



Appeal Decision

Hearing held on 24 January 2023

Site visit made on 25 January 2023

by M Madge Dip TP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 May 2023

Appeal Ref: APP/C3430/C/21/3283004

Land on east side of Teddesley Road, Penkridge ST19 5RH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr John Ireland (senior) against an enforcement notice issued by South Staffordshire District Council.
- The notice was issued on 21 August 2021.
- The breach of planning control as alleged in the notice is:
 - (i) The unauthorised material change of use of the Land from agriculture to a residential caravan site.
 - (ii) The unauthorised siting of caravans and associated development on the Land.
 - (ii) Unauthorised operational development to create hardstanding.
- The requirements of the notice are:
 - (i) Cease the unauthorised residential use of the Land.
 - (ii) Remove from the Land all caravans, unauthorised buildings and structures.
 - (iii) Remove from the Land all vehicles associated with the unauthorised material change of use of the land.
 - (iv) Remove from the Land all unauthorised hard surfacing from the land outlined in blue on the attached plan including the imported hard core and associated materials.
 - (v) Remove from the Land the unauthorised concrete pad from the land coloured purple on the attached plan.
 - (vi) Reinstate the Land outlined in dark blue on the attached plan to agricultural land by re-seeding or re-turfing the Land with a mixture of wild-flower mix or a 60% to 40% mix of wild-flower and grass seed.
 - (vii) Remove from the Land all materials arising from compliance with (ii), (iii), (iv) and (v) above.
- The periods for compliance with the requirements are:
 - Steps (i), (ii) and (iii): one month.
 - Steps (iv) and (v): two months.
 - Steps (vi): six months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is allowed, the corrected enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Matters Concerning the Notice

1. There are several errors in the notice. In section 3, there are 3 sub-paragraphs, 2 of which are labelled '3(ii)'. The second of these should be labelled '3(iii)' for clarity.
2. Section 3(ii) of the notice states '*The unauthorised siting of caravans and associated development on the land*'. Section 3(i) deals with the use of the land

- and section 3(iii) deals with operational development. Section 3(ii) is therefore unnecessary duplication, the wording in 3(ii) will be deleted accordingly, and 3(iii) shall be renumbered as 3(ii).
3. Step 5(ii) requires the removal of all unauthorised buildings and structures, as well as caravans, from the land. The Council confirmed at the Hearing that there are no buildings or structures captured by the notice. Step 5(ii) shall be corrected accordingly.
 4. Steps 5(iv) and (vi) refer to land outlined in 'blue' and 'dark blue' respectively. However, the plan attached to the notice only shows one area of land outlined in one shade of blue. The word 'dark' shall be deleted from Step 5(vi) for clarity.
 5. There are 7 steps required to be taken to comply with the notice. The time for compliance is broken down into 3 periods. A period of one month falls short of what should reasonably be allowed in respect of the cessation of the residential use of the land and removal of all caravans and vehicles from the Land. It was agreed at the Hearing that a period of six months to comply with steps (i), (ii) and (iii) would be reasonable. As the hardstanding could not be removed, and the land could not be reseeded until the caravans have been removed, the compliance period for steps (iv), (v) and (vi) shall also be varied from two and six months respectively to eight months. Also, a compliance period for step (vii) has been omitted. It shall be included in the eight-month period.
 6. The appellant's case relates to the use of the land as a residential caravan site and the laying of hardstanding, in the form of imported hard core, associated materials and a concrete pad. My corrections and variations set out above would not fundamentally change the matters alleged and no injustice would arise for the appellant or the Council. I shall proceed on the basis of the corrected notice.

Preliminary Matters

7. Since the development relates to the setting of a listed building, I have had special regard to section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
8. The Council introduced the impact of the development on the Cannock Chase Special Area of Conservation (the SAC) at the Hearing. As the competent authority, I am duty bound to carry out an Appropriate Assessment (AA). Adequate information was not available at the Hearing to enable me to undertake the AA and additional time was given for the Council to provide the necessary information. Given the late introduction of this matter, the appellant was also provided with time to provide a completed Unilateral Undertaking to address mitigation. I will return to this matter later.
9. Additional operational development has taken place on the land since the notice was issued. Matters such as the erection of fencing, poles to which CCTV cameras and lights are affixed, and raised decking are not captured by the notice. These matters are not therefore before me for consideration.
10. It was agreed by the appellant and the Council that the single storey stable building (the stables), as it stood prior to the appellant's occupation of the land, had achieved immunity from enforcement action due to the passage of time. There is no evidence before me to suggest otherwise, and I agree that

the stables is lawful. I was also advised that the stables had been extended since the notice was issued. Enforcement action may be taken in respect of the lean-to extensions to the stables, but this matter is not before me for consideration.

11. The site is currently occupied by Mr John Ireland (senior), his wife, and their two daughters, Princess and Tiahana. They have temporarily stopped travelling due to Tiahana's medical needs, but Mr Ireland travels for work when able to. The appellant claimed that the site has also been occupied by his sons, John Ireland (junior) and Richard Ireland, their partners and children, his cousins John Stevens and Mr Jenkins, and a friend John Vary, their partners and children. These other identified occupiers were away travelling at the time of the Hearing. Having heard the appellant's oral evidence, the Council conceded that the appellant and his extended family have Gypsy and Traveller status.
12. The use of the land as a residential caravan site has taken place, but the number of caravans on the land has been the subject of change. While the appellant would like the acceptability of 8 caravans for residential purposes to be considered, aerial imagery shows a maximum of 5 caravans on the site, and I saw only one cabin and one caravan on the site at the time of my site visit. The appellant's oral evidence suggests that 7 households have resided at the site, but no evidence to show that they were all in occupation at the same time is provided. In the absence of any other precise evidence, I take the aerial image showing 5 caravans to be the maximum level of occupation. I shall proceed on that basis.
13. The appellant's written submissions make a case that the concrete pad extension, coloured purple on the plan attached to the notice, had not occurred. This matter would fall to be considered under ground (b), but an appeal on this ground was not identified on the appeal form. The Council had time to address this matter and it was agreed that it could be dealt with without causing injustice at the Hearing.

Appeal on Ground (b)

14. An appeal on this ground is that the matters alleged have not occurred as a matter of fact. The onus of proof is on the appellant and the relevant test is the balance of probability.
15. There is no dispute that a material change of use of the land to a residential caravan site has occurred. The appellant originally claimed that the area of concrete pad coloured purple on the plan attached to the notice (the purple concrete) was part of the concrete pad that the stables stand upon. At the Hearing however, the appellant claimed that the purple concrete had been constructed prior to his purchase of the land. An adjacent resident, Mr Saund, confirmed the appellant's amended position on this matter, advising that his recollection was '*[the purple concrete] had been constructed shortly before the appellant purchased the land*'. The appellant agreed that this was less than 4 years before the notice was issued.
16. The oral evidence, along with what I saw on site, confirms that the purple concrete is separate from that which the stables stand upon. It therefore forms part of the hardstanding referred to in the corrected allegation.
17. The appeal on ground (b) fails.

Appeal on Ground (a)

18. An appeal on this ground is that planning permission should be granted for the matters alleged, namely the use as a residential caravan site and the creation of hardstanding. The site lies in designated Green Belt, adjacent to a conservation area and close to a listed building, and within the zone of influence for the Cannock Chase Special Area of Conservation. The **main issues** are:

- whether the development is inappropriate development in the Green Belt having regard to the Framework and development plan policy;
- the effect of the development on openness;
- the effect of the development on heritage assets;
- the effect of the development on the SAC;
- the effect of the development on the character and appearance of the area;
- the question of need for and supply of gypsy and traveller sites;
- the question of intentional unauthorised development;
- the personal circumstances of the occupiers;
- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

Green Belt

19. The essential characteristics of Green Belts are their openness and their permanence. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The five purposes of Green Belt include to assist in safeguarding the countryside from encroachment.
20. Paragraph 147 of the Framework confirms that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Policy E of the PPTS confirms that traveller sites in the Green Belt are inappropriate development. This development is therefore, by definition, harmful to the Green Belt by reason of inappropriateness.

Openness

21. Policy GB1 of the South Staffordshire Core Strategy (CS) adopted in December 2012 provides guidance for development that is acceptable within the terms of the Framework. It makes no reference to gypsy or traveller sites, but policy H6: Gypsies, Traveller and Travelling Showpeople clearly envisages that new gypsy or traveller sites may be acceptable in the Green Belt where there is a shortfall against the identified need identified. The Council accepts that future site provision will almost certainly be in the Green Belt but seeks through policy H6 to ensure that such sites do not have a '*demonstrably harmful impact on openness*'. This term is not defined, but I consider that it is intended to convey a significant loss of openness rather than a more limited loss that may result from a small-scale site, such as the appeal site.

22. The assessment of impact on openness is about considering the presence of the development in the context of national policy, which seeks to keep Green Belt land permanently open, thus avoiding urban sprawl. This specific assessment is not about the quality of the development or its effect on the character and appearance of the area. The Court of Appeal has confirmed that the openness of the Green Belt has spatial and visual aspects¹.
23. The appeal site is located to the east of Teddesley Road and west of the Staffordshire and Worcestershire canal. It is roughly square in shape, and it has been divided by fencing. Hardstanding has been laid on the land edged in blue on the plan attached to the notice. Electrical hook-ups are located at various positions adjacent to the southern boundary. There is no demarcation of individual pitches.
24. The stables building is in the south-eastern corner of the site. The appellant and Council agree that the land was previously used for grazing, most probably associated with equestrian activities, and I see no reason to disagree. The hardstanding itself, owing to its lack of three-dimensional form, would have no impact on openness. However, the accommodation of a maximum of 5 caravans, vehicles and associated residential paraphernalia inevitably takes up space in what was previously open land.
25. Given the nature of the use, the number of caravans and vehicles, and the level of residential paraphernalia fluctuates depending on the number of households present. The development does not include the provision of dayrooms and only one cabin (static) has been sited. The development has reduced the spatial openness of Green Belt, but even when 5 caravans are present, the amount of that reduction is relatively small in the overall Green Belt context.
26. The site is adjacent to and accessed from Teddesley Road. There is a substantial and dense boundary hedgerow adjacent to the carriageway. The continuity of this hedgerow is only interrupted by the site entrance. Teddesley Road is unsuitable for walkers and its width and configuration ensure motorists and cyclists would be focussing on the road. Any glimpse of the development is therefore likely to be very brief or fleeting. Whilst visibility of the site from the road may increase due to seasonal leaf fall, it seems to me that the density of the hedgerow would ensure that views of the site would continue to be screened or at least be well filtered.
27. The site can also be seen from the canal towpath to the rear. While there is vegetation along this boundary, it is not so dense as that adjacent to Teddesley Road. The position of the stables behind the boundary vegetation obstructs views of the unauthorised development to a degree. The upper parts of caravans and vehicles remain visible in the surrounding landscape, which is interspersed with canal bridges, rural buildings, and an elevated section of the M6 motorway.
28. I saw that views of the site are possible from the nearby canal bridge and the neighbouring dwelling, Parkgate Lodge. These views are however at a distance, through intervening vegetation. The visual impact of the development on the openness of Green Belt is therefore limited.

¹ *Turner v SSCLG & East Dorset Council* [2016]

29. Taking all these considerations together, the development causes a degree of encroachment into the countryside and urban sprawl, contrary to Green Belt purposes as set out in the Framework. However, the development only results in limited harm to visual openness.

Heritage Assets

30. The Staffordshire and Worcestershire Canal Conservation Area (the CA) encompasses the adjacent canal and its towpath. Its significance is derived from its industrial archaeology and civil engineering importance. The canal and towpath provide a leisure route for walkers, cyclists and boats users. The site is located to the west of the canal, between Parkgate Bridge and New Bridge (better known as 'Fancy' Bridge). Both bridges provide access to the Teddesley Estate. In the immediate area, the CA is bounded by hedgerows and woodland, which provides a peaceful and tranquil setting. The significance of the CA, insofar as it relates to this appeal, is primarily associated with the leisure route it provides through a sylvan setting.
31. The nearby Fancy Bridge is a Grade II listed building. Built in the late 18th Century of Ashlar, it has a single three centred arch and roll moulded parapet string to a partly balustraded parapet with some brick infill, terminating in octagonal piers. The bridge was constructed to provide an alternative access into Teddesley Estate. Given the above, I find the setting of the listed building, insofar as it relates to this appeal, to be primarily associated with the canal and its sylvan setting, which directly contribute to its special interest. I shall give great weight to the conservation of these identified heritage assets.
32. The development has no physical effect on the significance of the CA or listed building. The development is located behind the stables and boundary vegetation, which obscure views of the caravans, associated vehicles and residential paraphernalia when passing the site along the canal, the towpath or when crossing Fancy Bridge. Glimpses of the development that can be seen result from the light colour finish of the caravans, and some vehicles, contrasting with the vegetation and stables. The visual impact of the development on the sylvan character of the CA or the significance of the listed building's setting is therefore very limited.
33. The Council claim that it is the two-metre-high domestic style feather board wooden fencing and lighting that impacts negatively on the significance of the setting of the listed building. As already established, the fencing and lighting are not before me for consideration. While the provision of fencing and lighting could be necessary additions to the development of the site, if I were to grant planning permission, these matters can be adequately controlled by condition.
34. Electricity for occupied caravans is provided by portable generators. Depending on the number of occupied caravans, the size and type of generator in use may change. Whichever type of generator is being used, it omits noise which is audible from the canal, towpath and potentially the Fancy Bridge. The generator in use does not however run continuously and it would only be audible for the length of time that it takes for someone to pass the immediate vicinity of the site. The intermittent adverse noise from the use of a generator would have a limited impact on the peace and tranquillity of the adjacent CA and the significance of the listed building's setting.

35. The very limited visual and limited audible impacts would cause less than substantial harm to the CA and significance of the setting of the listed building. As I have found the development to lead to less than substantial harm, this harm should be weighed against any public benefits arising from the development.
36. The Council acknowledges that it does not have a 5-year supply of specific deliverable sites and therefore has a shortfall of gypsy and traveller pitches. The development makes a positive contribution towards addressing the identified shortfall and I give this public benefit significant weight. As the audible and visual harms to the heritage assets are limited and very limited, the significant public benefit outweighs the less than substantial harm.
37. The development therefore accords with policy EQ3 of the CS, which seeks to conserve, preserve and protect heritage assets.

Special Area of Conservation (SAC)

38. The SAC comprises the largest area of heathland habitat surviving in the English Midlands. It comprises dry and wet heathland which is Annex I habitat, although a primary reason for selection of this site is Northern Atlantic wet heaths with *Erica tetralix*. The site also hosts Annex II species. It cannot be ruled out that the development, alone or in combination with other plans and projects, would result in a likely significant effect on the SAC due to recreation and visitor pressures.
39. As appropriate authority, I therefore have a duty to undertake an appropriate assessment to consider whether it would be possible to secure satisfactory mitigation measures. I have had regard to Footprint Ecology's Report², the 'Guidance to Mitigate the Impact of New Residential Development' (March 2022) (GMINRD), and the Cannock Chase Special Area of Conservation Partnership's 'Memorandum of Understanding'. Natural England, as the statutory national conservation body, authorised the adoption of the GMINRD as supplementary planning guidance. The GMINRD promotes a regime of financial contributions towards strategic on-site mitigation within the SAC, including habitat management, access management and visitor infrastructure. I consider the provision of the financial contribution towards strategic mitigation measures enables it to be ascertained that the proposal would not adversely affect the integrity of the SAC protected under the habitat regulations.
40. In accordance with the GMINRD, the appellant has submitted a planning obligation, in the form of a unilateral undertaking ('UU'). This UU secures the aforementioned financial contribution, which equates to £290.58 per traveller pitch. The provisions of the UU are necessary to make the development acceptable in planning terms, they are directly related to the development and are fairly and reasonably related in scale and kind to the development. The UU meets the relevant tests, and the planning obligation is a material consideration which satisfactorily mitigates harm in this case.
41. For these reasons, the proposal accords with policy EQ2 of the CS, which seeks to protect and enhance habitats, species and sites of international, national and

² Footprint Ecology's Evidence Base to Cannock Chase SAC and the Appropriate Assessment of Local Authority Core Strategies

local importance including the SAC. The development also complies with the Regulations.

Character and appearance

42. Local and national planning policies seek to restrict development in the countryside to that which is required for agriculture, forestry or some other essentially rural activity. It is also generally accepted that new gypsy and traveller sites will be located outside settlement limits, in the countryside.
43. The surrounding countryside is characterised by a mix of arable and grazing fields, bounded by high hedgerows, and interspersed with sporadic groups of buildings and woodland. This rural landscape is bisected by the M6 motorway, which is elevated in places. The site and surrounding countryside do not fall within any designated landscape area.
44. The site is screened by high mature native species hedgerows. The development is located at the southern end of the field, adjacent to the garden of the neighbouring dwelling. The development therefore represents an extension to an established group of buildings in the countryside. The development has urbanised the appearance of the land, but this has a very limited impact beyond its boundaries. The provision of additional landscaping and control of fencing and lighting, through the imposition of suitably worded conditions, could reduce any impact of the development on the character and appearance of the countryside.
45. Taking these factors together, the development has a very limited effect on local distinctiveness and the intrinsic rural character of the immediate area. The development does not therefore conflict with policy EQ4 of the CS, which seeks to protect and enhance the character and appearance of the landscape, amongst other things.

Other matters:

Living conditions

46. As already established, the development is well screened by established hedgerows. I saw that the uppermost parts of the development can be seen from the neighbouring residential property. It is also possible to see someone entering or leaving the cabin. The neighbouring residential property can also be seen from the development. Just because a level of intervisibility exists between two developments, it does not follow that a loss of privacy will occur. The distance between the development and the adjacent dwelling is significant and interspersed with hedgerows, trees and shrubbery. Overlooking of the neighbouring property's private garden is therefore unlikely to any significant degree.
47. There are claims that noise from the generators has caused audible detriment to the quiet enjoyment of the neighbouring private garden. The appellant has taken steps to address the neighbouring occupier's concerns, by relocating the generators further away and erecting fencing to act as a noise barrier. While the lawfulness of that fencing has not been established, this matter could be addressed through a suitably worded condition. Furthermore, the appellant has confirmed that a permanent electricity supply can be provided to the site. Noise arising from the generators is less than likely to cause significant detriment to the adjacent occupier's living conditions.

Highway safety

48. The speed limit along Teddesley Road adjacent to the site is unrestricted and, whilst the carriageway is narrow with high boundary features, it accommodates two-way traffic. While I have not been provided with any speed survey information, the carriageway width and succession of bends near the site prevent traffic passing the site at high speeds. The entrance to the site can accommodate two-way traffic and the gates are set back so that a vehicle towing a caravan can pull clear of the road, even if the gates are closed. Visibility for emerging drivers is affected by adjacent boundary features and the road alignment, but there is no evidence to show that the available distance is inadequate.
49. The Framework states that development should only be prevented on highway grounds where impacts are 'severe'. In light of the above, I find that the development would not cause severe harm to highway safety and so would not conflict with policy H6(6) of the CS or the Framework.

The settled community

50. Penkridge is a large settlement, containing a significant number of shops, businesses, schools, and other services. The small-scale nature of the development respects the scale of and does not dominate the nearest settled community, nor does it place undue pressure on local infrastructure. The development does not conflict with policy H6(7) of the CS.
51. The occupation of the site by multiple households could however feel domineering to the adjacent residential occupier and lead to a fear of crime. Both the appeal site and adjacent property have external lighting and CCTV cameras, albeit I was advised that those on the appeal site are not operational. There is however no evidence before me linking the site occupiers with criminal activity. Taking these factors together, I find there is no conflict with policy CS1 of the CS, which seeks to design out crime.

Site infrastructure

52. The site is not currently served by a local authority waste collection service. The appellant has however made provision for commercial waste collection. I saw large, wheeled bins located adjacent to the site entrance. The development currently makes use of chemical toilets, the number of which changes depending on how many households are present. The appellant has a private agreement for the supply of water to the site. The local water authority could however provide a connection for the site. Given that an electricity connection can also be provided, there is no conflict with policy H6(2) of the CS.

Need for and supply of gypsy and traveller pitches

53. The Council is undertaking a local plan review and claimed at the Hearing that the timescale for adoption is likely to be spring of 2024. They expect planning permissions for site allocations to be coming forward from spring of 2025. As the local plan review has not yet been submitted for examination, there is no guarantee what form any site allocations or criteria-based policy for Gypsy and Traveller provision will take.
54. The PPTS requires local planning authorities to prepare and maintain an up-to-date understanding of the likely accommodation needs of their areas over the

lifespan of the development plan. The Council's latest Gypsy and Traveller Accommodation Assessment (GTAA) was produced in 2021. This identifies a need for 121 pitches, over the lifetime of the emerging local plan review period (2021 to 2038), for households that meet the Gypsy and Traveller definition in Annex 1 of the PPTS, which has been found to be discriminatory³. Given that a wider definition is likely now to be applied, the need for pitches over the plan period is likely to increase.

55. The PPTS states that local planning authorities should identify, and update annually, a 5-year supply of specific deliverable sites. The GTAA 2021 identifies that there is a need for 72 additional pitches over the 5-year period 2021 to 2025. The emerging local plan review proposes the allocation of land to deliver 42 pitches, most of which will be in Green Belt. Even if these 42 pitches are taken forward to adoption, there would remain a shortfall of 30 pitches, which is not an insubstantial number.
56. The GTAA in 2014 identified a need for 33 additional pitches over the development period 2013/14 to 2027/28. For the 5-year period 2013/14 to 2017/18 a shortfall of 11 pitches was acknowledged. The GTAA in 2017 identified a need for 48 additional pitches over the 5-year period 2016 to 2021. The Site Allocations Development Plan Document however only allocated land to accommodate 20 pitches, which is substantially less than the identified need. The Council expected that the rest of would be secured through the grant of planning permissions considered against policy H6 of the CS.
57. There has, therefore, been a consistent and long-term failure to provide an up-to-date 5-year supply of deliverable sites. This, in conjunction with there being no guarantee that immediate need will be fully addressed through the ongoing development plan process, shows that there is no likelihood of a 5-year supply of deliverable sites coming forward in time to address general need or the appellant's immediate need.
58. In a District made up of 80% designated Green Belt, with scant brownfield site opportunities, the Council argues a strategic approach to the identification of suitable sites should be followed, having regard to Green Belt and landscape impacts. It seems to me, therefore, that there will be a likely reliance, to a degree, on the Green Belt in any event for the provision of pitches going forward. While the Council suggests it will seek to allocate sites where harm to openness will be less, there is no evidence to persuade me that Green Belt harm arising from this site would be greater than from any other site that may be allocated.
59. It is a matter of common ground that there is an existing shortfall of site provision. Furthermore, all existing sites in the district are privately owned, and evidence provided to the appeal shows that those existing authorised sites do not have space available for the occupiers of the appeal site. It is also a matter of common ground that there are no alternative sites available.
60. All these factors weigh positively in favour of the development.

Intentional unauthorised development (IUD)

61. The Council states that the intentional unauthorised nature of the development is a material consideration in line with Government policy, that should be given

³ *Smith v SSLUHC & Anor* [2022] EWCA Civ 1391

significant adverse weight. At the Hearing the appellant gave a brief account into their circumstances prior to moving to the appeal site, which involved occupying another family's permanent pitch while they were travelling. Due to the imminent return of the permanent occupiers of that pitch, it was no longer available to the appellant and his family. The only other options available were a roadside existence, which would not serve the best interests of the children, or living in bricks and mortar accommodation.

62. When considering that Government policy, as expressed in the PPTS, is to facilitate the traditional and nomadic way of life of travellers this would not be consistent with living in bricks and mortar accommodation. As previously confirmed, the traveller status of the site occupiers is undisputed. There is a significant and immediate need for sites within the District and I find it more than likely, given the circumstances, that the unauthorised development of the appeal site would have been an inevitable outcome.
63. Part of the underlying rationale for seeking to deter IUD is to avoid prejudicing the opportunity to mitigate the impact of the development through the use of planning conditions. In pleading ground (a), opportunity is provided to impose conditions to mitigate the impact of the development. I am also mindful that the 1990 Act as amended makes provision for a grant of retrospective planning permission, and planning enforcement is remedial rather than punitive. In light of these considerations, I attach only very limited weight to the intentional unauthorised nature of the development.

Personal Circumstances

64. Article 8 of the Human Rights Act 1998 states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. Article 8(2) provides that interference may be justified where it is in the interests of, amongst other things, the economic wellbeing of the country, which has been held to include the protection of the environment and upholding planning policies. I am also mindful that Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children.
65. In relation to applying the concept of proportionality to human rights, the Council has brought to my attention several appeal decisions⁴ and *Sykes v SSHCLG & Runnymede Borough Council* [2020] EWHC 112 (Admin). I have had regard to these when considering the personal circumstances presented by the appellant. The personal circumstances identified in each of these cases are considerably different than being presented by the appellant.
66. Furthermore, in exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity. The Act recognises that race constitutes a relevant protected characteristic for the purposes of PSED. Romany Gypsies and Irish Travellers are ethnic minorities and thus have the protected characteristic of race.

⁴ APP/C3430/A/13/2210160 dated 12 January 2016, APP/C3430/W/18/3201530 dated 22 March 2019 & APP/C3430/A/13/2205793 dated 17 August 2015

67. Individual pitches within the site are not identifiable, electric hook up points are however set out at regular intervals adjacent to the southerly boundary. At the time of the Hearing a cabin and a caravan were present. The appellant confirmed that other members of his extended family were away travelling.
68. The main evidence relating to personal circumstances concerns the appellant's younger daughter, aged 12 years. Having regard to the medical details provided, there is no dispute that she has severe health and educational issues. Given the nature of her health needs, I also do not doubt that her immediate family require assistance and respite, provided by members of their extended family, in providing her with care. If the family were made to travel or have a roadside existence it is reasonable to assume these concerns would be aggravated not just by constant travelling but also by difficulties in maintaining consistent health care and support. Living in one place means that her medical treatment and support for her family can continue. Consequently, I afford this matter significant weight.
69. A settled base would also provide these families the opportunity to be registered with a local doctors' surgery. Medical details relating to others occupying the site have not been provided, a similar circumstance to the cases identified by the Council. Although the appellant did refer to Lizzy and her husband needing regular medical care. The appellant accepted that it was unlikely that Lizzy and her husband would return to the site as they were receiving care and support from their immediate family at another pitch. Their circumstances have not therefore been afforded significant weight.
70. The cases identified by the Council either had no children or children aged 15 years and 17 years. The appellant confirmed at the Hearing that, within his extended family, there are an additional 6 young children. These children are aged 12 years, 9 years, 7 years, 5 years, 4 years and 3 years. While none of these children are enrolled at local schools, the provision of a settled base would allow for them to be enrolled in schools located a short distance away, in Penkridge. Most of them would be able to attend primary school and they would all have the opportunity to attend high school. I give this significant weight.

Green Belt Balance

71. The Framework attaches great importance to Green Belt. Therefore, when considering any planning application substantial weight should be given to any harm to Green Belt. The development is inappropriate development in the Green Belt. In addition, the residential use and associated domestic paraphernalia cause a loss of openness and encroachment into the countryside. Harm to the purposes of including land in the Green Belt has occurred, albeit that I consider the degree of harm in visual terms to be limited, and the harm to character and appearance to be very limited.
72. The less than substantial harm arising from the very limited harm to the CA and significance of the listed building's setting is outweighed by the positive contribution to addressing the shortfall in pitch provision and lack of 5-year supply of deliverable sites. The recreational harm to the SAC is successfully mitigated by the planning obligation. These are neutral factors in the planning balance, and do not weigh for or against the development.

73. There are other considerations which support the appeal. I have had regard to advice in the PPTS when considering Green Belt locations. This indicates that in such locations the absence of an up-to-date 5-year supply of deliverable sites should not amount to the significant material consideration it may otherwise do in less strictly controlled areas, when considering the grant of temporary planning permission. It also states that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.
74. However, an unlikely scenario is distinguishable from one that may never occur. Indeed, it seems to me that the Council's undisputed immediate unmet need for pitches, as manifested in the lack of available alternative sites and their continued failure to provide a 5-year supply of deliverable sites, over an almost 10-year period, should be a matter that collectively attracts significant weight. Furthermore, the Council's lack of assurance as to when this position might be addressed, attracts significant weight.
75. In addition, I give moderate weight to the likelihood that when Gypsy and Traveller sites are allocated, a significant proportion of pitches will be located within the Green Belt in any event. All this leads me to conclude that such an exception to the probable position, as set out in the PPTS, would be justified in this case.
76. I also attach significant weight to the site occupiers' personal circumstances, when considering the benefits of a settled base for the appellant's daughter, in particular, but also the relatively large number of young children that would be present at the site.
77. I have balanced the harm to the Green Belt and any other harm, against the other considerations referred to above. Having regard to the PPTS, I find that they clearly outweigh the harm identified. The very special circumstances necessary to justify the development have been demonstrated. Consequently, the proposal accords with the strategy for the protection of Green Belt land as set out in the Framework. I also consider that because of the amount of weight attached to need, lack of supply and assurance as to when this will be addressed, and likely location of future sites, the balance is in favour of granting a permanent planning permission irrespective of the additional weight of personal circumstances.

Conditions

78. I have considered the conditions suggested by the Council and discussed with the appeal parties at the Hearing. A condition confirming that planning permission is restricted for residential use by Gypsies and Travellers is required in order to safeguard the site for this purpose. However, in light of *Smith*, in order to avoid discrimination, the condition should include those Gypsies and Travellers who have ceased to travel permanently.
79. A condition limiting the number of caravans stationed is needed in order to protect the character and appearance of the area. Conditions limiting the size of vehicles parked and preventing commercial activity on the site are required in the interests of helping to safeguard the character and appearance of the area and the living conditions of adjacent residents.

80. A condition confirming the loss of the permission unless details are submitted for approval (including a timetable for implementation) concerning the site layout, boundary treatments, drainage details, external lighting arrangements and soft landscaping works, including their replacement if necessary is required in order to help safeguard the character and appearance of the area and living conditions of the site occupiers.
81. The form of this condition is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matters before the development takes place. The condition will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.

Conclusion on ground (a)

82. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the use and development described in the corrected notice subject to conditions. The enforcement notice will be quashed.

Formal Decision

83. It is directed that the enforcement notice is corrected by:

In section (3), THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL, the deletion of the words 'ii) The unauthorised siting of caravans and associated development of the Land.'

In section (5), WHAT YOU ARE REQUIRED TO DO, in part (ii) the deletion of the words ', unauthorised buildings and structures.' And, in part (vi) the deletion of the word 'dark'.

Under the Time for Compliance section, for steps (i), (ii) and (iii) delete 'ONE month' and substitute 'SIX months'. And delete all the words 'Steps (iv) and (v): two months. Steps (vi): six months' and substitute the words 'Steps (iv), (v), (vi) and (vii): EIGHT months.'

84. Subject to the corrections, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the material change of use of the land from agriculture to a residential caravan site and operational development to create hardstanding at land on the east side of Teddesley Road, Penkridge, Stafford as shown on the plan attached to the notice and subject to the conditions set out in the attached Schedule of Conditions.

M Madge

INSPECTOR

Schedule of Conditions

1. The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
2. No more than FIVE caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than TWO shall be a static caravan) shall be stationed on the site at any time.
3. No more than ONE commercial vehicle per pitch shall be kept on the site for use by the occupiers of the caravans hereby permitted, and they shall not exceed 3.5 tonnes in weight.
4. No commercial activities shall take place on the site, including the external storage of materials.
5. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought on to the site for the purposes of such use shall be removed within 30 days of the date of failure to meet one of the requirements set out in (i) to (iv) below:
 - (i) Within **3 months** of the date of this decision a scheme for:
 - (a) the internal layout of the site including the extent of the residential pitches, the location of the caravans and vehicle parking, any buildings and hardstandings;
 - (b) all boundary treatments and all other means of enclosure (including internal sub-division);
 - (c) proposed and existing external lighting on the boundary of and within the site;
 - (d) the means of foul and surface water drainage of the site;
 - (e) hard and soft landscaping and screen planting including details of species, plant sizes and proposed numbers and densities and details of a schedule of maintenance for a period of 5 years;(hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the site development scheme shall include a timetable for its implementation.
 - (ii) Within **6 months** of the date of this decision the local planning authority refuse to approve the site development scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

- (iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
- (iv) The approved site development scheme shall have been carried out and completed in accordance with the approved timetable.
- (v) Upon implementation of the approved site development scheme specified in this condition, that scheme shall thereafter be maintained.
- (vi) 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 the legal challenge has been finally determined.

