



Appeal Decisions

Site visit made on 20 May 2025

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2025

Appeal A Ref: APP/F2415/C/24/3339923

Land Opposite Wild Meadow, Bowden Lane, Welham LE16 7UX ("Site A")

- Appeal A is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the Act"). The appeal is made by Mr Harry Mochan against an enforcement notice (Notice A) issued by Harborough District Council.
 - Notice A, reference EN 684, was issued on 16 January 2024.
 - The breach of planning control as alleged in Notice A is: Without planning permission, the material change of use of the land from equestrian uses to a mixed use as equestrian and the stationing of caravans for residential purposes for a Gypsy/Traveller pitch (Sui Generis), together with the formation of additional hard standing.
 - The requirements of Notice A are: (i) Permanently cease the use of the land as a Gypsy/Traveller residential caravan site; (ii) Permanently remove from the land all caravans (including static caravans), associated vehicles and domestic paraphernalia; and (iii) Permanently remove from the land all associated works and operational development undertaken to facilitate the unauthorised use referred to in (i) above, including but not limited to hardcore, road planings, and surfacing materials.
 - The periods for compliance with the requirements are: (i) and (ii) 6 calendar months; and (iii) 8 calendar months.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (f), (g) of the Act. 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.
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Appeal B Ref: APP/F2415/C/24/3339943

Land Opposite Wild Meadow, Bowden Lane, Welham LE16 7UX ("Site B")

- Appeal B is made under section 174 of the Act. The appeal is made by Mr Felix McCann against an enforcement notice (Notice B) issued by Harborough District Council.
 - Notice B, reference EN 685, was issued on 16 January 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the land from equestrian uses to a mixed use as equestrian and the stationing of caravans for residential purposes for a Gypsy/Traveller pitch (Sui Generis), together with the formation of additional hard standing.
 - The requirements of Notice B are: (i) Permanently cease the use of the land as a Gypsy/Traveller residential caravan site; (ii) Permanently remove from the land all caravans (including static caravans), associated vehicles and domestic paraphernalia; and (iii) Permanently remove from the land all associated works and operational development undertaken to facilitate the unauthorised use referred to in (i) above, including but not limited to hardcore, road planings, and surfacing materials.
 - The periods for compliance with the requirements are: (i) and (ii) 6 calendar months; and (iii) 8 calendar months.
 - Appeal B is proceeding on the grounds set out in section 174(2)(a), (b), (f), (g) of the Act. 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.
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Appeal A – Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - The deletion of the word "pitch" and its substitution with the words "caravan site" in section 3.

- The deletion of the word "hardcore" and its substitution with the words "hardcore in the approximate position shown hatched green on the attached plan" in section 5.iii.
 - The deletion of the words "six (6) calendar months" and "eight (8) calendar months" and their substitution with the words "12 calendar months" and "14 calendar months" respectively in section 6.
 - The substitution of the plan at Appendix 2 to this decision for the plan attached to the enforcement notice.
2. Subject to the corrections and variations, 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 Act.

Appeal B – Decision

3. It is directed that the enforcement notice is corrected and varied by:
- The deletion of the word "pitch" and its substitution with the words "caravan site" in section 3.
 - The deletion of the word "additional" in section 3.
 - The deletion of the words "six (6) calendar months" and "eight (8) calendar months" and their substitution with the words "12 calendar months" and "14 calendar months" respectively in section 6.
4. Subject to the corrections and variation, 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 Act.

Preliminary Matters

5. While Notices A and B allege that the same development has occurred at the same address, they relate to separate, adjoining parcels of land. The parcels are in different ownership, and hence Appeals A and B are made by different persons. However, the appellants have jointly instructed an agent who made a single submission in support of both appeals.
6. A third site with the same address was subject to a planning application for 'change of use of land for the siting of 1 mobile home to provide 1 no. Gypsy and Traveller pitch.' The Council refused to grant planning permission and a subsequent appeal ("the 2023 appeal decision")¹ was dismissed. That decision has been put before me and is a material consideration in the determination of Appeals A and B, although it is not binding on me.
7. Each notice alleges a material change of use to a 'Gypsy/Traveller pitch' but requires cessation of use as a 'Gypsy/Traveller caravan site.' While there is only one pitch² on each site, that term does not in itself denote a land use. Each allegation should be corrected to properly describe the development and the deemed planning application, and to be consistent with the requirements.

¹ APP/F2415/W/22/3313559, dismissed 17 October 2023.

² Meaning [part of] a caravan site occupied by a single household.

8. The appellants suggest that correcting the notice would cause them injustice, but do not explain how. It is already clear that both notices are directed at the stationing of caravans for residential use and both appellants understand that. Correcting the allegation would not make the requirements of the notices any more onerous; so, no injustice would be caused to the appellants or the Council.
9. The statement that caravans have been stationed on the land for over 10 years made in the appeals on ground (f) in both appeals is more appropriately considered in ground (d). While, as made, Appeal B did not specify an appeal on that ground, I shall consider it as having been made for that reason.

Appeals A and B – the appeals on ground (b)

10. An appeal on ground (b) is that the matters stated in the notice have not occurred. In each case, the appellant suggests the breach of planning control would be more accurately described as “Without planning permission, the change of use to mixed use caravan site and equestrian, and the formation of hardstanding.”
11. While the suggestion was made in good faith, it only amounts to a denial that a matter stated in either notice has occurred in one respect. That is the allegation of the formation of *additional* hardstanding in the notice the subject of Appeal B.
12. Evidence considered in more detail in the appeals on grounds (c) and (d) below indicates that a hardstanding had long existed on part of Site A. The hardstanding that Notice A attacks is additional to that. However, there is no such evidence for Site B, which is entirely grassed in aerial images from 2019 to 2024. The hardstanding that has been formed on Site B is therefore not an additional area and ‘the formation of hardstanding’ is a more accurate description. There is no reason to believe that the appellant in Appeal B would have made a different case if the allegation had been phrased that way, so this correction can be made without causing injustice.
13. The appeal on ground (b) therefore fails in respect of Appeal A and succeeds to the identified limited extent in respect of Appeal B and Notice B will be corrected.

Appeal A – the appeal on ground (c)

14. Planning permission was granted in 2014³ for the change of use of the appeal site from agriculture to equestrian and the erection of stables. Although a hardstanding is not included in the description, and so is not mentioned in the decision notice, the approved location plan shows one extending approximately one third of the way into the site from Bowden Lane.
15. No conditions were imposed in respect of the hardstanding, so the appellant contends that its extent is not controlled. However, if the location plan were disregarded, so the permission is interpreted from the content of the decision notice alone, it would have to follow that no hardstanding was permitted. In these circumstances, given that every planning application must include a location plan, it is reasonable to take that drawing into consideration and interpret the permission as having authorised the extent of hardstanding it shows.
16. The alleged additional hardstanding identified by the Council corresponds to an area annotated ‘paddock’ on the approved location plan, not the hardstanding

³ 14/00473/FUL granted 23 May 2014.

shown on the same plan. The appellant has not demonstrated that the formation of this additional hardstanding was not development requiring planning permission. Accordingly, and on the balance of probabilities, the formation of the additional hardstanding requires planning permission, which has not been granted, so it is in breach of planning control. The appeal on ground (c) must therefore fail.

Appeals A and B – the appeals on ground (d)

17. This ground of appeal is that, on the date the notice was issued, it was too late for the Council to take enforcement action.
18. In Appeal A, it is argued that operational development comprising the formation of the additional hardstanding had been substantially completed not less than 4 years before the notice was issued, i.e. on or before 16 January 2020. If so, the additional hardstanding would be immune from enforcement action by reason of section 171B(1) of the Act.
19. The appellant states there has been hardstanding on Site A for over 4 years, which is likely as far as the area shown on the 2014 location plan and associated with the former solely equestrian use is concerned. However, there is no evidence that hardstanding was laid anywhere else in connection with that former use.
20. The only evidence produced in support of the appellant's claim in respect of the alleged additional hardstanding is an aerial image from May 2019, in which much of the additional area identified by the Council is a brown colour. However, that could simply be bare earth and most of that area is green, in all probability grassed, in later aerial images taken in 2021 and 2024.
21. In both appeals, it is also suggested that caravans have been stationed on the land for over 10 years. If so, the alleged use could be immune from enforcement action by reason of s171B(3) of the Act. However, no relevant evidence has been produced and in each case the claim is contradicted by aerial images.
22. Specifically, images of Site A taken between 2015 and 2019 show a touring caravan on the land, but not that it was stationed for residential use for any 10-year period with no significant interruption to the use. Aerial images of Site B, taken between 2019 and 2014, show no caravans on the land at all.
23. It has therefore not been demonstrated, on the balance of probabilities, that the additional hardstanding was substantially completed on or before 16 January 2020. Nor has it been demonstrated on the same terms that the alleged use of either site had taken place for any 10-year period by the date the notice was issued. Consequently, the appeals on this ground must fail.

Appeals A and B – the appeals on ground (a)

Main Issues

24. The deemed planning applications are for the use of the land as a residential caravan site. In each case, conditions would need to be imposed to control the number and/or type of caravans and to restrict occupation to Gypsies and Travellers as defined in the glossary to Planning Policy for Traveller Sites (PPTS).

25. The main issues in each appeal are therefore:

- Whether the use of the land as residential caravan sites gives rise to an unacceptable risk of flooding.
- Whether the site is suitable for the proposed development having regard to access to the nearest settlement and to a range of services.
- The need for, supply and availability of Gypsy and Traveller sites in the district and whether there has been a failure of policy in respect of provision for such development.
- The personal circumstances of the appellant and his family.

Reasons

Flood risk – the flood risk classification of the site and the policy context

26. The National Planning Policy Framework (“the Framework”) sets out in paragraph 170 that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. The Framework also provides in Annex 3 that caravans and mobile homes intended for permanent residential use are ‘highly vulnerable’ to flood risk.
27. The nearest watercourse to both sites is the Stonton Brook, approximately 75m to the west. Data from the Environment Agency (EA) confirms that both sites are within the brook’s floodplain, meaning that the land is functional floodplain or needed to hold water in a flood event. By reason of being in the floodplain, both sites are classed as being in Flood Zone 3b (FZ3b), land at the highest risk of flooding. The annual probability of flooding from the brook is 3.3%.
28. The River Welland is some 250m south of Site B. Both sites are within the river catchment floodplain, so they have a high probability or greater than 1 in 100 (1%) risk of flooding from the river. The sites are in FZ3a in respect of this second source of flooding. I accept the EA’s evidence that the sites are not protected by flood defences, meaning that the banks of natural high ground along the river and brook do not have that protective effect.
29. There is a history of flooding in the area, with events recorded in 1998 and more recently in 2012, 2013, 2016, 2019, 2020 and 2023. It is not clear whether, or to what extent, the appeal sites were affected. However, the appellants’ site-specific flood risk assessment (SSFRA) does not dispute the flood risk classification or the actual risk of flooding on either site. Their case, as set out in more detail below, is rather that the actual risk is not unacceptable and can be adequately mitigated.
30. The 2023 appeal decision also concerned a residential caravan site in FZ3. The Inspector emphasised the expectation of the Planning Practice Guidance (PPG) that highly vulnerable development should not be permitted in areas at the highest risk of flooding. Policy B, paragraph 13 of PPTS also states that Gypsy and Traveller sites should not be located in areas at high risk of flooding given the particular vulnerability of caravans.
31. However, paragraph 170 of the Framework provides that where development would be inappropriate in areas at risk of flooding but is nonetheless necessary, it should be made safe for its lifetime without increasing flood risk elsewhere. In

other words, the Framework does not expressly prohibit development in FZ3 and so the appeals cannot be dismissed simply because that is where the sites are.

Flood risk – the sequential test and alternative sites

32. The aim set out in Framework paragraph 170 to direct development away from areas at the highest risk of flooding is to be achieved by taking a sequential, risk-based approach to individual planning applications. Paragraphs 173 and 174 of the Framework aim to steer new development to areas with the lowest risk of flooding. The latter states that development should not be permitted if there are reasonably available and appropriate sites for it in lower risk areas.
33. The appellants have submitted one SSFRA for both sites, but it does not include a sequential test (ST). On its face, then, the appellants have not shown that either pitch could not be directed to an area at lower risk of flooding. However, as set out in more detail below, the Council does not have a supply of deliverable Gypsy and Traveller sites sufficient to meet its needs for the next 5 years. There are no alternative Gypsy and Traveller sites anywhere in the district that are available for the appellants.
34. As there are no available alternative sites, it must follow that there are none in any area at lower risk of flooding. I shall therefore take the ST as passed.

Flood risk - necessity and safety

35. Paragraph 177 of the Framework provides that, where it is not possible to locate development in an area at a lower risk of flooding, the exception test may have to be applied. However, the PPG is clear that the exception test should not be applied to highly vulnerable development proposed in FZ3. It is thus necessary to go back to paragraph 170 of the Framework. This states that where development would be inappropriate in areas at risk of flooding but is nonetheless necessary, it should be made safe for its lifetime without increasing flood risk elsewhere.
36. I shall take the development as necessary on the basis, again, of there being no available alternative sites. The outstanding question is therefore whether the development would be safe for its lifetime without increasing flood risk elsewhere. That assessment should be undertaken having regard to the SSFRA and criteria a) to e) set out in paragraph 181 of the Framework.
37. Criterion a) requires that, within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location. A site layout plan has not been provided for either deemed planning application, but a plan within the SSFRA shows the pitches on the highest part of each site, which is where the static caravans are currently sited.
38. The SSFRA indicates that water from Stonton Brook, which poses the greatest flood risk, would need to flow some 120m across other land to reach the sites. This would not be from the part of the brook nearest the sites but from a point further north, which is the most probable source of floodwater. It is suggested that the waters would largely dissipate before reaching either site, such that peak depths on both would be less than the 200mm maximum identified for a 1 in 30-year event. The SSFRA also records that the static caravans are stationed where peak depths would generally be less than 100mm. It concludes that they would remain

dry in a 1 in 100-year event, even with an allowance for climate change, and in a 1 in 30-year event. The evidence therefore indicates that criterion a) is met.

39. Criterion b) requires that the development is appropriately flood resistant and resilient so that it can be quickly brought back into use without significant refurbishment in the event of a flood. The SSFRA considers that floodwater would dissipate before reaching the sites, where it would be of minimal depth and would not pose a risk to life or the mobile homes. Nevertheless, it recommends tethering mobile homes to prevent them moving with flood water and becoming a hazard.
40. However, the SSFRA does not indicate the likely velocity of the flood water passing through the sites during an event. EA fluvial hazard mapping includes velocity but is not available for either site. The force of water that tethering would need to withstand is therefore unclear, as is the likely extent of any necessary subsequent refurbishment of the caravans. Thus, and despite the confidence expressed in the SSFRA, I consider that criterion b) is not complied with.
41. Criterion c) expects necessary development in areas at the highest risk of flooding to incorporate sustainable drainage systems, unless there is clear evidence that this is inappropriate. The SSFRA does not provide such evidence for either site or any recommendations for site drainage. Nevertheless, if planning permission were granted in either case, it could be subject to a condition requiring the submission of a drainage study and, if necessary, a sustainable drainage system that could be implemented. It is therefore reasonable to conclude that criterion c) could be met.
42. Criterion d) requires that any residual risk can be safely managed. The SSFRA states that this can be achieved by raising the mobile homes above expected flood water levels and by tethering them. However, as with criterion b) the absence of evidence regarding the velocity of flood water must cast some doubt on that view. I consider that criterion d) is not complied with.
43. Criterion e) requires that safe access and escape routes are included where appropriate, as part of an agreed emergency plan. A flood management and evacuation plan (FMEP) has been submitted for both appeals but it does not identify access and escape routes. However, these would be from the static caravans, across parts of each site with deeper water, to Bowden Lane.
44. The FMEP notes that flood depths could be significant at nearby low spots including along Bowden Lane⁴ and that “combined with the likely water velocity in some of these areas there is significant hazard to occupants.” It therefore recommends that occupiers should only leave the site in a vehicle with a high wheelbase, “such as a jeep, van or tractor” in the event of a flood. As there is no practical way of ensuring that all occupiers would have access to such a vehicle, it follows that safety of the access and escape routes has not been demonstrated, meaning that criterion e) is not met.

Conclusion on flood risk

45. For the reasons given, safe access and escape routes have not been identified and the Framework’s requirements for flood resistance and resilience and the management of residual risk are not met. Accordingly, I cannot conclude that either development would be safe for its lifetime. In each appeal, the development

⁴ Named as Great Bowden Lane.

gives rise to unacceptable risk of flooding and its mitigation, flood management and flood resilience measures have not been satisfactorily addressed. Consequently, a flood event could have devastating consequences for occupiers of the sites, especially any children or disabled or older people, without safe means of escape.

46. Both developments therefore conflict with Policy H6 of the Harborough Local Plan 2011 to 2031 (“the HLP”) which does not permit new Gypsy and Traveller sites that put the health and safety of occupants at risk through flood risk. They also conflict with Policy CC3 of the HLP, which only permits development that is water-compatible, or which passes the exception test in FZ3b. Additionally there is conflict with the Framework, PPTS and the PPG in respect of this issue.

Access to the nearest settlement and services

47. Policy H6 of the HLP requires that sites for Gypsies and Travellers are located within safe walking distance of a settlement and have access to range of facilities including health and education provision.
48. The sites are remote from any public transport network and the road to the nearest settlement, Welham, some 500m away, is narrow, unlit and has no footways. While this may not appear an attractive pedestrian route, particularly at night, the rural location means that limited traffic should be expected, such that the route does not appear unsafe.
49. Neither party has provided information on the services available in Welham, but I saw that it has a church and a pub. There is no evidence to suggest that the use of either site would fail to respect the scale of the village, or dominate it, or place an undue pressure on local infrastructure. Access to health, educational and other facilities in other settlements is, however, likely to be dependent on car use.
50. However, paragraph 110 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. This is highly relevant because PPTS does not prevent Gypsy or Traveller sites in rural or semi-rural areas. Furthermore, the factors relevant to the sustainability of Gypsy and Traveller sites identified in PPTS paragraph 13 do not mention public transport or the distance to shops and services.
51. Having regard to PPTS paragraph 13, both developments could reduce the occupiers’ need for long-distance travelling simply by reason of providing them with settled bases. The developments would also promote access to health services, in the sense of the ability to use those services, by reason of having a permanent address.
52. While an opposite conclusion was reached in the 2023 appeal decision, I find on the evidence before me that, although the occupiers would likely be car dependent, there would not be unacceptably poor access to shops and services. While both developments would conflict with HLP Policy H6 in this regard, they are not inconsistent with the Framework or PPTS, which in my view should prevail.
53. However, neither appellant has shown that the development has any access or other sustainability benefits that would weigh positively in favour of the appeal. For that reason, and since PPTS paragraph 13 expects that Gypsy and Traveller sites

should be sustainable by not being in areas at high risk of flooding, my conclusion on this matter cannot alter or outweigh my finding on the first main issue.

Need, supply and availability of Gypsy and Traveller sites

54. HLP Policy H6 seeks to make provision for a minimum of 5 additional pitches to meet the needs of Gypsies and Travellers within the district between 2016 and 2031. This policy provision is based on a 2017 county-wide Gypsy and Traveller Accommodation Assessment, which calculated need having regard to a more restrictive definition of Gypsies and Travellers than currently made in PPTS. Policy H6 is therefore likely to under-estimate the need for Gypsy and Traveller pitches.
55. Policy H6 allocates 2 sites to provide for the minimum of 5 pitches. Four of these have been provided, meeting the district's stated interim requirement to March 2026. It can therefore be accepted, although the requirement is likely to be an underestimate, that there is not an immediate unmet need for pitches. However, I have no evidence as to whether any of the 10 pitches on an identified reserve site have been provided. In these circumstances, as with the 2023 appeal decision, I find that the Council cannot demonstrate an up to date 5-year supply of deliverable sites, in conflict with PPTS. The Council also accepts that there are no suitable and available alternative sites for the appellants within the district.
56. The appellants suggest that the Council has not only failed to identify a 5-year supply through the HLP but has also failed to provide sufficient sites for Gypsies and Travellers in all its planning policies going back to 2006. However, no evidence to substantiate that claim has been provided. The appellants have not shown that there has been a persistent policy failure on the Council's part which could count as an additional factor in support of the appeals.
57. Nevertheless, I attach significant weight in favour of the appeals to the Council's lack of a 5-year supply of deliverable sites and the absence of any suitable and available alternative sites for the occupiers to move to.

Personal circumstances

58. The sites provide the appellants and their families with settled bases. Evidence of evictions from land in Exeter, Somerset, Bristol and Birmingham in June, July and August 2023 have been presented. While the communication is addressed to unidentified persons, the fact that copies are in the possession of the appellants indicates that they were included, reinforcing the value of a settled base to them.
59. In each appeal, the evidence indicates that some family members have diagnosed medical conditions and continuity of access to health services is therefore important to them. In Appeal A, some of the appellant's children attend a local primary school and in Appeal B, some of the appellant's grandchildren are in local pre-school education. In each case, the settled base provided by the appeal site is clearly of benefit in these respects.
60. PPTS is clear that appellants do not need to demonstrate any local connections. However, both appellants have family ties to the area and that adds to their cases. I conclude in each case that the appellant's personal circumstances carry significant weight in favour of the appeal.

Overall Conclusions on ground (a)

61. I have found that occupiers of caravans stationed on both sites are at unacceptable risk of flooding with consequent danger. This carries substantial weight against both appeals. The developments are not unacceptable in access terms but that is a neutral factor in the balance.
62. Factors that carry significant weight in favour of the appeals are the lack of a 5-year supply of sites suitable for Gypsies and Travellers, the lack of availability of sites, and the personal circumstances of the occupying families on both sites. Paragraph 28 of PPTS confirms that the provisions in paragraph 11d) of the Framework apply if there is not a 5-year supply of deliverable sites, meaning that permission should be granted unless – for these sites – any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
63. For both appeals, I find the objection to the development on flood risk grounds compelling. The personal evidence submitted shows that the occupiers of both sites include children and others with vulnerabilities who would be at the gravest risk if the land was flooded and there were no safe means of escape. The developments conflict with HLP Policies H6 and CC3, the Framework, PPTS and the PPG. There are no material considerations which would justify a decision not in accordance with the development plan. The adverse impacts of granting permission significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
64. That is sufficient reason for me to withhold any grant of permanent or personal planning permission. I have considered allowing the appeals subject to a temporary permission, so that the occupiers could live on the sites for a limited period, during which climate change should not advance significantly. This would increase the chances of finding alternative sites and avoiding homelessness.
65. Even for a temporary period, however, the occupiers would remain ‘highly vulnerable’ in a flood event because the SSFRA has not demonstrated that there would be a safe route from the site. I also note that it would not be reasonable to impose conditions requiring costly flood mitigation measures on a permission that would endure only for a temporary period.
66. Dismissing the appeals would interfere with the rights of the appellants to respect for their home and family life and property. This is under Article 8 of the European Convention on Human Rights as set out in Schedule 1 of the Human Rights Act 1998. The caravans are the occupiers’ homes, and living in those caravans is central to their private and family lives. While the best interests of children are a primary consideration in the appeals, children are amongst the most vulnerable in the event of a flood.
67. The rights set out under Article 8 are qualified rights, which may be interfered with in accordance with the law and in the interests of public safety in a democratic society. Although there are no alternative available sites, and the occupiers of the site stand to be made homeless, the risk and consequences of flooding are such that it is proportionate to dismiss the appeals on ground (a). The protection of the public interest cannot be achieved by means that interfere less with the rights of the occupiers under Article 8.

68. Under section 149(1) of the Equality Act 2010, I must also have regard to the aims of the Public Sector Equality Duty (PSED). The second of those aims, to advance equality of opportunity, is relevant in terms of access to suitable accommodation, particularly in view of the local undersupply of sites for Gypsies and Travellers. The appellants and their families, as Gypsies, have the protected characteristic of race for the purposes of the PSED. However, in each case the harm arising from the development in terms of flood risk outweighs its benefits to the occupiers. Dismissing the appeals is proportionate and necessary to avoid unlawful discrimination and to foster good relations between the occupiers and members of the settled community.
69. While I have taken account of the foregoing rights and the aims of the PSED, they do not individually or along with any other considerations, outweigh the substantial negative factor of flood risk. It is in the public interest to direct vulnerable development away from sites in FZ3 and in the best interest of any child to not be at risk of flooding. I note that a similar view was reached in the 2023 appeal decision.
70. For these reasons, I conclude that neither development accords with the development plan taken as a whole and there are no material considerations to indicate that my decision should be made other than in accordance with the development plan. Neither permanent nor temporary permission is justified in either case and the appeals should therefore be dismissed.

Appeals A and B – the appeals on ground (f)

71. An appeal on this ground is whether any requirement of a notice exceeds what is necessary to remedy the breach of planning control or any injury to amenity it may cause. By requiring that the alleged use must cease, both notices have the purpose of remedying the breach. For that reason, and as I have already considered the planning merits of the developments, ground (f) can only succeed if the appellants show that the breach would be remedied by taking lesser steps.
72. I have dealt with the inconsistencies between the allegations and requirements of the notices and found that both should refer to the use of land, in short, as a residential caravan site. I have also dealt, via ground (d), with the submissions that caravans had been on both sites for not less than 10 years. It is not excessive but necessary to require cessation of the residential use to remedy the breach.
73. If a caravan were stationed on either site solely for the purposes of a permitted or lawful equestrian use, that would not require planning permission. However, there is no evidence of any caravan having ever been on either site for that purpose and, in any event, the notices do not prevent resumption of any lawful or permitted use. It is not excessive to require the removal of caravans that are plainly on the site for the purposes of human habitation. Similarly, the requirement to remove 'associated vehicles' would not prevent, for example, towing a horse box onto the land for the purposes of a lawful or permitted equestrian activity.
74. The appellants criticise the notices because they do not specify the 'associated works and operational development' to be removed. However, I find that, read fairly, both notices clearly require the removal of those works that have facilitated the unauthorised residential use. The appellants will know what that entailed. As

noted before, Site B was grassed over as recently as 2024, indicating that there was no operational development in connection with any previous lawful use.

75. The Council's supplementary plan shows the approximate extent of the additional hardstanding on the land subject of Appeal A. It would be reasonable to vary the requirement to refer to this, thereby ensuring that any hardstanding laid earlier in connection with the permitted equestrian use is not affected. Appeal A succeeds on ground (f) to that limited extent only, while the ground (f) appeal for Appeal B must fail.

Appeals A and B – the appeals on ground (g)

76. As issued, the notices require the use to cease and all caravans, associated vehicles and domestic paraphernalia to be removed within 6 months (requirements i. and ii). A further 2 months is allowed (8 months in total) to remove associated works and operational development (requirement iii.) In each Appeal it is put that these periods should be increased to at least 18 months and 24 months respectively.
77. The reasons for seeking more time to comply with requirements i. and ii. are the lack of alternative sites and the stated personal circumstances. The weight I afforded to those considerations in the appeals on ground (a) was not enough to overcome the substantial adverse weight arising from the unacceptable risk of flooding and the consequent danger to occupiers. The requested minimum 18-month period would significantly prolong exposure to the risk and danger. However, 6 months may not be sufficient to find suitable alternative sites in the area, so a longer period of 12 months would achieve an appropriate balance.
78. It follows that the period to comply with requirement iii. should also be extended by 6 months, to 14 months. However, no reason has been given for why it should be set to 6 months after compliance with requirements i. and ii., as requested, rather than 2 months.
79. For these reasons the appeals on ground (g) succeed in part and all periods will be extended by 6 months.

Mark Harbottle

INSPECTOR

Appendix 1
List of those who have appealed

Appeal	Case Reference	Notice	Appellant
Appeal A	APP/F2415/C/24/3339923	EN 684	Mr Harry Mochan
Appeal B	APP/F2415/C/24/3339943	EN 685	Mr Felix McCann

Appendix 2

Plan to be attached to Notice A

