The Planning Inspectorate

Appeal Decision

Hearing Held on 20 February 2024
Site visit made on 20 February 2024

by R Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 May 2024

Appeal Ref: APP/C3430/C/21/3283004
Land on east side of Teddesley Road, Penkridge, Stafford ST19 5RH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr John Ireland (senior) against an enforcement notice issued by South Staffordshire District Council.
- The enforcement 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.
- This decision supersedes that issued on 9 May 2023. That decision on the appeal was quashed by consent order of the High Court.

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

Preliminary Matters

1. The original appeal decision was challenged under s288 and s289 of the Town and Country Planning Act 1990 (the Act). The consent Order of the High Court confirmed that the previous decision letter contained an error of law in that it failed to take into account the harm that had been found to heritage assets when considering the overall planning balance. The Court ordered that the decision be quashed in accordance with these findings.

2. At the Hearing the main parties confirmed that they agreed with the corrections made to the notice by the Inspector who dealt with the original appeal decision (the previous Inspector). In summary these involved omitting unnecessary duplication in relation to the alleged breach of planning control; omitting reference to buildings and structures, and differences in colour shading on the plan, in relation to the requirements and extending the compliance periods to six months in relation to requirement steps (i) – (iii) and eight months for the remaining requirement steps. I have no reason to take a contrary view and will likewise correct the notice.

3. There was also no dispute between the parties regarding the approach taken by the previous Inspector to the hidden ground (b) appeal, namely that the alleged concrete pad exists, such that the appeal on that ground must fail. I have no reason to take a contrary view. There is also no dispute that the appellant and his family have Gypsy and Traveller status.

4. At present there is a single static caravan and touring caravan present on the site, along with associated vehicles, which are occupied by the appellant and his immediate family. However, for the avoidance of doubt I have also considered the proposal in the context of the maximum level of development conceived by the previous Inspector, which having regard to the planning conditions imposed, was five caravans including two static units.

5. The Council confirmed at the Hearing that concern with regard to sustainable travel was not a reason for the development being refused. Policy EV11 of the South Staffordshire Core Strategy 2012 (CS) was not therefore relevant to the Council's reasons for serving the Notice.

Main Issues

6. The ground (a) appeal is that planning permission should be granted. The main issues are:

   - Whether the development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
   - The effect of the development on the openness of the Green Belt and the purposes of including land within the Green Belt;
   - The effect of the development on the character and appearance of the area;
   - The effect of the development on heritage assets;
   - The effect of the development on the Special Area of Conservation;
   - The need for Gypsy and Traveller sites;

- The personal circumstances of the appellant;
- The question of intentional unauthorised development;
- If the development is inappropriate, whether the harm to the Green Belt by way of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Green Belt

7. Paragraph 142 of the Framework sets out that the essential characteristics of Green Belts are their openness and their permanence. It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 143 notes that the Green Belt has five purposes which include safeguarding the countryside from encroachment; checking the unrestricted sprawl of large built-up areas and preventing neighbouring towns from merging into one another. Paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

8. There is no dispute between the parties that the residential use proposed and the construction of related hardstanding would amount to inappropriate development. Indeed, with regard to the use, the Government's Planning Policy for Traveller Sites 2015 (PPTS) expressly states that such sites in the Green Belt are inappropriate development.

Openness and Green Belt Purposes

9. 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, including the suitability of materials used, in itself, or its effect on the character and appearance of the area.

10. The Court of Appeal has confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect[1]. The various caravans, vehicles and the hardstanding targeted by the notice, would take up space which was previously free from development.

11. The rectangular site, surfaced with hardstanding, is situated between Teddesley Road (from where vehicular access is taken) and the Staffordshire and Worcestershire Canal. The site is in a countryside location, characterised by agricultural fields with mature boundary hedges. Small sporadic developments are, however, dotted about in the wider vicinity, such that this is not an isolated location.

12. Aside from taking up space, the parties agreed the key visual receptors for the development were from Teddesley Road, in the vicinity of the site entrance, from the adjacent canal towpath and from the nearby so-called 'Fancy bridge' which crosses the canal a short distance to the south of the site. I observed the site from these areas during my visit. It was apparent that views of the

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

site are for the most part screened or filtered by dense boundary planting, which is likely to become more effective as the seasons and foliage develop. Whilst views of the site are possible via gaps in boundary planting, the perception of development would tend to be reduced to fleeting glimpses for passing motorists, although would be a little more apparent to walkers along the adjacent towpath. There is very limited visibility of the site interior from the aforementioned bridge. I also viewed the site from the adjacent property, Parkgate Lodge, from where the site's boundary fence and the tops of structures and vehicles within the site would be visible.

13. Notwithstanding the above, it seemed to me that the sense of impact on the openness of the Green Belt and encroachment into the countryside, regardless of whether the development remains at its present level or increases to the level envisaged by the previous Inspector, would be limited. My assessment is unaltered by the operation of external lighting on the site, which could be controlled by a planning condition.

14. Policy H6 of the CS seeks to ensure that Gypsy and Traveller sites in the Green Belt do not have a "demonstrably harmful" impact on openness. I concur with the findings of an Inspector in an appeal case elsewhere in the District that this term is not defined but intended to convey a significant loss of openness[2]. This contrasts with the more limited loss that would result in the present case. Accordingly, I do not find conflict with Policy H6 in this regard.

Character and Appearance

15. As set out above the appeal site is part of an essentially rural agricultural landscape. This, however, is not a remote location, given the presence of nearby buildings and other man-made features, including the route of the M6 motorway, a relatively short distance to the west, and the aforementioned canal to the east.

16. From the public domain, visibility of the site essentially consists of fleeting glimpses of caravans, or associated parked vehicles, from Teddesley Road or from the adjacent canal towpath. The presence of partially obscured features associated with the use of the land is also apparent from the adjacent residential property, Parkgate Lodge.

17. Nevertheless, I concur with the previous Inspector that although the development has urbanised the appearance of the land, its visual impact is very limited beyond the immediate boundaries of the site; also that planning conditions could be used to require additional landscaping features and the control of external lighting there. This applies whether the development remains at its present level or increases to the level envisaged by the previous Inspector.

18. Furthermore, in my judgment, although the use of vertical timber board fencing results in a relatively tall and solid boundary structure around the site perimeter, it is not so visually strident or unusual that it appears as an alien feature in the landscape. Whilst I recognise that the boundary fencing has not been specifically targeted by the notice, I am not persuaded that the appearance of the fencing needs to be further controlled, for this reason, by condition.

[2] Appeal Ref: APP/C3430/A/13/2205793

19. I find that the urbanising effect of the development has resulted in a degree of harm. Accordingly there is conflict with Policies EQ4 and EQ11 of the CS insofar as they seek to protect the intrinsic rural landscape character and local distinctiveness. However, for the above reasons, I find the extent of this impact to be very limited.

Heritage Assets

20. The site lies immediately adjacent to the Staffordshire and Worcestershire Canal Conservation Area (CA). The CA comprises the canal and its towpath. Though not within the CA, the site forms part of its setting and I need to have regard to the effect of development on the setting of the CA in terms of the significance of the heritage asset.

21. I agree with the assessment made by the previous Inspector that the significance of the CA is derived from its industrial archaeology and civil engineering importance, with the canal crossed by two bridges in the vicinity of the appeal site. The canal and towpath provide a valuable leisure route for walkers and boat users, with adjacent woodland, hedgerows and other greenery allowing for a more peaceful and tranquil immediate setting, that helps to offset awareness of traffic noise from the nearby M6 motorway.

22. From the towpath, immediately adjacent, the interior of the appeal site is well screened by the intervening stables and boundary vegetation. Visibility is similarly restricted from the listed bridge further to the south, with filtered views limited to part of the boundary fencing and the upper parts of certain structures.

23. From the towpath, further to the north of the site however, there are intermittent gaps in the hedge that, albeit fleetingly, allow for clearer views of the appeal site above boundary fencing. As set out above I do not find the fencing itself incongruous. However, the presence of vehicles and structures have an urbanising effect which is at odds with the rural characteristics of the canal's immediate setting. There would be a degree of visual incongruity irrespective the number of caravans and vehicles present on the site, which results in harm.

24. I have considered the appellant's representations at the site visit regarding his development in the context of the sporadic presence of various old and deteriorating buildings at different locations along the course of the towpath. The presence of these structures does not however neutralise the harm caused by the development.

25. Electricity continues to be provided to the site by two portable generators. From my observations during the site visit, the larger of the two generators was clearly audible from the towpath outside the site, despite background noise from motorway traffic. Whilst this noise would be experienced only relatively briefly by passers-by it would nevertheless constitute a harmful impact. However, the appellant confirmed at the Hearing that he would be willing to adopt mains electricity supply in order to eliminate the need for on-site generators. This would satisfactorily mitigate the noise impact, and could be achieved through the imposition of a planning condition.

26. I have a further duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the effect of the proposal on the

setting of New Bridge (better known as 'Fancy Bridge') which is a Grade II listed building. The bridge, which provides access to the Teddesley Estate, and over which passes a public right of way, crosses the canal a short distance to the south of the appeal site. It seems to me that the special interest of this structure derives from its age, form and ornate appearance. The elements of setting that contribute to its significance include its relationship with the canal and towpath and adjacent greenery.

27. Inter-visibility exists between the two sites, although from the bridge the interior of the appeal site is substantially screened by the perimeter fencing and dense vegetation along its southern boundary. In that context, I consider that the appeal site contributes little, if anything, to the significance of the bridge or its setting and there would be no harm in this regard. The aforementioned generator would potentially be audible from the bridge, however for the reasons set out above, this impact could be mitigated through a planning condition.

28. I consider that it would be possible to control the use of external lighting on the site, such that this in itself would not be detrimental to the significance of either of the heritage assets in question.

29. Irrespective of the amount of development on the site, I nevertheless conclude that for the above reasons visual harm is caused to the significance of the CA, resulting from development within its setting. The degree of harm, whether development is at its present level or as envisaged by the previous Inspector, would be less than substantial. However in terms of the guidance in the Framework, and having regard to case law[3], there would still be real harm which is a consideration of considerable weight.

30. In such circumstances, where harm is identified to the significance of a designated heritage asset, in this case the CA, the Framework requires that this harm is weighed against the public benefits of the proposal. I therefore consider this matter further within the planning balance section of the decision.

Cannock Chase Special Area of Conservation (SAC)

31. The previous Inspector set out that the SAC comprises the largest area of heathland habitat surviving in the English Midlands. The SAC is important for the quality of its habitat and the species that depend on it. The Inspector concluded that it could not 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. I have no reason to take a contrary view.

32. Therefore as the competent authority, I 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 Report[4], 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

[3] *Barnwell Manor Wind Energy Ltd v East Northants DC, English Heritage, National Trust and SSCLG [2014] EWCA Civ 137*
[4] Footprint Ecology's Evidence Base relating to Cannock Chase SAC and the Appropriate Assessment of Local Authority Core Strategies.

statutory nature conservation body, supports the use 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 an appropriate financial contribution towards strategic mitigation measures, would enable it to be ascertained that the proposal would not adversely affect the integrity of the SAC protected under the Habitat Regulations.

33. 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 now equates to £344.01 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.

34. For these reasons, the proposal accords with Policy EQ2 of the CS, which seeks to protect and enhance the Cannock Chase Special Area of Conservation. The development also complies with the Regulations.

Need for Gypsy and Traveller sites

35. Paragraph 7(b) of the PPTS states that local planning authorities should prepare and maintain an up-to-date understanding of the likely accommodation needs of their areas over the lifespan of the development plan. The Council's most recent Gypsy and Traveller Accommodation Assessment (GTAA) was produced in August 2021. This identified a requirement over the period 2021-38 for those households that meet the definition of Gypsies and Travellers in Annex 1 of the PPTS[5], of some 121 pitches. This figure includes 72 pitches in the initial 5 years 2021-25.

36. The recent change to the definition, cited above, followed in the wake of a Court of Appeal judgment[6]. The thrust of this judgment is that the previous PPTS definition was unlawfully discriminatory against Gypsies and Travellers who have ceased to travel permanently on grounds of age or disability. It indicated that such persons should be included in any assessment of need for site provision, thus potentially increasing the overall level of need.

37. The GTAA identifies a need of some 24 pitches for those Gypsies and Travellers not meeting the previous PPTS definition (17 of which are within years 2021 – 2025). Therefore the effect of including, in the assessment of need for sites in the District, Gypsies and Travellers known not to fall within the previous PPTS definition and who thus might previously have been excluded from consideration in the context of PPTS policies, is to significantly increase the requirement for sites.

38. The PPTS states that local planning authorities should identify, and update annually, a 5-year supply of specific deliverable sites against their locally set targets. The Council said at the Hearing that it does not anticipate adopting its emerging Local Plan before the winter of 2025 / 26. It confirmed that a total of 37 pitches had so far been allocated in its emerging allocation document. I

[5] From 19 December 2023 the definition has reverted to that adopted in the 2012 version of the document.
[6] *Lisa Smith v SSLUHC & Ors [2022] EWCA Civ 1391.*

have no reason to believe, from the evidence before me, that there has been any significant grant of planning permissions for Gypsy and Traveller sites since publication of the most recent GTAA. It is thus clear that at present the potential supply of sites falls significantly short of the level of need identified, and it is uncertain whether the identified level of need will be met at all. When asked at the Hearing, the Council confirmed that it did not dispute the finding of the previous Inspector that the most recent Site Allocation Document 2018 allocated significantly fewer sites than were needed over the five-year period 2016 – 2021.

39. The Council does not dispute that it is unable to demonstrate a five-year supply of deliverable sites. Furthermore, a suitable and available alternative site for the family currently occupying the appeal site cannot be identified by the Council at this time. In this context, the present evidence is indicative of an ongoing failure to meet national policy requirements for the delivery of sites against targets.

40. In addition it is undisputed that a large proportion of land in the District, some 80 per cent, lies within the Green Belt. It therefore seems to me likely that there will need to be reliance to a degree on the Green Belt in any event for the provision of pitches going forward.

41. I accept that the level of harm may vary between different Green Belt sites and acknowledge the Council, through Policy H6, refers to selecting sites where such harm would be less. However, I have found in this case the degree of visual impact on the openness of the Green Belt to be limited[7]. In this context it is significant that there is no evidence to persuade me that Green Belt harm arising from the appeal site would be greater than from any other site that may be allocated. All of these factors weigh positively in favour of the development.

Personal Circumstances

42. The appellant confirmed at the Hearing that he lives on the site, in one of the caravans (static), with his wife and youngest daughter. His eldest daughter lives in the second (touring) caravan. There is no dispute that the youngest daughter has severe disabilities which result in complex health care and educational requirements.

43. If the appeal is not successful, in the absence of an alternative site, the family are at risk of being made homeless. It would remove a settled base that would potentially mean having to resort to living on the roadside. This in turn would very likely mean disruption to the youngest child's educational provision and health care as a result. I am mindful that access to vital medical related treatment and appointments, which the family appear to be highly dependent on, may be jeopardised if they have no fixed address.

44. The appellant's personal circumstances therefore weigh in favour of the development.

45. The appellant explained at the Hearing that the appeal site was used intermittently by other family relatives, all of whom have children, for residential purposes. In this regard reference was made to four families. However, there is very limited evidence of their current personal circumstances, including travel patterns and degree to which they would be

[7] In contrast, for example, to the Squirrels Rest case – Appeal ref APP/C3430/W/21/3282975.

dependent on the site. The personal residential needs of these families, in themselves, do not therefore attract weight in favour of the appeal. Notwithstanding this, I do accept there would be justification for an additional caravan (that is to say a third caravan) being present on the site to accommodate a family member(s) to help assist with the care needs of the appellant's youngest daughter.

Intentional Unauthorised Development

46. I have had regard to the considerations of the previous Inspector. I concur with the view expressed that given the context of the significant and immediate need for sites within the District, and that the family were facing a roadside existence, the unauthorised development of the appeal site was an inevitable outcome.

47. A ground (a) appeal was made and the Act makes provision for a grant of retrospective planning permission, including the imposition of planning conditions, and planning enforcement that is remedial rather than punitive. I therefore attach only very limited weight to the intentional unauthorised nature of the development.

Other Matters

Highway Safety

48. There have been a number of concerns raised by third parties. These include highway safety on the grounds that several accidents have occurred in the vicinity of the site in the past. I concur with the previous Inspector that whilst the speed limit on the road, as it passes the site, is unrestricted, the curved alignment and limited width of the carriageway militates against traffic passing the site at high speeds. The set back of the entrance gates would ensure that a vehicle waiting to enter the site, when the gates are closed, would not encroach on the highway, such that the site can be safely accessed by vehicles towing caravans. I am satisfied that there would be sufficient space in the site for vehicles to turn, such that they could enter and leave in forward gear.

49. It was apparent from my visit that visibility to the left, for drivers of vehicles leaving the site is restricted to a degree by boundary vegetation. However it seems to me that edging forward slowly would compensate for this restriction.

50. I am mindful that the County Council as Highway Authority has raised no objection to the development; also that I have not been presented with any evidence of personal injury accidents attributable to the operation of this junction. Drawing the above considerations together I am not persuaded that the development would result in harm to highway safety and thus there would not be conflict in this regard with Policy H6 of the CS, or with the Framework.

Living Conditions

51. Objections are received from the occupiers of Parkgate Lodge, the property situated immediately south of the appeal site, with regard to impact on living conditions. During my visit I was able to go on to this property, which included going into upper floor rooms, and thus appreciate the intervisibility between the two sites. Whilst each site is visible from the other, the Parkgate Lodge dwelling itself is some distance away from the site boundary. When taking into account intervening boundary fencing and vegetation I do not consider that the

development has resulted in any mutual loss of privacy, including to the external amenity space. Although concerns have been raised about the presence of CCTV cameras on the appeal site, this is not an uncommon security feature in the modern residential environment, and I am not persuaded that it results in harm to privacy.

52. I acknowledge that vehicles and structures present on the site can be seen from Parkgate Lodge, above the boundary fencing; also that residents there are likely to be aware of external lighting when in operation. Notwithstanding, I am satisfied that boundary screening and intervening distances are such that the development and perimeter treatment do not result in harm to outlook or any oppressive sense of enclosure; also that external lighting may be controlled through a planning condition to overcome any undue disturbance.

53. As set out above, concerns raised about noise from generators can be addressed by the imposition of a planning condition requiring connection to mains electricity. Disturbance arising from dogs barking, whilst this could potentially constitute a statutory nuisance that may need to be investigated by the Council, would nevertheless not amount to a reason to refuse planning permission.

54. Concerns have been raised by objectors regarding the impact of the development on the settled community. I concur with the previous Inspector that the scale of development in this case does not dominate the nearest settled community, nor would it result in undue pressure on local infrastructure. There is no evidence before me to suggest that the development would be at odds with policies which seek to design out crime. I do not therefore find conflict with Policy EQ9 of the CS insofar as it seeks to protect residential amenity; with Policy H6 in terms of protecting local infrastructure or with Policy CS1 which seeks to design out crime.

Site Infrastructure

55. Concerns were raised in correspondence and at the Hearing by a local resident regarding the legality of connections being made between the site and the local water supply. If indeed such connections have been made unlawfully this would be a private matter between the parties and is outside my remit in this case.

56. For the purposes of Policy H6 I need to be satisfied that essential services such as power, water sewerage, drainage and waste disposal are either available or can be provided to service the site. The appellant stated at the Hearing that he proposes to establish a mains electricity supply and a metered water connection. A condition can be imposed to secure these elements. There is no evidence before me to suggest that this will not be achieved. I am also satisfied that the site occupier utilises a commercial waste collection and makes use of chemical toilets.

57. I am therefore satisfied that there would be no conflict with Policy H6 in this regard. Furthermore I am not persuaded that there would be conflict with Policy EQ8 of the CS, which seeks to secure waste minimisation and recycling.

Precedent

58. I have considered the argument that the grant of planning permission would set a precedent for other similar developments. However each application and

appeal must be determined on its own individual merits and a generalised concern of this nature would not in itself justify withholding planning permission in this case.

Biodiversity interests

59. Whilst concerns have been raised regarding impact of the development on various protected species in the immediate vicinity, I have not been provided with evidence to substantiate these concerns.

The Green Belt Balance

60. National planning policy attaches great importance to Green Belts. Therefore, when considering any planning application substantial weight should be given to any harm to the Green Belt. The appeal proposal is inappropriate development in the Green Belt. In addition, the residential use and associated paraphernalia, and alleged operational development cause a loss of openness and harm to one of the purposes of including land in the Green Belt, namely to assist in safeguarding the countryside from encroachment, albeit I consider harm to openness to be limited in visual terms. For the above reasons I attach very limited weight to character and appearance harm.

61. I have found that the development results in less than substantial harm to the significance of the CA. It is therefore necessary to weigh this against any public benefits of the proposal. I consider that the positive contribution to addressing the unmet need for sites, albeit relatively small if the development is restricted to a single pitch, in the context of uncertainty as to whether and when that need might be addressed, and the lack of 5 year land supply of deliverable sites does outweigh the aforementioned harm.

62. The harm to the CA nevertheless remains a factor which, having regard to guidance in the Framework, to Policy EQ3 of the CS requiring that development proposals should be consistent with the Framework, and to case law attracts considerable adverse weight, in its own right, in the overall planning balance. For the reasons set out above the intentional unauthorised nature of the development attracts only very limited weight in this case.

63. I have found that the development would not result in harm to the environmental sensitivity of Cannock Chase; to highway safety or to the living conditions of nearby residents. This 'absence of harm' is neutral in the planning balance and does not weigh in favour of the appeal.

64. There are other considerations which support the appeal. I have had regard to advice in the PPTS when considering sites in 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 a less strictly controlled area, when considering applications for 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.

65. However, an unlikely scenario is distinguishable from one that may never occur. Indeed, it seems to me that the Council's undisputed significant and immediate unmet need for pitches (without taking into account need that is

likely to exist over a broader geographical area), as manifested in the lack of available alternative sites and the lack of five-year land supply should be a matter that collectively attracts substantial weight. This remains the case even if the development is restricted to a single pitch.

66. 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. I also attach significant weight to the site occupiers' personal circumstances, when considering, in particular, the benefits of a settled base for the appellant's youngest daughter. All of 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.

67. 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. However, I only find this to be the case when taking into consideration the weight that I have afforded the site occupiers' personal circumstances. It therefore seems to me that a personal planning permission would be most appropriate in this case, but I discount that this should only be for a temporary period, given my doubt as to when the level of need for sites will be satisfied.

68. For the avoidance of doubt the Council's apparent policy failure to address the need for sites over many years, including a lack of assurance as to when the position might be addressed, also weighs in favour of the development but does not alter the conclusions already made above, in the overall balance.

69. The very special circumstances necessary to justify the development have therefore been demonstrated. Consequently, the proposal accords with the strategy for the protection of Green Belt land, as set out in the Framework. In this context I do not find conflict with Policy GB1 of the CS which seeks to protect the Green Belt in accordance with national policy. Policy GB1 refers to changes of use of land normally being permitted where there would be no material effect on the openness of the Green Belt, or fulfilment of its purposes. Whilst I did find a material effect on openness and encroachment in this case, albeit limited, the policy does not specifically resist development in such circumstances, whilst also deferring to national planning policy. I do not therefore find Policy GB1 to be inconsistent with national policy in this regard.

70. Article 8 of the Human Rights Act 1998 states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. Article 8(2) provides that interference may be justified where it is in the interests of, amongst other things, the economic well-being of the country, which has been held to include the protection of the environment and upholding planning policies. I am also mindful that Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children.

71. Given the circumstances overall I find that granting personal planning permission would be proportionate and necessary. Since I have decided to allow the appeal and grant full planning permission for the proposed

development there will be no interference with the appellant's rights to a private and family life and home.

72. Furthermore in exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity and to foster good relations. The Act recognises that race constitutes a relevant protected characteristic for the purposes of PSED. Romany Gypsies and Irish Travellers are ethnic minorities and thus have the protected characteristic of race.

73. The grant of personal planning permission would go some way towards advancing equality of opportunity by providing much needed gypsy and traveller accommodation and by recognising the personal circumstances of the appellant's family.

Conditions

74. The permission is personal and accordingly a condition restricting occupation to the appellant, his wife and resident dependants is necessary. However I also propose to include within this restriction other family members involved in the care of resident dependants. A condition requiring the restoration of the site, when occupation ceases, is required in the interests of helping to safeguard the Green Belt, the character and appearance of the area and the significance of the CA.

75. A condition limiting the number of pitches and caravans stationed is needed in recognition that the permission is personal, and in order to protect the character and appearance of the area. Conditions preventing commercial activity on the site and restricting the number of commercial vehicles are required in the interests of helping to safeguard the character and appearance of the area and the living conditions of residents.

76. A condition confirming the loss of the permission unless details are submitted for approval (including a timetable for implementation) concerning the site layout[8], internal boundary treatments, external lighting arrangements, foul and surface water drainage arrangements[9], water and electricity supply arrangements and hard and soft landscaping works[10], including their maintenance, is required in order to help safeguard the character and appearance of the area, the significance of heritage assets, and the living conditions of the site occupiers and nearby residents.

77. 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

[8] Having regard to Policy EV12 of the CS concerning parking provision.
[9] Having regard to Policy EQ7 of the CS concerning water quality.
[10] Having regard to Policy EQ12 of the CS concerning the landscaping of new development.

State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.

Conclusion

78. Therefore, despite the proposal conflicting with the development plan, material considerations indicate that a decision should be taken otherwise than in accordance with the plan. 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.

79. The Council has referred to appeal decisions in relation to sites elsewhere in South Staffordshire[11]. However, I have only limited information in relation to those cases, and in any event the decisions pre-date the most recent GTAA and therefore assessment of need for sites, and also the aforementioned Court of Appeal judgment (*Lisa Smith*). In respect of a more recent unsuccessful appeal, the Inspector in that case attached greater adverse weight to Green Belt harm than I have found necessary in this case, as well as considerable weight to landscape harm[12].

80. I have also had regard to the other appeal decisions referred to me, relating to sites elsewhere in the District, where Inspectors found that Human Rights issues did not outweigh harm to the Green Belt and other harm[13]. However the circumstances of those cases were different to that which is before me.

81. The outcome of these appeals do not therefore indicate that I should not grant planning permission. Nor am I persuaded that the circumstances and reasoning in *Sykes*[14] should lead me to a different conclusion than the one I have drawn in this case, with each case needing to be considered on its individual merits.

Formal Decision

82. 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 on the Land."; and

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"; and

Under the **Time for Compliance** section, for steps (i), (ii) and (iii) delete the words "one month" and substitute the words "six months" instead; 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" instead.

83. 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

[11] Appeal refs APP/C3430/A/13/2210160 & APP/C3430/W/18/3201530.
[12] Appeal ref APP/C3430/C/21/3274332 and others.
[13] Appeal refs APP/C3430/C/22/3303085 & APP/C3430/W/21/3282975
[14] *Sykes v SSHCLG & Runnymede BC* [2020] EWHC 112 (Admin).

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.

R Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

1) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants:

   John Ireland (senior) and his wife.
   Relatives of John Ireland (senior) engaged in the care of his resident dependants.

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, vehicles, materials and equipment brought on to the land and the operational development comprising the hardstanding shall be removed and the land shall be restored to its condition before the development took place.

3) There shall be no more than **one** pitch on the site. On the pitch hereby approved no more than **three** caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than **one** shall be a static caravan), shall be stationed at any time.

4) No more than one commercial vehicle shall be kept on the site for use by the occupiers of the caravans hereby permitted and this vehicle shall not exceed 3.5 tonnes in weight.

5) No commercial activities shall take place on the land, including the external storage of materials.

6) The residential use hereby permitted shall cease and all caravans, structures, vehicles, equipment and materials brought onto the land for the purposes of such use shall be removed, and the land restored to its condition before the development took place within **30 days** of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

   (i) Within **3 months** of the date of this decision a scheme with details for:
   (a) the internal layout of the site including the extent of the residential pitch, the location of the caravans, vehicle parking and hardstandings;
   (b) all internal boundary treatments and means of enclosure;
   (c) the means of foul and surface water drainage of the site;
   (d) the arrangements for the supply of water and electricity to the site (to avoid the need for on-site generators);
   (e) proposed and existing external lighting on the boundary of and within the site;
   (f) 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) If 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. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

END OF SCHEDULE OF CONDITIONS

APPEARANCES

FOR THE APPELLANT:

Andrew Harris	Planning Consultant
John Ireland (senior)	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Paul Turner	Planning Consultant
Catherine Gutteridge	Enforcement Team Manager
Edward Higgins	Senior Conservation Officer

INTERESTED PERSONS:

Manjit Saund	Local resident
James Head	Local resident

Document submitted at the Hearing:

1. Letter from Mr. James Head