

## Appeal Decisions

Hearing Held on 31 August 2022

Site visits made on 30 and 31 August 2022

**by Laura Renaudon LLM LARTPI Solicitor**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 September 2022**

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### **Appeal Ref: APP/C3430/C/21/3274332 ('Appeal A')**

#### **Land at Doveleys Farm, Sandy Lane, Cannock**

- 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 Raymond Clee against an enforcement notice issued by South Staffordshire Council.
- The enforcement notice was issued on 6 April 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; and (ii) unauthorised operational development to create hardstanding and track, three wooden buildings, closeboard wooden fencing, breeze block building and associated concrete pad, underground septic tank and unauthorised earth bund.
- The requirements of the notice are (i) cease the unauthorised residential use and occupation of the Land as a gypsy traveller site; (ii) remove from the Land all caravans, unauthorised buildings and structures; (iii) remove from the Land the closeboard wooden fencing; (iv) remove all the imported hard core, kerb stones and associated materials from an area marked in dark blue on an attached plan; (v) remove from the Land the three wooden buildings; (vi) reinstate the land referred to in (iv) to agricultural land by re-turfing or re-seeding the Land; (vii) remove from the Land the unauthorised breezeblock building and associated concrete pad; (viii) remove from the Land the unauthorised septic tank; (ix) remove from the Land the unauthorised earth bund located on the land; and (x) remove from the Land all materials arising from compliance with previous requirements.
- The periods for compliance with the requirements are one month for steps (i), (ii), (iii) and (v); two months for (iv) and (ix); and three months for (vi), (vii) and (viii). No period for compliance is given for step (x).
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and variations.**

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### **Appeal Ref: APP/C3430/C/21/3274333 ('Appeal B')**

#### **Land at Doveleys Farm, Sandy Lane, Cannock**

- 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 Jamie Clee against an enforcement notice issued by South Staffordshire Council.
- The appeal is made against the same notice as Appeal A, and is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

**Summary Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and variations.**

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**Appeal Ref: APP/C3430/C/21/3274334 ('Appeal C')**

**Land at Doveleys Farm, Sandy Lane, Cannock**

- 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 Joseph Clee against an enforcement notice issued by South Staffordshire Council.
- The appeal is made against the same notice as Appeals A and B, and is proceeding on the same ground as Appeal B.

**Summary Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and variations.**

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**Appeal Ref: APP/C3430/W/21/3287902 ('Appeal D')**

**Land north of the White House, Sandy Lane, Cannock WS11 1RW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Messrs Joseph and Jamie Clee against the decision of South Staffordshire Council.
- The application Ref 21/00255/FUL dated 14 March 2021, was refused by notice dated 3 November 2021.
- The development proposed is the change of use of land to mixed use for the keeping of horses and as a residential caravan site for 3 No. gypsy families, each with two caravans including no more than one static caravan/mobile home, together with laying of hardstanding, erection of 3 No. ancillary amenity buildings and construction of driveway.

**Summary Decision: The appeal is dismissed.**

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**Preliminary Matters**

1. The location plan in Appeal D shows an area of land edged in red and a further area edged in blue. There is a small gap between the two areas. Together (and including the gap) they comprise the same area of land covered by the enforcement notice, now known as 'Sandy Acres'.
2. The development the subject of Appeal D was said to have been begun but not completed on the date of the application. It differs in substance from the development observed on the site, which contains no static caravans but larger amenity blocks than those applied for in Appeal D, and with other minor differences. The development presently on site is in turn somewhat different from that described in the notice, mainly resulting from the removal of a breezeblock building referred to in the notice but now replaced by a stable block as authorised by a previous permission.
3. I established at the hearing that, notwithstanding the differences between what is now on site and what was there when the notice was issued, the deemed application on Appeal A seeks permission for what is presently found on the site. In view of the planning history including a permission for the stable block, I am satisfied that such an outcome could be achieved by a combination of an amended notice and the imposition of planning conditions without prejudicing either party to the appeal.
4. I carried out an unaccompanied site visit the day before opening the hearing from which I observed the site from viewpoints on a public right of way to the south, as suggested to me by the parties. On the day of the hearing I carried

out an accompanied site visit following which I closed the hearing, subject to receiving an amended planning obligation and the Council's comments upon it by 14 September 2022.

### **The notice**

5. The notice alleges the change of use to a residential caravan site, but it was agreed at the hearing that an earlier planning permission on the land for a material change of use to the stabling and keeping of horses had been begun, and that the land is now in a mixed use for that use and for the residential use alleged. I shall amend the allegation accordingly, with consequent changes to the requirements.
6. No compliance period was specified for the final requirement of the notice, but it was agreed at the hearing that the notice could be varied so as to stipulate a compliance period without causing injustice to either party. The requirement (no. 9) to remove the earth bund from the land also requires variation, because some of the material used in the bund has resulted from the unauthorised works, so will be required to restore the land if the notice is upheld. It was agreed that requirement no. 6 should be varied so as to require the restoration of the land to its former condition, omitting any reference to restoration as agricultural land in view of the permitted use for horse keeping.

### **Main Issues**

7. The Council's reasons for refusing planning permission were couched somewhat differently from those given for issuing the notice. Reference is made in the notice to the site's location in the Green Belt, the Cannock Chase AONB, a zone of influence (within 8km) of the Cannock Chase Special Area of Conservation, and to the effects of the development on the character, appearance and amenity of the area. Additionally the planning refusal notice alleges detriment to public rights of way and bridleways, and asserts that the development amounts to intentional unauthorised development.
8. The main issues arising in Appeals A and D are therefore:
  - (i) The effect of the development on the openness and the purposes of the Green Belt ('definitional harm' by reason of inappropriateness being agreed);
  - (ii) Any other harm and/or policy conflicts arising, particularly the effects of the development on the landscape and on the character and appearance of the site and the area, including the effects on the interests of users of public footpaths and bridleways; on the integrity of protected species or habitats; and in relation to whether it has amounted to intentional unauthorised development; and
  - (iii) Whether any harm to the Green Belt and any other harm is clearly outweighed by other considerations so as to amount to very special circumstances justifying the development. Such other considerations particularly include the need for and supply of traveller sites and the availability of alternative sites, and the personal circumstances of the appellants and their families, to include consideration of the best interests of the children and any human rights arising.

9. Appeals A – C also raise the question of the time required for compliance with the requirements of the enforcement notice, if permission is not otherwise granted.
10. Other matters raised in representations include the impacts of the development on the living conditions of neighbouring occupiers and whether allowing the development would give rise to inevitable pressure for further development or set an undesirable precedent.

## **Reasons**

### **The Appeal A appeal on ground (a) and Appeal D**

#### *Green Belt*

11. Although a number of policies are cited in the notice in support of the reasoning that the use is inappropriate development in the Green Belt, the applicable policies are Core Policy 1 and policies GB1 and H6 of the South Staffordshire Core Strategy DPD, adopted in December 2012. CP1 seeks to protect the Green Belt from inappropriate development. GB1 is, consistently with the National Planning Policy Framework ('the Framework') although using slightly different terminology, permissive of material changes of use and engineering or other operations where the openness of the Green Belt is not materially affected and no conflict with its purposes arises.
12. Criterion 8 of policy H6 is also relevant. The criterion itself relates to impacts on the character and landscape of the locality, but gives as an example resistance to development in the Green Belt where 'demonstrably harmful impact' to openness would arise.
13. The national Planning Policy for Traveller Site ('PPTS') sets out that traveller sites are inappropriate development in the Green Belt, and here there is no dispute between the parties that there is some impact on the openness of the Green Belt, and some conflict with the purpose of safeguarding the countryside from encroachment. Thus some conflict with both the Framework and policy GB1 is acknowledged.
14. The upshot of the policy position here is therefore that, as with any traveller site, the development will be inappropriate in the Green Belt by reason of the PPTS. It will be inappropriate under the Framework if it either fails to preserve openness or conflicts with any Green Belt purposes - as are both acknowledged here. It will conflict with local policy GB1 if openness is 'materially affected' or a conflict with Green Belt purposes arises - again, as is acknowledged. Achieving compliance with policy H6 however appears to set a slightly lower bar. The impact must not merely fail to preserve openness, but must be 'demonstrably harmful' to it, in order for a conflict with that policy to arise. Thus an analysis of the particular gradation of harm, if any, to openness is required. (The policy also allows for the possibility that development conflicting with Green Belt purposes but which is not demonstrably harmful to openness, or does not even affect openness, would nonetheless not offend policy H6, criterion 8 of which has its origins in landscape protection rather than in controlling urban sprawl *per se*. At the hearing the Council referred me to permissions granted for developments that are inappropriate in the Green Belt but which nonetheless are not contrary to policy H6.)

15. Previously an open field, permission was recently granted under reference 19/00701/FUL to change the use of the land for keeping horses, together with the construction of a stable block. The breezeblock building alleged in the notice has been removed and replaced with that permitted stable block. This introduction of this built development onto the site is consistent with Green Belt policy (as essential facilities for outdoor recreation) and with no corresponding effect on openness.
16. The site has however been further developed to facilitate the residential use. North east of the stable building, the northern field has been subdivided into three pitches, each containing (at the time of my visit) an amenity building of some 45 sqm floor area, and touring caravan. Some other structures were also observed, together with some commercial vehicles and the storage of some trade materials towards the front of the site. The amenity buildings that have been constructed on the site are made of (or clad in) similar materials to the stable building, which assists their integration into the landscape but this in itself does not disguise their residential appearance or use and evident inappropriateness in the Green Belt.
17. The previous permission also allowed the provision of some concrete hardstanding, and a horse exercise area beyond the stable building. The hardstanding that has been laid is considerably more extensive, with the track reaching almost to the boundary with Parkside Lane and hard bases for the caravans provided on each of the three pitches.
18. The proposal in the s78 appeal (Appeal D) would introduce slightly more development overall, with each existing amenity building replaced by both a mobile home of a similar size, although oriented against the field boundary, and additional smaller amenity buildings for each plot.
19. In either case the impact on openness, whether visual or spatial, is likely to vary to some extent according to whether the families are on site or away travelling. When the families are absent, there will be fewer caravans on the site and less observable paraphernalia. At the hearing I was informed that the present typical pattern of travel is to be away for up to four months of the year. The impacts on the visual openness of the site are somewhat limited, although the developed nature of the site is evident particularly from vantage points on the public right of way across the valley to the south west. The site is well screened from its immediate environs by hedgerows, although those screening effects will be diminished in the winter months. More planting is proposed, and I observed on site that some holly hedges surrounding each pitch are beginning to establish. The development is largely obscured from view from the adjoining road by the rear of the stable building. A considerable amount of hardstanding is however evident from the road, although some of this would also result from the stabling permission.
20. Nonetheless, when considering the development in the context of national policy which seeks to keep Green Belt land permanently open, the siting of the caravans and associated structures on land previously free of inappropriate development has adversely affected the openness of the Green Belt. Whilst accepting that the other element of the mixed use, namely the keeping of horses, plays a positive role in preserving openness, and whilst accepting too that the nature of caravans is to limit the impacts when compared with permanent structures, I nonetheless find that moderate harm to openness has

arisen from the residential development. I do not take into account the additional observed use for storing building materials because this is not alleged in the notice (or therefore the subject of either planning appeal) and the parties are agreed that a planning condition should prohibit this if permission is to be granted.

21. The principal differences between the proposals in Appeals A and D is that Appeal A seeks to retain amenity buildings that are larger than those proposed to replace them in Appeal D, whereas Appeal D seeks the introduction of an additional static caravan for each pitch. There are some other differences, but the proposals are essentially the same in that they seek to establish living accommodation on three pitches for each appellant's family. There is no significant difference in the impacts on the openness of the Green Belt of either proposal.
22. In either case I find that the development not only materially affects and fails to preserve openness, pursuant to policy GB1 and the Framework, but also that it has a demonstrably harmful impact on it, thus conflicting with that element of criterion 8 of policy H6.
23. Turning to the purposes of the Green Belt, the Council has referred to the South Staffordshire Green Belt study which finds that the land parcel of which the site forms part contains the urban edge of Cannock and so plays a strong role in preventing sprawl. Although the site lies only 120m away from the urban edge of Cannock, I agree with the appellants that it does not read as an extension to the built up area. Although an urbanising land use, it is of a different character from the urban area and is sufficiently separate to be seen in its surrounding agricultural or 'horsicultural' setting, albeit in the context of the urban fringe.
24. However it does conflict with the purpose of safeguarding the countryside from encroachment, as acknowledged by both parties.
25. I observed that Sandy Lane itself, as it runs between Church Lane and Hatton Road, is populated by dwellings and other buildings close to the road in a linear pattern as the road leaves the urban area towards Hatherton. Other than those buildings, the fields forming the approximate square of land between Sandy Lane, Church Road and Parkside Lane appear almost entirely undeveloped with the exception of the appeal site, which itself forms the central portion of the square taking up about a third of it (but with the residential element forming a narrower field across the middle of the square).
26. In longer distance views from the south west the site is seen on rising ground away from the valley floor along Sandy Lane. Further occasional properties are seen on the rising ground behind, lying below the woodland plateau. The structures at the appeal site are seen as intruding into this otherwise sizeable gap. Although the scale of the development itself is modest, its location and siting in the middle of otherwise undeveloped countryside has an obviously encroaching effect. This is somewhat tempered by the moveable nature of the structures on site and the design of the amenity buildings which, being of wooden construction, do not look significantly out of place although their domestic purpose is evident. Surrounding buildings on Sandy Lane and beyond Parkside Lane mean the site has some transitional characteristics, which limit



the harm by reason of encroachment. Nonetheless there is moderate harm to the purpose of safeguarding the countryside from encroachment.

27. The development is inappropriate by definition in the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt, whether definitional or otherwise. Here I have found there to be moderate harm to openness and also to the purpose of safeguarding against encroachment.
28. It is unnecessary to disaggregate the weight to be attributed to each element of harm to the Green Belt rather than to make an overall finding. Here I find that the overall harm to the Green Belt attracts slightly more than substantial weight against the development, whether as existing in the Appeal A appeal or as proposed in Appeal D.

#### *Cannock Chase AONB and character and appearance*

29. Core Policy 2 sets out that the Council will support developments where they protect, conserve and enhance the District's natural assets and are not contrary to the control of development within designated areas including the Cannock Chase AONB. Policy EQ4 provides that development within the AONB and its setting will be subject to special scrutiny in order to conserve and enhance the landscape, nature conservation and recreation interests of the area.
30. A Landscape Sensitivity Assessment of July 2019 had the purpose of providing an assessment of the extent to which the character and quality of the landscape abutting the West Midlands conurbation within the Black Country and South Staffordshire and also around settlements in South Staffordshire is, in principle, susceptible to change as a result of introducing built development. Thus the assessment does not consider the whole of the district, but is directed to considering land parcels around the settlement edges.
31. The appeal site falls within one such land parcel, SL72, which covers the 'square' previously referred to as well as the fields beyond Parkside Lane up to the common at Shoal Hill. The study found the parcel to be of the highest landscape sensitivity, described as being due to its natural and recreational character within the AONB and consideration of the impact of development on the special qualities of the landscape as part of a nationally designated area. Parcel SL71, containing the bridleway from which the appeal site can be viewed from the south west, is said to be of moderate landscape sensitivity.
32. Pasturing for horses appears typical on this urban fringe of the AONB. I observed that much of parcel SL71 visible from the bridleway was divided into smaller fields providing horse pasture, divided by post and wire fencing with associated buildings along Sandy Lane in the valley bottom. On the far side of Sandy Lane, in parcel SL72, the field pattern appears one of larger fields but nonetheless the impression is one of a horse-dominated landscape set against the framework of woodland on the higher ground beyond and against the urban area to the east. There was some consensus at the hearing that this edge of settlement landscape differs in character from the wider AONB, which does not in general repeat this pattern of smaller fields subdivided by hedging and post and wire fencing and put to use as horse paddocks and horse related development such as stables. The proximity of this part of the AONB to the

urban area makes it particularly vulnerable to such urbanising influences, but at the same time these 'horsicultural' developments are undoubtedly already part of the character of this part of the AONB.

33. As to whether this residential caravan site harms the objectives of the AONB designation or its particular landscape character, I bear firmly in mind that the PPTS does not counsel against the provision of gypsy or traveller sites within AONBs or other designated landscapes. New sites in open countryside that is away from existing settlements should be strictly limited; but although there is some separation from the edge of Cannock, I do not find that the site is sufficiently 'away from' the settlement so as to offend this requirement.
34. There is some propensity for improvement of the appearance of the site through additional planting and better management of existing hedgerows. The fence erected alongside Parkside Lane could potentially be removed, thus omitting that particularly discordant feature when the site is viewed from the bridleway. The provision of accommodation meeting the needs of a particularly vulnerable demographic is consistent with the designation of the AONB as a living landscape catering for its residents. Nonetheless overall I find there is considerable harm to the landscape of the AONB caused by the development. Whilst the amenity buildings have been constructed in generally sympathetic materials, the amount of development on the site is very different from that in the surrounding fields, introducing urban features detracting from the natural beauty of this landscape and compromising the integrity of the 'square' and the landscape parcel and thus the AONB as a whole. Thus I find the development, either in Appeal A or in Appeal D but more so the latter because of the increased number of caravans, to be contrary to criterion 8(b) of policy H6 and to policy EQ4.
35. The Framework advises that great weight should be given to conserving and enhancing landscape and scenic beauty in designated areas including AONBs, with the scale and extent of development within such areas to be limited. Whilst the development is of a relatively limited scale, I nonetheless find that it does not conserve or enhance the landscape and I accord this considerable adverse weight.
36. As to the users of public rights of way, their use is not directly interfered with by the development and the adverse impacts on the user experience do not attract additional weight to that I have attributed already. To do otherwise would be to 'double-count' the harm, as the use of public rights of way in and outside the AONB is already integral to the user's experience of the designated area. Nor do I consider that the Council's complaint of the development affecting the local character and appearance attracts any different considerations from those arising in relation to the AONB.

#### *Cannock Chase SAC*

37. Consistently with the Habitats Regulations, Policy EQ2 prohibits development unless it can be demonstrated that adverse effects on the integrity of the Cannock Chase Special Area of Conservation will not arise. The Council gives effect to this by requiring payments into a fund used to secure habitats offsetting or mitigation measures where residential development occurs within a 'zone of influence' of the SAC. The reasoning is that new residential occupiers are likely to give rise to increased visitor numbers to the SAC thus requiring



access management measures to avoid a cumulative significant effect on the SAC.

38. Here, the appellants have submitted unilateral undertakings to pay the requisite sums of money and thus the development is not likely to have any significant effect on the SAC. This is a neutral outcome in the planning balance.

*Intentional Unauthorised Development*

39. The appellants have previously engaged with the local planning authority, in seeking and obtaining permission for the change of use to stabling and keeping horses together with operational development. They are aware of the requirements for planning permission. It was conceded at the hearing that the works to facilitate the development were carried out as a result of their decision to make the site their home, with previous residential occupation in bricks and mortar housing not having been successful. The Council were quickly alerted and a temporary stop notice issued the same day as a team of 15 or 20 men were observed on the site driving plant and machinery or shovelling hardcore. By this time three touring caravans had been sited on the land, in which the appellants and their families have taken up occupation.
40. The enforcement notice, a stop notice and injunctive proceedings followed, all running in tandem. At the hearing I was informed of some 'minor' development in breach of the various notices, such as the levelling out of piles of hardcore on the site. There has however been no substantial additional development since the Council's first notice, although that was served, albeit without delay, at a time when the site had already rapidly been made habitable by the appellants.
41. The Ministerial Statement explains that the Government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases there is no opportunity to appropriately limit or mitigate the harm that has already taken place.
42. The appellants have not lived (save for periods when travelling away) on an authorised site for some 20 years, and moving onto this site was explained to me as a deliberate choice. The need for permission was acknowledged, and I find that the development was 'intentionally unauthorised'.
43. Nonetheless this consideration does not attract considerable adverse weight in these circumstances. The amenity buildings are not 'built in' and they and the hardcore are readily removable. The soil removed has been retained on the site and so altogether the development is readily reversible. The works were obviously planned and co-ordinated so as to take place over a very short period of time, but nonetheless there have been no significant breaches of the Council's notices and there is no intention by the Council to prosecute such minor breaches as may have arisen. The appellants have since sought to regularise the development by appealing the enforcement notice on ground (a) (Appeal A) and/or by seeking the planning permission that is now the subject of the s. 78 appeal (Appeal D). The works that have taken place do not go significantly beyond what was needed to create a habitable environment for the appellants and their families.

44. Thus in the context of the statutory regime that makes provision for retrospective applications, where unauthorised development is not in itself a criminal offence, and where the enforcement regime is designed to be remedial rather than punitive, I attribute moderate adverse weight to my finding that the development has been intentionally unauthorised.

*Other matters*

45. The existing injunction prohibits a grid connection from being made to serve the caravans, and as a consequence the appellants are presently running two generators, one of them particularly noisy and clearly audible from surrounding properties, in the field adjacent to the caravans. It appears to me that the use of the generators is likely to cease whatever the outcome of the appeals. If allowed, the relevant injunctive prohibition will be discharged, so enabling a grid connection to take place. If dismissed, the caravans will need to be removed from the site and thus the generators will not be required.
46. Other matters raised by local residents concern highway safety and other impacts on their own living conditions. I do not consider, other than the noise from the generators, the site to be unduly intrusive on neighbouring living conditions by reason of any overlooking or privacy considerations, although I acknowledge that there is some existing intervisibility and this will be augmented during the winter months.
47. As to highway safety, there is no objection to the development by the local highway authority. Sandy Lane is a single track road (with passing places) and the intervisibility when entering the road from Church Lane is poor. However this affects all traffic along the road. The actual access into and egress from 'Sandy Acres', as the appeal site is now known, has adequate visibility. I do not think this matter warrants dismissing the appeal, especially in the light of the local highway authority's view.
48. A further concern expressed by local residents is the apparent inevitability of further development nearby in future years, either because allowing these appeals would set a particular precedent or because the growing needs of the appellants' families would require an expanded site in the future. I acknowledge these concerns but where, as here, there is a presumption against any future development in the Green Belt and very special circumstances would have to be demonstrated in order to justify it, it is impossible to conclude that a precedent would be set. Any future development proposal would have to be considered in the particular circumstances of that case.
49. Nonetheless I do accept that to allow this development would potentially result in a different appraisal of the contribution of the adjacent fields, especially those lying closer to the urban area to the east, to both the openness and purposes of the Green Belt and to the landscape character of the AONB. Thus a permission here could have some impact on how any future development proposals nearby would come to be appraised. However, in the absence of any demonstrated realistic anticipation of other development proposals in the vicinity, I am not prepared to attribute any further adverse weight beyond the effects of the development proposal itself, in either Appeal A or Appeal D.

## **Other considerations**

### *Need for and supply of sites*

50. The Council's GTAA of August 2021 identifies a need for 121 pitches in the period to 2038, 72 of those by 2025. The need figure is considered by the appellants to be an underestimate for reasons including that the anticipated new households formed from those not meeting the planning definition (i.e. gypsies or travellers but perhaps no longer of nomadic habit) are assumed not to meet the planning definition themselves. The total need figure is for 154 pitches when including those who do not or are assumed not to meet the planning definition.
51. An existing Site Allocations Document ('SAD') of 2018 allocates 20 new pitches and a recent pitch deliverability study of 2021 identifies a total of 57 pitches that could be delivered in the period 2021 – 2025. The Council's preferred options consultation, informed by this study, identified suitable sites for 42 pitches, all in the Green Belt.
52. Ten additional pitches have been authorised since the SAD was adopted and I heard that 11 of the sites allocated in the SAD remain undeveloped (or unauthorised). Notwithstanding the scope for overlap between these figures, on any analysis there is a considerable shortfall in supply, and the Council acknowledge this to be the case and agree that they do not have a five-year supply of sites.
53. The PPTS sets out that where a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration when determining an application for a temporary planning permission, but not where the permission sought is in the Green Belt. The permission sought here is permanent. I give moderate weight to the unmet need for sites in favour of the proposals.

### *Alternatives*

54. The Council also acknowledge that there is no realistic alternative site available to the appellants. A number of letters were supplied to me at the hearing from those in charge of existing sites in the vicinity, all with the general message that the sites are full and no vacant pitches are anticipated. These included correspondence from the appellants' extended family's sites in the area.
55. The appellants explained to me that their temporary stay in bricks and mortar accommodation was unsuccessful, and I agree that this would not be a reasonable alternative. There does not appear to be any reasonable alternative accommodation for the appellants and their families and I have given this significant weight.

### *Personal circumstances*

56. The appellants all have young families, with a current total of six adults and seven children living on the site, the children ranging in age from infants to 11. The appellants explained their rationale for moving onto the site as being to create a settled base in order to allow for a better education for the children. It was explained that the children's schooling has suffered some considerable

disruption as a result of the appellants' previous residences on unauthorised sites and frequently being ordered to move on.

57. A letter was produced from an administrative assistant at a nearby primary school confirming that two of the families' children are on the roll. Another child was due to start in the Autumn Term 2022. The oldest child living on the site is now of secondary school age. At the date of the hearing no attempt had been made to enrol that child in a secondary school, although I was assured it would happen.
58. No attendance records have been supplied to me although I understand that the children's attendance at school has improved since the families moved onto the site. Some term time is spent travelling with their parents although arrangements can be made for remote schooling when that occurs. As the families have no alternative site it is likely that the children's school attendance would be more sporadic if the appeals are dismissed. The ability of the site to provide a settled base for the children to acquire an education is an important consideration, although the failure to enrol the eldest child in secondary school at less than a week before the start of the academic year tempers its significance. Nonetheless I attach significant weight to this factor.
59. All of the families are registered with local medical practices. No particular health needs, save for peri-natal care as the families may grow, and which is not identified as requiring proximity to any particular medical practice, were identified. Nonetheless I attach a small amount of weight to the generalised benefit to the families' health and well-being of a settled home base.
60. Although moving between sites, the appellants have lived and travelled together in their family group for many years. With longstanding local connections and as the owners of the appeal site, it is a convenient place for them to live. I attach moderate weight to the ability of the site to enable the families to live together, as the PPTS seeks to facilitate.

*Whether the harm is clearly outweighed by other considerations*

61. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations. Only then can a permission be justified.
62. The substantial harm caused by reason of inappropriateness and the harm to openness and the purpose of safeguarding against encroachment of the countryside carries slightly more than substantial weight against the proposal. The harm to the AONB character carries additional considerable weight against the proposal.
63. Although the development meets all the criteria of local policy H6 with the exception of criterion 8 on the two counts of harming the openness of the Green Belt and of harming the AONB, because of those exceptions it does not amount to sustainable development.
64. Nonetheless I give moderate weight to the compliance with the remainder of the relevant criteria-based policy. The unmet need for sites in the district and the Council's failure to meet the need carry moderate weight in favour of the proposals. The lack of any reasonable alternative also carries significant weight in favour of the development. By enabling the families to maintain their local

connections and to live together in a family group, and allowing the children to attend school on a regular basis, the development provides social and economic benefits. I attach weight to all these factors as set out above, particularly significantly to the educational benefits.

65. Nonetheless whilst the families' otherwise unmet personal needs and circumstances, and the general unmet need, are important factors, I do not find them to justify the permanent harm to the Green Belt and to the landscape character that have arisen. In this I am mindful of the best interests of the children involved, with no other factor in the case being inherently more important.
66. My attention is also drawn to human rights considerations arising from the European Convention requiring the protection of property (A1P1) and respect for the home and private life (article 8). To dismiss the appeals would be to interfere with these qualified rights. This is justifiable where there is a clear legal basis for the interference, which in this case would relate to the regulation of land use in the exercise of development control measures, and the interference is necessary in a democratic society. I consider below whether this is the case. It is also necessary not to deny the right to education (A2P1). I am also mindful of my duties to facilitate the way of life of gypsies and travellers, and to eliminate discrimination, promote equality of opportunity and foster good relations where relevant protected characteristics arising under the Equality Act 2010 are concerned. I am mindful of all these matters in reaching my conclusions.
67. The accommodation need in the area is due to be assessed through the local plan process. Although there has been slippage in the timetable, the present aim of the Council is to achieve an adopted Plan by the end of next year. Sites which best meet the need with least harm to the environment should come forward through that process. Whilst at present the site suitability study has failed to identify sufficient sites to meet the need identified by the latest GTAA (or the more extensive need identified by the appellants), the Council has identified the provision of sites in the past that have met the locally specific criteria of policy H6. Although the district is highly constrained, both by the Green Belt and by other factors such as designated landscapes and nature conservation interests, I am not persuaded that harm of such significance as that resulting from the development of the appeal site is necessary in order to provide adequate sites to meet the need.
68. Whilst the appeals seek permanent planning permissions, I have considered whether, particularly in view of the emerging Local Plan, a temporary permission should be forthcoming. This would not substitute for a permanent site but would give the families an opportunity to pursue a site through the DPD process. There is a moderate need for each family to remain in situ whilst there is no alternative accommodation available, particularly in the light of the children's educational needs and the benefit to the families of remaining together.
69. The harm occasioned by temporary development would necessarily be limited by reason of the time involved, and the parties agreed at the hearing that on cessation of any temporary or personal permission the operational development on the site (save for the stable block and limited hardstanding

associated with that) should be removed, so mirroring the requirements of the enforcement notice that would otherwise be upheld.

70. The lack of a five year supply of sites is said by the PPTS, in relation to sites in the Green Belt or an AONB, to be an exception to the requirement to treat that lack of supply as a significant material consideration when considering a temporary planning permission. The PPTS is silent as to what particular weight should be attributed to a shortfall in supply on determining a temporary permission in these circumstances; instead the general position is that personal circumstances and unmet need should not, subject to the best interests of children, be likely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.
71. That being the case, I am unable to find that a temporary permission is justified here. Given the very substantial policy objections to the development that exist at this site, without realistic prospect of future change, I do not consider this a suitable case for allowing a temporary permission. It is still necessary to attribute substantial weight to any Green Belt harm, even if temporally limited, and I do not consider that this and the other identified harm is clearly outweighed by the remaining factors in favour of the development, and consider that the interference with the families' human rights and the interests of the children would still be a justified and proportionate response. Very special circumstances justifying a temporary grant of planning permission do not exist.
72. It follows that I do not find there to be very special circumstances justifying a permanent permission either.

### **The appeals on ground (g)**

73. If permissions are not forthcoming then a period of 12 months to comply with the notice is sought in each of appeals A – C. Given that we are at the start of the academic year, I consider that a period of 12 months to vacate the site and comply with the additional requirements is a reasonable one, in order that the children may avoid changing schools (if that is the consequence of my decision) mid-year. Accordingly these appeals succeed to this extent and I shall vary the requirements of the notice accordingly.

## **Conclusions and Formal Decisions**

### **Appeals A - C**

74. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice with corrections and variations and refuse to grant planning permission on the deemed application.
75. It is directed that the enforcement notice be corrected and varied as follows:
- Delete the text at allegation 3(i) and replace with "The unauthorised change of use to a mixed use for residential and the stabling and keeping of horses"
  - Delete the text at requirement 5(1) and replace with "cease the unauthorised mixed use"



- Delete the text at requirement 5(6) and replace with "restore the land to its former condition"
  - To requirement 5(9) add "except insofar as its constituent materials are used to restore the land to its former condition pursuant to requirement (6) above"
  - Omit all text concerning the Time for Compliance and replace with "12 months from the date this notice takes effect"
76. Subject to those corrections and variations, the appeals are dismissed and the enforcement notice upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### **Appeal D**

77. The appeal is dismissed.

*Laura Renaudon*

INSPECTOR

## **APPEARANCES: MAIN PARTIES**

### FOR THE APPELLANT:

Raymond Clee	Appellant
Joseph Clee	Appellant
Jamie Clee	Appellant
Philip Brown	Agent

### FOR THE LOCAL PLANNING AUTHORITY:

Paul Turner MATP MRTPI	Planning Consultant
Catherine Gutteridge	Planning Enforcement Team Manager
Julia Banbury	Cannock Chase AONB

### DOCUMENTS SUBMITTED AT THE HEARING:

1. Correspondence from other residential caravan sites	Appellants
2. Correspondence concerning education and the families	Appellants
3. Unilateral Undertaking	Appellants
4. Pitch Deliverability Assessment August 2021	LPA
5. GTAA August 2021	LPA