessary and proportionate. In reaching this decision, I have also had due regard to the PSED set out in the Equality Act 2010.

### **Conclusion**

17. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

*D Hartley*

INSPECTOR