



South Staffordshire Council

**WRITTEN STATEMENT
OF
SOUTH STAFFORDSHIRE DISTRICT COUNCIL**

INSPECTORATE REFERENCE:

APP/C3430/C/24/3351497

SECTION 174 TOWN & COUNTRY PLANNING ACT 1990

APPEAL BY:

Mr. Billy Joe Lee

SITE AT:

Land at Whiston

Penkridge

Staffordshire

ST19 5QH

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Land southwest of Saredon Road, Hospital Lane, Cheslyn Hay, Staffordshire (APP/C3430/C/22/3303424 dated 16 October 2024)

1. INTRODUCTION

This statement is prepared in respect of an appeal brought against the decision by South Staffordshire District Council in the following matters:

Section 174 Town and Country Planning Act 1990 in the service an Enforcement Notice in respect of Land at Whiston, Penkridge, Staffordshire, ST19 5QH.

Appeal Reference: C3430/C/24/3351497

2. SECTION 174 APPEAL AGAINST ENFORCEMENT NOTICE

The alleged breaches of planning control are:

- i. The unauthorised material change of use of the Land to a mixed use for agriculture and a residential Gypsy Traveller caravan site.
- ii. Unauthorised operational development to facilitate the unauthorised use comprising of:
 - a) A wooden shed in the approximate position marked in pink on the Plan;
 - b) Laying of hardstanding shaded in purple on the Plan; and
 - c) Construction of closed board entrance gates which exceed 2 metres in height from ground level.

3. SITE DESCRIPTION AND REASONS FOR ISSUING THE NOTICE

- 3.1 The site extends to approximately 0.8 acres and is located in the Green Belt on the northern side of Whiston Road, roughly 1.3 miles west of Penkridge Village. Adjacent to the site to the east is Whiston Mill, a Grade II Listed Building, and the remaining surrounding area is characterised by open fields in agricultural use. There is an existing vehicular access into the site off Whiston Road.
- 3.2 The site boundary is formed by a mature screening hedgerow along Whiston Road and mature trees to the east between the site and Whiston Mill. There are clear views into the site and of the existing unauthorised development from the northern side of Mill Stream and from approximately 50m to the west, properties which are not within the appellant's ownership. The northern and western site boundaries are marked by a 1m tall, timber post fence.
- 3.3 The Land edged red on the plan attached to the Enforcement Notice is roughly rectangular area alongside Whiston Road within the appellant's ownership. The site where the unauthorised development is located is marked by a post and rail fence to the north and west, hedgerow to the south and mature trees to the east; this fenced area is within the larger grassed area also under the appellant's ownership.
- 3.4 The site is approximately 0.4 miles east of Whiston, which does not offer community facilities or shops and is smaller than "other villages or hamlets" identified within the South Staffordshire Council Core Strategy adopted December 2012. The nearest community facilities or shops would be located approximately 1.3 miles to the east within Penkridge Village. Whilst this may be considered a convenient distance by vehicle, there is no footpath linkage or public transportation

route along Whiston Road to Penkridge. Appendix 2 provides the location of the unauthorised development within the context of the District.

3.5 The reasons for issuing the Notice were:

(i) It appears to the Council that the matters which constitute the breach of planning control have occurred within the last ten years and are not time immune from enforcement action.

(ii) The unauthorised material change of use of the Land is inappropriate development in the Green Belt contrary to Strategic Objectives 1 and 2 and Policies GB1 and H6 of the South Staffordshire Council Core Strategy adopted December 2012.

(iii) The unauthorised development on the Land is inappropriate development in the Green Belt contrary to paragraphs 152, 153 and 154 of the NPPF and has a detrimental impact on the openness of the Green Belt and no special circumstances have been put forward to justify a departure from Green Belt policy.

(iv) Chapter 16 of the NPPF and Policy EQ3 of the Core Strategy require that the significance of Heritage Assets and any impact on that significance is assessed as part of all development proposals. Adjacent to the Land to the east is Whiston Mill, a Grade II Listed building. It is considered that the development is detrimental to the setting of the listed mill and is contrary to Chapter 16 of the NPPF and Policy EQ3 of the adopted Core Strategy.

(v) The unauthorised development has an adverse effect on the character, appearance and amenity of the surrounding rural area, contrary to Policies EQ4, EQ11 and EQ12 of the adopted Core Strategy.

(vi) The Council consider that planning permission should not be given, because planning conditions could not overcome these objections to the development.

3.6 In 2021, planning permission 21/00235/FUL was granted for a change of use of land to “use for the keeping of horses including erection of stables and haybarn, laying of hardstanding, construction of mencege and improvement of access.” The decision notice for 21/00235/FUL is provided as Appendix 5. This permission was subsequently amended through 21/00235/AMEND to move the stables and haybarn 2m to the north. Approved site plans for both 21/00235/FUL and 21/00235/AMEND are provided as appendices 6 and 8, respectively.

3.7 Prior to this permission being partially implemented, the site was used for agriculture, with a track leading through grass fields to polytunnels. Between the issuance of permission 21/00235/AMEND in February 2022 and May 2023, the previous track and grass fields were covered with permeable stone and a post and rail fence was installed. However, the sand mencege, the stables and the hay barn were never constructed on site. There has been no evidence put forward that the site was utilised for the keeping of horses. Aerial and street view images are provided within Appendix 3.

3.8 Permission 21/00235/AMEND does grant consent for a sand mencege, which is now an area of crushed stone. It is the LA’s opinion that a sand mencege is not equivalent to hardstanding as it was denoted differently (specifically as “sand arena”) within the approved plans of permissions 21/00235/FUL and 21/00235/AMEND. As the hardstanding (crushed stone) has been laid in an area larger than that approved within 21/00235/AMEND, this increased area encompassing the “sand arena” area; the wooden shed, the closed board timber gates and the stationing of caravans have an adverse visual impact on the openness of the Green Belt and adds an inappropriate urbanised element within the rural landscape setting.

- 3.9 The LA readily accepts that the permitted use of the site is for the keeping of horses; however, such an activity has a significantly lower intensity than a permanent residential use and amounts to encroachment in the countryside, which would conflict with one of the objectives of the Green Belt and is contrary to Policy GB1 of the South Staffordshire Core Strategy (CS) adopted in December 2012. Paragraph 152 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 3.10 Paragraph 16 of the Planning Policy for Traveller Sites Updated 2023 (PPTS) comments that:
“Subject to the best interests of the child, personal circumstances, and unmet need are unlikely to outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.”
- 3.11 Policy EQ4 of the South Staffordshire Core Strategy (CS) adopted in December 2012, states that the intrinsic rural character and local distinctiveness of the South Staffordshire landscape should be maintained and where possible enhanced and that the design and location of new development should take account of the characteristics and sensitivity of the landscape and its surroundings, and not have a detrimental effect on the immediate environment and on any important medium and long distance views. The unauthorised Traveller site does not take into account the characteristics and sensitivity of the landscape and its surroundings. The amounts of hardcore laid on the site and the domestic closed board access gate appear incongruous with the rural surroundings.

4. RELEVANT PLANNING POLICY

4.1 Adopted Core Strategy 2012

Strategic Objectives:

Strategic Objective 1: To protect and maintain the Green Belt and Open Countryside in order to sustain the distinctive character of South Staffordshire.

Strategic Objective 2: To retain and reinforce the current pattern of villages across South Staffordshire, and in particular protect and retain the important strategic gaps between existing settlements in order to prevent the coalescence of settlements.

Strategic Objective 5: To protect, conserve and enhance the historic environment and heritage assets and ensure that the character and appearance of the District's Conservation Areas is sustained and enhanced through management plans and high quality design.

Strategic Objective 6: To ensure that all new development is sustainable, enabling people to satisfy their basic needs and enjoy a better quality of life, without compromising the quality of life of future generations.

Strategic Objective 8: To ensure the delivery of decent homes for members of the community including the provision of more affordable housing which matches in type, tenure and size the needs of the residents of South Staffordshire and to meet the needs of an ageing population.

Core Policies:

Core Policy 1 - The Spatial Strategy for South Staffordshire

Core Policy 2 – Protecting and Enhancing the Natural and Historic Environment

Core Policy 3 – Sustainable Development and Climate Change

Core Policy 6 - Housing Delivery

Core Policy 11 - Sustainable Transport

Development Policies:

GB1 - Development in the Green Belt

EQ3 – Conservation, Preservation and Protection of Heritage Assets

EQ4 - Protecting and Enhancing the Character and Appearance of the Landscape

EQ9 – Protecting Residential Amenity

EQ11 - Wider Design Conditions

EQ12 - Landscaping

H6 - Gypsies, Travellers and Travelling Showpeople

4.2 Adopted Site Allocations Document

SAD 4 Gypsy and Traveller Pitch Provision

4.3 Local Plan Review

The needs/issues of the Gypsy and Traveller community has been considered through the South Staffordshire Local Plan Review. A consultation was held on the Publication Plan (regulation 19) between April and May 2024. The Council's Local Development Scheme 2023 (LDS) anticipates submission of the Local Plan Review for examination in winter 2024/25 and adoption winter 2025/26.

4.4 Other Relevant Policy, Guidance & Evidence Based Considerations

Planning Policy for Traveller Sites

National Planning Policy Framework

Designing Gypsy and Traveller Sites - A Good Practice Guide Communities and Local Government (Historic Context)

Gypsy and Traveller Accommodation Assessments (G.T.A.A.'s 2024).

Gypsy and Traveller Topic Paper 2024

Pitch Deliverability Study 2021

Gypsy and Traveller Public Site Search 2021

5. PLANNING HISTORY

2021 - Planning application 21/00235/FUL approved subject to conditions for “Change of use of land to use for the keeping of horses including erection of stables and haybarn, laying of hardstanding, construction of manege and improvement of access.”

2022 - Planning application 21/00235/AMEND approved for “Movement of the stables and hay barn 2m (6.56ft) to the north.”

2022 - Planning application 22/00031/OHL approved for “Convert the existing line coloured red from single service to multi service and to install a short length of overhead line to provide a single connection.”

2024 - Planning application 24/00320/FUL submitted for “Change of use of land to use as a residential caravan site providing 4 No. Gypsy/Traveller pitches, including the laying of additional hardstanding.”

Application returned – please reference Section 6 below for details pertaining to submission and return of application 24/00320/FUL.

6. SUMMARY OF EVENTS

- 6.1 On Monday, 8 April 2024, the Council received several complaints that 7-8 caravans were parked on the site, having arrived Sunday, 7 April 2024. The complaints noted that the occupants of the caravan had started to fence around the property.
- 6.2 On 8 April 2024, the Council reviewed the planning application inbox for applications submitted over the previous weekend (6-7 April 2024) and found one application submitted by Philip Brown Associated Limited for the site (application referenced within Section 5 as 24/00320/FUL). The said application was submitted on Sunday, 7 April 2024 where it was noted as being part-retrospective with the works having commenced on 7 April 2024.
- 6.3 On 8 April 2024, the Planning Enforcement Team Manager visited the Land and observed five caravans moved onto the Land being lived in. There was a wooden shed erected and a toilet plumbed into a septic tank. Mr Billy Lee spoke with the Council Officer on site and identified approximately ten occupants of the caravans. Site visit photos are provided as Appendix 4.
- 6.4 On 9 April 2024, a Planning Officer invalidated application 24/00320/FUL due to several missing required elements. A letter was issued to Mr Philip Brown with a deadline of 23 April 2024 to respond with the items required to validate the planning application.
- 6.5 On 23 April 2024, the Planning Officer issued a second notification to Mr Philip Brown that no additional information had been received necessary to validate application 24/00320/FUL. A deadline of 7 May 2024 was provided for a response, or the application would be returned to Mr Brown and the fee refunded.
- 6.6 On 10 May 2024, Mr Brown issued an email to the LA requesting an unspecified amount of additional time to provide the documents required to validate application 24/00320/FUL.
- 6.7 On 16 May 2024, the LA provided Mr Brown an extended deadline of 5PM on 30/5/24 to submit the additional documents required to validate application 24/00320/FUL.
- 6.8 At 11:45AM on 30 May 2024, Mr Brown requested additional time to submit the additional documents required to validate application 24/00320/FUL.

- 6.9 On 31 May 2024, an Enforcement Notice was served on the Land. Planning application 24/00320/FUL was returned to Mr Brown due to insufficient information to validate the application. The application fee was refunded.
- 6.10 Upon submission of the appeal to PINS of the Enforcement Notice issued 31 May 2024, it became apparent that the map attached to the original Enforcement Notice was inaccurate. The Enforcement Notice served on 31 May 2024 was withdrawn on 8 July 2024.
- 6.11 On 21 August 2024, an Enforcement Notice was served on the land.

7. GROUNDS OF APPEAL

- i. **Ground (a)** That planning permission should be granted for what is alleged in the notice.
- ii. **Ground (b)** That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.
- iii. **Ground (c)** That there has not been a breach of planning control (for example because permission has already been granted, or it is “permitted development”).

8. LA RESPONSE TO GROUNDS OF APPEAL UNDER GROUND A

8.1 The case for the Local Authority is straight forward. The development subject of the appeal is unauthorised and that the development has multiple unacceptable harmful impacts upon the Green Belt and landscape setting generally, that clearly outweigh factors in favour of the development in the planning balance.

8.2 Harm 1 – Inappropriate development by definition within the Green Belt.

8.2.1 The proposed development is, by definition, inappropriate within the Green Belt and such harm is automatically afforded substantial weight in the planning balance of the decision-making process. The development, whether on a permanent or temporary basis, causes substantial, demonstrable harm to the Green Belt by reason of its inappropriateness.

8.3 Harm 2 - Harm caused by loss of Openness to the Green Belt.

8.3.1 In addition to the acknowledged harm to the Green Belt by inappropriateness, there is also significant adverse impact upon openness. The fundamental aim of Green Belt policy is to keep land permanently open. The essential characteristics of Green Belts are their openness and their permanence (para. 142 NPPF).

8.3.2 The Council considers that the openness of the Green Belt is described simply as an absence of built form and that, as established by the Court of Appeal in *Turner v SSCLG & East Dorset Council* (2016), the openness of the Green Belt can have both visual and spatial dimensions.

8.3.3 As set out in *Turner* the impact on ‘openness’ is not simply a volumetric analysis but can be a multifaceted question that involves looking at both the spatial and visual impact of a proposal on the Green Belt (see [14] of *Turner*). The visual dimension of openness was encapsulated by the words of Lord Justice Sales (at [15] of *Turner*):

“Greenness is a visual quality: part of the idea of the Green Belt is that the eye and the spirit should be relieved from the prospect of unrelenting urban sprawl”

- 8.3.4 Furthermore the Court of Appeal also recognised the damage that could be done to the Green Belt through the cumulative effect of modest proposals – the danger of death by thousand cuts (see [24-26] of Turner).
- 8.3.5 Matters of openness are planning judgments rather than law, and that that openness is the counterpart of urban sprawl and that it does not imply freedom from any form of development but the approach in Turner was endorsed by the Supreme Court in R (on the application of Samuel Smith Old Brewery (Tadcaster) v North Yorkshire County Council (Appellant) [2020] UKSC 3.
- 8.3.6 Harm by loss of openness has been exacerbated by the unauthorised increased amount of development at the site, from the mass of the caravans and the closed board access gate, making this an increased significant negative factor in the planning balance.
- 8.3.7 The use of the land as a traveller and Gypsy site for four pitches (with up to eight caravans) would see a significant introduction of urbanising development which would result in a marked loss of openness. Openness would be further reduced resulting from typical residential use of the site, including comings and goings of occupiers and visitors in vehicles, outside garden/amenity use, and the presence of associated domestic paraphernalia. In combination these features would significantly reduce the openness of the Green Belt in both spatial and visual terms, and would conflict with one of the Green Belt purposes that seeks to safeguard the countryside from encroachment.

8.4 **Harm 3 – Harm by Encroachment of development within the Green Belt.**

- 8.4.1 Additional Green Belt harm is caused by encroachment into Green Belt open countryside. To assist in safeguarding the countryside from encroachment is one of the five cornerstone purposes of designating land as Green Belt (para. 143 NPPF).
- 8.4.2 The loss of land which was approved for an equine use, currently in use as an authorised Gypsy/Traveller site, amounts to encroachment on the countryside, which would conflict with one of the objectives of the Green Belt.

8.5 **Harm 4 - Harm to the character and Appearance of the Landscape.**

- 8.5.1 Core Strategy Policy EQ4: ‘Protecting and Enhancing the Character and Appearance of the Landscape’, recognises the intrinsic character and value of the South Staffordshire landscape and seeks to maintain and wherever possible enhance this character.

Inter alia this policy states that:

“Throughout the District, the design and location of new development should take account of the characteristics and sensitivity of the landscape and its surroundings, and not have a detrimental effect on the immediate environment and on any important medium and long-distance views”;

and that:

“The siting, scale, and design of new development will need to take full account of the nature and distinctive qualities of the local landscape”.

The unauthorised development is visually conspicuous in the landscape setting from both the north and west. From the public domain along Whiston Road, the closed board access gate

prevents any views through the property to the fields to the north, views which would have remained intact with a gate/fence erected to the permitted development height of 1m. It should be noted that permissions 21/00235/FUL and 21/00235/AMEND did not grant permission for any access gate greater than 1m.

- 8.5.2 In addition, Core Strategy Policy EQ11: ‘Wider Design Considerations’, at sub para. C. Form e) states that:

“proposals should respect local character and distinctiveness including that of the surrounding development and landscape, in accordance with Policy EQ4, by enhancing the positive attributes whilst mitigating the negative aspects”.

- 8.5.3 Additionally, (Inter alia) Core strategy Policy EQ12: ‘Landscaping’ adds that the landscaping of new development should:

“c) protect and enhance key landscape features”.

- 8.5.4 These adopted Local Plan landscape policies are consistent with the sustainable development objectives identified at para. 8 c), and within Chapter 15 of the NPPF, which aim to protect and enhance the natural environment and valued landscape character of the area.

- 8.5.5 The development causes significant harm to the landscape character and appearance of the area.

8.6 Harm 5 – Harm to the setting of a Heritage asset

- 8.6.1 The site is within the setting of the Grade II listed Whiston Mill. The mill lies approximately 50 metres to the east of the site. The Historic England Official Listing for Whiston Mill is provided as Appendix 10.

- 8.6.2 The mill itself is a three storey brick structure consisting of a mill and mill house.

- 8.6.3 The urban appearance of the site impacts negatively on the setting of the listed mill and is contrary to EQ3 of the adopted Core Strategy. The Traveller site causes less than substantial harm to the setting of the Grade II listed mill.

- 8.6.4 Paragraph 208 of the NPPF states,

“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

- 8.6.5 There are not identified public benefits of the proposal and therefore this should be given significant weight.

- 8.6.6 There is a statutory duty under s.66 duty of the Listed Building Act:

In considering whether to grant planning permission [or permission in principle] for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

8.6.7 The setting of the heritage asset is not part of the heritage asset itself and does not form part of the Grade II listing, however the harm to the setting of the heritage asset impacts negatively on the heritage asset and harms the asset's significance.

8.7 Harm 6 - Harm to Highways safety

8.7.1 Whiston Road is a 'c' class road (C0313) and subject to national speed limit at this point; 60mph. There are concerns with this proposal in terms of an intensification of the access. The appellant has installed gates, if these gates are shut then vehicles could be forced to wait – this would be very undesirable if there was a vehicle towing a trailer or caravan as it would overhang onto the Road. The result would be vehicles having to swerve onto the other side of the narrow road to avoid an obstruction.

8.7.2 The site had an existing gated access to the land prior to the unauthorised development taking place (street view photos from 2012 are provided within Appendix 3). As the use of the land prior to the planning breach was agricultural/partial implementation of permission 21/00235/AMEND, it is likely that the number of vehicular movements to and from the land relating to the agriculture/hardstanding associated with 21/00235/AMEND would have been significantly lower than the current vehicular movements to and from the site associated with the residential use of the land.

8.7.3 Due to the 60mph speed limit of the road adjacent to the site access, the movement of caravans, vans and other vehicles on and off the site may cause highway safety issues. In accordance with Policy H6 of the Core Strategy, sites should be adequately and safely accessed by vehicles towing caravans. Evidence has not been provided to show that the site access is fit for purpose and complies with any necessary highways safety requirements.

8.7.4 Whilst permission 21/00235/FUL considered an improved access from Whiston Road, which was subsequently reviewed by Staffordshire County Highways, this proposal for a change of use considered an equestrian use. The current, unauthorised residential use has not been considered by County Highways to confirm if the existing access is adequate for an increased number of vehicles.

8.8 Harm 7 - Harm to Residential and Public Amenity

8.8.1 Within the Planning Statement submitted within application 24/00320/FUL (returned to the appellant due to insufficient information for validation), it was noted that the site is already connected to mains water and electricity. However, no evidence has been supplied to the council to confirm this, and no information has been provided regarding essential services such as drainage and waste disposal. This is contrary to Policy EQ9 of the adopted Core Strategy.

8.8.2 Within permission 21/00235/FUL, it was noted as a decision notice informative (Appendix 5) that:

“The application documents don't recognise the existence of Public BOAT (Byway Open to All Traffic) No 0.1044 Penkridge Parish which runs within the proposed development site. It runs just within/adjacent to the areas marked '6.0m corner radii' and over and across the Mill Stream. The BOAT does initially appear to be obstructed by hedging at its southern end. The attention of the developer should be drawn to the existence of the path and to the requirement that any planning permission given does not construe the right to divert, extinguish or obstruct any part of the public path. If the path does need diverting as part of these proposals the developer would need to apply to your council under section 257 of the TCPA 1990 to divert the footpath to allow the

development to commence. The applicants should be reminded that the granting of planning permission does not constitute authority for interference with the right of way or its closure or diversion...It is important that users of the path are still able to exercise their public rights safety and that the path is reinstated if any damage to the surface occurs as a result of the proposed development.”

8.8.3 Within permission 21/00235/FUL, there were no indications of an access gate being over 2m in height. The previous gate to the property was a 1m tall, metal agricultural swing gate (street view imagery provided within Appendix 3) that a user of the BOAT could likely have climbed over to gain access to the public byway. Given the current closed board gate to the site, this is a strong deterrent to anyone attempting to access the public byway. This is contrary to Policy CP2 of the adopted Core Strategy which protects the public rights of way network.

8.9 **Harm 8 – Harm by intentional unauthorised development within the Green Belt.**

8.9.1 Written Ministerial Statement – HLWS404 ‘Green Belt Protection and Intentional Unauthorised Development’ (Appendix 11) sets out changes to national planning policy to make intentional unauthorised development a material consideration in planning decision-making, and also to provide stronger protection for Green Belts. It is concerned with harm that is caused where the development of land has been undertaken in advance of obtaining planning permission that can involve Local Planning Authorities having to take Enforcement Action in the acknowledged public interest of protecting the Green Belt.

8.9.2 As identified within paragraphs 6.1 and 6.2, planning application 24/00320/FUL was submitted to the LA on the same day that the unauthorised incursion occurred. As noted within the application materials themselves, the application was part-retrospective with the works having commenced on 7 April 2024. The LA invalidated the application due to insufficient application materials and provided the agent, Mr Brown, with over seven weeks (through 30 May 2024) to provide the materials required for validation.

8.9.3 Whilst Mr Brown stated via email that the materials delaying the completion of the application were related to Biodiversity, there were several other outstanding materials that were not submitted (modified location plan, site plan, flood risk assessment, heritage statement, draft unilateral undertaking and biodiversity assessment). None of these materials have been submitted since the application was returned on 31 May 2024, not even after the first Enforcement Notice was withdrawn. There have been no attempts to provide the LA with this information.

8.9.4 The continued unauthorised residential use of the site without the prior submission of a valid planning application shows disregard for the planning system that undermines public confidence, particularly in respect of the long-standing and acknowledged need to protect the Green Belt.

8.9.5 The development does not meet with the qualifying criteria of Policy H6 (8) of the adopted South Staffordshire Core Strategy due to its unacceptable negative impact on the openness of the Green Belt and on the landscape setting in general.

8.9.6 Core Strategy Policy H6 sets out a series of criteria against which planning applications and the future allocation of sites through the Development Plan process for new/extensions to existing gypsy sites should be assessed. The appeal proposal is contrary to criterion 8a) of C.S. Policy H6.

Policy H6, qualifying criteria 8a) states that:

“Proposals shall be sited and landscaped to ensure that any impact on the character and landscape of the locality is minimised, including impacts on biodiversity and nature conservation. In areas of nationally, sub-nationally or locally recognised designations planning permission will only be granted where the objectives of designation would not be compromised by the development – examples will include:

a) The Green Belt - where demonstrably harmful impact on the ‘openness’ of the Green Belt will be resisted”.

8.9.7 The appeal proposes a significant amount of development across the site. The quantum of development consisting of an extensive area of hardstanding dotted with caravans, as well as a closed board access gates preventing views from the public realm through the site to the fields to the north, does have a significant negative impact on the openness of the Green Belt contrary to NPPF Green Belt Policy and Policy GB1 of the adopted Core Strategy. The combined quantum of development does result in a significant reduction in openness. Policy H6 8a) requires development proposals to not cause "demonstrable harm to openness". The appeal proposal causes significant material harm to openness.

8.10 **Further Material Considerations**

8.10.1 **Previously Developed Land**

Within the Inspector’s pre-hearing note dated 2 October 2024, it is noted that it will be necessary to consider if the development has occurred on previously developed land.

The NPPF Annex 2 Glossary defines previously developed land as:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”

The development that has occurred under permission 21/00235/AMEND includes the laying of hardcore and the placement of one concrete pad in the approximate location indicated for stables. The permanency of the concrete pad is unknown as it appears to be sitting atop the hardcore, with a black plastic moisture barrier coming up over the timber framed sides. It is feasible that the “pad” simply sits atop the hardcore and is not a foundation system poured into the ground itself. The degree of permanence and physical attachment to the ground of the concrete pad is unknown.

It is the LA’s opinion that the development that has occurred under permission 21/00235/AMEND does not constitute a permanent structure and would not be considered previously developed land. It should also be noted that the site is not included within South Staffordshire District Council’s Brownfield Register.

8.10.2 **Flood Risk**

Core Policy 3 of the Core Strategy notes that:

“the Council will require development to be designed to cater for the effects of climate change, making prudent use of natural resources...and helping to minimise any environmental impacts. This will be achieved by j) guiding development away from known areas of flood risk as identified in the Strategic Flood Risk Assessment, Surface Water Management Plan and consistent with NPPF.”

Whilst the appellant stated within the Design and Access Statement submitted with application 24/00320/FUL that the application site is not located within an area at high risk from flooding, this is not accurate. When said application was submitted, it was noted as a reason for invalidating the application that the site falls within the flood risk area, flood zones 2 and 3. A flood risk assessment was required for validation but was not submitted to the LA prior to the application being returned. A Flood Map is included as Appendix 9.

8.10.3 Cannock Chase Special Area of Conservation (SAC)

Paragraph 188 of the NPPF advises that:

“The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site”.

The agreed strategy for the Cannock Chase SAC is set out in Policy EQ2 of the Core Strategy, which requires that before development is permitted, it must be demonstrated that in itself, or in combination with other development, it will not have an adverse effect, whether direct or indirect, upon the integrity of the Cannock Chase SAC, having regard to avoidance or mitigation measures. In particular, dwellings within a 15km radius of any boundary of Cannock Chase SAC, will be deemed to have an adverse impact on the SAC, unless or until satisfactory avoidance and/or mitigation measures have been secured. The agreed upon mitigation measures to enable residential development within the Zone of Influence (Zoi), are detailed within the Strategic Access Management and Monitoring Measures (SAMMMs) document. Under the provisions of the Conservation of Habitats and Species Regulations 2017, the Local Planning Authority as the Competent Authority, must have further consideration, beyond the above planning policy matters, to the impact of this development, in this case, due to the relative proximity, on the Cannock Chase SAC.

The application site lies within the 0-15km zone of influence for the Cannock Chase SAC. Any application which involves a net dwelling increase within the 0-15km zone of influence of the SAC is required to provide mitigation in the form of a charge for any additional dwellings proposed.

The LA has provided the appellant with a draft copy of a Unilateral Undertaking. It is the LA's request that if the appeal be successful and permission granted for the development, that a UU be secure prior to any decision being made.

8.10.4 Provision and need for Gypsy and Traveller Sites

The Local Development Plan position is that:

-The 2012 adopted Core Strategy contains Policy, H6: *Gypsies, Travellers and Travelling Showpeople* sets out criteria for the determination of applications for gypsy and traveller sites and pitch requirements up to 2028. The 2018 Site Allocations Document (SAD) delivers the residual pitch requirements from Policy H6, with the allocations to meet these requirements set out in Policy SAD4 and is based on the 2008 GTAA evidence of need.

Substantial progress has been made towards the delivery of Gypsy and Traveller Sites in accordance with Development Plan policy in South Staffordshire, with 20 permanent pitches being granted planning permission in the Green Belt since the adoption of the Site Allocations Document in 2018 and an additional 6 pitches have also been granted on appeal. This demonstrates the Local Authority's pro-active and positive approach to the delivery of gypsy and traveller pitches. Application of the preferred Plan Led approach is of great importance within an area that is predominantly Green Belt.

Local Plan Review

In line with national policy, the needs for families have been assessed through the Gypsy and Traveller Accommodation Assessment (GTAA) update 2024 and Pitch Deliverability Study (2021). The 2024 GTAA is provided as Appendix 12, with the 2021 Study included as Appendix 14. This evidence demonstrates that need is being generated by existing families. Some of this is current need as a result of being on an unauthorised pitch and overcrowding. However, the vast majority of need is generated through household formation derived from the demographics of residents and teenagers on sites needing a pitch of their own within the next five years.

Due to this, the council's strategy for new Gypsy, Traveller and Travelling Showperson provision will be to continue to deliver privately owned sites/pitches to meet the needs of existing families. The evidence supports an approach therefore of looking to allocate existing temporary or unauthorised sites to permanent (subject to other planning considerations) and looking to intensify and extend existing sites to meet identified family need, rather than allocating wholly new sites that may have been suggested by landowners without any connection or agreement to meet local needs, and where deliverability is more uncertain. This approach will see the continued concentration of traveller pitches where sites have historically been consented on appeal in the north of the district predominantly along the A449 and A5 transport corridors. It is currently not possible to test an alternative distribution of traveller pitches that would disperse pitches more widely across the district due to a lack of deliverable alternative pitch options elsewhere in the district.

The GTAA update (2024) has identified a need for 142 pitches to 2042 from families that meet the definition of a Gypsy and Traveller. However, assuming that 84% of 'undetermined household' (where interviews were not secured) would need a pitch, then this requirement could rise to 162 pitches up to 2042. The GTAA update identified a 5-year need (2024-2028) of 92 pitches.

The strategy for new Gypsy, Traveller and Travelling Showperson provision is to meet the needs of existing families as far as possible, that meet the Planning Policy for Travellers Sites (PPTS) planning definition by continuing to deliver privately owned sites/pitches. The evidence supports an approach therefore of looking to allocate existing temporary or unauthorised sites to permanent (subject to other planning considerations) and looking to intensify and extend existing sites.

Where suitable options for new pitches exist, the Local Plan proposes to allocate pitches to meet the district's existing families' (who meet the planning definition) 5 year need, as informed by the GTAA update. It is acknowledged that there may be additional 5 year need from 'undermined' households' 6 (i.e. where interviews were not secured), however the uncertain nature of this need means that it cannot be accurately addressed through specific allocations, and therefore will be addressed through a criteria based policy (emerging Local Plan Policy HC9 – provided within Appendix 17).

Equally, future pitch needs beyond the 5 year requirement (including Travelling Showperson needs) will come through the Development Management process with proposals considered against emerging Local Plan Policy HC9 (provided within Appendix 17). It is anticipated that this need will be met on or as extensions to existing sites with an emerging need, and these sites, subject to conformity with emerging Local Plan Policy HC9, are the broad locations anticipated to meet a proportion of future growth and are identified on the policies map. Emerging local plan Policy HC9 and any other relevant policies (e.g. emerging local plan policy DS1: Green Belt) will also be the mechanism through the Development Management process for considering those families/individuals with an identified need but do not meet the planning definition of a Gypsy, Traveller or Travelling Showperson.

Proposed allocations are informed by the council's Pitch Deliverability Study (PDS) 2021 (Appendix 14) and site assessment process, which engaged with families with a need on existing sites to explore what options they have to expand, including amendments to site layout. Due to site constraints identified in the study, the current 5 year need (92 pitches) for families that meet the planning definition cannot be met on all existing sites. The PDS identified 42 deliverable pitch options to meet the 5 year need, however following consideration of responses to the Preferred Options consultation it was concluded that the proposed allocation at 122 Streets Lane, Great Wyrley was unsuitable for allocation. This assessment was taken based on reviewing a previous Planning Inspector's decision relating to this site, and in particular, the impact the proposal would have on the openness of the Green Belt. This resulted in the proposal would have on the openness of the Green Belt. This resulted in the identification of 37 suitable pitch options for allocation. Through the 2024 GTAA update, the five year needs of families were reassessed, including the families on sites assessed as suitable for expansion, with the number of pitches proposed reflecting this latest evidence. Overall, it remains the case that 37 suitable pitch options for allocation are identified.

As a result of the shortfall of pitch provision against the 5 year need further options to identify sites have been explored. Given that the needs are generated from specific family members already living in the district, the focus has been to identify options for a new public site, so it would be possible to ensure pitches were reserved for those family members in need of a pitch. This could not be guaranteed if privately owned sites were allocated where there would not be the same level of control on who the pitches went to. In the process of exploring options for a public site, an assessment of district council owned land was undertaken, but this process demonstrated that no council owned sites were suitable mainly due to significant constraints, such as being in use for open space or sports facilities. In addition, site promoters for allocated housing sites were contacted to enquire whether a proportion of their site could be made available for a publicly run traveller site, however a willing landowner for this use could not be identified. Finally, an assessment of Staffordshire County Council owned land was undertaken. Through this process one land parcel was identified as potentially suitable through the site assessment process. However, it was subsequently confirmed by Staffordshire County Council

that they are unwilling to run the site as a public site themselves or gift the land to be run by the district council or other public body, and as such deliverability cannot be demonstrated.

In tandem with exploring supply options to meet (or reduce) our unmet need for Gypsy and Traveller pitches as set out above, we have also contacted neighbouring authorities to explore if they are able to assist us in meeting our unmet needs under the Duty to Cooperate. The Council has written to all authorities either adjoining South Staffordshire and/or in our Housing Market Area (HMA) on several occasions asking if there were options to either accommodate some or all of these unmet needs on existing public sites within the administrative areas of Duty to Cooperate bodies or whether new public sites could be created. To date, no respondents have indicated that are able to assist in supplying additional pitches to meet our unmet needs.

Further details of how the needs for gypsies and travellers have been considered can be found in the Gypsies, Travellers and Travelling Showpeople Topic Paper (Appendix 13).

National Policy

Planning Policy for Traveller Sites (December 2023) sets out the Government's for traveller sites, to be read in conjunction with the National Planning Policy Framework.

Core Strategy Policy H6 (7) is consistent with this aim.

Policy E: Traveller sites in Green Belt at para. 16 re-affirms the Government commitment to the protection of the Green Belt stating that:

"Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. 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."

Para. 27 states that:

"If a local planning authority cannot demonstrate an up-to-date 5-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The exception is where the proposal is on land designated as (inter alia) Green Belt."

South Staffordshire Council acknowledges that it cannot currently demonstrate a 5-year supply of Gypsy and Traveller pitches in relation to identified need. However, the current relevant PPTS advice is that identified Green Belt harm is not reduced by a lack of 5-year supply.

The LA is actively, positively and progressively working towards the delivery of sites through its Local Plan Review.

An existing shortfall is acknowledged, all existing sites in South Staffordshire are privately owned, and it is also acknowledged that there may be no available alternative sites. However, the P.P.T.S. states that pitch provision should be plan led.

8.10.5 Personal Circumstances

In respect of personal circumstances, the council has received details of the occupants of the caravan site. No information has been provided to state that any of the occupants have additional medical or behaviour support needs, or that said needs are already supported within the community. The appellant's Statement of Case focuses on the appellant's need for a settled base in regard to schooling. As no details are provided for consideration, no weight can be attached to the occupants' personal circumstances at present.

The appellants rights are acknowledged under the Human Rights Act 1998 and Equality Act 2010, as are the best interests of the appellants children (UN Convention on the Rights of the Child). In this case however no information is provided in respect of the specific educational and health requirements of the children.

As set in **Stevens v Secretary of State for Communities and Local Government** [2013] EWHC 792 (Admin)¹; while the interest of the child should be a primary consideration it should not be determinative of the planning issue and nor should it necessarily carry greater weight than any other consideration. Those interests have to be viewed in a wider planning context which can include the availability of other sites and the level of unmet need in the borough.

In addition, when applying the concept of proportionality to human rights in respect of development proposals that would be demonstrably harmful to the interests of protecting the Green Belt, the LA concur with the balancing of issues and conclusions of the Inspector in the recent dismissed appeal decision related to a similar Green Belt case at New Acre Stables, Penkridge (appeal decision APP/C3430/A/13/2210160 dated 12 January 2016 – Appendix 18), as set out in para. 53 of the decision:

“However, these are qualified rights and interference may be justified where in the public interest. The concept of proportionality is crucial. These interferences would be in accordance with the law and in pursuit of a well-established and legitimate aim, that is, the protection of the Green Belt. The harm that would be caused by the development in terms of the Green Belt would be substantial. In the context of this case it outweighs the human rights of the families and the best interests of the children. Despite the need for pitches, the lack of a five-year supply, the lack of an affordable, available and suitable alternative site and the other matters weighing in the appellant's favour, I have concluded that the granting of a temporary or permanent planning permission would not be appropriate. I am satisfied that the legitimate aim of the protection of the Green Belt cannot be achieved by any means which are less interfering with the appellant's and the families rights. They are proportionate and necessary in the circumstances”.

In South Staffordshire, the Inspector in a 2019 appeal determination at Streets Lane, Great Wyrley, (Green Belt, Gypsy and Traveller case), in South Staffordshire concluded that:

“However, these are qualified rights and interference may be justified where in the public interest. I turn to the matter of proportionality. The harm that would be caused by the development to the Green Belt would be substantial. In this case it outweighs the human rights of the families and the best interests of the children. Despite the need for pitches, the lack of a five-year supply, the lack of alternative sites and other matters weighing in the appellant's favour, I have concluded that the granting of a temporary or permanent planning permission would not be appropriate.

¹ Those principles were confirmed as 'accurate and useful summary' by the Court of Appeal in **Collins v Secretary of State for Communities and Local Government** [2013] EWCA Civ 1193

Therefore, the legitimate aim of the protection of the Green Belt cannot be achieved by any means which are less interfering with the appellant's and family's rights". (para. 28 of APP/C3430/W/18/3201530 attached here within Appendix 18).

The same material issues and principles apply to the current appeal consideration.

The Ground a) Deemed Application Planning Balance

- 8.10.6 It is the Local Authority's case that none of the issues in favour of the development put forward, whether individually or when combined, override the strong established and re-affirmed (PPTS revised December 2023) national and local planning policy presumption against inappropriate development within the Green Belt.
- 8.10.7 Harm caused by the inappropriateness of the development in the Green Belt is significant and substantial. Significant harm would also be caused by loss of openness, the most important attribute of Green Belts, due to the quantum of development proposed. Additional significant harm would also be caused by encroachment. Additional significant harms are also identified in terms of the impact on the character and appearance of the landscape. Additional harm also results from intentional unauthorised development.
- 8.10.8 Due to the acknowledged current shortfall in pitch provision against 5-year supply, this weighs in favour of the Appellant. However, the overall harm outlined above is not outweighed by this shortfall and so only minor weight should be given to this.
- 8.10.9 Under Policy H6 of the adopted Core Strategy, the intended occupants must meet the definition of Gypsies & Travellers or Travelling Showpeople as set out in Annex 1 of the National Planning Policy for Traveller Sites. Besides the appellant's Statement of Case noting that they self-identify as Gypsy/Travellers, the council has not seen any evidence of the Gypsy or Traveller status of the occupants of the site and therefore the council remains neutral on this point pending further evidence from the appellant.

9. LA RESPONSE TO GROUNDS OF APPEAL UNDER GROUND B

- 9.1 As noted within the Inspector's Pre-Hearing Note dated 2 October 2024, "it is not clear whether the appellant is also pleading ground (b) – i.e., that the breach of planning control has not occurred."
- 9.2 The appellant has not ticked the box within section E of the appeal form to indicate that an appeal under ground (b) is occurring, but they have included paragraphs 5.38 and 5.39 within their Statement of Case to address ground (b).
- 9.3 The LA has received no correspondence from the appellant to confirm if they are proceeding with the ground (b) appeal. However, in the event that the appellant proceeds under ground (b), the following is the LA's case regarding ground (b).
- 9.4 Planning permission 21/00235/AMEND was partially implemented prior to the issuance of the Enforcement Notice being appealed. As noted within paragraph 3.6 above, prior to permission 21/00235/AMEND being issued, the site was used for agriculture, with a track leading through grass fields to polytunnels. Between the issuance of permission 21/00235/AMEND in February 2022 and May 2023, the previous track and grass fields were covered with permeable stone, a post and rail fence was installed and one concrete slab was situated on site. However, the sand

menage and the physical superstructure of the stables were never constructed on site. There has been no evidence put forward that the site was utilised for the keeping of horses.

10. LA RESPONSE TO GROUNDS OF APPEAL UNDER GROUND C

- 10.1 The appellant has not specifically addressed ground (c) within their statement of case. However, as noted within the Inspector's Pre-Hearing Note dated 2 October 2024:
"The claim made under the ground (c) appeal relates to the hardstanding being lawful as it was approved for planning permission 21/00235/FUL...The evidence from the main parties will need to address this matter in detail, including whether the hardstanding was formed to facilitate the alleged unauthorised material change of use, or whether it was formed to facilitate the use of the land for the keeping of horses in accordance with planning permission 21/00235/FUL."
- 10.2 As has been noted within paragraphs 3.6 and 9.4, there has been no evidence put forward to the LA that the site was utilised for the keeping of horses. The area of hardstanding coloured purple on the plan attached to the Enforcement Notice is roughly the same area as the menage indicated within approvals 21/00235/FUL and 21/00235/AMEND.
- 10.3 Planning permission 21/00235/FUL does include a cross-section of the menage floor, which indicates a base layer of clean hardcore, followed by 50mm of shredded rubber, with a top layer of 50mm of coarse sand (provided as Appendix 7). In accordance with a typical sand menage, the site layout plan approved within both 21/00235/FUL and 21/00235/AMEND indicate a sand arena, enclosed by a post and rail fence with a gate to control access to the sand arena.
- 10.4 As only the base layer of hardcore has been installed (ie no shredded rubber, no top layer of sand, no superstructure for the stables, no haybarn and no gate to enclose the menage), it remains the LA's opinion that the hardstanding shown in purple on the plan attached to the Notice was formed to facilitate the unauthorised material change of use to a residential site. This contention is supported by the fact that the Council are of the view that there is no evidence of the land being used for the keeping of horses.

11. CONCLUSIONS

- 11.1 The personal accommodation needs and personal circumstances of the appellant (including the best interests of children), together with the acknowledged current lack of alternative sites and shortfall of pitches against the 5-year supply based on the G.T.T.A assessment, have been fully considered in the balancing exercise undertaken.
- 11.2 It is not considered however that any of these issues, individually or when combined, tip the balance in favour of a permanent or temporary permission in the circumstances of this case, with particular regard to the established and acknowledged presumption against inappropriate development within the Green Belt, which attracts significant weight as re-affirmed by the 2015 update to the PPTS.
- 11.3 The protection of Green Belt is a crucial and fundamental aim of long established local and national planning policy and is therefore a legitimate objective in the public interest, based on both adopted Development Plan and Central Government Policy, with a clear basis in planning legislation. In such circumstances, some interference with Article 8 rights is permissible. The protection of the public interest, in this case the protection of the Green Belt, cannot be achieved by means which are less interfering than refusal of planning permission. Therefore limited weight should be given to the current lack of a five year supply of pitches.

- 11.4 The development is inappropriate development by definition within the Green Belt which should be afforded significant weight.
- 11.5 In addition, the quantum and spread of development causes significant harm to the openness of the Green Belt and by encroachment into Green Belt countryside. These harms should each be given significant weight in their own right in the planning balance.
- 11.6 The harm by encroachment of the development within the Green Belt is significant. The development conflicts with one of the objectives of the Green Belt, namely, to assist in safeguarding the countryside from encroachment which should be given significant weight.
- 11.7 The development also impacts negatively on and conflicts with identified national and local planning policy aimed at protecting the character and appearance of the landscape of the area. These harms should also be given significant weight in their own right.
- 11.8 The development impacts negatively on the setting of a heritage asset and this harm should be given significant weight.
- 11.9 The development currently has an unknown level of impact on highways safety, residential and public amenity. The full impact cannot currently be assessed due to lack of information provided by the appellant. Therefore, significant weight should be given to this.
- 11.10 The appeal relates to clearly intentional unauthorised development, given the circumstances described above, and this is an additional negative factor against the proposal that should be given significant weight in the light of the demonstrable harms that have been caused.
- 11.11 The Gypsy or Traveller status of the occupants of the site remains untested as the council has not seen any formal evidence of the Gypsy Traveller status of the appellant and his dependents.
- 11.12 The LPA decision to take Enforcement Action accords with prevailing relevant national and local Green Belt and Gypsy and Traveller planning policy and guidance, and landscape/countryside policy. It is therefore respectfully requested that the appeal is dismissed.

12. SUGGESTED CONDITIONS

SUGGESTED CONDITIONS

1. The use hereby permitted shall be for a limited period being the period from the date of this decision until XXXX. At the end of this period the use hereby permitted shall cease, all materials and equipment brought on to the land in connection with the use shall be removed, and the land restored to its former condition in accordance with a scheme previously submitted to and approved in writing by the local planning authority.

2. The site shall not be occupied by any persons other than gypsies and travellers as defined in the National Planning Policy for Traveller Sites.

3. No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans hereby permitted, and it shall not exceed 3.5 tonnes in weight.

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

5. No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be static caravans or mobile homes) shall be stationed on the site at any time.

6. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought on to the site for the purposes of such use shall be removed within 30 days of the date of failure to meet one of the requirements set out in (i) to (iv) below:

(i) Within 3 months of the date of this decision a scheme for:

(a) the internal layout of the site including the extent of the residential pitches, the location of the caravans and vehicle parking, any buildings and hardstandings;

(b) all boundary treatments and all other means of enclosure (including internal sub-division);

(c) proposed and existing external lighting on the boundary of and within the site;

(d) the means of foul and surface water drainage of the site;

(e) hard and soft landscaping and screen planting including details of species, plant sizes and proposed numbers and densities and details of a schedule of maintenance for a period of 5 years; (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the site development scheme shall include a timetable for its implementation.

(ii) Within 6 months of the date of this decision the local planning authority refuse to approve the site development scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.

(iv) The approved site development scheme shall have been carried out and completed in accordance with the approved timetable.

(v) Upon implementation of the approved site development scheme specified in this condition, that scheme shall thereafter be maintained.

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

7. The occupation of the site hereby permitted shall be carried on only by the following and their resident dependents:

i) Billy Joe and Joanne Lee.

8. When the land ceases to be occupied by those named in condition 7 above, the use hereby permitted shall cease and all caravans, structures, materials, and equipment brought on to or erected on the land, or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.

9. Public BOAT (Byway Open to All Traffic) No 0.1044 shall not be diverted, extinguished or obstructed. If the path does need diverting the appellant would need to apply to the Local Authority under section 257 of the TCPA 1990 to divert the footpath.