



Appeal Decision

Site visit made on 30 September 2025

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

an Inspector appointed by the Secretary of State

Decision date: 10th October 2025

Appeal Ref: APP/M0655/C/25/3363125

Former Utilities Pumping Station Site, Broad Lane, Collins Green, Warrington, Cheshire, WA5 4AE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr John Jenkins against an enforcement notice issued by Warrington Borough Council.
 - The notice was issued on 18 February 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land to a residential traveller site with associated static caravan, trailer/touring caravans, amenity buildings, campervans, hardstanding, brick-built utility building, sheds, storage containers, fencing, gates, and paraphernalia, including children's play equipment, materials, gas bottles, vehicle trailer, and bins.
 - The requirements of the notice are to cease the residential use of the land and remove the associated static caravan, trailer/touring caravans, amenity buildings, campervans, hardstanding, brick-built utility building, sheds, storage containers, fencing, gates, and paraphernalia, including children's play equipment, materials, gas bottles, vehicle trailer, and bins.
 - The period for compliance with the requirements is six calendar months from the date on which the notice takes effect.
 - The appeal is proceeding on the ground 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 period for compliance is six calendar months from the date on which this notice takes effect"* in section 6, and its substitution with the words *"The period for compliance is ten calendar months from the date on which this notice takes effect"*. Subject to the variation, the enforcement notice is upheld.

Preliminary Matters

2. A refused planning application for similar development on the appeal site was dismissed on appeal on 29 November 2024¹. However, the evidence is that this proposal also included a transit pitch area which is not the subject of this enforcement appeal.
3. In respect of the planning application appeal, there was no dispute between the main parties that the land was being occupied by Travellers. There is no evidence before me to indicate that when the notice was issued, the site was not still in occupation by members of the Traveller community as defined in the Government's Planning Policy for Traveller Sites December 2024. The Council do not make any claim that when the notice was issued, it was not being occupied by Travellers.

¹ Appeal Reference APP/M0655/W/24/3347543

4. The appellant's updated evidence, dated 3 October 2025, is that the site is currently being occupied by himself and his two school aged children, his father who is receiving medical treatment and awaiting an operation, and four other adults some of which have disabilities and/or health conditions. The Council questions whether the appellant's 3 October 2025 personal circumstances evidence can be relied upon in the absence of *'medical documentation, professional assessment, or other verifiable evidence'*.
5. It is noteworthy that the Council has not provided me with any welfare assessments prior to the notice being issued, or in connection with responding to my request from the appellant for an update in terms of the personal circumstances of those that occupy the site. In this regard, and, in the absence of any contrary evidence from the Council, I have no reason to doubt what the appellant says in his email dated 3 October 2025.
6. In respect of the two school aged children, I note that in respect of planning application appeal the Inspector commented that *'two school age children are currently residing elsewhere with their mother, but they visit and may reside on the site'*. Even if the children were not living on the site all the time, this does not diminish the likely importance that a stable residential base gives them from the point of view of at least visiting their father. Other individual health issues are also referenced in the planning appeal decision, and it is noteworthy that the notice was issued within a relatively short time after that decision was made.
7. Given that the issues raised in the appellant's email dated 3 October 2025 relate to person's characteristics, it is necessary that I have due regard to the public sector equality duty (PSED) contained within section 149 of the Equality Act 2010, as well as the rights conveyed in 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. It is necessary that I apply the PSED, and to balance rights under Article 8 of the HRA in considering this ground (g) appeal. While the Council may question the evidence of the appellant in respect of current occupation and health/disability matters, it is noteworthy that it has not submitted any of its own welfare assessments relating to occupation of the appeal site. In this regard, the Council has not provided any evidence of its own to dispute or contradict what the appellant says about the current occupation of the site (including the children), and the health/disability matters that pertain to individuals on the site.

Reasons

9. An appeal made on ground (g) is that the period specified in the notice in accordance with section 173(9) of the Act falls short of what should reasonably be allowed.
10. As there is no ground (a) appeal, or deemed planning application before me, I am unable to consider the planning merits of the breach of planning control. In this context, I must therefore assume the planning harm caused in respect of the identified reasons for issuing the notice. Such planning harm includes unstable/unsafe land (i.e., mine shafts) and the unacceptable impact of residential use of the land on highway safety due to inadequate access arrangements.

11. The appellant's claim under the ground (g) appeal is that a compliance period of eighteen months, as distinct from six months, is needed as, firstly, the local planning authority (LPA) is not able to demonstrate a deliverable five year supply of Traveller sites; secondly, as there are currently no suitable alternative Traveller sites available for occupiers of the site; thirdly, that children live on the site and the best interests of the children are a primary consideration; and, fourthly, having to leave the site would make the occupants homeless resulting in them having to live a roadside existence which, in turn, would have a detrimental impact on their emotional and physical well-being including those that have identified health and medical conditions.
12. I shall deal with each of the above in turn.

Need and Whether Alternative Traveller Sites are Available

13. Based on the Cheshire East, Cheshire West and Chester, Halton and Warrington Gypsy Traveller and Travelling Showpeople Accommodation Assessment 2018 (GTAA), the inspector who considered the planning application appeal in November 2024 concluded that the LPA could not demonstrate a deliverable five-year supply of Traveller sites. The LPA now states, as part of its statement of case, that it can demonstrate a five-year supply of Traveller sites including those that meet the definition in the PPTS.
14. The LPA states that since the publication of the GTAA, twenty-six Traveller pitches have been approved by it. Even accounting for 'unknowns', or those that may not meet the definition of a Traveller in the GTAA, the LPA states that it can demonstrate a supply of twenty-six pitches up to 2032 out of an overall need of twenty-seven pitches. The appellant does not dispute the recent claim made by the LPA about being able to demonstrate a deliverable five-year supply of Traveller sites. Indeed, the appellant did not provide any final comments in respect of the appeal.
15. The unchallenged evidence does appear to suggest that the LPA can demonstrate a deliverable five-year supply of Traveller sites based on the GTAA, i.e., the most up to date assessment of objectively assessed Traveller pitch need in the area. That said, it is noteworthy that the GTAA is now of some age and indeed the evidence is that it is in the process of being reviewed. It remains possible, therefore, that the Traveller pitch need position may be different to that which was identified in 2018. There is no dispute between the main parties that there are currently no alternative Traveller pitches available in the area which could be occupied by occupiers of the unauthorised Traveller site. While not always a determining factor, this could be evidence that the overall need for Traveller pitches might be greater now than originally outlined in the GTAA.
16. Notwithstanding the above comments, I do not, in any event, consider that the supply of pitches is a decisive factor in terms of this ground (g) appeal. Instead, it is the undisputed lack of any currently available alternative Traveller pitches which carries significant weight as part of the consideration as to whether the compliance period is reasonable. The evidence is that in upholding the notice it would mean that the occupiers of the site would not immediately have another existing Traveller site or pitches to occupy. Moreover, there is nothing before me to suggest that there is a likelihood of existing and alternative Traveller pitches becoming available within the next six months.

17. The above matter clearly needs to be balanced against the planning harm identified in the issued notice and hence the risks associated with the continued occupation of the land from a highway safety and land stability/safety point of view. Moreover, it is important that I emphasise that a current lack of any alternative available Traveller pitches does not mean that it would not be possible for the appellant/occupants to source land elsewhere in the area and to obtain planning permission on it for Traveller pitches in accordance with the specific requirements of policy DEV 3 of the adopted Warrington Local Plan 2023. It is noteworthy that the appellant does not make any claim about financial hardship.
18. In my judgement, a period of ten months would be reasonable should the appellant decide to pursue this course of action. This would strike a reasonable balance between avoiding the occupants of the appeal land becoming homeless, while at the same time reducing time spent on the site when there are clear planning safety risks.

Best Interests of the Children

19. I have no reason to doubt that the appellant's children do live on the appeal site, albeit that it might be that some time is also spent with their mother who lives elsewhere.
20. As the evidence is that there are no alternative Traveller pitches available in the area, I find that a period of ten months would afford the occupiers of the site longer to source and make available an approved and policy compliant Traveller site elsewhere in the area, thereby minimising the potential disruption caused to the well-being of such children when visiting their father and arising from compliance with the notice.
21. Avoiding a roadside existence, if possible, would clearly have benefits in terms of the children on the land from a well-being and overall stability point of view. A period of ten months would coincide with the end of this academic year and the start of the next thereby affording a degree of educational stability for the appellant's children who occupy the site.
22. I appreciate that the evidence does not indicate whether the children are home schooled or whether they attend a school in the area. Either way, visiting their father if he had to live a roadside existence would cause some disruption to the children and, in this regard, is also of relevance to the stability of their education. It remains possible that if the appellant were forced to live a roadside existence, this may have implications in terms of where and how he cares for his children. The best interests of the children are a primary consideration in respect of this ground (g) appeal.

Other Considerations

23. Race constitutes a relevant protected characteristic for the purposes of the PSED. Romany Gypsies and Irish Travellers are ethnic minorities and thus have the protected characteristic of race. In this regard, I am mindful that use of the land for a slightly longer period as a residential caravan site would enable the appellant and the other occupants some stability and in accordance with their culture and values.

24. I have carefully considered the health evidence submitted by the appellant. In this regard, I have had due regard to the PSED contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment, and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
25. The certainty of a stable residential base may help to alleviate and control some of the symptoms associated with the health/medical conditions of some that occupy the site. However, this is a matter that must be weighed against the identified planning harm caused by the breach of planning control. Furthermore, a slightly longer compliance period also has the potential to afford the other existing residents some relative stability in terms of being able to plan to live on a new Traveller site elsewhere, as distinct from potentially having to live a roadside existence.
26. The appellant's evidence does not sufficiently demonstrate why it would not be possible to transition from the appeal land to an alternative and policy compliant new site elsewhere in the area within the above ten-month period. The evidence does not therefore support the contention that upholding the notice would necessarily lead to a roadside existence for occupiers of the site, or indeed that they would, in turn, be without a stable home. In this regard, the appellant's requested compliance period of eighteen months is not reasonably substantiated.

Ground (g) Appeal Conclusion

27. In this case, it is necessary that I balance the significant planning harm that has been caused by the breach of planning control as identified in the reasons for issuing the notice, against the Article 8 rights of the occupiers of the site, including the best interest of the children. It is also necessary that I consider the fact that this appeal relates to the sole reason of securing more time (i.e., a ground (g) appeal only) and hence that the appellant will have expected that the notice would be upheld. Consequently, I may take account of the time that has lapsed since the issue of the notice in deciding what period for compliance is reasonable.
28. Taking the above into account, coupled with the current lack of alternative available Traveller sites, the best interest of the children, and the opportunity available to potentially avoid a roadside existence from sourcing and obtaining planning permission on a new Traveller site in the area, thereby minimising the potential for the occupiers of the site to be made homeless, as well as factoring in the personal and health related considerations of residents on the site, I conclude, on balance, that a compliance period of ten months, rather than six months, is proportionate and reasonable in this case. In reaching this conclusion, I have considered the representations made by the Coal Authority and other interested parties.
29. I find that a ten month period strikes a proportionate and reasonable balance between bringing the unauthorised development to an end in the public interest, while also considering the rights of the occupiers of the land under Article 8 of the HRA (including the loss of a home), the PSED, the personal circumstances of the occupiers of the land, and the best interests of the children. Upholding the notice, with the stated compliance period variation, is a legitimate and proportionate

response to addressing the breach of planning control in the public interest. I therefore conclude that the ground (g) appeal succeeds.

30. In reaching the above conclusion, I have considered the Council's comment about two adults occupying the site who were not living on it when the planning appeal was considered by a different inspector. The Council comment that *'the commencement of unlawful occupation by new individuals cannot, in itself, justify extending the compliance period each time a new occupier arrives'*.
31. I do not know from the evidence if the two adults were occupying the site when the notice was issued as distinct from the planning appeal being dismissed. Indeed, I have not been provided with any welfare assessments from the Council. In any event, and, for the avoidance of doubt, the occupation of the land by these two adults has not been a decisive factor in terms of my decision to vary the compliance period from six to ten months. In other words, whether such individuals were living on the site when the notice was issued, or after the notice was issued, does not alter my overall conclusion that that the compliance period should be varied from six months to ten months.

Overall Conclusion

32. 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