



Appeal Decisions

Hearing held on 5 and 6 November 2025

Site visit made on 6 November 2025

by R Merrett BSc(Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 December 2025

Appeal A Ref: APP/E3715/C/25/3367451

Appeal B Ref: APP/E3715/C/25/3367452

Land at Fern Field, Oxford Road, Ryton-on-Dunsmore CV8 3EP

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Ms Nicola Anne Parry (Appeal A) and Mr Calum Holdback (Appeal B) against an enforcement notice issued by Rugby Borough Council.
- The notice was issued on 14 May 2025.
- The breach of planning control as alleged in the notice is Without planning permission, the material change of use of land from equestrian to a Gypsy and Traveller site including the siting of caravans/mobile homes and associated/incidental structures.
- The requirements of the notice are i) Cease the unauthorised use of the land; ii) Remove from the land all static caravans/mobile homes (the definition of caravan is as defined by the Caravan Sites and Control of Development Act 1960 as amended by Section 13 of the Caravan Sites Act 1968); iii) Remove from the land all structures associated with or incidental to the unauthorised Gypsy and Traveller site.
- The period for compliance with the requirements is fifty-six days.
- The appeals are made on the grounds set out in section 174(2)(a) (Appeal A only) 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 Decision: Appeal A is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal C Ref: APP/E3715/C/25/3367453

Appeal D Ref: APP/E3715/C/25/3367454

Land at Fern Field, Oxford Road, Ryton-on-Dunsmore CV8 3EP

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Ms Nicola Anne Parry (Appeal C) and Mr Calum Holdback (Appeal D) against an enforcement notice issued by Rugby Borough Council.
- The notice was issued on 14 May 2025.
- The breach of planning control as alleged in the notice is i) Importation of materials and their use for the formation of hardstanding and bunds; ii) Engineering operations comprising the formation of bunds; iii) Erection of gates; iv) Construction of a wall; v) Erection of timber fencing.
- The requirements of the notice are i) Remove from the site all imported materials; ii) Remove from the site the unauthorised hardstanding and bunds; iii) Remove from the site the unauthorised gates; iv) Remove from the site the unauthorised wall; v) Remove from the land any materials resulting in compliance with (ii) - (iv).
- The period for compliance with the requirements is fifty-six days.
- The appeals are made on the grounds set out in section 174(2)(a) (Appeal C only), (c), (d), (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 Decision: Appeal C succeeds in part and permission for that part is granted, but otherwise the appeal fails and the enforcement notice is upheld as corrected and varied in the terms set out below in the Formal Decision.

Application for Costs

1. At the Hearing an application for costs was made by Ms Nicola Anne Parry and Mr Calum Holdback against Rugby Borough Council. This application is the subject of a separate decision.

Preliminary Matters

Right of Appeal

2. At the beginning of the Hearing, the Council noted the appellant in relation to Appeals A and C (Ms. Parry), was stated to have sold the appeal site to the second appellant (Mr Holdback), two years ago¹. Accordingly, it says Ms Parry was no longer an interested party, and would not have been entitled to lodge the appeals.
3. S174(1) of the 1990 Act provides that 'a person having an interest in the land' to which an enforcement notice relates or a 'relevant occupier' may appeal to the Secretary of State, whether or not a copy of the enforcement notice has been served on them.
4. It is undisputed that at the time the notices were issued, land registry documentation continued to identify Ms Parry as the owner of the land. I am mindful there are limits to how far the Council need go in identifying owners, occupiers and persons with an interest in the land; also that case law has held a land registry address is proper service if an LPA has not been given another.
5. The Council has only now raised the question of land ownership, having previously been content to rely on land registry entries which, as set out above, would constitute a reliable and reputable source of evidence for the purposes of serving an enforcement notice. Having regard to the land registry position, I find Ms Parry to be a person having an interest in the land and therefore to have been entitled to lodge the appeals.

The Grounds of Appeal

6. The appellants previously confirmed they no longer wished to proceed with grounds (c) and (d) in relation to Appeals C and D. Accordingly, these grounds were withdrawn.
7. However at the Hearing the appellants introduced ground (b) in relation to Appeals A and B. This matter is duly considered below.

The Appeal sites

8. These linked appeals relate to the same site, which comprises an extensive, approximately square shaped portion of land, with an area of some 1.9 hectares. It is undisputed that an equestrian use previously took place there, in relation to which a barn and manege, in the north-western corner, were previously granted planning permission in 2011.
9. The appeal site is bounded on three sides by open fields. The A423 Oxford Road, which provides direct access to the site, runs adjacent to the north-eastern boundary. The site is in the countryside, outside any settlement boundary, however

¹ See paragraph 1.2 – Appellant's Statement of Personal Circumstances February 2024.

there are various sporadic developments in relatively close proximity along Oxford Road. These include two other gypsy and traveller sites, known as Woodside Park and Sunrise Park respectively, further to the south-east.

10. It was evident from my visit that caravans and structures associated with the residential use are focused along the south-western side of the site, furthest away from Oxford Road. Several caravans have been vandalised and remain unoccupied at present.
11. Close boarded fencing has been erected around two sides of the manege area, which serves to sub-divide parts of the site where residential occupation is currently taking place. However, the development of the site is far from completed, as exemplified by a lack of hard surfacing to the long driveway serving the residential compound.
12. The bunding targeted by the notice takes the form of a U-shaped perimeter to part of the residential compound in the south-western part of the site. Separate bunding along the north-eastern boundary of the site, adjacent to Oxford Road, was agreed to be outside the scope of the notice (in accordance with the annotated plan referred to below).
13. During the Hearing the Council provided an annotated plan with a view to clarifying that the fencing targeted by the notice comprised that around the manege area, and that along the north-western boundary of the site; also that the wall targeted included that adjoining the manege fence. This plan also showed the U-shaped bund.
14. When also considering the site entrance feature, it is apparent that 'walls' rather than just 'a wall', and a single, albeit substantial 'gate', are targeted by the notice. However, I am satisfied that the notice may be corrected accordingly without resulting in injustice.

Appeals A and B on ground (b)

15. The appeal on ground (b) is that those matters stated in the notice as constituting a breach of planning control have not occurred as a matter of fact. The question is whether the breach had occurred by the date of issue of the enforcement notice. Ground (b) is a so-called legal ground of appeal and in such cases the burden of proof rests with the appellant, with the standard of proof being the balance of probability.
16. The appellants' case on this ground is that the material change of use that has occurred, not only includes a residential gypsy and travellers site, but also a distinct equestrian use, focused around the previously approved barn and manege area.
17. The appellants therefore claim the breach of planning control comprises a mixed use composed of residential and equestrian activities. Evidence was heard at the Hearing from the appellants as to how the purpose of the fencing erected around the manege area, and also along part of the north-western site boundary, was to secure equestrian related activity there, and also to prevent trespass onto the land in order to protect animal welfare.
18. This argument is disputed by the Council. It says at the time the notice was issued the manege area was not being used for equestrian purposes, but rather as a

compound, in which vehicles were parked in connection with the residential use. During the Hearing it provided copies of an aerial image, showing vehicles parked in the manege area, which it said accorded with what was observed on site, shortly before the notice was issued.

19. I have no reason to doubt the authenticity of the Council's statement, or the aerial image referred to. Whilst I accept the various fences would help to secure the site, in the interests of animal welfare, I consider on the balance of probability that when the notice was issued, the primary purpose of the fencing was to enhance the security of the residential use of the site. The equestrian use of the site, at the time the notice was issued, has not therefore been proven, on the balance of probabilities. The ground (b) appeals therefore fail.

Appeal A on ground (a)

Main Issues

20. The main issues are:

- Whether the development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework);
- the effect of the development on the character and appearance of the landscape;
- the question of the need for gypsy and traveller sites;
- the personal circumstances of the site occupiers;
- whether there has been intentional unauthorised development;
- if the development is inappropriate, whether the harm to the Green Belt by way of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Green Belt

21. Paragraph 142 of the Framework sets out that the essential characteristics of Green Belts are their openness and their permanence. It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 143 notes that the Green Belt has five purposes which include a) checking the unrestricted sprawl of large built up areas; b) preventing neighbouring towns from merging into one another and d) preserving the setting and special character of historic towns. Paragraph 153 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
22. The Planning Policy for Traveller sites (PPTS) states that traveller sites in the Green Belt are inappropriate development, unless exceptions set out in the Framework apply. Included within these exceptions are various development types and scenarios.

23. Paragraph 155 of the Framework states that development in the Green Belt should not be regarded as inappropriate where it can be ascertained the development would utilise 'grey belt' land and would not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan (paragraph 155a); where there is demonstrable unmet need for the type of development proposed (paragraph 155b); and where the development would be in a sustainable location (paragraph 155c).
24. To begin with, it is therefore necessary to consider whether the development, in this case, meets these various paragraph 155 criteria.

Grey belt

25. Grey belt land is defined in the Framework as land in the Green Belt comprising previously developed land and / or other land that does not strongly contribute to any of purposes a), b) or d) in paragraph 143. The parties dispute whether the appeal site can be regarded as previously developed. However, this is not a prerequisite for grey belt status, because it is whether the land can be said to not strongly contribute to the aforementioned green belt purposes that is determinative.
26. It is therefore necessary to consider whether the site comprises land that strongly contributes to the various paragraph 143 purposes. In making this assessment I have had regard to the government's planning practice guidance (PPG).
27. In terms of checking unrestricted sprawl, the PPG advises the purpose relates to the sprawl of large built up areas [my emphasis], and that villages should not be regarded as large built up areas. In terms of proximity to the nearest large built up area, whilst relatively close, the site is still several miles from the edge of Coventry. The village of Ryton-on-Dunsmore is nearer, situated between Coventry and the appeal site, a relatively short distance to the north-west. Given this geographical context, I consider the site is not sufficiently close to a large built up area, such that it can be said to make a strong contribution to checking unrestricted sprawl.
28. Regarding the question of merging, although the site is sizable in area, it does not form a substantial part of a gap between towns, and in my judgment its development would not result in the loss of visual separation between towns. The site does not therefore contribute strongly to preventing neighbouring towns from merging.
29. There is nothing to persuade me that the site forms part of the setting of any historic towns, and by implication it does not therefore contribute strongly to the purpose of preserving their setting and special character.
30. I therefore conclude the appeal site does not make a strong contribution to the aforementioned Green Belt purposes. It follows the site is 'grey belt' land. This accords with the Council's position, which became clear when questioned at the Hearing. The Council conceded that whilst it considered the appeal site to be a valuable green space, helping to distinguish between being within and outside Coventry, it did not contribute strongly to the relevant paragraph 143 purposes.
31. The proposal, which would comprise a maximum of eight pitches with associated development, would result in a small degree of encroachment into the countryside. However, notwithstanding this, I am not persuaded the proposed development in this case would affect the ability of the remaining Green Belt across the area of the

plan to serve all five of the Green Belt purposes in a meaningful way, and thus that it would fundamentally undermine the purposes of the remaining Green Belt. The requirements of paragraph 155a are therefore met.

32. In terms of paragraph 155b of the Framework, the Council does not dispute that it lacks a five year supply of deliverable traveller sites assessed in line with the PPTS. It therefore accepts there is a demonstrable unmet need for the development. There is no evidence before me that leads me to disagree.
33. The PPTS states that local planning authorities should very strictly limit new traveller site development in open countryside that is 'away from' existing settlements or outside areas allocated in the development plan. Having regard to paragraph 155c of the Framework, in terms of connectivity, the villages of Ryton-on-Dunsmore and Stretton-on-Dunsmore, are a relatively short distance from the site. Collectively these villages would provide small scale shopping and medical facilities and a primary school, with the representations indicating the surgery and school are used by site occupiers. I also noted during my visit that there is a footpath along Oxford Road for part of the route between the site and Ryton-on-Dunsmore.
34. However, it would be realistic to conclude that for convenience and distance reasons, significant reliance on private vehicles, in order to gain access to everyday services and facilities, would remain likely. I have not been provided with any evidence to persuade me that the use of alternative means of sustainable travel would be likely.
35. Notwithstanding this, the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Furthermore, when considering the relative proximity of the aforementioned villages, I consider the length, duration and number of journeys necessary to access essential services and facilities, even if taken by private vehicle, would not be excessive in this case. Whilst the appeal site would be 'away from' existing settlements, I therefore still consider the site has reasonable access to services and facilities.
36. I have also had regard to the PPTS objective of ensuring that traveller sites are sustainable, economically, socially and environmentally, and to the various related criteria in paragraph 13 of that document. These include that a settled base may serve to reduce possible environmental damage resulting from unauthorised encampment. I also acknowledge that a settled base would tend to promote access to appropriate health services and ensure that children can attend school on a regular basis. Drawing the above considerations together I conclude, on balance, that the appeal site is in a sustainable location.
37. I conclude the various applicable criteria set out in paragraph 155 of the Framework are met, and that the proposed gypsy and traveller residential development should not be regarded as inappropriate within the Green Belt. Accordingly, as the development is not inappropriate it should not be regarded as harmful to the openness of the Green Belt. I do not find conflict with Policy GP2 of the Rugby Borough Council Local Plan 2019 (LP), which seeks to protect the Green Belt in accordance with national policy.

Character and Appearance

38. The appeal site is in an area that is rural in character, comprising green fields with vegetated boundaries. However, in my judgment despite its open setting, the site is not part of a particularly distinctive or visually high quality landscape. There are two other gypsy and traveller sites in close proximity to the appeal site, further to the south-east along Oxford Road. Caravans and structures, associated with the extensive and densely developed Woodside Park, can be seen from the south eastern boundary of the appeal site. It follows that the proposed use as a gypsy and traveller site, with eight pitches, would not constitute an unusual feature in the locality.
39. At the Hearing it was agreed that in terms of public viewpoints, visibility of the site is limited to Oxford Road. At present the residential use of the site, in terms of the positioning of caravans and associated structures, is concentrated along the south-western boundary at some distance from this road. It appears the occupiers have attempted to construct bunds with the intention of screening the area occupied for residential purposes. These bunds are the subject of separate enforcement action by the Council, and appeals dealt with later in this decision letter. The effectiveness of the bunding cannot therefore be relied on.
40. Notwithstanding this, from my visit it was evident that boundary planting adjacent to Oxford Road serves to filter (and to a degree screen) views across the site. When considering that views of the site are relatively fleeting, being mainly observed by passing motorists, also that it would be possible to enhance the provision of landscaping measures within the site, I am not persuaded that the caravans and structures would appear obtrusive.
41. I consider the most visible aspect of the residential use to be the site entrance features, which are comprised of a short stretch of fencing, a curved red brick wall with piers and a sliding gate, supported by the piers. These structures are also included within the development targeted by the second enforcement notice and are the subject of Appeals C and D, considered separately later in my decision letter.
42. Drawing the above considerations together, I conclude that the proposed residential use of the site would not result in harm to the character and appearance of the landscape. Accordingly, it would be in keeping with Policies DS2 and SDC1 of the LP, insofar as they seek development to meet high standards of design.

The Need for Gypsy and Traveller sites

43. Paragraph 7(b) of the PPTS states that local planning authorities should prepare and maintain an up-to-date understanding of the likely accommodation needs of their areas over the lifespan of the development plan. The Council's most recent Gypsy and Traveller Accommodation Assessment (GTAA) was produced in February 2025. This study found there to be a shortfall of some 35 pitches over the five year period 2024/25 to 2028/29, with a longer term need of some 59 pitches between 2029/30 and 2041/42.
44. The PPTS states that local planning authorities should identify, and update annually, a 5-year supply of specific deliverable sites against their locally set targets. The Council confirmed at the Hearing that since the publication of the

GTAA study, planning permission had been granted for eleven pitches. However, as set out above, there is no dispute between the main parties that there remains a demonstrable unmet need for the development in this case, on the basis that the Council lacks a five-year supply of deliverable traveller sites.

45. It is also the appellant's case there has been a failure of policy due to the Council's poor past performance in the delivery of traveller sites. In this regard they have referred to a recent appeal decision, relating to a site elsewhere in the Borough². The Inspector in that case identified that the high level of unmet need had been known to the Council for many years; also that a development plan document that had been intended to allocate gypsy and traveller sites had failed to come to fruition. The Inspector concluded the indications were that there had been a failure of policy. I have no reason to take a contrary view.
46. These considerations weigh in favour of the development.
47. The appellant also argues that a large proportion of Rugby Borough Council's area is subject to Green Belt coverage, such that site allocations and permissions are likely to be within the Green Belt in any event. However, I am mindful that each development must be considered on its own merits, and therefore this factor does not in itself weigh in favour of the development in this case.

Personal Circumstances

48. The statement of personal circumstances indicates that for the most part the site occupiers comprise an extended family, including several young children. It appears the family were previously residing at the nearby Woodside Park site, where they had been based for around seven years, prior to which they were on the roadside.
49. Within the representations and in evidence given to the Hearing the appellant explained the desire to move away from their previous base had been driven by a family tragedy, experienced when in occupation there, along with a desire for children to be raised away from criminal or anti-social behaviours; also that they had previously occupied overcrowded pitches.
50. It was confirmed at the Hearing, that since the appeal was originally submitted the number of persons occupying the appeal site has fallen, due to travel away from the area. At present, the site occupiers live in three mobile homes, and include four school or nursery age children. There nevertheless remains the intention to provide eight pitches.
51. There can be no doubt that if the appeal was unsuccessful, it would take away a settled base for the family, who may potentially need to resort to living on the roadside again and face disruption to their general healthcare and the children's educational provision as a result. I am mindful that it may be difficult to enrol children in school and /or maintain the children's attendance if they have no fixed address.
52. The occupiers' personal circumstances are not disputed by the Council, and I have no reason to take a contrary view. The circumstances weigh in favour of the development.

² Appeal ref: APP/E3715/W/24/3344241 – Decision dated 21 February 2025.

Intentional unauthorised development (IUD)

53. The Council and a number of residents have expressed concern that the site was occupied for residential purposes, without planning permission first being sought, such that due process was not followed. However, I have no reason to doubt, for the reasons set out above, the occupiers were seeking to secure an appropriate base, whilst avoiding a roadside existence.
54. A ground (a) appeal was made, and I am also mindful that it is possible to impose planning conditions to mitigate the development in this case. The 1990 Act makes provision for a grant of retrospective planning permission, including the imposition of planning conditions, and planning enforcement that is remedial rather than punitive. I therefore attach only limited weight to the intentional unauthorised nature of the residential development in this case.

Other Matters

Highway Safety

55. There have been a number of concerns raised by third parties based on inadequate visibility at the site egress and the occurrence of a fatal accident in the vicinity of the site in the past.
56. It was apparent from my visit that visibility to the left, for drivers of vehicles leaving the site is restricted to a degree by a crest in the road, and to the right due to the encroachment of boundary vegetation. With regard to any encroachment, there is nothing to persuade me that it would not be within the powers of the appellant or the Highway Authority to control the growth of the boundary hedge. Furthermore, it seems to me that exercising caution by edging forward slowly would compensate for any restriction.
57. With regard to overall visibility, I am mindful that the County Council, as Highway Authority, has raised no objection to the development; also that I have not been presented with any evidence of personal injury accidents attributable to the operation of this particular junction.
58. Drawing the above considerations together I am not persuaded that the development would result in harm to highway safety and thus there would not be conflict in this regard with Policy DS2 of the LP, or with the Framework.
59. The set back of the entrance gate would ensure that a vehicle waiting to enter the site, when the gate is closed, would not encroach on the highway, such that the site can be safely accessed by vehicles.

Biodiversity

60. The government's planning practice guidance sets out which planning permissions are in scope and which are exempt from biodiversity net gain. The guidance also confirms that biodiversity net gain has not been commenced yet in relation to successful enforcement appeals. This does not of course mean that the impact of development on biodiversity on the site should not be taken into account.
61. Given the previous use of the appeal site was for equestrian purposes, it does not seem probable to me the development will have caused any significant loss of habitat, albeit that some boundary hedging appears to have been removed to make

way for the reformed site entrance. However, I am mindful that the imposition of a planning condition, requiring the provision of landscaping measures, will at the same time provide the opportunity to secure biodiversity improvement.

62. Concern has been raised about the appeal site being close to Ryton Wood SSSI, a large area of semi-natural ancient woodland. However, despite its relative proximity, there is nothing to persuade me that residential occupation of the site would facilitate unauthorised access to or activities within that protected area. I am also not persuaded the development would result in harm to any other designated biodiversity assets in contravention of Policy NE1 of the LP.

Burning of waste

63. With regard to concerns about waste being burnt on the site, it would possible to impose a planning condition prohibiting the burning of materials. Concerns have also been raised regarding the fly-tipping of waste. However, should it occur, this would be subject to separate legislative provisions.

Mains gas pipeline

64. A third party has referred to the existence of a high pressure mains gas pipeline crossing the northern part of the appeal site. This matter has been drawn to the attention of the main parties, and I am informed by the Council that the apparatus in question is a 'Low-High Mains' pipeline. I am informed by the appellant they are being advised by the plant protection team as to any necessary requirements they must adhere to going forward.
65. I have not been made aware of any opposition to the development from the relevant regulator; also this was not a reason for the enforcement notice being served. I am also mindful that the size of the site provides some flexibility in terms of its eventual layout, which can be finalised through the imposition of an appropriate condition.

Contamination

66. Concern is raised regarding the source of material used for the hardstanding areas, and whether it is contaminated. However, it seems to me that this matter could be subject to an appropriately worded planning condition, relating to the site development scheme.

Flood risk

67. There is no dispute between the main parties that the site is not located within an area at risk from flooding. However, concerns have been raised by some third parties that the development has led to drainage ditches being blocked, causing surface water to run off from the site and to flood highway and neighbouring land. During my visit I did not observe any signs of drainage ditches being blocked and I am mindful that it would be possible to impose a condition requiring the submission of a drainage strategy for the site.

Residential amenity

68. There is no evidence to persuade me the development of the site for residential purposes would result in harm to the living conditions of other residents living nearby.

Criminal and anti-social behaviour

69. References have been made to high crime rates in the local area. However, there is nothing to persuade me the development in this case would lead to an increase in criminal activity. Furthermore, a separate regime of statutory control exists to deal with concerns regarding any specific incidences of anti-social behaviour, should this arise.

Precedent

70. I have considered the argument that the grant of planning permission would set a precedent for other similar developments. However, each application and appeal must be determined on its own individual merits and a generalised concern of this nature would not in itself justify withholding planning permission in this case.

Planning Balance

71. For the above reasons I attach only limited weight to the intentional unauthorised nature of the residential development.
72. I acknowledge that national planning policy attaches great importance to Green Belts. Therefore, when considering any planning application substantial weight should be given to any harm to the Green Belt. I have found the proposed residential use as a gypsy and traveller site to be not inappropriate development, and therefore not harmful to the Green Belt.
73. I have found that the development would not result in harm to the character and appearance of the landscape, or in terms of the various 'Other Matters' set out above, subject to appropriate planning conditions. The proposed residential use would also comply with the site assessment criteria listed in Policy DS2 of the LP, subject to appropriate planning conditions. These 'absences of harm' are neutral in the planning balance and do not weigh in favour of the appeals.
74. There are considerations which support the appeals. I attach significant weight both to the lack of an up-to-date 5-year supply of deliverable traveller sites and to the Council's policy failure over time in this regard. I also attach significant weight to the occupiers' personal circumstances.
75. Having regard to the above, I find the proposed residential use to be acceptable, without resorting to the additional weight I have ascribed to the site occupiers' personal circumstances. Notwithstanding this, a condition will be justified restricting the occupation of the appeal site to gypsies and travellers.
76. 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.

77. Given the circumstances overall I find that granting planning permission would be proportionate and necessary. Since I have decided to allow the appeal and grant full planning permission for the proposed development there will be no interference with the occupiers' rights to a private and family life and home.
78. 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, to advance equality of opportunity and to foster good relations. 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.
79. The grant of planning permission would go some way towards advancing equality of opportunity by recognising a need for gypsy and traveller accommodation and by recognising the personal circumstances of the site occupiers.
80. I conclude the development would not be in conflict with the development plan when read as a whole. On balance I find the development to be acceptable.
81. Given that I have found the development to be acceptable on the basis of the above considerations, there is no need for me to go on to apply the provisions of paragraph 11(d) of the Framework, and the so-called 'tilted balance', which is undisputed to be engaged in this case. This is because I have already found the development on balance to be acceptable.

Conditions

82. I have considered the conditions suggested by the Council, and discussed with the parties at the Hearing. A condition confirming that planning permission is restricted for residential use by gypsies and travellers is required, in order to safeguard the supply of the site for this purpose. Because permission is justified without recourse to personal circumstances, it is not made personal to the site occupiers.
83. A condition limiting the number of pitches and caravans stationed, is needed in order to protect the character and appearance of the area.
84. A condition confirming the loss of the permission unless details are submitted for approval (including a timetable for implementation) concerning the site layout; boundary treatments; foul and surface water drainage arrangements; external lighting; children's play provision; hard and soft landscaping works, including their maintenance; arrangements for waste storage and collection and the testing of ground materials brought onto the site for contamination, is required in order to help safeguard the character and appearance of the area, the living conditions of the site occupiers and nearby residents and to ensure environmental protection.
85. The form of this condition is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matters before the development takes place. The condition will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved

by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.

86. Conditions restricting the size of vehicles, and preventing commercial activity and the burning of materials on the site are required in the interests of helping to safeguard the character and appearance of the area, the living conditions of residents and to ensure environmental protection.
87. A condition controlling the surfacing of the site access road, as advocated by the Highway Authority, is required in the interests of highway safety.
88. There is no need for a condition withdrawing permitted development rights in relation to additional buildings, as no such rights exist in relation to gypsy and traveller sites.

Appeals A and B conclusion

89. For the reasons given above, I conclude that Appeal A succeeds on ground (a) and the deemed planning application is approved. The enforcement notice will be quashed and it follows that Appeals A and B on ground (g) do not fall to be considered.

Appeal C on ground (a)

Main Issues

90. The main issues are:

- Whether the development would be inappropriate development in the Green Belt for the purposes of the Framework and development plan policy;
- The effect of the bunding, hardstanding, gate, walls and fencing on the openness of the Green Belt and the purposes of including land within the Green Belt;
- the effect of the bunding, hardstanding, gate, walls and fencing on the character and appearance of the landscape;
- If the development is inappropriate, whether the harm to the Green Belt by way of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Policy Context

91. Paragraph 154 of the Framework establishes that development in the Green Belt is 'inappropriate' subject to certain exceptions. These include engineering operations provided they preserve its openness and do not conflict with the purposes of including land within it. However, the exceptions do not specifically include the provision of gates, walls and fences.

The bunds and hardstanding

92. The formation of bunds and hardstanding would in my view comprise engineering operations. It is undisputed that at the time the notice was issued, bunds had been established in a U-shaped formation around a substantial portion of the south-western corner of the site, and that this bunding is targeted by the notice. The intention of the bunding appears to have been to help screen the residential use. It was apparent from my visit that a section of this bunding has been removed, with the constituent material having been distributed over part of the wider site.
93. A further bund, established parallel to the north-eastern boundary of the site, adjacent to Oxford Road, was confirmed by the Council, during the site visit, not to have been present at the time the notice was issued. This bund is not therefore included within the alleged breach of planning control.
94. I am in no doubt that in spatial terms the extent of the bunding enforced against fails to preserve the openness of the Green Belt, and amounts to unjustified encroachment. The bunding therefore constitutes inappropriate development in the Green Belt.
95. From public viewpoints outside the appeal site, the visibility of this bunding is essentially limited to fleeting glimpses from drivers along Oxford Road. Notwithstanding this, the bunding constitutes an uncharacteristic feature in the landscape. I am also mindful of the PPTS policy, which opposes enclosing a site with so much hard landscaping that the site appears deliberately isolated. I conclude the bunds have resulted in a degree of harm to the character and appearance of the landscape, which could not be entirely mitigated by a landscaping scheme. Their presence is therefore in conflict with Policies DS2 and SDC1 of the LP and with the PPTS.
96. It was evident from my visit that a significant quantity of hardstanding material, including coarse rubble, had been brought onto the appeal site. This material fails to preserve the openness of the Green Belt in spatial terms, albeit with very limited visual harm, including to the character and appearance of the landscape, when taking into account limited public viewpoints.

The fencing, walls and gate

97. The Council confirmed at the Hearing the fencing targeted by the notice includes the close boarded enclosure to the manege area, and that spanning part of the north-western boundary of the site. Along with walls comprising the site entrance feature, there is a further section of wall, with piers, adjoining the manege area. The sliding entrance gate targeted by the notice, is tall and wide and is operated electronically.
98. These features, in themselves, take up space and do not fall within any of the exceptions to Green Belt development set out in the Framework. It follows, they are inappropriate development and harmful to openness in the context of Green Belt policy.
99. Whilst, because of their height and choice of construction material, the walls and fencing at the site entrance tend to draw the eye, I accept their considerable set back from the highway, and relatively fleeting visibility, serves to mitigate visual

impact to a large degree. This applies both to impact on the openness of the Green Belt in visual terms and the character and appearance of the area.

100. I am also mindful the north-western boundary fencing and the manege fencing and adjoining wall are even less visible from public viewpoints, and am not persuaded they result in visual harm. I conclude that the walls and fencing targeted by the notice do not result in harm to the character and appearance of the landscape and are not in conflict with Policies DS2 and SDC1 of the LP.
101. However, in contrast to these points, I consider the wide entrance gate, comprising decorative metal work and finials to the upper part, to be excessively tall, formal and ornate, and at odds with the rural character.
102. Notwithstanding the aforementioned considerations, it is important to have regard to the practical value of these structures, in the context of the residential use as a gypsy and traveller site, which for the aforementioned reasons will be granted planning permission. In particular, the various means of enclosure serve to enhance the security of the site, by preventing unauthorised access. They would not be regarded as unusual features on such sites, even despite the Green Belt location. In addition, the fencing around the manege area will allow horse(s), which from my visit it was evident are now present on the site, to be exercised securely there. These considerations therefore attract weight in favour of the developments.

Planning Balance

103. As set out above, substantial weight should be given to any harm to the Green Belt. With regard to the earth bunds, hardstanding and entrance gate I have found harm to the Green Belt by way of inappropriateness, because of the harm caused to openness and arising from encroachment. I have also found these features result in character and appearance harm, in relation to which I attach limited weight (the bunds); very limited weight (the hardstanding) and significant weight (the gate) respectively.
104. I have not identified any factors in support of the bunding, and attach only very limited weight in favour of the hardstanding and gate in their current as opposed to a more acceptable form. It follows that the harm I have found to the Green Belt and other harm, is not outweighed. The very special circumstances necessary to justify these developments have not therefore been demonstrated. Consequently, these developments conflict with the Green Belt protection aims of the Framework, and therefore with Policy GP2 of the LP. The ground (a) appeal therefore fails in respect of these elements of the overall development.
105. I accept, however, that a degree of hardstanding on the site and an entrance gate(s), in some amended form, would be justified in terms of being necessary to facilitate and secure the residential use there. Amendments would be capable of outweighing the harm in this case, when considering such features would be part and parcel of facilitating the residential use, which itself has been found to be not inappropriate development in the Green Belt in this case. This matter is considered further, later in my decision letter, in the context of the ground (g) appeals.

106. With regard to the various fencing and walls, I have also found harm to the Green Belt by way of inappropriateness, because of the harm caused to openness and arising from encroachment. I have however not identified any other harm.
107. Notwithstanding this, I give substantial weight to the consideration that fencing and walls, considerate to their surroundings, could reasonably be expected to secure, partition and help define the entrance to, a gypsy and traveller site. I have balanced the substantial weight given to the harm to the Green Belt against this consideration and find that it clearly outweighs the harm identified.
108. The very special circumstances necessary to justify the various fencing and walls have therefore been demonstrated. Consequently, these developments accord with the strategy for the protection of Green Belt land, as set out in the Framework. In this context I do not find conflict with Policy GP2 of the LP which seeks to protect the Green Belt in accordance with national policy. The ground (a) appeal therefore succeeds in respect of these elements of the overall development.

Appeals C and D on ground (f)

109. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in s173 of the Act and include remedying the breach of planning control (s173 (4) (a)). The Act sets out that the breach may be remedied by making the development comply with the terms of any planning permission granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place.
110. With regard to the allegation, the objectives of the notice are to secure the removal of various unauthorised developments, and therefore to restore the land there to its condition before the breach took place.
111. The appellants' ground (f) appeal was specifically that amendments would be needed to the notice requirements, if the ground (c) and (d) appeals were successful. However, these appeal grounds have since been withdrawn. Whilst the appellants now say that amendments would be required if the ground (b) appeals are successful, in relation to the claimed equestrian use, this has not been the case.
112. In any event, because I will be granting planning permission for the fencing and walls targeted, the requirements of the notice will be limited to the removal of the gate, bunds and hardstanding. The ground (f) appeals fail.

Appeals C and D on ground (g)

113. The appeal is that the compliance period falls short of what should reasonably be allowed. I need to balance the public interest in the notice being complied with expeditiously against the private interests bound up in the development.
114. When taking into account that I will grant planning permission for the alleged material change of use and for the alleged fencing and walls, the requirements of the notice will essentially be limited to removing the unauthorised earth bunds, hardstanding and gate from the site. However, even then, in granting planning permission for the residential use, and imposing planning conditions, it is possible

that part of both the existing hardstanding material and gate could potentially be utilised within the site development scheme. In light of this position, it would be reasonable to extend the compliance period for the relevant requirements, with a view to making this more consistent with the practical implementation of the site development scheme.

115. Whilst having regard to the nature of the harm, I therefore consider the potential use and management of existing materials on the site to be justification for extending the compliance period to twelve months. The ground (g) appeals therefore succeed to that extent.

Appeals C and D conclusion

116. For the reasons given above I conclude that Appeal C should succeed on ground (a) in part only, and I will grant planning permission for part of the matters the subject of the enforcement notice, but otherwise I will uphold the notice, with corrections and a variation, and refuse to grant planning permission on the other part. The requirements of the upheld notice will cease to have effect so far as inconsistent with the planning permission, which I will grant, by virtue of s180 of the Act.
117. Section 180 of the 1990 Act states that where after the service of an enforcement notice planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission. Consequently, the notice ceases to have effect with regard to the construction of walls and the erection of timber fencing, because this will benefit from planning permission and is therefore lawful for planning purposes.
118. Appeal D is dismissed and the notice is upheld with corrections and a variation.

Formal Decisions

Appeals A and B

119. 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 of use of land from equestrian to a Gypsy and Traveller site including the siting of caravans / mobile homes and associated / incidental structures at Land at Fern Field, Oxford Road, Ryton-on-Dunsmore, CV8 3EP as shown on the plan attached to the notice, and subject to the conditions in the schedule below.
120. Appeal B is dismissed but the enforcement notice is not upheld.

Appeals C and D

121. It is directed that the enforcement notice is corrected at Section 3 iii) by the deletion of the word “gates”, and substitution of the word “gate”, and at Section 3 iv) by the deletion of the words “a wall”, and substitution of the word “walls” in the description of the breach of planning control.
122. It is directed that the enforcement notice is corrected at Section 5 iii) by the deletion of the word “gates”, and substitution of the word “gate”, and at Section 5

- iv) by the deletion of the word “wall”, and substitution of the word “walls” in the description of the requirements.
123. It is directed that the enforcement notice is varied at Section 5 by the deletion of the words “Fifty Six days” and the substitution of the words “12 months” as the time for compliance.
124. Subject to the corrections and variation Appeal C is allowed in part 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 construction of walls and the erection of timber fencing at Land at Fern Field, Oxford Road, Ryton-on-Dunsmore, CV8 3EP.
125. Appeal C is dismissed, and the enforcement notice is upheld, as corrected and varied, and planning permission is refused in respect of importation of materials and their use for the formation of hardstanding and bunds; engineering operations comprising the formation of bunds and erection of a gate at Land at Fern Field, Oxford Road, Ryton-on-Dunsmore, CV8 3EP on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
126. Appeal D is dismissed and the enforcement notice is upheld with corrections and a variation.

R Merrett

INSPECTOR

SCHEDULE OF CONDITIONS IN RELATION TO APPEALS A and B

- 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, in accordance with the Planning Policy for Traveller Sites or replacement planning policy or guidance.
- 2) There shall be no more than **eight** pitches on the site. On each pitch 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 at any time.
- 3) The residential use hereby permitted shall cease and all caravans, structures, vehicles, 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 **30 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; the nature, design and location of any incidental structures; the access road; vehicle parking and turning areas and hardstandings; vehicle charging points and utility connections; siting of CCTV;
 - (b) all boundary treatments not already approved, including gates;
 - (c) the means of foul and surface water drainage of the site;
 - (d) proposed and existing external lighting within the site;
 - (e) a children's play area;
 - (f) hard landscaping;
 - (g) soft landscaping including details of species, plant sizes and proposed numbers and densities and details of a schedule of maintenance for a period of 5 years;
 - (h) facilities for the storage and collection of refuse and waste;
 - (i) the source of the material for any hardstanding, quantity imported and chemical analysis results which demonstrates the material is suitable for use within the development;(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, and accepted as validly made by, 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 vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 5) No commercial activities shall take place on the land, including the storage of plant, machinery and materials and the transfer of materials.
- 6) No burning of materials shall take place on the land.
- 7) The surfacing of any private access road within 7.5 metres of the public highway must not contain any loose material that is capable of being drawn on to the public highway.

END OF SCHEDULE OF CONDITIONS

APPEARANCES

FOR THE APPELLANT:

Alan Masters	Barrister
Brian Woods	Planning Consultant
Calum Holdback	Appellant
Elizabeth Galbraith	Site Occupier
Matthew Penfold	Site Occupier
Andrew Poyser	Site Occupier

FOR THE LOCAL PLANNING AUTHORITY:

Christian Hawley	Barrister
Chris Davies	Principal Planning Officer
James Briggs	Planning Enforcement Officer
Verna Sinclair	Environmental Health Team Leader

INTERESTED PARTIES:

Wendy Harrison	Local resident
Patricia Ruck	Local resident

Documents submitted at the Hearing:

- 1) Council's exhibit RBCIS 3 - Aerial photographs of the site.
- 2) Annotated plan showing position of wall, fencing and bunds.
- 3) Medical letter relating to site occupier.
- 4) Rights of Way plans.
- 5) Plans showing travel distances to various local facilities.
- 6) Evidence of payment in relation to deemed planning application fee.
- 7) Copy of correspondence between the parties regarding draft Statement of Common Ground.

Documents submitted following the Hearing:

- 1) Representations from third party regarding mains gas pipeline.
- 2) Comments from main parties regarding above representations.