

Appeal Decisions

Hearing held on 17 March 2026

Site Visit made on 17 March 2026

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 29 May 2026

Appeal A Ref: APP/Z3825/C/25/3375764

Appeal B Ref: APP/Z3825/C/25/3375765

Appeal C Ref: APP/Z3825/C/25/3375766

Appeal D Ref: APP/Z3825/C/25/3375767

Land at 1 Greenacres Farm, West Chiltington Lane, Billingshurst RH14 9DR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Joe Johnny James (Appeal A), Mrs Linda James (Appeal B), Mr Samson Smith (Appeal C) and Mrs Lita Smith (Appeal D) against an enforcement notice issued by Horsham District Council.
 - The enforcement notice, numbered EN/24/0407, was issued on 15 October 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 together, with the associated creation of a new access, operational development comprising the importation of waste material to create an access track and hard surface, the installation of a water treatment (septic) tank, the installation of a gas tank, the erection of brick pillars and the construction of a building/wooden structure ('the Building') and earth bund used in connection with the unauthorised residential use
 - The requirements of the notice are:
 - 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 the caravans and associated domestic paraphernalia
 - 3) Permanently remove the Building erected on the Land and used in association with the unauthorised use of the Land
 - 4) Permanently remove from the Land all works of operational development incidental to the unauthorised residential use of the Land, namely the water treatment (septic) tank and the gas tank
 - 5) Permanently remove the hardstanding and any resulting debris from the Land
 - 6) Permanently remove the earth bund and remove any resulting debris from the Land
 - 7) Permanently remove the brick pillars and remove any resulting debris from the Land
 - 8) Permanently close off the access and restore the boundary with mixed hedge planting to include Hawthorn, Hazel, Hornbeam and Field Maple
 - The period for compliance with the requirements is ten months in relation to Step 1 and twelve months in relation to Steps 2 to 8 inclusive.
 - The appeal is proceeding 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.
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Summary Decision: Appeal A is allowed in part but is otherwise dismissed, the enforcement notice is quashed in part only and planning permission is

granted with conditions in the terms set out in the Formal Decision below. Appeals B, C and D are dismissed but the notice is in part quashed as set out in the Formal Decision for Appeal A.

Procedural Matters

1. These appeals were heard at the same Hearing as four other appeals relating to the adjoining site known as 2 Greenacres Farm. Those appeals are the subject of a separate Decision(s).
2. It was confirmed at the Hearing that the Horsham District Local Plan (2023-2040) is currently at an early stage towards adoption and is due to be examined later this year. The policies in that emerging plan therefore carry only limited weight at this time. The development plan for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004 therefore comprises the Horsham District Planning Framework (2011-2031) and the Itchingfield Parish Neighbourhood Plan.
3. There is no dispute that the appellants meet the definition of Gypsies & Travellers as set out in Annex 1: Glossary to the Planning policy for traveller sites (PPTS).

The Enforcement Notice

4. Every requirement in paragraph 5 of the notice is prefaced by the word 'permanently.' Having regard to the provisions of Section 181(1) of the Town and Country Planning Act 1990 (the 1990 Act), which states that compliance with an enforcement notice shall not discharge that notice, the word 'permanently' is unnecessary and superfluous. In other circumstances I would have corrected the notice by deleting the word permanently from the requirements. However, given that the notice will be quashed in part any event, there is no merit in doing so.
5. The notice uses the terms 'hard surface' and 'hardstanding' interchangeably. I will adopt the former for present purposes.

The appeal on ground (a) and the deemed planning application

6. The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.
7. The Council has stated a total of six substantive reasons for issuing the enforcement notice.
8. The second substantive reason is that insufficient information has been provided to demonstrate that the materials imported into the site to form the hard surface and vehicular access do not comprise inert waste which would cause harm to human habitation both on-site and offsite. The appellant has subsequently produced an email from the company that supplied the materials, confirming that the materials delivered to the site comprised Primary Type 1 Limestone, Primary shingle and Road planings. I am therefore satisfied that the materials imported into the site do not comprise inert waste. This reason for refusal therefore falls away.

9. The third substantive reason is that insufficient information has been provided to demonstrate with a sufficient degree of certainty that the development has not contributed to an existing adverse effect upon the integrity of the internationally designated Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites by way of increased water abstraction. On 31st October 2025, Natural England formally withdrew the 2021 Position Statement, citing a package of measures that they were satisfied would safeguard the Arun Valley sites. This reason for refusal therefore also falls away.
10. From the remaining reasons for issuing the notice, the main issues raised are:
 - the effect, if any, on the character and appearance of the area
 - whether the development(s) would have an adverse effect on protected species and their habitats
 - whether the new access causes harm to the function and safety of the highways network
 - whether the measures for disposal of foul and surface water at the site are adequate

Character and appearance

11. The appeal site sits within the Central Low Weald Character Area as defined in the West Sussex Land Management Guidelines and G2 Itchingfield and Barns Green Wooded Farmlands Character Area, as defined in the Horsham District Landscape Character Assessment. The key characteristics of these Character Areas include, among other things, strong linear fields and woodland patterns, with a strong sense of enclosure. The Landscape Character Assessment records that the overall condition of the G2 Character Area is declining and that key sensitivities include further small-scale incremental erosion of character.
12. Prior to the development subject the notice, the site comprised a grassed paddock sitting behind a continuous hedgerow fronting onto West Chilton Lane. As such, it displayed many of the key characteristics of the Central Low Weald Character Area and the Itchingfield and Barns Green Wooded Farmlands Character Area. In particular, it exhibited a strong sense of enclosure with only very limited views being possible from outside of the site. This key characteristic was reinforced by the overtly rural landscape in which the site sits, including long-distance views of the escarpment of the South Downs.
13. To some extent, the rural character of the surrounding area has already been incrementally eroded by the introduction of new development. These include the Greenfield Farm Gypsy & Traveller site situated just to the south of the appeal site. The site comprises a total of 14 pitches, with a further 5 pitches allowed on appeal in September 2025 (APP/Z3825/W/25/3367225). This therefore forms an intrinsic part of the character of the area but is one of the incremental changes identified in the Character Assessment that has contributed to a decline in the overall condition of the G2 Character Area. Due to a gap in the boundary vegetation just to the south of the appeal site, through which the existing caravans on Greenfield Farm are visible (plus in due course the 5 additional caravans recently allowed) there is a clear visual association between the two sites.

14. The reasons for issuing the notice include the cumulative effect of the development on the appeal site together with other nearby development. Insofar as the Landscape Character Assessment identifies incremental changes as contributing to a decline in the overall condition of the G2 Character Area, I consider that the Council's concerns in this respect are well-founded. The development on the appeal site constitutes an additional urbanisation of the locality and the piecemeal erosion of the overtly rural character of the area, and to that extent is harmful to the character and appearance of the area. The development on the site also imposes on long-distance views of the escarpment of the South Downs and is also harmful to that extent.
15. In this respect, the development on the appeal site may be distinguished from that on the adjoining Greenfield Farm site. In allowing the appeal for a further 5 pitches on that site (APP/Z3825/W/25/3367225), the Inspector took the view that the proposal would be sufficiently separated in terms of distance from the development at Kingfishers Farm such as to prevent any significant cumulative impact.
16. I take a different view. I have no detailed evidence before me of the appearance and/or condition of the Kingfisher Farm site before the caravans were moved on to it and therefore cannot form an informed view of the contribution that site previously made to the character and appearance of the area. However, I was advised at the Hearing that, despite a number of planning permissions having been granted in recent years, none of the conditions imposed upon those permissions have been discharged. Consequently, the Council considers that the use of the land as a Gypsy & Traveller site is not lawful at this time. I was also advised at the Hearing that the Council are considering whether to initiate enforcement action against the use of the site.
17. It is reasonable to conclude that the Kingfisher Farm site was open and largely devoid of any built structures before the caravans were moved onto it. To that extent, the stationing of caravans on the Kingfisher Farm site has resulted in a significant increase in the amount of development on it. This has significantly eroded the open and rural character of that site. The development on the Kingfisher Farm site is viewed in conjunction with the development on the appeal site and this results in a definable cumulative impact. That cumulative impact is harmful to the character and appearance of the area.
18. The same is true of the development on the Greenfield Farm site. Because of the visual association between that site and the appeal site, the development on the latter very much constitutes a cumulative impact in visual terms. Moreover, although there is a visual association between the two sites, they are also clearly perceived as being separate sites. As such, the development on the appeal represents an additional development and has a strong cumulative impact on the character and appearance of the area. That is significantly harmful to the character and appearance of the area.
19. This cumulative effect is experienced, for example, by ramblers walking along West Chilton Lane as the necessary connection between the Public Rights of Way to the north (PRoW 1595) and south (PRoW 1922) of the appeal site. In quick succession, ramblers using that route pass the Greenfield Farm site, the appeal site, the development on the adjoining site (2 Greenacres Farm) and the entrance to the Kingfishers Farm site.

20. A photograph embedded within the Council's Appeal Statement shows that, prior to the development on the appeal site, the east side of West Chilton Lane comprised of dense and unbroken vegetation. In many respects, this photograph reveals West Chilton Lane as being the quintessential country lane and of a distinctly rural character. Views into the appeal site would not have been possible, or at best only glimpsed through the dense vegetation. Ramblers using this route, who would be doing so primarily for recreational purposes, have previously experienced unbroken vegetation on West Chilton Lane between the Greenfield Farm site and the Kingfishers Farm site.
21. The introduction of the development on the appeal site (together with that on the adjoining site at 2 Greenacres Farm) fundamentally changed that experience. The developments on the Greenfield Farm site, the appeal site, the development on the adjoining site (2 Greenacres Farm) and the Kingfishers Farm site are now viewed in association with each other and, in that context, are inextricably interlinked. It follows that the development on the appeal site has had a significant, and in my view harmful, impact on the character and appearance of the surrounding area by way of cumulative impact.
22. Moreover, the creation of the vehicular access onto the appeal site removed a substantial section of the boundary vegetation and facilitated views into the space behind it, thereby immediately destroying the sense of enclosure previously exhibited by the appeal site. Because the sense of enclosure is a key characteristic of the Character Areas within which the site is located, the loss of that sense of enclosure is the very antithesis of the Character Areas within the site is located. For that reason also, the harm significant.
23. That harm is exacerbated by the poor condition of the site itself. The stationing of the static caravan on the land and the erection of the utility building introduce a further degree of urbanisation into this overtly rural area. That incremental change it itself harmful. But this is further exacerbated by the hard surface on which they are sited and the storage of various roof tiles, scaffolding and other items associated with the appellant's business. Furthermore, that hard surface extends for a considerable distance to the east of the static caravan and utility building. I understand that this hard surface may have previously formed part of a vehicular access to the Kingfisher Farm site. Nevertheless, by reason of its extent and appearance, its retention as part of the current appeal site is significantly harmful to the rural character of the surrounding area, not least because it facilitates the storage of the roof tiles, scaffolding and other items associated with the appellant's business.
24. The development on the boundary of the site is also harmful to the rural character of the area. The close-boarded fence is a suburban in character and not appropriate in this location. I recognise that the fence is relatively new and therefore quite stark in its appearance. I also acknowledge that the section of the fence that has been painted is somewhat less visually intrusive but simply painting the fence cannot disguise the fact that a close-boarded fence is not characteristic of a rural location. I am mindful that there is a close-boarded fence on the opposite side of West Chilton Lane but the presence of that fence only serves to illustrate the inappropriateness of that type of fencing in this rural location. It therefore does not provide any justification for the fence that has been erected on the appeal site.

25. I fully recognise that the close-boarded fence forms no part of the breach of planning control alleged in the notice. Nevertheless, it forms an intrinsic part of the development on the appeal site and as such makes a significant contribution to the overall harm resulting from the development.
26. Similar considerations apply to the brick pillars and gates at the entrance of the appeal site, which do constitute part of the matters sated in the notice. The design and appearance of the brick pillars and gates are wholly urban/suburban in character. As such, they are inappropriate in this rural setting and significantly harmful to the character and appearance of the area.
27. I conclude that the breach of planning control stated in the notice unacceptably harms the character and appearance of the area. I therefore conclude that the development is contrary to Policies 23, 25, 26 and 33 of the Horsham District Planning Framework and Policy 12 of the Barns Green & Itchingfield Neighbourhood Plan. These policies require, amongst other things, that development will not have an unacceptable impact on the character and appearance of the landscape and is sensitively designed to mitigate any impact on its surroundings.
28. Paragraph 187 of the National Planning Policy Framework (Framework) states that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside. For the reasons stated above, the development on the appeal site is itself harmful to the intrinsic character and beauty of the countryside in this location. Furthermore, I do not underestimate the cumulative effect that the development has on the character of the open countryside in the surrounding area. For these reasons, the development subject to the notice fails to accord with the guidance in the Framework in terms of conserving and enhancing the natural environment.
29. Paragraph 26 of the PPTS states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements and should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community. Two points flow from this paragraph of the PPTS.
30. Firstly, the district of Horsham is predominantly a rural district. The corollary is that the majority of sites within the Horsham District Council administrative area that may in principle be suitable to accommodate Gypsy & Traveller sites are likely to be in the open countryside, within which the guidance in the PPTS is that new traveller site development should be strictly limited. The guidance in the PPTS must therefore be considered in that context.
31. Secondly, the nearest settled community to the appeal site comprises a modest cluster of dwellings located on Valewood Lane, to the east of the appeal site and adjoining the authorised Gypsy & Traveller site at Greenfield Farm. For the avoidance of any doubt, I do not say that the use of/development on the appeal site is of itself of a scale that dominates the nearest settled community. But it contributes to the cumulative erosion of the overtly rural landscape in which that settled community sits. In my view, that cumulative erosion of the open countryside surrounding the nearest settled community is significantly harmful to the character and appearance of the area in general and to the setting of the cluster of dwellings on Valewood Lane in particular.

32. I conclude that, on balance, the development subject to the notice does not accord with the PPTS in terms of the approach to be taken to new Gypsy & Traveller development in the open countryside.

Protected species and their habitats

33. The appellant has produced a Preliminary Ecological Appraisal (PEA), the survey for which was undertaken in early November 2025. The consultants who produced the PEA explain that it is a walkover survey and desk study, the purpose of which is to characterise habitats present, identify features with potential to support protected species, and determine whether further targeted surveys are warranted. The consultants go on to explain that a PEA is not a species-specific survey and does not carry the seasonal constraints associated with targeted surveys such as bat activity, insects or reptile presence/likely absence surveys. The consultants maintain that a PEA can be undertaken at any time of year.
34. That misses the point. The key findings of the PEA were that the development completed at 1 Greenacres Farm has resulted in a permanent loss of modified grassland and bramble scrub and removed small sections of species-rich hedgerow. The PEA explains that this has reduced opportunities for roosting bats, nesting birds, reptiles, and Great Crested Newts (GCN). The PEA indicated that these impacts are considered significant at the site level only.
35. The consultants that produced the PEA clarify that the term 'significant at the site level only' is used as guideline for ecological impact assessment, in which significance refers specifically to the geographic scale at which an impact is felt, rather than to the severity of harm.
36. The use of 'site level' significance was therefore the precautionary and professionally appropriate response to that uncertainty. The consultants go on to explain that it is not a finding of significant harm in the planning sense, but rather a responsible acknowledgement that some habitat loss has occurred and that, in the absence of confirmed species absence, the most conservative geographic classification should be applied.
37. A previous EIA submitted as part of an earlier planning application for the development concluded that the site and adjacent habitats provide suitable potential habitat for hedgehogs, reptiles, GCN, badgers, breeding birds and bats. The EIA concluded that the appeal site was of site level value to commuting and foraging bats, at site level value for reptiles (with a low chance for common and widespread reptiles such as slow worm to be present) and of site level value for amphibians (with moderate potential for amphibians including GCN to make use of the site as commuting habitat).
38. The salient point is that some habitat loss has occurred, albeit only of site level significance. The appellants accept that to be the case. The inescapable conclusion is therefore that the matters stated on the notice as constituting the breach of planning control have caused at least some harm to protected species and their habitat.
39. The PEA sets out precautionary methods to mitigate potential impacts of any future habitat manipulation work, including that bird and bat boxes are installed within the trees along the western boundary to compensate for the

loss of suitable habitat. Off-site habitat enhancement has also been recommended to support reptiles and great crested newts following the grassland habitat clearance, as well as the removal of invasive/non-native ornamental plants in favour of native species. The EIA concludes that once avoidance, mitigation, and compensation measures have been taken into account, the impacts of the development upon biodiversity will be negligible and nonsignificant.

40. That well be the case but, as indicated in both the PEA and the EIA, it is more likely than not that the development on the site has already caused some harm to protected species and their habitat. Consequently, on the date the enforcement notice was issued, the development was harmful in this respect. At this point in time, whilst it has been recognised that mitigation and/or compensation measures will be necessary, I do not have a full package of such measures before me and they have not been carried out. That is a matter to which I return to below in considering what conditions might be imposed to make the development acceptable in planning terms.
41. I conclude that the breach of planning control that has occurred has had an adverse effect on protected species and their habitats. I therefore conclude that the development is contrary to Policy 31 of the Horsham District Planning Framework which, amongst other things, states that where development is anticipated to have a direct or indirect adverse impact on sites or features for biodiversity, development will be refused unless it can be demonstrated that appropriate mitigation and compensation measures can be provided.

Highway Safety

42. The highway authority, in this case West Sussex County Council, have advised that there are no recorded traffic incidents at the existing access point that would suggest an issue in terms of highway safety. The highway authority also advises that there appears to be no visibility issues at the point of access onto West Chiltington Lane. I verified that at the site visit. The highway authority considers that the development benefits from sufficient parking to meet the needs of the occupiers.
43. The concern of the highway authority is that no turning area is proposed and that there does not appear to be sufficient turning space with the site for refuse vehicles and fire appliances. Two points arise.
44. Firstly, the concerns of the highway authority are loosely expressed: i.e "there does not appear to be" rather than a categorical statement that there is not sufficient turning space. Furthermore, the highway authority has not produced any swept path analysis or other technical evidence to support that vague assertion.
45. Secondly, as I understand it, refuse vehicles park West Chiltington Lane when collecting refuse from the appeal site. There is no evidence before me to suggest that there is not sufficient space on West Chiltington Lane for vehicles to pass a refuse vehicle parked there, such that the highway would be blocked at such times.
46. I conclude that subject to the visibility splays being retained, the new access does not cause harm to the function and safety of the highways network. I

therefore conclude that that development does not conflict with Policy 40 of the Horsham District Planning Framework which, amongst other things, states that development will be supported if it provides safe and suitable access for all vehicles.

Foul and surface water disposal

47. The appellant has provided a fully detailed Drainage Strategy. In summary, this Drainage Strategy seeks to utilise the natural fall of the land to direct surface water towards the ditch that runs parallel to the western boundary of the site. I am satisfied that the measures set out in that Drainage Strategy are/would be sufficient to adequately dispose of all foul and surface water generated by the development on the appeal site.
48. In the representations from Councillor Tricia Youtan and from G & B Billinghamurst, reference is made to foul water believed to being discharged from the appeal site into the ditch that runs parallel with West Chilmington Lane. The appellants explained at the Hearing that in fact this foul water originates from the development at Kingfishers Farm and is discharged into the ditch from a pipe that runs beneath the appeal site. That pipe was pointed out to me at the site visit and from the powerful smell emanating from the discharge it was apparent that this was indeed the source of the foul water in the ditch.
49. I conclude that the measures for disposal of foul and surface water at the site are adequate. I therefore conclude that that development does not conflict with Policy 38 of the Horsham District Planning Framework which, amongst other things, states that drainage techniques which mimic natural drainage patterns and manage surface water will be required.

Other considerations

50. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. I have found that the development subject to the enforcement notice fails to accord with the development plan. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan

Need for and supply of Gypsy and Traveller sites

51. The Council accepts that it cannot demonstrate a five-year supply of Gypsy and Traveller pitches. It was agreed at the hearing that was no benefit to be gained by forensically examining the Council's Gypsy & Traveller Accommodation Assessment (GTAA), not least because this pre-dates the current definition of Gypsies & Travellers as set out in Annex 1: Glossary to the PPTS. The Council has indicated that the current shortfall in the supply of Gypsy & Traveller sites when measures against identified need is in the region of 47 pitches. This figure is arrived at by deducting the number of pitches approved in recent planning permissions from the identified need of 79 pitches for the period 2023 to 2040.

52. The appellant questions whether this figure is based upon the 2024 definition of Gypsies and Travellers, pointing out the figure provided by the Council is practically identical to that set out in the Horsham GTAA dated November 2023, which clearly pre-dates the revised definition. I agree that the figure provided by the Council must therefore be treated with some caution. Nevertheless, the salient point is that even taking the lowest figure provided by the Council the shortfall in pitches when measured against identified need is significant and therefore unlikely to be reversed in the short to medium term.

Availability of suitable alternative sites

53. The Council is not able to identify any suitable alternative sites that are available and/or deliverable. The corollary is that if the appellant and his family were forced to move off the site, they would have nowhere to go and would be obliged to adopt a roadside existence, with all the implications that would bring.

Personal circumstances

54. The site is currently occupied by the appellant, his wife and their five children. The appellant, Mr Joe Johnny James, is a self-employed roofer working primarily in the Sussex area. Before stepping down due to family commitments, Mr James assisted in the running of a local Scout troop and also supported some charitable work there. Mrs Linda James stays at home on childcare and other household duties. The appellants are in good health at this time, albeit there is understandably some anxiety given their current situation.
55. Of the five children, the eldest aspires to go into further education. Two of the children are home-tutored, and one goes to primary school. That child is doing well at school, with a near-perfect attendance record and making friends there, including with children from the settled community. In that respect, Mrs James explained to me at the Hearing that they often host children from the settled community to play with their own children at the appeal site, something that could not continue should the family be forced to adopt a roadside existence. The youngest child is an infant at this time, but Mr & Mrs James envisage that this child would also attend a local nursey/primary school in due course. All the children are in good health.

Best interests of the children residing on the site

56. I have no doubt that it would be in the best interest of all the children residing on the site to remain there as a stable base, not only from which to access education and medical facilities but also to remove the children from the prospect of the dangerous environments of a roadside existence. I also do not underestimate the importance to the children residing on the site of having a stable base from which they can navigate the challenges of growing up, not least in terms of having the opportunity to socialise with other children. The starting point is that the best interest of the children is a material consideration of at least equal importance and weight to any other.

Human Rights and Public Sector Equality Duty

57. I am fully aware that the dismissal of this appeal would result in the appellant and his family losing their home. This would interfere with their rights under the European Convention of Human Rights, as incorporated into domestic law

by the Human Rights Act 1998 (HRA). In particular, their rights under Article 8 (right for respect for private and family life, home and correspondence) and Article 1 of the First Protocol (right to respect to property) would be interfered with. Both of the above are qualified rights, and interference with them may be justified where lawful and in the public interest.

58. The issue of an enforcement notice is in accordance with the law, specifically section 172 of the Town and Country Planning Act 1990 as amended, such that there is a clear legal basis for the interference with the rights under Article 8 and Article 1 of the First Protocol held by the appellant and his family. I have found that the development subject to the notice is harmful to the character and appearance of the area, and as such is contrary to policy objectives in the development plan for that area as well as in the Framework and PPTS. It has also resulted in the loss of habitat for protected species. Upholding the notice would therefore be in the wider public interest.
59. I am satisfied that the relevant planning policy objective could not be achieved by means which interfere less with the appellant's rights and could not be met by a less intrusive action. In that context, I am satisfied that the requirements of the notice are the minimum necessary to achieve the planning policy objective.
60. The appellant and his family reside on the site. It is their home. The best interest of the children residing on the site would be to remain on the site. I am also mindful that the dismissal of this appeal would force the appellants and their family to adopt a roadside existence, with all the attendant implications.
61. Nevertheless, I am mindful of the judgement of the Court of Appeal in *Wychavon District Council v Secretary of State for Communities & Local Government, Kathleen Butler, Leonard Butler* [2008] EWCA Civ 692. In that judgment, Carnwath LJ held that:
- ".....in *Chapman*¹ the Strasbourg court recognised that the gypsy status did not confer "immunity from general laws intended to safeguard the assets of the community as a whole, such as the environment", but added: "... the vulnerable position of Gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory planning framework and in reaching decisions in particular cases ..."
62. Carnwath LJ then went on to say:
- ".....To this extent, there is thus a positive obligation imposed on the Contracting States by virtue of Article 8 to facilitate the Gypsy way of life. Against this background, it would be impossible in my view to hold that the loss of a gypsy family's home, with no immediate prospect of replacement, is incapable in law of being regarded as a "very special" factor for the purpose of the guidance. That, however, is far from saying that planning authorities are bound to regard this factor as sufficient in itself to justify the grant of permission in any case. The balance is one for member states and involves issues of "complexity and sensitivity" (see *Chapman v UK* para 94). That is a

¹ Referring there to the judgment in *Chapman v UK* 33 EHRR 399)

judgment of policy not law, and it needs to be addressed at two levels: one of general principle, the other particular to the individual case.”

63. Applying the principles in *Wychavon* to the facts of this case, as a general principle I fully recognise the positive obligation to facilitate the Gypsy way of life. I also fully understand all the implications that dismissing these appeals and upholding the enforcement notices would have on the appellants and their families, not least in relation to the best interests of the children residing on the site. The latter is a primary consideration.
64. In no small part, my conclusions flow from the fact that the development that has taken place on the site(s) was carried out without the benefit of planning permission. In her representation, Councillor Tricia Youtan expresses the view that the development of the appeal site constitutes a blatant breach of planning control. The concerns in that respect reflect those set out in the Written Ministerial Statement (WMS) made on 17 December 2015, in which the Government expressed concern about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, the WMS points out that there is no opportunity to appropriately limit or mitigate the harm that has already taken place.
65. The Council has not alleged that the occupation of the appeal site constitutes Intentional Unauthorised Development, and, for the avoidance of any doubt, I have not treated the ‘intentional’ element as a material consideration in this case. However, as Councillor Youtan points out, here we have a situation whereby the carrying out of the development before obtaining planning permission means that there has been no opportunity to appropriately limit or mitigate the harm that has already taken place. Nowhere is this more damaging than on the potential harm to protected species and their habitats.
66. It was held in *Chapman v UK* [2001] ECHR 43 that if the home was lawfully established, this factor would self-evidently be something which would weigh against the legitimacy of requiring the individual to move. Conversely, the Court held that:
- “where a dwelling has been established without the planning permission which is needed under the national law, there is a conflict of interest between the right of the individual under Article 8 of the Convention to respect for his or her home and the right of others in the community to environmental protection. When considering whether a requirement that the individual leave his or her home is proportionate to the legitimate aim pursued, it is highly relevant whether or not the home was established unlawfully. If the home was lawfully established, this factor would self-evidently be something which would weigh against the legitimacy of requiring the individual to move. Conversely, if the establishment of a home in a particular place was unlawful, the position of the individual objecting to an order to move is less strong. The Court will be slow to grant protection to those who, in conscious defiance of the prohibitions of the law, establish a home on an environmentally protected site. For the Court to do otherwise would be to encourage illegal action to the detriment of the protection of the environmental rights of other people in the community.”
67. Adopting the terminology used in *Wychavon* and *Chapman*, and having regard to the facts in this case, I do not consider that the above factors should be regarded as sufficient to justify the grant of planning permission. Whilst not

itself on an environmentally protected site, the appeal site is nevertheless particularly sensitive in environmental terms, not only in terms of its positive contribution to the wider and already eroded landscape character but also in terms of the protected species on/using the site. Consequently, dismissing the appeals would be in the wider public interest. Balancing the appellant's rights under the HRA against the wider public interest, I conclude that in this case the interference with those rights is proportionate and justified in the protection of legitimate policy objectives.

Conditions

68. I have considered whether the imposition of suitably worded conditions could overcome the harms that I have identified above and make the development acceptable in planning terms. The Council has provided a list of suggested conditions, which were discussed at the Hearing.
69. A condition limiting the occupation of the site to persons meeting the definition of Gypsies & Travellers in Annex 1 of the PPTS would be necessary, not least because the status of the appellant and his family are fundamental and unique to some of the material planning considerations raised by this appeal. Moreover, the personal circumstances of the appellant and his family (including the best interests of the children residing on the site) are also an important material consideration. In granting any planning permission, I would exceptionally impose a condition limiting occupation of the site to the appellant, his wife and their resident dependants. Given that the appellant and his family already meet the definition of Gypsies & Travellers in Annex 1 of the PPTS, a separate condition restricting occupation of the site to persons meeting that definition would then not be necessary.
70. A condition limiting the number of caravans stationed on the site to no more than one static caravan and one touring caravan to form a single pitch would be necessary to safeguard the character and appearance of the site. However, a condition requiring that no touring caravan shall be occupied by any person at any time whilst on the land would not be appropriate. It is my understanding that it is common practice amongst the travelling community for family members, particularly older children/young adults, to occasionally stay in the touring caravan overnight to obtain privacy. Such a condition would prevent that practice. In any event, a personal planning permission would prevent occupation of the touring caravan by anyone other than the appellant, his wife and their dependants and would prevent the formation of a separate household on the site through occupation of the touring caravan.
71. A condition requiring that no industrial, commercial or business activity shall take place on or from the site (including the storage of materials) would be necessary in the interests of safeguarding the character and appearance of the area. I am mindful that the appellant earns a living as a self-employed roofer but that does not alter my opinion in this respect: there is no imperative or justification for any surplus roofing materials to be stored on the appeal site. For the same reason, a condition requiring no vehicle over 3.5 tonnes shall be stationed, parked or stored on the site for use only by the occupiers of the site is also necessary.
72. A condition requiring the submission and subsequent implementation of a Biodiversity Enhancement Strategy for Protected and Priority species is

necessary as an attempt to reverse the harm already done to the ecological and biodiversity value of the site. Similarly, a condition requiring that no external lighting or floodlighting is installed without prior permission from the local planning authority is necessary in order that protected species (bats) are not prevented from foraging over and/or commuting across the appeal site.

73. Partly in the interest of securing a reversal of the harm done to the ecological and biodiversity value of the site, and partly to mitigate the harm done to the character and appearance of the area, a condition requiring that full details of hard and soft landscaping are submitted and subsequently implemented is necessary.
74. The Council suggest a condition to remove the permitted development rights in relation to the erection of fences, etc granted by Class A, Part 2, Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). The PPG advises that such rights should only be removed in exceptional circumstances. In relation to the existing situation, I am not persuaded that such exceptional circumstances exist: the harm to the character and appearance of the area has already occurred as a result of the inappropriate boundary treatment installed by the appellant otherwise than in accordance with his rights under Class A, Part 2, Schedule 2 of the GPDO. There does not appear to be any reason to withhold those rights if applied fully in accordance with the GPDO. I will, however, return this point below.
75. A detailed scheme for surface water drainage and foul water disposal has already been submitted but a condition requiring the full implementation and retention of that scheme is necessary. Conditions requiring the submission of details for storage of refuse/recycling facilities, visibility splays, parking and turning areas would all be necessary.
76. Having regard to the above, I find that the harms identified are intrinsic to the breach of planning control that has occurred and could not be overcome by the imposition of the conditions.

Temporary and permanent permissions

77. The Planning Practice Guidance (PPG) indicates the circumstances where a temporary permission may be appropriate. These include where it is expected that the planning circumstances will change in a particular way at the end of that period.
78. I have considered whether a temporary planning permission would be appropriate in this case to allow time for the Council to fully assess the need for Gypsy & Traveller sites in the District in the light of the revised definition in the 2024 version of the PPTS. However, I take the appellant's point that there is no certainty around when that information might become available. Furthermore, even if the information did become available in the short term, there can be no guarantee that a site(s) would be identified that was available to the appellant. Consequently, I am not persuaded that a temporary permission of any duration would be appropriate in this case.
79. I have considered whether a personal planning permission would be appropriate in this case. The PPG explains that planning permission usually runs with the land and that it is rarely appropriate to provide otherwise.

However, the PPG does indicate that there may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission.

80. The personal circumstances of the appellant, as explained to me at the Hearing, do not reveal any imperative for him to remain on the site beyond the provision of a home for himself, his wife and their children, thereby avoiding a return to a roadside existence. I recognise that Mr James travels for work within the Horsham area and has relatives living nearby. I also recognise that some of the children residing on the site attend a local school.
81. Nevertheless, having regard to all relevant considerations, I conclude that in the context of the full breach of planning control alleged in the notice the personal circumstances of the appellant and his family do not constitute an exceptional reason as envisaged in the PPG, where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission.

The Paragraph 11d balance

82. Paragraph 11d of the Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed²; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
83. Paragraph 28 of the PPTS states that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the Framework apply. The Council cannot demonstrate an up-to-date supply of deliverable sites for Gypsies and Travellers, and the development therefore falls to be considered under paragraph 11(d) of the Framework.
84. Paragraph 11(d) of the Framework is essentially a balancing exercise to establish whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. In that context, the adverse impacts arising from the development that comprises the breach of planning control are set out in detail above but can be summarised here as being harm to the landscape and harm to protected species and their habitats. In particular, the poor condition of the site cannot reasonably be said to represent a 'well-designed place' in the terms expressed in paragraph 11d. It is also important to note that both of these adverse impacts are experienced by the wider public, including in the use of West Chiltington Lane as a connection between the Public Rights of Way to the north and south of the appeal site.

² Footnote 7 of the Framework specifies those areas/sites to which the Policies in the Framework are applicable. These do not apply to the appeal site.

85. In terms of benefits, the principal benefit arises to the appellant and his family in terms of providing their home and a stable base from which they carry on their way of life, as well as removing the prospect of returning to a roadside existence. In that context, the occupation of the site can reasonably be said to constitute an effective use of land in the terms expressed in paragraph 11d of the Framework, taking into account the guidance in the PPTS that new Gypsy & Traveller sites in the countryside should be strictly limited.
86. Associated with that is the benefit of a stable base from which the children residing on the site can access education and medical facilities. There is also a wider benefit to the Gypsy & Traveller community in terms of providing an additional site in the area, thereby freeing up availability elsewhere should that arise.
87. The Council has not raised any concerns regarding the location of the site in sustainability terms and, taking into account the guidance in the PPTS relating to the sustainability of Gypsy & Traveller sites, I see no reason to take a different view. However, the location of the appeal site is such that opportunities to travel by sustainable modes of transport are limited and most journeys for day-to-day purposes are likely to be made by private car. Consequently, for the purposes of the paragraph 11d balancing exercise, I find that the sustainability of the site's location to be a neutral factor.
88. Looked at in the round, the benefits arising from the development constituted by the breach of planning control alleged in the notice are experienced primarily (in fact, to all intents and purposes exclusively) by the appellant and his family. In weighing the balance required by paragraph 11(d) of the Framework, I conclude that adverse impacts of granting planning permission significantly and demonstrably outweigh the benefits. This points towards not granting planning permission for the development.

The appeal on ground (a): conclusion on the breach of planning control that is alleged in the notice

89. I conclude that planning permission ought not to be granted for the breach of planning control constituted by the matters stated in the notice when considered in full.

The appeal on ground (a): part of the matters to which the notice relates

90. Section 177(1) of the 1990 Act provides that planning permission may be granted in relation to the whole or any part of the matters stated in the notice or in relation to the whole or any part of the land to which the notice relates. I have therefore considered whether I could grant planning permission for any part of the matters stated in the notice.
91. In that context, the imperative under the HRA (including the best interests of the children residing on the site) to avoid the appellants being forced to live on the roadside is met by the static caravan remaining on the site with an associated area of amenity space. In addition to that, considerations under the PSD relating to the appellant's gypsy status are satisfied by retaining the utility building, the gas tank, the water treatment (septic) tank, the vehicular access and a sufficient area of hard surface on which the appellants can park

their vehicles and station their touring caravan. This would ensure that their way of life can continue uninterrupted.

92. Beyond that, there is no imperative to retain the operational development subject to the notice that is harmful to the character and appearance of the area. This comprises the brick pillars and the area of hard surface to the rear of the site.
93. Pursuant to section 177(1) of the 1990 Act, I will therefore grant permanent planning permission for the stationing of one static caravan and one touring caravan for residential use together with the operational development necessary to facilitate the appellant's way of life, subject to conditions. But I will uphold the enforcement notice insofar as it relates to brick pillars (and by implication the entrance gates, given that they could not remain in situ without the supporting brick pillars) and the area of hard surface to the rear of the site as shown shaded yellow on the plan attached to this Decision.
94. The notice does not require the removal of the boundary fence. However, in my view, the boundary fence is an urbanising feature and therefore one of the more harmful elements of the development that has taken place in terms of the effect on the rural character and appearance of the area³. Upholding the notice in relation to the removal of the brick pillars and entrance gates creates an immediate disconnect between the position of the boundary fencing and the location of any new brick pillars/entrance gates. The appellant and his wife expressed on many occasions at the Hearing that they would be prepared to undertake works to make the development acceptable in planning terms. The setting back of the boundary fence further into the site to align with the new position of any brick pillars/entrance gates would be one means of achieving that objective.
95. This will soften considerably the visual impact of the development, including through providing the opportunity to improve the landscaping of the site, particularly around the vehicular entrance to the site and the boundary with West Chilmington Lane. The overtly rural character of the lane would thereby be largely restored and the further erosion of the character of the area would be reversed. Similarly, removing those elements of operational development will facilitate additional compensatory measures in relation to biodiversity and protected species, which forms an important consideration in granting any sort of planning permission arising from the appeal on ground (a).
96. In reaching that conclusion, I am mindful that the removal of the boundary fence and the brick pillars (and, by implication, the entrance gates) would potentially reduce the security of the site. I am satisfied, however, that relocating the boundary fence further into the site would provide additional space for landscaping/planting, which in turn would have the dual benefit of softening the visual impact of the development and enhancing biodiversity, whilst at the same time providing an adequate level of security for the occupants of the site. There also would be an opportunity to replace the

³ Although not forming part of the breach of planning control alleged in the notice, there is no dispute that it constitutes a breach of planning control, insofar as it is a fence in excess of 1 metre in height adjacent to a highway used by vehicular traffic. However, because it does not form part of the breach of planning control alleged in the notice, it would not benefit from planning permission through the provisions within section 173(11) of the 1990 Act in the event that the residual elements of the notice are complied with in full.

currently inappropriate design of the boundary fence with a means of enclosure more appropriate to this rural setting.

97. In that context, in granting planning permission I will impose a condition removing rights under Class A, Part 2, Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. This is necessary to ensure that any gate, fence or wall that is erected is suitable in terms of its height, design and position, given that the gate, wall or fence may not necessarily be adjacent to a highway. This is necessary to ensure sufficient space for landscaping to secure biodiversity compensation (including for protected species) and to mitigate the harm to/safeguard the character and appearance of the area. For those reasons, the removal of permitted development rights is, exceptionally, justified in PPG terms.
98. The removal of the area of hard surface to the rear of the site and its reversion to grass is essential to secure the reversion of the site to a more rural character and appearance. Accordingly, this will remain as a requirement of the notice. In the interest of clarity, I attach to this Decision a plan showing the extent of hard surface to be removed.
99. Without these elements of operational development in place, the overall planning balance (including the balance required under paragraph 11d of the Framework) shifts in favour of granting planning permission. The harm to the rural character of the appeal site and surroundings would be considerably reduced, and there would be opportunities through the imposition of conditions to provide suitable replacement habitat for protected species and biodiversity generally. The considerations relating to the need for/supply of Gypsy & Traveller sites, the personal circumstances of the appellant and his family, the HRA and the best interests of the children residing on the site all remain the same. On that basis, I conclude that the adverse impacts of granting planning permission no longer significantly and demonstrably outweigh the benefits.
100. I have considered what conditions, if any, should be imposed on a permission for part of the matters. In summary, all those conditions that would be necessary as set out above would still be necessary for a permission for part of the matters, suitably modified as appropriate. In addition, a condition requiring that the area of hard surface to be removed is reinstated to grass is necessary. Clearly, this could only take place after the removal of hard surface in accordance with the periods for compliance with the notice and any condition imposed must reflect that. Also, the submission of a new scheme for surface water drainage would be necessary to reflect the changes to the surface of the appeal site following the removal of the hard surface.
101. I conclude that subject to conditions planning permission ought to be granted for part of the matters stated in the notice, specifically for the stationing of caravans for residential purposes together with the associated creation of a new access onto West Chilton Lane and operational development comprising the construction of a building/wooden structure ('the Building'), the installation of a water treatment (septic) tank, the installation of a gas tank, and the erection of an earth bund used in connection with the residential use.

The appeal on ground (g)

102. The ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The period for compliance specified in the notice is ten months in relation to Step 1 and twelve months in relation to Steps 2 to 8. The appellants seek a period of compliance of twenty-four months for all steps.
103. In view of my decision to grant planning permission for part of the matters stated in the notice, this ground of appeal now only relates to the residual elements of operational development that remain subject to the notice, specifically the brick pillars (and by implication the entrance gates) and the area of hard surface to the rear of the site.
104. My task in relation to this ground of appeal is to balance the public interest in securing expeditious compliance with enforcement notice against the private interest bound up in the development subject to the notice. In so doing, the starting point is that the operational development subject to the enforcement notice does cause the harm that I have identified above.
105. The appellants have not advanced any compelling reasons why the removal of the brick pillars, the entrance gates and the area of hard surface to the rear of the site could not be accomplished within the period of compliance specified in the notice. The necessary work is not technically complex and does not require any specialist skills, tools or machinery.
106. There is also a procedural point to be considered. The period of twenty-four months sought by the appellant is tantamount to a temporary planning permission. A temporary permission for these elements of operational development would not accord with either of the two circumstances indicated in the PPG where a temporary permission may be appropriate. It follows that extending the period of compliance to twenty-four months would similarly not be an appropriate response.
107. In weighing the balance between public and private interests, for the reasons set out above I consider that the public interest in expeditious compliance with the requirements of the enforcement notice outweighs private interest in extending that period of compliance. I am, therefore, not persuaded that there is any need to extend the period for compliance with the notice and am satisfied the period of compliance of ten/twelve months stated in the notice is a proportionate response to the breach of planning control that has occurred. Accordingly, the appeals on ground (g) fail.

Conclusion

108. For the reasons given above I conclude that Appeal A should succeed in part only. I will grant planning permission for the stationing of one static caravan and one touring caravan for residential purposes together with the associated creation of a new access onto West Chiltonington Lane and operational development comprising the installation of a water treatment (septic) tank, the installation of a gas tank, construction of a building/wooden structure (the Building) and the erection of an earth bund used in connection with the residential use under the application deemed to have been made under section

177(5) of the 1990 Act as amended, subject to the conditions set out in the Schedule of Conditions attached to this Decision.

109. In all other respects, Appeal A will be dismissed and the notice upheld with corrections and variations.
110. Appeals B, C and D will be dismissed and the notice upheld, but the notice will be quashed in the terms set out in the Formal Decision for Appeal A.
111. Section 180 (1) of the 1990 Act as amended provides 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. In other words, the requirements in the enforcement notice to remove the caravans stationed on the site for the purposes of human habitation together with the associated creation of a new access and operational development comprising the installation of a water treatment (septic) tank, the installation of a gas tank, the construction of a building/wooden structure ('the Building') and the erection of an earth bund used in connection with the unauthorised residential use will all be overridden by the grant of permission for them. Consequently, it is not necessary for me to vary the notice in these respects.
112. The planning permission that I shall grant will be subject to conditions, one which encompasses several requirements in the form of an 'enforcement style' condition. This is standard practice in such scenarios. As set out in the condition itself, failure to comply with any one of these requirements in accordance with the timetable set out will result in the planning permission falling away, the cessation of the use and the removal of all associated operational development.

Formal Decisions

Appeal A: APP/Z3825/C/25/3375764

113. The appeal is allowed insofar as it relates to the stationing of one static caravan and one touring caravan for residential purposes (human habitation), the construction of a building/wooden structure ('the Building'/utility building), the gas tank, the water treatment (septic) tank, the vehicular access and that part of the area of hard surface not shown shaded in yellow on the plan attached to this Decision.
114. The appeal is dismissed in respect of the brick pillars and the area of hard surface to the rear of the site shown shaded in yellow on the plan attached to this Decision, and the enforcement notice is upheld in these respects, for which planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B: APP/Z3825/C/25/3375765

115. The appeal is dismissed and the enforcement notice is upheld.

Appeal C: APP/Z3825/C/25/3375766

116. The appeal is dismissed and the enforcement notice is upheld.

Appeal D: APP/Z3825/C/25/3375767

117. The appeal is dismissed and the enforcement notice is upheld.

Paul Freer

INSPECTOR

APPEARANCES

For the appellants:

Mr Joe Johnny James	Appellant
Mrs Linda James	Appellant
Mr Samson Smith	Appellant
Mr Ben Kirk	Planning Consultant

For the Local Planning Authority

Miss Helen Sissons	Principal Planning Officer (Compliance)
Mrs Ines Watson	Specialist Team

Interested Persons

Mr Nicholas Yeo	Itchingfield Parish Council
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DOCUMENTS SUBMITTED AT THE HEARING

- 1/ Copy of the Council's Appeal Statement
- 2/ Extract from The West Sussex Landscape: Land Management Guidelines, Sheet LW6 Central Low Weald
- 3/ List of conditions
- 4/ Aerial photograph of the Kingfishers Farm Gypsy & Travellers site, also showing the appeal site(s).

DOCUMENTS SUBMITTED AFTER THE HEARING

- 1/ Block Plan for 1 Greenacres Farm (Drawing No. 2511GR_001)

APP/Z3825/C/25/3375764: Schedule of Conditions

1. The site shall only be occupied by Mr Joe Johnny James, Mrs Linda James and their resident dependents.
2. When the land ceases to be occupied by those named in condition 1 above the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, and/or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.
3. There shall be no more than 1 pitch on the site, comprising no more than 1 static caravan and 1 touring caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan sites Act 1968, as amended, stationed on the site at any one time.
4. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.
5. No more than one commercial vehicle shall be kept, stored or parked on the land and that shall only be for use by the occupiers of the caravans hereby permitted.
6. No commercial activities shall take place on the land, including for the storage of materials.
7. No external lighting shall be installed on the site unless details of the position, height and type of lights have been submitted to and approved in writing by the local planning authority. The external lighting shall be installed and operated in accordance with the approved details and no other external lighting shall be installed or operated.
8. Within three months of compliance with the requirement at paragraph 5.5 of the notice, that part of the site previously covered by hard surface as shown shaded in yellow on the Plan attached to this Decision shall be reinstated to grass in accordance with details to be submitted to and approved in writing the local planning authority.
9. The use hereby permitted shall cease, all buildings and engineering operations shall be removed and all equipment and materials brought onto the land for the purposes of such use/materials resulting from demolition shall be removed within 56 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 schemes for:
 - (a) a Biodiversity Enhancement Strategy for Protected and Priority species
 - (b) Surface Water Drainage and Foul Water disposal
 - (c) hard and soft landscaping of the site, including walls, fences and boundary treatments and the reinstatement to grass of the area of hard surface shown shaded in yellow on the Plan attached to this Decision

- (d) the storage of refuse/recycling facilities
- (e) safeguarding the visibility splays at the entrance to West Chilton Lane
- (f) the delineation and retention of parking and turning areas on the site

shall have been submitted for the written approval of the local planning authority. The scheme(s) shall include a timetable for their implementation.

- ii) If within 11 months of the date of this Decision the local planning authority refuse to approve the scheme(s) 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 scheme shall have been approved by the Secretary of State.
- iv) The approved scheme(s) shall have been carried out and completed in accordance with the approved timetable(s). Upon implementation of the approved scheme(s) specified in this condition, those schemes shall thereafter be maintained/retained/remain in use in accordance with details approved. 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.

