



Appeal Decision

Hearing held on 7 October 2025

Site visit made on 7 October 2025

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2025

Appeal Refs: APP/Z3825/C/25/3368741, APP/Z3825/C/25/3368742, APP/Z3825/C/25/3368743, APP/Z3825/C/25/3368744 & APP/Z3825/C/25/3368745

Land west of Parsons Field Stables, Pickhurst Lane, Pulborough, West Sussex RH20 1DA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr F Keet, Mr FM Bath, Ms L Matcham, Mr J Burrows and Ms T Burrows against an enforcement notice issued by Horsham District Council.
- The enforcement notice was issued on 2 July 2025.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the Land from agriculture to the use of the Land for the stationing of caravans for the purposes of human habitation shown in the approximate location shaded grey on the attached plan, together with associated operational development comprising the creation of a widened access, the importation of material to create an access track and hardstanding as shown in the approximate location hatched blue on the attached plan, creation of a new access as shown in the approximate location shown denoted as a yellow line on the attached plan, the installation of a water treatment (septic) tank as shown in the approximate location as a black dot on the attached plan, the erection of buildings and associated hardstanding bases, to include day rooms, stables and an American barn, shown in the approximate location shaded in brown on the attached plan, concrete bases as shown in the approximate position shaded grey on the attached plan, the erection of gates as shown in the approximate location denoted as two green lines on the attached plan, and the erection of fencing shown in the approximate location denoted as a purple line on the attached plan.
- The requirements of the notice are to:
 - 1) Permanently cease the use of the Land for the stationing of caravans for the purposes of human habitation;
 - 2) Permanently remove from the Land all the caravans and associated domestic paraphernalia;
 - 3) Permanently remove from the Land all buildings, to include the day rooms, stables and American barn, as shown in the approximate location in brown on the attached plan;
 - 4) Permanently remove from the Land all works of operational development incidental to the unauthorised residential use of the Land as a caravan site, namely the water treatment (septic) tank as shown in the approximate location as a black dot on the attached plan; fencing shown in the approximate location denoted as a purple line on the attached plan; gates shown in the approximate location denoted as green lines on the attached plan; and concrete pads shown in the approximate location in grey on the attached plan;
 - 5) Permanently remove the hardstanding and any resulting debris from the Land shown in the approximate position shown hatched blue on the attached plan;

- 6) Permanently close off the access to the site from Pickhurst Lane as denoted as a yellow line in the approximate location on the attached plan, and restore the boundary with mixed hedge planting to include Hawthorn, Hazel, Hornbeam and Field Maple;
 - 7) Following the above steps, restore the land to its original condition by re-seeding it with grass.
- The period for compliance with the requirements is:
 - for step 1), ten calendar months after this notice takes effect;
 - for steps 2), 3), 4), 5) and 6), twelve calendar months after this notice takes effect;
 - for step 7), fourteen calendar months after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2) (b), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Formal Decision

1. The appeal is dismissed and the enforcement notice, subject to the deletion of the original plan attached to the notice and its replacement with the revised plan, is upheld.

Preliminary Matter

2. At the opening of the Hearing an amendment to the plan attached to the enforcement notice was tabled. It concerned the deletion of a small piece of land at the southern tip of the site. In different ownership, it had inadvertently been included within the plan's red line. The amendment was agreed by both main parties and I have accepted the revised plan. Accordingly, the new plan supersedes the previous version and, in addition to being placed on the Council's Statutory Register, it should also be distributed to the recipients of the enforcement notice.

Background

3. It is understood that the land was previously used by the previous owner for the grazing of horses until, in October 2024, the land was sold to the current occupant. Mr Keet, the previous owner, is the lead appellant on the current appeal.
4. In the early part of 2025 the evidence confirms that gypsy and travellers moved onto the site; the use facilitated by the access, which this appeal specifically concerns. At this point the various operational development placed on the land was carried out in connection with the material change of use of the land.
5. The lead appellants' planning agent told the Hearing that an access, which he said already existed off Pickhurst Lane, was widened by the previous owner, but this is disputed by local residents, two of which have provided statutory declarations to this end. A Statement as to the appeal site's history has also been provided on behalf of the owner of Wiltshire Farm, to the west of the site.

The enforcement notice and the limitations of the appeals lodged

6. One of the reasons for issuing the enforcement notice was the Council's opinion that the alleged material change of use – for which no ground (a) appeal has been made and, as such, no deemed planning application falls to be determined – along with the associated operational development, fails to protect, conserve and enhance the landscape character of the area.

7. In the circumstances the Council's case is that the various developments carried out all serve to facilitate the use of the land by gypsies and travellers. This includes the access off Pickhurst Lane which the Council says has been created, and which the appellants dispute saying that the access was already in existence and has merely been widened.

The appeal on ground (b)

8. An appeal made on this ground is that the breach or breaches alleged have not occurred as a matter of fact. In such instances the appellant thereby disputes the alleged occurrence of the operational works, activity, or development, rather than the legality or necessity of it. Accordingly, an appeal on ground (b) focusses on the factual existence of the alleged breach and, thereby, the accuracy of the allegation.
9. The onus of proof is on the appellant to substantiate his claims and precise and unambiguous evidence is necessary in an attempt to demonstrate, on the balance of probability, that the Council's version of events is factually incorrect.
10. The appellants' agent says that there was an old access in the hedgerow which, he indicates, was roughly in the position of the newly formed access. No photographic evidence has, however, been produced by the appellant to confirm this claim. Indeed, a Google Street image, dated June 2024, and provided by one of the interested parties, clearly shows that there was no break in the hedgerow which encloses the land from Pickhurst Lane.
11. The said Statutory Declarations from local residents along with the owner of Wiltshire Farm all dispute the appellants' claims although, whereas both Statutory Declarations state that the hedgerow was removed in November 2024, the said Statement says that this took place in October 2024, and a photograph, dated that month, is provided to accompany the Statement which shows a break in the hedgerow and a field gate installed. From the surrounding features I can confirm, from my site visit observations, that this is in the same position as where the access to the gypsy and traveller site is situated. It appeared, though, that the gate has been removed.
12. A site plan, which accompanied a 1997 application made for a proposed stable block at the appeal site has been provided by an interested party. This plan shows a single narrow access point to the site then existed, but the site was at that time greater in area and was of greater width. Since that time, the then eastern part of the site, has clearly been severed, and is now in separate ownership. As a result, with the access point shown on the 1997 site plan now lying outside the boundary of the plan attached to the enforcement notice, the current use required a new ingress/egress point
13. The appellant relies on an e-mail received from a Horsham DC official on 16 October 2024 whereby it was said that planning permission would not be required to 're-open the access'. Notwithstanding that this opinion is, in isolation, correct in planning terms as no planning permission is required for the creation of an access off an unclassified road, there is no indication given as to what information the Council official was given or what was specifically discussed in the earlier telephone conversation which prompted the e-mail.
14. No ground (c) appeal has been lodged in this regard and, as I have mentioned above, no compelling evidence has been advanced by the appellants to prove,

on the balance of probability, that any access at its current location previously existed. Further, I deal with the legal position below in my analysis of the ground (f) appeal made.

15. The appeal under ground (b), therefore, fails.

The appeal on ground (f)

16. The appeal on ground (f) is that the requirements of the notice exceed what is reasonably necessary to remedy any harm caused. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. S173(4) of the 1990 Act (as amended) provides that the purpose shall be to remedy the breach of planning control or to remedy any injury to amenity. It would appear that the notice here was drafted as a vehicle to remedy the breach.
17. In the judgement of *Murfitt v SSE & East Cambridgeshire DC* [1980] JPL 598 it was held that where an enforcement notice is issued in respect of a material change of use, and works were carried out to facilitate the use of the land – as is the case here – the notice may require that the ‘ancillary’ or ‘incidental’ works are removed in order that the site can be restored to its previous condition and the breach remedied.
18. It follows from *Murfitt* that an enforcement notice concerned with a material change of use may not only require the removal of works which may otherwise be immune, but also the removal of those which might have been permitted development if they perform a facilitative role. At the Hearing, Counsel raised the case of *Somak Travel v SSE & Brent LBC* [1987] JPL 630 as being relevant to the current appeal, given that, as the access created is off an unclassified road, it did not require the benefit of planning permission. I must agree as, in *Somak*, it was held that an enforcement notice could require the removal of works which did not amount to ‘development’ at all, but had facilitated an unauthorised material change of use.
19. In the above connection the Council’s witness confirmed at the Hearing that the notice’s requirement for the access to be closed off, along with the removal of all other associated operational development identified, was due to their relationship to the unauthorised use of the land. Accordingly, with reference to said case law the notice’s required steps are lawfully permissible.
20. Even so, it is still necessary in ground (f) appeals to address whether the removal of works is proportionate in the sense of being the minimum necessary to remedy the breaches. In this particular instance I am satisfied that this is the case, and the stated requirement that the access should be closed off is lawful in planning terms.
21. Accordingly, the ground (f) appeal does not succeed.

The appeal on ground (g)

22. An appeal under ground (g) is that any period specified in the notice, in accordance with s173(9) of the 1990 Act falls short of what should reasonably be allowed. In this instance there are three separate compliance time periods specified; a period of ten months for the residential use of the land to cease, twelve months for the caravans and the operational development to be removed, and fourteen months for the land to be restored to its previous condition.

23. In the absence of any ground (a) appeal and no deemed planning application to be determined, there is no scope here to grant planning permission subject to a time limitation condition – a temporary permission – and, under ground (g), it is only possible to extend the stipulated compliance periods.
24. There are two separate plots within the site, occupied respectively by the Burrows and Bath families. In terms of the personal circumstances both families appear to have three children, and all six are of school age.
25. I am legally bound to take into account the relevant provisions of the Human Rights Act, along with requirements under s149 of the Equality Act, 2010 which sets out the Public Sector Equality Duty (PSED) and the need to, amongst other things, eliminate discrimination for persons who share a protected characteristic. That said, I am satisfied that the enforcement notice's requirements serve a clear and justifiable planning purpose.
26. Article 3(1) of the United Nations Conventions 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.
27. In 2013, in the High Court judgement of *Stevens v SSCLG* [2013] EWHC 792 (Admin) it was held that where the Article 8 rights are those of children, their best interests are a primary consideration. Once identified, although a primary consideration, the best interests of the children were not determinative of the planning issue, but no other consideration was more important or to be given greater weight, and those best interests had to be kept at the forefront of the decision maker's mind.
28. Importantly, it was held that the best interests of the children were not only not determinative, neither were they paramount, with the judge noting that Article 3 says "*a primary consideration*" rather than "*the primary consideration*". Nor should they be considered temporally or logically first.
29. In the case the planning appeal Inspector, in her assessment, had referred to the children's benefit as carrying moderate weight. However, the court decided that, after examining all the material considerations, she was not giving the children's best interests inherently less weight than the visual harm to which the development had given rise. She was, therefore, fully entitled, after that analysis, to conclude that the dismissal of the appeal against the refusal of planning permission would not have a disproportionate impact on the family.
30. Also in 2013, the Court of Appeal heard the case of *Collins v SSCLG* [2013] EWCA Civ 1193, where it was held that whether the best interests of the children had been taken properly into account, the overall exercise was a question of substance to be answered by the detailed reasoning of the decision letter as a whole. It was acknowledged that the Secretary of State had, in substance, taken the view that the best interests of the children coincided with those of their families as a whole and lay in remaining on the site, but that the children's best interests and the other factors in favour of granting planning permission were outweighed by the harm that would be caused.
31. In the current appeal, whilst it is said, that children are present at the site, I was not provided with any evidence of weight, or detailed independent confirmation as to their schooling. If, though, the uncorroborated details set down are correct I am mindful that their education could be interrupted if the

family were forced to move from the site. Whilst I afford disruption in this regard some significant weight I am also satisfied that the ten calendar months given for the families to vacate the land, expiring during next August, would potentially allow for alternative schools, elsewhere, to be found for the children.

32. I also note that there is currently a planning application with the Council seeking planning permission for the use of the land by the current occupiers, but this must remain a matter between the two main parties and I do not intend to comment here on the various planning merits and impacts that arise from the use.
33. In the circumstances I am agreeable to the Council's phased compliance timetable. Although the use would be scheduled to cease before the removal of the operational development in situ and the ultimate restoration of the land, the liability arising from any failure to comply with Steps 2-7 in the notice will remain with the landowner, or would be passed onto any future owner should the land be sold.
34. The ground (g) appeal, therefore, similarly fails.

Timothy C King

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ben Kirk

FOR THE LOCAL PLANNING AUTHORITY:

Helen Sissons (Principal Planner)

INTERESTED PARTIES

Edward Grant of Counsel (instructed by Clare Bartlett of Batcheller Monkhouse, Sols)

Jilly Marcuson (Pulborough Parish Council)