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## Appeal Decision

Hearing held on 4 June and 27 July 2026

Site visits made on 4 June and 27 July 2026

**by C Shearing BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 14 August 2026**

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**Appeal Ref: APP/H1515/W/25/3375508**

**Five Acre Farm, Warley Street, Great Warley, Essex CM13 3JZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Patrick Moran against the decision of Brentwood Borough Council.
  - The application ref is 25/00494/FUL.
  - The development proposed is described as 'material change of use of land to a mixed use of agricultural land and a Gypsy / Traveller site, comprising 4 pitches'.
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### Decision

1. The appeal is allowed and planning permission is granted for material change of use of land to a mixed use of agricultural land and a Gypsy/Traveller site, comprising 4 pitches at Five Acre Farm, Warley Street, Great Warley, Essex CM13 3JZ in accordance with the terms of the application, ref 25/00494/FUL, and the plans submitted with it, subject to the conditions set out in the schedule below.

### Applications for Costs

2. Applications for costs have been made by Mr Patrick Moran against the Council, and by the Council against Mr Patrick Moran. Those applications are the subject of separate decisions.

### Preliminary Matters

3. The site exists in a layout similar to that shown on the proposed plans, comprising four pitches separated by fencing and set either side of an area of open space in the centre of the site. Some of the mobile homes and structures within the pitches were in different positions to those shown on the plans and, for the avoidance of doubt, this decision is based on the layout shown on the proposed plans. It was confirmed at the hearing that all families proposed to reside at the site already do so.
4. Matters of land ownership and the powers of Section 70(c)<sup>1</sup> have been raised during the course of the appeal and the hearing. The appellant served a Certificate B notice on Mr Thursting on 26 March 2026, who was understood to be the registered owner of the site. I have not seen substantive evidence to suggest that other parties own parts of the site and I am satisfied that this is adequate for the purposes of the appeal. Both main parties agreed during the hearing that the

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<sup>1</sup> Town and Country Planning Act 1990 – powers to decline to determine an application for planning permission

powers of Section 70(c) did not apply here, since the application had been determined by the Council.

## **Main Issues**

5. During the course of the appeal the Council accepted that issues relating to effects of the development on the Green Belt, heritage assets, and the living conditions of those occupying the site were no longer in dispute. Since these formed reasons for the refusal of planning permission but are no longer in dispute I have dealt with these under Other Matters, rather than as main issues in the appeal.
6. The main issues are the effects of the development on the character and appearance of the area, and on the living conditions of the occupants of nearby properties.

## **Reasons**

### *Character and Appearance*

7. Despite the site's rural location, there are clusters of development of varying size set along Warley Street. Close to the appeal site this includes homes surrounding the junction with Bird Lane, a short terrace of two storey cottages to the south of the appeal site, as well as a school and contractors yard further to the south. These developments are otherwise surrounded by open fields and woodland which provide verdant gaps to the developments and contribute positively to the rural local character. I do not have substantive detail of the site's former condition, but note that interested parties described it as a former open agricultural field and part of the open countryside around Great Warley. The 2023 Inspector<sup>2</sup> described that this part of the countryside was 'an attractive, if modest, tract of land in a wider area that is otherwise largely dominated by development and roads'.
8. The depth of the appeal site far exceeds that of nearby developments lining Warley Street, and its projection into the fields would be apparent in views from the properties along Bird Lane. It also remains that the plots occupy a substantial portion of the gap between the Bird Lane properties and Mangrove Cottages, as highlighted by the earlier 2023 Inspector. Given the proximity of Pitch 1 to the road, its structures including the mobile home would remain apparent when travelling on Warley Street, and the structures behind it would be visible from the street to a lesser degree, together accentuating the presence of development on the site. Despite the changes to the layout which I return to below, the structures and domestic paraphernalia on the plots would be apparent to walkers using the public right of way (PROW) which crosses the site, diluting their experience of the area's rural character. The introduction of built forms on the site, and their projection to the east away from Warley Street reduces the area's verdant and open qualities, which is particularly apparent from Warley Street, from the path where it crosses the site and from the private view points of nearby properties.
9. I observed that the development is visible to varying degrees from across the fields to the east of the site, where the PROW crosses a steep sided valley. From the far side of the valley visibility of the appeal site would inevitably increase in winter months when the intervening trees lose their foliage. However, in those views the forms on the appeal site can be seen in the context of the other developments

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<sup>2</sup> Appeal decision APP/H151/C/20/328911 (lead case) – 7 February 2023

nearby, in particular the two storey houses of Bird Lane. This would similarly be the case at night, when lighting would be seen among this context. Given the distances involved and the backdrop of other buildings, I do not find the development to be harmful in views from the paths to the east.

10. The site now comprises four regularly sized plots set either side of a large area of open space used for grazing and the mobile homes and associated paraphernalia would be positioned to the northern edge of the plots. Together this creates some sense of spaciousness both within the pitches and the site as a whole and disperses the cluster of built forms. The proposed landscaping, including native hedgerows and post and rail fencing would also assist in assimilating the development with the surrounding countryside to some degree.
11. Given the proposed site layout, walkers on the PROW would be able to appreciate the distinction between the path and the residential uses given the separation by boundary treatments and distinct driveways to each plot, together with the more dispersed pattern of development across the site and central open space. As a consequence of the intended layout, residential activity by occupants would be focused towards the northern end of the plots, further from the PROW. In combination these factors address the previous Inspector's concerns that walkers would feel like they were walking through a private caravan site that was someone's home.
12. I observed three wooden stiles on the site, two at the front and one at the eastern end, which would need to be navigated by users of the path and these are not uncommon features of a rural footpath. Given the boundary treatments proposed I see no strong reason that users of the path would be at risk from animals on the site including horses and dogs, and observed the path in any event crosses through an open field of horses beyond to the east. Notwithstanding the findings relating to how they would appreciate the site's rural character, I do not consider the experience of users of the PROW would be harmfully reduced as a result of the development. Neither would it undermine the use of the path as a link between nearby open spaces and community woodland.
13. In conclusion on this main issue, the development causes harm to the character and appearance of the area through the reduction in its rural character. However, in light of the changes to the scheme arising from the amended site layout, reduced quantum of development and inclusion of integral open space, I find this harm to be at the lower end of the scale. This does not amount to a significant adverse impact on the intrinsic character and beauty of the countryside for the purposes of Policy HP10e) of the Brentwood Local Plan 2022 (the BLP) and the development does not conflict with HP10e) in terms of its visual effects.

### *Living Conditions*

14. Policy HP10g) includes that development should have no significant adverse impact on the amenity of nearby residents. As above, the site is in a rural location, but I observed prevailing background noise from Warley Street as well as the M25 and A127. The evidence suggests that nearby occupants have experienced noise disturbance as a result of the development, including from generators, vehicles and dogs. Some level of additional noise can be expected from the use, however, there are other residential properties nearby and noise associated with children and dogs is not uncommon in such an area. Taken together with the prevailing

background noise, the distance of the appeal site to the nearest residential properties and boundary treatments between them, and, in the absence of substantive evidence to the contrary, the residential occupation of the site would not result in a level of noise and disturbance to existing residents to the extent that it would be detrimental to their amenity. I have no strong reason to doubt that further concerns relating to noise disturbance, should they arise, could reasonably be addressed by other legislation. Conditions are imposed to restrict the number of pitches and commercial activities on the site which would further assist in limiting noise impacts.

15. The development is visible from the nearest residential properties, particularly from their first floor windows. However, given the distances involved and the single storey nature of the structures proposed, the development would not cause unacceptable harm to the outlook from those properties. A condition can reasonably be used to secure details of external lighting, to ensure it does not cause harm to living conditions. Planning Practice Guidance (PPG) reiterates that the courts have in general taken the view that the protection of private interests, such as impact on property values, could not be material considerations.
16. In conclusion on this main issue, I do not find that the development causes, or would cause, a significant adverse impact on the amenity of those nearby residents. It would comply with Policy HP10 insofar as it relates to amenity.

## **Other Matters**

### *Green Belt*

17. Policy MG02 of the BLP states that all development proposals within the Green Belt will be considered and assessed in accordance with provisions of national planning policy. The National Planning Policy Framework (the Framework) has changed since the earlier 2023 appeal decision. Paragraph 155 of the Framework refers to circumstances where development should not be regarded as inappropriate, and relates to the use of grey belt land.
18. Having regard to the definition of grey belt set out in the Framework, the appeal site does not strongly contribute to any purposes (a), (b) or (d) in paragraph 143. This is because the site is not near and does not adjoin a large built up area, does not form a substantial part of a gap between towns and does not form part of the setting of a historic town. Neither do the policies relating to areas or assets listed in footnote 7 provide a strong reason to refuse or restrict development. Accordingly, the site meets the definition of grey belt.
19. Returning to the remaining criteria of paragraph 155, of which all must be met, I am satisfied that the development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan, given the size of the site and its location. Criteria 155a) is therefore met. It is common ground that there is a demonstrable unmet need for the development proposed, meeting criteria b).
20. Criteria 155c) requires the site to be in a sustainable location. It is now common ground between the main parties that this is met. There is a footpath on the opposite side of the road which provides links to a nearby school and bus stops to the south providing services towards Brentwood. Most services and facilities are, however, located further away and I heard that the bus services are limited and

focused on local schools. Nonetheless, the Planning Policy for Traveller Sites (PPTS) acknowledges that traditional lifestyles can contribute to sustainability since some travellers live and work from the same location, omitting many travel to work journeys. I also note the earlier Inspector in 2023<sup>3</sup> did not find conflict with Policy HP10a) regarding this matter. Accordingly, and given these factors in combination, the site can be considered to be in a sustainable location for the purposes of the appeal scheme, meeting criteria c). Criteria d) is not applicable here, since the PPTS acknowledges the Golden Rules do not apply to traveller sites.

21. For the reasons given, the development complies with the criteria set out in paragraph 155 of the Framework and is not, therefore, inappropriate development in the Green Belt. As a result of this finding it is not necessary to consider the effects of the development on openness or establish whether very special circumstances exist.
22. I am mindful that Policy HP10 of the BLP states at part 2 that Gypsy and Traveller windfall sites in the Green Belt need to demonstrate very special circumstances which clearly outweigh the harm to the Green Belt, and any other harms. In the absence of a conclusion on this matter there would be conflict with Policy HP10. However, I find this to be inconsistent with the Framework since the development before me is not inappropriate under its provisions. I return to this matter below.

### *Heritage Assets*

23. The Great Warley Conservation Area (CA) lies approximately 1.02km to the north west of the appeal site and development outside a conservation area may be capable of affecting its character and appearance for the purposes of the statutory duty of Section 72(1)<sup>4</sup>. The CA derives its significance from its historic rural character of timber-framed and plastered houses including those in Arts and Crafts style, clustered around a village green and extending south along Great Warley Street.
24. Given the distance of the appeal site from the CA and the intervening structures, I did not find any view points from where the appeal site and the CA can be observed together or other connections or relationships between them. For this reason the appeal site does not form part of the setting of the CA or the way in which its significance is appreciated. The development would therefore preserve the elements of the setting which make a positive contribution to its significance. This complies with BLP Policy HP10e) regarding effects on historic assets.

### *Living Conditions of Occupants of the Site*

25. In light of the findings of my site visit and subject to the imposition of conditions set out below, the development would provide an acceptable standard of accommodation for its intended occupants. This meets requirements c), g) and h) of Policy HP10.

### **Planning Balance**

26. As above, there would be conflict with the development plan arising from the absence of a conclusion on very special circumstances required by Policy HP10. I

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<sup>3</sup> Appeal Decisions APP/H1515/C/22/3298928 and APP/H1515/W/20/3248930 – 7 February 2023

<sup>4</sup> Planning (Listed Buildings and Conservation Areas) Act 1990



give that conflict limited weight given its inconsistency with the Framework here. I also acknowledge, however, that there are considerations which weigh against the development.

27. Given the Council is unable to demonstrate a five year land supply of deliverable sites, the provisions of paragraph 11d) of the Framework are relevant to the appeal. For the reasons above, I have not found that the application of policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development proposed. Therefore the balancing exercise of 11d)ii is required. This sets out that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies listed in the associated footnote.

#### *Character and Appearance Effects*

28. The development causes harm to the character and appearance of the area. This causes conflict with the Framework insofar as it requires recognition of the intrinsic character and beauty of the countryside. For the reasons given I find that harm is at the lower end of the scale of harm and attracts moderate weight against the development.

#### *Intentional Unauthorised Development*

29. It is common ground that Intentional Unauthorised Development (IUD) has occurred. As found by the previous Inspector, the development in 2019 was clearly intentional and the site has subsequently been subject to a multitude of actions by the Council including a temporary stop notice, enforcement notice and injunction, eventually resulting in the occupants being taken to court and given suspended sentences and fines. A further three and a half years have now passed since the last appeal decision, where the enforcement notice was upheld and the appeal against an application for planning permission was dismissed, and the site still remains in residential use. It is common ground between the main parties that the requirements of the enforcement appeals have not been complied with. I appreciate this must be both very upsetting and disheartening for those living nearby who have witnessed these proceedings over this significant period of time as well as other parties involved in seeking to rectify these unlawful actions. The development is clearly one intended to be captured by the Written Ministerial Statement (the WMS) since it makes IUD a material consideration.
30. The previous Inspector ascribed considerable weight to this matter. The extent of harm now caused is less, for the reasons set out and particularly given the development is no longer harmful to the Green Belt, which is a focus of the WMS. Nonetheless, I cannot ignore that the appellant's intentions to occupy the site have been continuous and long lasting, and they are clearly aware that their actions are unauthorised. The previous appeal decision extended the time for compliance with the enforcement notice and I heard that the Council then gave some flexibility in the timescales for compliance following a request by the appellant. Nonetheless, over a year continued to pass between the end of the period of compliance for the enforcement notice and the new planning application in April 2025 when the site remained occupied.

31. Even accounting for the changes to national policy, the development continues to cause harm to the character and appearance of the area, albeit to a lesser degree. Having regard to the circumstances surrounding the IUD, I give this moderate weight, which weighs against the development.

#### *Dominating the Settlement*

32. Despite the size of the appeal site, given the quantum of pitches proposed and the scale of the surrounding settled community, it does not dominate the settlement for the purposes of paragraph 14 of the PPTS. This does not therefore weigh against the development and is neutral in the planning balance.

#### *Need for Gypsy and Traveller Sites*

33. It is common ground that the Council cannot demonstrate an up to date supply of Gypsy and Traveller sites. The main parties agree there is a need for 103 pitches for those Gypsies and Travellers meeting the planning definition, or 124 pitches if including those undetermined, for the period of 2024- 2042. This is based on the Council's Needs Statement of June 2025<sup>5</sup> and discounting the 10 pitches which the parties agree have since been granted planning permission. This is a very significant need.
34. At present the unmet need can only be met through windfall sites coming forward and assessed via the criteria based policy of HP10. This gives a proactive approach to Gypsy and Traveller sites on unallocated land. Despite the extent of the unmet need, it is not apparent that there is a policy failure since it is capable of delivering sites and this is consistent with the findings of an earlier Inspector<sup>6</sup>.
35. Looking forward, the Council are working towards a local plan review intending to address the need for sites through new allocations. The appeal site was one of those submitted for consideration through this process. However this remains at the very early stages, having yet to undergo a Regulation 18 consultation of preferred options. There is therefore significant uncertainty as to how the future local plan will address the level of need and it remains a significant way from examination and adoption. The Council accept it is likely that future sites would need to be outside defined settlements in order to meet the need.
36. The appeal scheme would contribute four pitches to the identified need and make a tangible contribution to addressing the shortfall. These are in an area identified as being sustainably located for this purpose, in line with the policies of paragraphs 110 and 115 of the Framework relating to sustainable travel. Given the very significant need for Gypsy and Traveller sites together with the uncertainty of future means to meet the need, the benefit of providing four pitches through this appeal carries significant weight in favour of the development.

#### *Circumstances of the Appellant and Best Interests of the Children*

37. There is no dispute that the intended occupiers of the site are Gypsies and Travellers. The appellant and his family are an ethnic minority, and thus have the protected characteristic of race under s149(7) of the Equality Act 2010 and so, as required by section 149(1) of the Equality Act 2010, the public sector equality duty

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<sup>5</sup> Brentwood Borough Council Gypsy and Traveller Need Statement to reflect the December 2024 PPTS definition change, June 2025

<sup>6</sup> Appeal decision APP/H151/W/24/3341474 (lead case)- dated 16 January 2025

is applicable. There is therefore a need to have due regard to eliminating discrimination, advancing equality of opportunity and fostering good relations. The appeal scheme would support the traditional way of life of families that have a protected characteristic and facilitate the establishment of a settled base for the appellant's family whilst they continued to pursue a nomadic lifestyle for economic purposes.

38. The Council did not dispute that there were no other alternatives for the appellant and the affected families. The evidence refers to earlier discussion of alternative accommodation with the Council, which was deemed unsuitable given it included bricks and mortar housing and in areas away from the children's schools. The appellant remains on the Council's waiting list for a pitch which has been the case for several years.
39. The evidence shows there are a considerable number of children on the site, ranging from toddlers to those approaching secondary school age and including some with learning disabilities. The majority of the children attend school and are reported as doing well in their education. Two others are home schooled for reasons surrounding the uncertainty of their situation and the potential need to uproot them from secondary school if they needed to relocate, although the appellant considers they would receive a better education from a school.
40. Where Article 8 rights are those of children, as in this case, they must also be seen in the context of Article 3 of the United Nations Convention on the Rights of the Child. This requires a child's best interests to be a primary consideration. In particular, case law identified that, although a primary consideration, the best interests of a child are not a determinative planning issue, but that no consideration must initially be regarded as more important or be given greater weight.
41. If the appeal were to be dismissed there is a heavy likelihood, based on what I have seen and heard, that the children would have to leave their schools and their education would be disrupted as well as causing associated effects on their wellbeing. Their best interests would clearly be served by a permanent and secure, culturally appropriate home, allowing their education to continue uninterrupted.
42. In addition, I heard that several members of the families have health conditions in some cases requiring regular treatment. A settled base would also provide access to local healthcare which the evidence suggests is necessary for several members of the family including the children.
43. I am aware that the 2023 appeal decision highlighted discrepancies in the appellant's evidence at that time which tempered the weight the Inspector gave to them. However this would no longer appear to be the case and the circumstances of the families is not in dispute.
44. For these reasons in combination, and having regard to the best interests of the children as a primary concern, I give significant weight to the personal circumstances of the appellant and the families.

### *Conclusion on Planning Balance*



45. While there are adverse impacts of granting planning permission, these would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. Therefore the appeal scheme benefits from the presumption in favour of sustainable development set out in the Framework. This is a material consideration of sufficient weight to outweigh the remaining conflict with the development plan.
46. Given it has been established that the development would be acceptable at this time, permanent permission can be granted, even if it appears that alternative accommodation could become available in the future. It is not therefore necessary to assess the prospect of a temporary permission.

### **Conditions**

47. A list of conditions was included in the Statement of Common Ground. These were subject to discussion in the hearing and I have assessed these in light of the relevant tests for conditions.
48. To provide certainty to the parties, a condition is necessary to list the approved plans. A condition is also necessary to specify the number of pitches and caravans for the same reason and to ensure the site is only occupied by those meeting the relevant definition.
49. For reasons of visual amenity and to preserve the living conditions of nearby occupants, conditions are necessary to restrict commercial activity and vehicles. For the same reasons, and also to ensure appropriate living conditions of the occupants and nearby residents, several additional details are necessary, including landscaping, drainage and a lighting strategy. I have removed the requirement for a site layout to be provided, given this is shown on the approved block plan and which I have found to be acceptable. I have included boundary treatments in the additional details required, given their importance to the appearance of the site and the experience of walkers using the PROW.
50. In the hearing the appellant admitted that a period of 4 months for submission of those details is preferable, given the need to appoint consultants for some of those matters and this was not opposed by the Council. I have therefore updated the timescale for details to be submitted in the interest of reasonableness. I have removed the section of the condition relating to a high court challenge, so not to repeat or prejudice that process.
51. I am not convinced that precautionary measures for land contamination meet the test of necessity here, given the site's previous use and low likelihood of substantial additional ground works. This is not therefore imposed. To require the PROW to remain free of obstruction would repeat the provisions of the Highways Act and it is therefore not necessary, particularly having regard to the advice in the PPG surrounding conditions relating to other regulatory requirements.
52. It would appear that the suggested works surrounding the access have already been undertaken. The front of the access is hard surfaced, kerb lines align with the access and the gates are set back a significant distance from the edge of the highway. I am therefore not convinced that additional conditions for works to the access are necessary or reasonable here.

53. Since the development is exempt from the statutory biodiversity net gain condition and the relevant development plan policy only refers generally to net gain, I have simplified this provision to make it proportionate to the policy requirement and this is included in the condition of details to be submitted.

**Conclusion**

54. For the reasons given, having regard to the development plan and other material considerations, the appeal is allowed and planning permission granted.

*C Shearing*

INSPECTOR

## Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: J005289-DD-01 Site Location Plan; J005289-DD-04 PP Block Plan; J005289-DD-05 PP Block Plan; Unnumbered Dayroom Elevations; Unnumbered Dayroom Floor Plan.
2. The site shall not be occupied by any persons other than Gypsies and Travellers as defined in Annex 1: Glossary of the Planning Policy for Traveller Sites 2024, or its equivalent replacement in national policy.
3. There shall be no more than four pitches on the site. No more than two caravans (comprising no more than one static and one tourer on each pitch), as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, shall be stationed on each pitch at any time.
4. No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans hereby permitted and it shall not exceed 3.5 tonnes in weight.
5. No commercial activities shall take place on the land including the storage of materials.
6. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use 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 4 months of the date of this decision, details of the following shall be submitted to the Local Planning Authority for approval in writing as well as a timetable for their implementation (the Site Development Scheme):
    - a. Means of surface and foul water drainage;
    - b. Hard and soft landscaping (including tree, hedge and shrub planting and details of species, plant sizes and proposed numbers and densities), and all boundary treatments;
    - c. A water supply;
    - d. A strategy for lighting;
    - e. Biodiversity enhancements for the site.
  - (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), that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

- (iv) The approved Site Development Scheme shall have been carried out in accordance with the approved details and timetables for implementation.

**End of Schedule**

## ATTENDEES

### For the Council:

|                   |                           |
|-------------------|---------------------------|
| Mark Beard        | Counsel                   |
| Sian Griffiths    | RCA Regeneration          |
| Medhi Rezaie      | Brentwood Borough Council |
| Caroline Corrigan | Brentwood Borough Council |

### For the Appellant:

|                  |                            |
|------------------|----------------------------|
| Alan Masters     | Counsel                    |
| Brian Woods      | WS Planning                |
| Daniel Baty      | WS Heritage (4 June only)  |
| Mark Sanderson   | WS Heritage (27 July only) |
| Patrick Moran    | Appellant                  |
| Yasmin Blackburn |                            |
| Francis Moran    |                            |

### Third Parties:

|                           |                                   |
|---------------------------|-----------------------------------|
| Linda Beaney              | Great Warley Conservation Society |
| Steve Burgess             | Great Warley Conservation Society |
| Councillor Barry Aspinell |                                   |
| Councillor Philip Mynott  |                                   |
| Frederick Cannon          |                                   |