
Appeal Decisions

Inquiry opened on 16 August 2016

Site visit made on 18 August 2016

by Clive Nield BSc(Hon), CEng, MICE, MCIWEM, C.WEM

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 November 2016

Appeal Refs: APP/Y3425/C/15/3133219-3133223

Land on the North East side of Hilderstone Road, Spot Acre, Stone, Staffordshire, ST15 8RP

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr William Varey, Mr George Clee, Mr John Varey, Mr Jim Smith (Junior) and Mr Jim Smith (Senior) against an enforcement notice issued by Stafford Borough Council.
 - The enforcement notice, numbered 012819 JS, was issued on 7 August 2015.
 - The breach of planning control alleged in the notice is failure to comply with condition No. 2 of a planning permission Ref APP/Y3425/A/09/2099291 granted on 10 December 2009.
 - The development to which the permission relates is *"change of use for the stationing of caravans for five gypsy pitches, with utility/day rooms, access road and areas of hardstanding ancillary to that use"*. The condition in question is No. 2 which states that: *"At the end of five years, or when the land ceases to be occupied by those named in condition No. 1 above should this occur earlier, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to the land in connection with the use, including the utility/day rooms hereby permitted, shall be removed. Within three months of that time the land shall be restored in accordance with a scheme previously submitted to and approved in writing by the local planning authority"*. The notice alleges that the condition has not been complied with in that the site is still being used for the stationing of caravans for five gypsy pitches.
 - The requirements of the notice are: (i) Stop using the land for the stationing of caravans for residential use; (ii) Remove from the land all caravans, structures, materials and equipment which has been brought on to the land in connection with the unauthorised use. This includes utility and day rooms; and (iii) Restore the land by levelling the ground and re-seeding it with grass.
 - The period for compliance with the requirements is: 12 months for requirements (i) and (ii); and 13 months for requirement (iii).
 - The appeal is proceeding on the grounds set out in sections 174(2)(b), (f) and (g) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.
 - The inquiry sat for 3 days on 16-18 August 2016.
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Appeal Ref: APP/Y3425/W/15/3119166

Woodfield, Hilderstone Road, Spot Acre, Stone, Staffordshire, ST15 8RP

- 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 Mr Bill Varey against the decision of Stafford Borough Council.
 - The application Ref 14/21223/COU, dated 14 October 2014, was refused by notice dated 22 December 2014.
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- The development proposed is the change of use of land to the stationing of caravans for five gypsy pitches, with utility/day rooms, access road and areas of hardstanding ancillary to that use, without complying with condition No. 2 of permission ref 08/10281/COU granted in appeal decision APP/Y3425/A/09/2099291 dated 10 December 2009 and with variation of condition No. 1.
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Decisions

Enforcement Appeals, Refs. APP/Y3425/C/15/3133219-3133223

1. The enforcement notice is corrected by the substitution of the plan annexed to this decision for the plan attached to the enforcement notice and varied by deleting paragraph 5(iii) and substituting **the requirement "(iii) Restore the land shown shaded in black on the plan annexed to this decision by levelling the ground and re-seeding it with grass" and by deleting the Time for Compliance for each requirement and substituting "3 years after this notice takes effect" for paragraphs 5(i) and 5(ii) and "3 years and 3 months after this notice takes effect" for paragraph 5(iii).**
2. Subject to these corrections and variations the enforcement notice is upheld.

Planning Appeal, Ref. APP/Y3425/W/15/3119166

3. The appeal is allowed and planning permission is granted for the change of use of the land for the stationing of caravans for five gypsy pitches, with utility/day rooms, access road and areas of hardstanding ancillary to that use on land on the North East side of Hilderstone Road, Spot Acre, Stone, Staffordshire, ST15 8RP in accordance with the application Ref 14/21223/COU dated 14 October 2014 subject to the conditions in the attached Annex.

Procedural and Background Matters

4. Temporary planning permission (for a period of 5 years) was granted for the change of use by the appeal decision dated 10 December 2009 detailed above. There is no dispute that the permission was implemented and that the requirements of all the other conditions have been met. The current Section 78 appeal application is to make the permission permanent.
5. The Section 78 appeal was originally made solely in respect of the removal of condition No. 2. However, it was realised that the list of people authorised to occupy the site under condition No. 1 also needed amendment, and the Council considered the application on that basis. It was agreed that the appeal should also consider both conditions.
6. I first consider the Section 78 appeal against the refusal of the application for planning permission.

Section 78 Appeal against Refusal of Planning Permission

Main Issues

7. The main issues to be considered in this case are the effects of the development on the green belt and on the surrounding countryside, the need for accommodation for gypsies in the area, the availability of such accommodation, whether or not the Council has made adequate provision for a

5 year supply of suitable land, and whether or not the Council has made adequate policy provision to meet that need. The personal circumstances of the Appellants and their families are also an important issue.

Harm to the Green Belt and the Open Countryside

8. It is common ground that the development amounts to inappropriate development in the Green Belt and that substantial weight should be attributed to that harm. It is also common ground that, in addition to inappropriateness, the development is harmful to 2 of the key attributes of Green Belt land: safeguarding the countryside from encroachment; and keeping the land permanently open.
9. In the light of the recent court judgement (*Turner v SSCLG [2016] EWCA Civ 466*), the assessment of openness should take into account its visual impact, and the Appellants argue that the site is well screened by woodland and hedges. That is so for some viewpoints. However, the roofs of the caravans are visible from some views, the entrance is prominent to passers-by along the road, and part of the development can be seen in views into the entrance. It is clearly obvious that the development exists on the site, though its full visual impact is not clearly seen.
10. It is also an accepted principle that moveable development has less impact on Green Belt openness than permanent structures. In this case, the pitches contain a mixture of buildings and moveable caravans, though some of the latter have been bricked-in to appear more like chalets than caravans. I have taken this mixture into account in assessing the Green Belt harm.
11. Notwithstanding the reduced visibility and the moveability of some of the development, in view of the harm due to inappropriateness and in respect of encroachment, I still attribute substantial weight to the Green Belt harm.
12. The location of the development in the Green Belt is contrary to development plan and national policies. The National Planning Policy Framework (NPPF) contains policies to protect Green Belt land. Paragraph 87 says that **"inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances"**, and paragraph 88 says **"When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations"**.
13. Planning Policy for Traveller Sites (PPTS) is consistent with these policies, and the Plan for Stafford Borough 2011 – 2031, adopted in June 2014, also relies on the NPPF. Policy SP7 (Supporting the location of new development) includes the criterion that **"development will only be supported where, if located within the Green Belt, it is consistent with national policies for the control of development"**, and Policy C6 (Provision for Gypsies, Travellers & Travelling Show-people) refers to the PPTS document and includes that the site should not **"compromise Green Belt"**. As the adopted Plan is consistent with national policy, I take that phrase to mean the same test as in national policy.

14. The PPTS (paragraph 25) also says that "*Local Planning Authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements*". Contrary to the Appellants' assertions that it is close to the nearest village and not in an open location, I consider the appeal site to fall solidly within this definition. The development also conflicts with this PPTS policy.
15. Having reached my conclusions on the harm caused by the development, I now turn to consider the other material considerations that it is argued together amount to the very special circumstances needed to clearly outweigh the Green Belt harm.

Need for Accommodation for Gypsies

16. The need for accommodation for gypsies was assessed by the Council in 2012 by means of a Gypsy and Traveller Accommodation Assessment (GTAA) carried out by a specialist consultant. That was part of the evidence base for the Plan for Stafford Borough, which was adopted in 2014, and the GTAA was accepted as robust evidence by the development plan Inspector. The GTAA was reviewed and refreshed by the same consultant in 2015.
17. It is not disputed that there is a pressing need for more accommodation for gypsies. The 2015 GTAA identified an immediate need for 19 more pitches. The Appellants consider the need to be much higher, saying that the GTAA has underestimated the need by at least 25 pitches and that 56 would be a better estimate. Most of the difference is accounted for by higher allowances for need resulting from doubling up and concealed households and from gypsies currently living in bricks and mortar. It is very difficult to make reasonable assessments of these needs as, even if households are doubled-up or concealed, they do not always want to live on separate pitches, and none of the households interviewed for the GTAA considered their present homes to be overcrowded. The GTAA included a large number of interview surveys with gypsy households, including many doubled-up and concealed households, and the projections took into account the results of those surveys, which were themselves conducted by gypsies. In principle, that approach should provide a more realistic assessment than a desk study of the survey data alone.
18. As for gypsies living in bricks and mortar, the Appellants maintain that census data grossly underestimates the numbers of gypsies and that a multiplier should be applied to the GTAA data. However, I consider the GTAA has taken a reasonable approach, combining the local knowledge of gypsy community interviewers and statistics gained from much wider surveys elsewhere. I consider this to provide a better basis for an estimate than the broad assertions put forward by the Appellants.
19. At the public inquiry the Council's expert witness did acknowledge some inconsistencies in the data, though partly due to changes in circumstances for the 2 GTAA, and some of the data is not readily transparent. He also accepted that some of the estimates might be low. However, on balance, I consider the assessment of need presented in the latest GTAA to be more realistic than the much higher figure argued by the Appellants. However, having said that, even the lower figure represents a significant unmet local need for permanent gypsy and traveller accommodation. This is an important material consideration in support of the appeal proposal.

Availability of Accommodation for Gypsies

20. The 2015 GTAA provides an assessment of the current accommodation in the Borough of Stafford. It identifies 56 pitches on private authorised sites, 6 pitches on a Council site, 2 pitches on an unauthorised but tolerated site and 5 pitches on an unauthorised site (which is the current appeal site). The Council has also recently announced that its Glover Street site will soon provide 12 rather than 6 pitches. It used to provide 12 pitches but, as vacancies have arisen, they have not been refilled, and only 6 are currently occupied.
21. The Appellants argue that the Glover Street site is too small for 12 pitches and that there is not sufficient space to provide the required separation distances between the caravans and the site boundaries. An accurate site survey has not been provided but the Council maintains that the required separation distances can be achieved, and when I visited the site my own rough measure indicated that it is possible, provided the caravans were only of modest size. Whilst the size of the pitches at Glover Street are quite small and would not suit some gypsies (including the Appellants whose caravans are quite large), it is reasonable to allow for 12 pitches on the site towards meeting the general need.
22. A further site has also been granted planning permission and is expected to open in the near future. The St Albans Road site was granted planning permission for 36 new pitches in January 2014. It comprises 2 former landfill sites: the northern part was used by the County Council for disposal of rubble and inert waste; the southern part is a former Borough Council household waste site. Most of the proposed 36 pitches would be provided on the northern part, though 9 pitches are planning on the edge of the southern part. The permission includes a number of conditions to safeguard the capping of the former landfill sites for health and safety purposes, and these have yet to be discharged, though an application to discharge some of the conditions has recently been made.
23. The Appellants have expressed doubts about both the suitability of the site and the likelihood of it being developed in the near future. In putting forward the site in the first place the Council has considered its suitability in terms of health and safety and location, and nothing has been put forward to lead me to doubt that assessment. Although made up of former landfill sites, the land has been disused for many years and is covered in vegetation with an attractive outlook towards the stream. I consider the site is likely to become available for gypsy accommodation in the near future, though its development seems likely to be phased.
24. It is reported that there is already a waiting list for accommodation on the site, which is a further indication that it will soon make a useful contribution towards the provision of accommodation. However, the current situation is also an important consideration.
25. It is well established that to meet existing need alternative sites must be available, affordable, acceptable and suitable. The additional pitches proposed on the 2 sites do not meet these requirements at present. Thus, at present there are no alternative sites immediately available to accommodate the Appellants and their families.

5 Year Land Supply for Gypsy Accommodation

26. Turning now to consider the 5 year land supply situation in comparison with the **predicted demand, the Council's 2015 GTAA enables the Council to predict the demand over the 5 year period, 2016/17-2020/21, to be 27 additional pitches (including the current backlog)**. Thus, the combination of the additional pitches expected to become available on the St Albans Road and Glover Street sites enable the Council to say it can demonstrate a 5 year supply of gypsy sites.
27. The Appellants do not agree with this assessment. Part of the disagreement is because the Appellants have not accepted that the Glover Street site is capable of providing 12 pitches. I have dealt with this matter above. However, the main difference is in whether or not it is reasonable to include an allowance for the turnover of pitches (25 No. over the 5 year period).
28. The Appellants say that no other specialist consultant includes turnover in their assessments and that they are not aware of it being taken into account by Inspectors in any other appeals. In principle, it clearly has the potential to be quite inappropriate, as over the national picture as a whole inward migration of gypsy households must balance outward migration. However, so far as Stafford **is concerned, the Council's consultant says that in recent years there has been a net outward migration, as evidenced by data collected over the past 5 years for the GTAAs**. It is reported that some 10 pitches per year tend to be vacated, half by families originating from or having ties with Stafford and half by (former) inward migration families. If this trend continues in the future, it is argued that some 5 pitches per year are likely to become available to meet local demand in the Borough. The Council also points out that Government guidance on the preparation of GTAAs includes mention of pitch turnover and that its inclusion has been accepted in submissions for development plan preparation.
29. Whilst the principle of overall balance between inward migration and outward migration is entirely logical, I find the particular circumstances of this area (as evidenced by the supporting data) to justify making some allowance for turnover. The evidence supports an allowance of 5 pitches per year. Even though it might be unusual, I consider it would be unreasonable not to accept its inclusion.
30. On this basis I conclude that the Council can demonstrate a 5 year supply of gypsy sites, as required by paragraph 10 of PPTS.

Policy Provision for Supply of Accommodation Land

31. Policy C6 of the adopted Plan for Stafford Borough 2011 – 2031 says that ***"Provision will be made for the delivery of sufficient good quality, appropriately located residential pitches to satisfy local need as set out in the Gypsy and Traveller Accommodation Needs Assessment. Specific sites will be identified through a Site Allocations Development Plan Document"***. The 2015 GTAA assessed the need for additional pitches to be 43 No. over the 15 year period 2012/13 – 2026/27. The **"Site Allocations Development Plan Document"** referred to in Policy C6 is being pursued as part of the emerging Plan for Stafford Borough Part 2, which was submitted to the Secretary of State for examination in April 2016. Whilst the principal purpose of the Part 2 Plan is to define settlement boundaries, it also sets out the provisions for delivery of gypsy accommodation. It says that the Council has already made significant

- progress towards meeting the requirement by granting permission for 36 new pitches at St Albans Road and that, as only another 7 are required, that can be met by windfalls.
32. PPTS paragraph 10 says that, in producing their Local Plan, local planning authorities should identify a supply of specific deliverable sites sufficient to **provide 5 years' worth of sites against their locally set targets, identify a supply** of specific, developable sites, or broad locations for growth, for years 6 to 10 and, where possible, for years 11 to 15. The development plan does not yet do this and is deficient in this regard, though it is argued that the emerging Part 2 Plan will rectify that failing if its provisions for gypsy accommodation are adopted in their current form.
33. The Appellants submit there has been a failure of policy partly on account of under-assessment of need and partly due to inadequate provision for new pitches. I have considered most of these arguments in earlier parts of my decision. However, it is also argued that relying on windfall sites does not amount to positive planning to meet the identified need. That has been acknowledged by the Council, and clearly it would be a serious failing if it were to become an important part of the provision once the identified sites approached their capacity. However, at present it does not conflict with the requirements of PPTS paragraph 10.
34. I conclude on this matter that, until the Part 2 Plan is adopted, there is a failure of policy. However, **in view of the Council's progress towards meeting the** identified need, that failure of policy has not had serious consequences and warrants only moderate weight.
35. The Appellants have drawn to my attention several other appeal decisions by the Secretary of State, particularly **Crawt** (APP/Y3615/A/10/2131590 dated 24 February 2011) and **Stanley** (APP/B1930/A/11/2153741 dated 15 December 2011), which I am urged to follow. However, the circumstances of those cases were quite different from the current appeal. Both Councils had manifestly failed to make any progress with their provisions for gypsy sites and there was little prospect of meaningful progress being made in the near future. That is not the case in Stafford where planning permission has already been granted for a large new site and the Site Allocations Development Plan Document has already been submitted for examination. I find those decisions to be of little relevance.

Personal Circumstances

36. I turn now to consider the personal circumstances of the Appellants and their families. Their gypsy status is not in dispute and their personal circumstances are an additional material consideration in support of this appeal.
37. There is no dispute that the personal needs of everyone living on the appeal site are best met by them living at a settled and secure base. That enables them to benefit from consistent access to education, health and other community facilities. A number of the residents suffer health problems and need regular access to healthcare facilities. However, even if they were not ill, it is still important that they have ready access to consistent healthcare in the interests of general wellbeing.

38. There are currently 11 children (aged up to 18 years) living on the appeal site. **Several attend local schools, and it is their parents' intentions that the children currently under school age will also attend local schools.** One of the aims of the Government, expressed in paragraph 4 of the PPTS, is **"to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure"**. The appeal site meets this aim, though most other settled bases in the area would also meet it, including the Glover Street and St Albans Road sites.
39. There is no dispute that the best interests of the children are supported by living in secure family units at a settled base and that these interests are a primary consideration in this appeal, though again they could be supported just as well by another settled base in the area. Nevertheless, these and the other personal circumstances outlined above carry substantial weight.
40. Several other personal circumstances have also been raised. Firstly, the Appellants have explained that the families living on the appeal site have lived together there for many years and provide mutual support to one another as an extended family unit. It will be difficult to maintain that close cohesion if they have to move elsewhere, particularly on to the Council sites. The Council **describes this as the Appellants' preference which, although desirable socially,** is not necessary from a planning perspective. To some extent that is so but, bearing in mind that the group has lived together for many years, I agree there are clear benefits if it could continue, and I give it moderate weight.
41. Secondly, some of the Appellants have said they would not be able to live on the Glover Street or St Albans Road sites because of a family feud. Without knowledge of the background and proper assessment of the implications it is difficult to know what allowance should be made for this. However, on the limited information available I consider it carries little weight.
42. In conclusion, the personal circumstances of the Appellants and their families are a material consideration, some of which carry substantial weight (the provision of a settled and secure base to enable access to education and healthcare facilities) and some less weight (the cohesion of the current extended family group). In addition, the interests of the children are a primary consideration of substantial weight.

Planning Balance

43. Policy C6 of the Plan for Stafford Borough says that proposals for development to meet the needs of gypsies and travellers will be permitted where they comply with national policy in the PPTS (and certain other criteria). In this case, continued use of the site for the stationing of caravans for 5 gypsy pitches with utility/day rooms and other associated development would amount to inappropriate development in the Green Belt. I have concluded that the harm due to inappropriateness, encroachment into the countryside and on openness is substantial, contrary to the relevant NPPF and PPTS policies. National policy says that substantial weight should be attributed to harm to the Green Belt and that inappropriate development in the Green Belt should not be permitted except in very special circumstances.
44. The question is whether the various factors supporting the development **together amount to "very special circumstances" sufficient to clearly outweigh** the Green Belt harm. The matters put forward in this respect are: the need for

accommodation for gypsies; the availability of that accommodation; whether or not the Council has made adequate provision for a 5 year land supply for gypsy accommodation; whether the policy provision in that respect is satisfactory; and the personal circumstances of the Appellants and their families.

45. I have concluded that there is a significant unmet need for permanent gypsy and traveller accommodation in the area and that at present there are no alternative sites immediately available to accommodate the Appellants and their families, though additional pitches are likely to be available in the near future. I have also concluded that the Council is able to demonstrate a 5 year supply of gypsy sites, having carried out suitable surveys and GTAA's, and that, although there is a failure of development plan policy, it warrants only moderate weight, as the Council has made good progress towards meeting the identified need and is close to being policy compliant, as required by PPTS paragraph 10.
46. So far as personal circumstances are concerned, I have concluded that the need for a settled base to enable access to education and healthcare facilities carries substantial weight, particularly in the interests of the children, which is a primary consideration. Other personal circumstances, such as the desire to continue to live as an extended family group and to avoid contact with certain other gypsy families, carry less weight. Whilst attributing substantial weight to some elements of personal circumstances, I am also of the opinion that the benefits of stability could be similarly gained by occupying alternative accommodation likely to become available in the near future and which would not give rise to the harm to the Green Belt occasioned by development of the appeal site.
47. I have taken into account all these elements but conclude that, even together, they do not amount to very special circumstances sufficient to clearly outweigh the harm to the Green Belt that would be caused by granting permanent planning permission for the development in question. Notwithstanding the claimed social and economic benefits, the environmental harm, inappropriate location in the Green Belt and conflict with development plan and national policies leads me to the conclusion that it would not be sustainable long-term development.
48. Having reached this conclusion so far as a permanent permission is concerned, I need to consider the possibility of granting a further temporary planning permission. The temporary planning permission (for 5 years) was granted in 2009 because there was a reasonable expectation that alternative sites would become available within that period. That was not achieved but there has been significant progress (as described above), and I consider there to be a strong expectation that alternative accommodation will be available within 2-3 years at the most. No evidence has been provided to indicate that the Appellants have made any realistic attempt to find alternative accommodation over the past 5 years, and it may fall to the Council to take the initiative over the next 2-3 years. However, I consider that to be entirely feasible.
49. In the meantime it is important that the families maintain a stable base rather than be forced to leave the appeal site before suitable alternative accommodation is available. This need carries substantial weight which clearly outweighs the temporary harm to the Green Belt resulting from a further short

period of use of the appeal site. I consider this need amounts to very special circumstances sufficient to meet the policy requirement.

50. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed in respect of a temporary period only.

Legislation on Rights

51. The circumstances of this appeal bring into play the human rights of the Appellants and their families, the particular rights of the children and the duty to act in accordance with the Public Sector Equality Duty.
52. The Human Rights Act 1998 enshrines in UK law the fundamental rights and freedoms contained in the European Convention on Human Rights (ECHR), including Article 8, the right to respect for a private and family life. I recognise that dismissal of the appeal in respect of a permanent planning permission would result in an interference with the homes and private and family lives of the Appellants and their families. However, that interference must be balanced against the public interest in pursuing the legitimate aims stated in Article 8, particularly the economic wellbeing of the country (which includes the preservation of the environment).
53. The objections to the use of the site for a permanent development are serious ones, particularly the substantial harm to the Green Belt, and can only be safeguarded by the refusal of permission. However, I have concluded that a temporary permission would provide an adequate safeguard of the environment, which is necessary in a democratic society, whilst not placing a disproportionate burden on the Appellants and their families. I therefore consider that dismissal of the appeal in respect of a permanent planning permission, whilst allowing the appeal in part in order to grant temporary permission, would not result in a violation of their rights under Article 8 of the Convention.
54. Article 3 of the United Nations Convention on the Rights of the Child (UNCRC) has been given effect by the Children Act 2004 and, unlike ECHR Article 8, is not qualified. It is established in law that the best interests of the children who live on the appeal site are a primary consideration and any decision must take into account the duty to safeguard and promote their safety and wellbeing. It is not disputed that the interests of the children are best served by having a stable, safe, and permanent family home, which provides not only a stable family life but also consistent access to education and healthcare facilities. The current appeal site arrangements provide that but, as I have explained above, I also consider similar stability could be provided on another, more appropriately located site.
55. The best interests of the children have been at the forefront of my assessment of the various issues in this appeal and, whilst I have not considered them of sufficient weight to justify a permanent planning permission, they are the primary reason I have concluded in favour of a temporary permission. Under the circumstances I consider this to be in the best interests of the children.
56. Finally, the Equality Act 2010 consolidates legislation relating to equality issues, and Section 149(1) requires a public authority or person exercising a public function to have regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity between

persons who share a relevant protected characteristic (which include ethnic origins, such as gypsies) and persons who do not, and to foster good relations between such people.

57. I have had regard to this duty in reaching my conclusions, taking into account all of the evidence presented. My assessment of the planning balance has taken due account of both the environmental harm caused and the factors in favour of the appeal, including the ethnic and personal circumstances of the Appellants and their families.

Conditions

58. I have concluded above that temporary permission should be granted, and appropriate and necessary conditions were discussed at the Inquiry. The conditions attached to the 2009 permission are the starting point but some of these have been discharged and are no longer necessary.
59. It was agreed that Condition 1 was still needed but should be reworded to **reflect the families now living on the site (as detailed in the 5 Appellants' sworn statements)**, as it is their personal circumstances that have been an important material consideration in my decision to grant the temporary permission. Condition 2 specifies the term of the temporary permission and I consider 3 years to be appropriate as that will allow sufficient time for the St Albans Road site to come on stream. Condition 3 specifies the number of pitches and caravans allowed on the site and remains a necessary condition.
60. Condition 4 is no longer needed as the site layout and infrastructure specified in it have all been satisfactorily completed. Condition 5 requires details to be approved before the utility/day rooms are erected and, as they have not yet been erected on all of the pitches, the condition is still needed. Condition 6 warns that other sheds or buildings should not be erected without specific approval and is not strictly necessary. However, it serves a useful purpose in clarifying the scope of the permission, and I will retain it. Finally, condition 7 limits the size of business vehicles stationed on the site and remains necessary to protect the surrounding landscape.

Section 174 Appeals against Enforcement Notice

Appeal under Ground (b)

61. Turning now to the appeals against the enforcement notice, the appeal under ground (b) is that the breach of control alleged in the enforcement notice has not occurred as a matter of fact. The enforcement notice is applied to all of the **land in the Appellants' ownership**, including the north western part of the land, which is a small field used for the grazing of horses.
62. The 2009 planning permission covered only the south eastern part of the site, where the 5 pitches are set out, and the conditions included in that permission apply only to that area of land. The enforcement notice alleges that Condition 2 of the permission has not been complied with, which clearly cannot be the case for the north western part of the site. The breach of control has not occurred on that part of the site.

63. At the public inquiry the parties agreed an amended plan for the enforcement notice so that it only applies to the correct area of land, and I will correct the notice by replacing the enforcement notice plan. The appeal under ground (b) is successful.

Appeal under Ground (f)

64. The appeal under ground (f) is in connection with requirement (iii) of the enforcement notice, which says the land is to be restored by levelling it and re-seeding it with grass. In practice this would involve the removal of all hardstandings on the site, and it is argued this is excessive as many of them pre-dated the change of use of the land, being in existence in connection with the previous use of the land for a landscaping business.

65. During the course of the inquiry the parties resolved this dispute and reached agreement on what area of hardstanding existed prior to the occupation of the site by the Appellants. The previously unsurfaced area is marked on the amended plan, and I will amend the notice accordingly. The appeal under ground (f) is successful to this extent.

Appeal under Ground (g)

66. Finally, I turn to the appeal under ground (g), which is that the time given to comply with the notice is too short. The enforcement notice specifies that the use shall cease and the caravans, buildings and associated material and equipment be removed from the site within 12 months and that the land restoration work be done within 13 months. The Appellants argue for a compliance period of 2 years to allow time for suitable alternative accommodation to be found.

67. This request clearly took no account of the possibility of the Section 78 appeal being successful in so far as a temporary planning permission was concerned. I have concluded above that permission should be granted for continuation of the use for a period of 3 years. Accordingly, it is appropriate to align the enforcement notice with that permission and specify a period for compliance of 3 years with a further 3 months period for restoration of the land. I will amend the notice accordingly, and the appeal under ground (g) is successful.

Overall Conclusion

68. For the reasons given above I conclude that the appeal should succeed on grounds (b), (f) and (g). It is clear that the plan attached to the enforcement notice is incorrect, and I will correct the extent of the land affected by the notice and replace the enforcement notice plan.

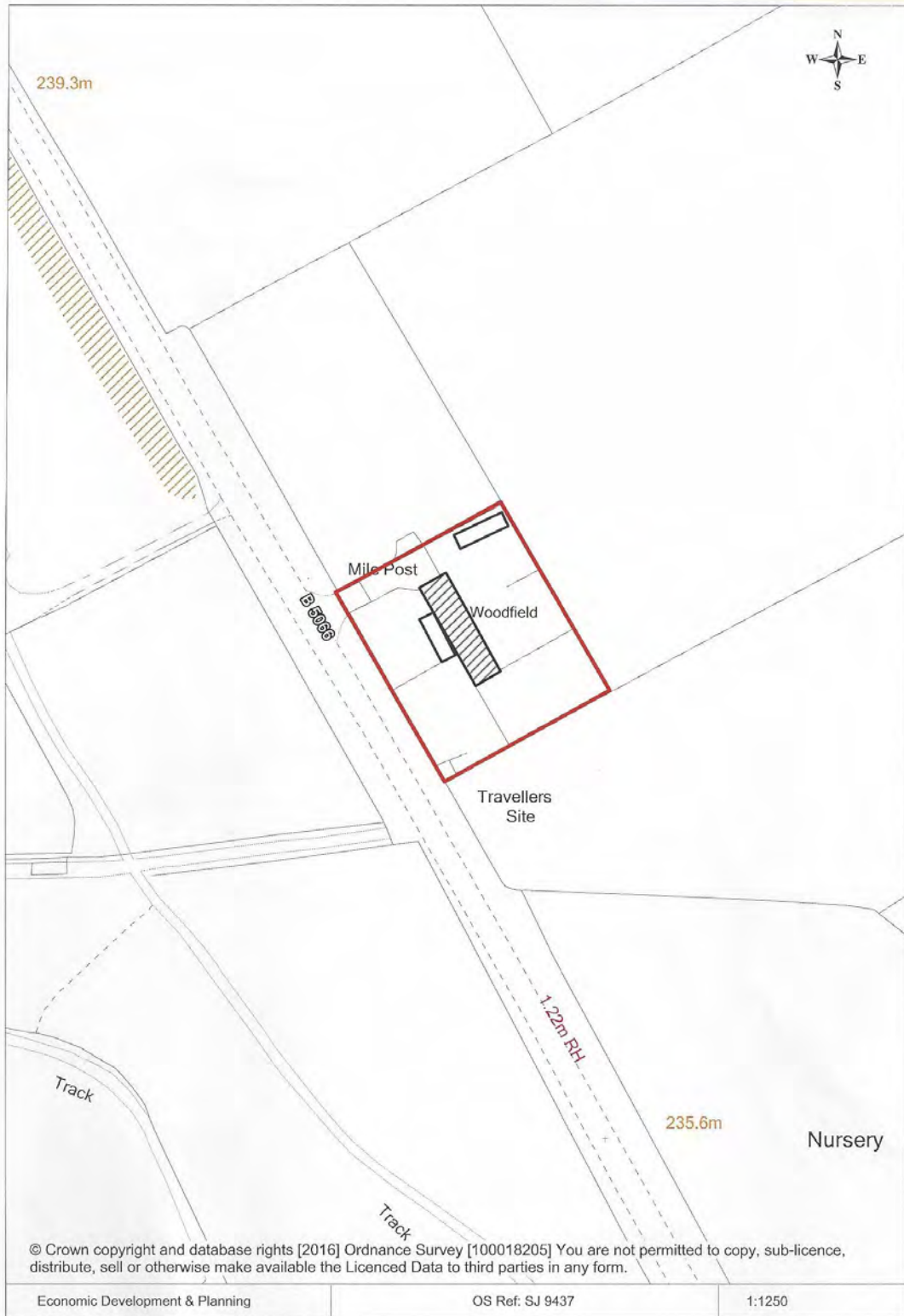
69. For the reasons given above I conclude that Requirement (iii) is excessive and that a reasonable period for compliance would be 3 years for Requirements (i) and (ii) and a further 3 months for Requirement (iii), and I am varying the enforcement notice accordingly, prior to upholding it.

Clive Nield

Inspector

Annex of Conditions

1. The occupation of the site hereby permitted shall be carried on only by: William and Violet Varey, their son and his wife, William and Savannah Varey, and their resident dependents, and their daughter, Violet Sherie, and her resident dependents; George and Kathleen Clee and their daughter and her husband, Kathleen and Jim Varey, and their resident dependents; John and Charmaine **Varey, Mr Varey's father and his wife, Tom and Eva Varey, and their sons, John Varey and Sam Varey**; Jim (Senior) and Julie Ann Smith and their daughter Jodie Smith and her resident dependents; and Jim (Senior) and Marnie Smith and their resident dependents.
2. At the end of three years, or when the land ceases to be occupied by those named in condition No. 1 above should this occur earlier, the use hereby permitted shall cease and all caravans, structures and materials and equipment brought on to the land in connection with the use, including the utility/day rooms hereby permitted, shall be removed. Within 3 months of that time the land shall be restored to its former condition in accordance with a scheme submitted to and approved in writing by the local planning authority.
3. There shall be no more than five pitches on the site and on each of the five pitches hereby approved no more than two caravans shall be stationed at any time, of which only one caravan shall be a static caravan or mobile home.
4. None of the utility/day rooms hereby permitted shall be erected until samples of the materials to be used in the construction of the external surfaces have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
5. No sheds or utility/day buildings, other than those hereby permitted, shall be erected on the site unless details of their size, materials and location have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
6. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.



APPEARANCES

FOR THE APPELLANTS:

Ms Rose Grogan of Counsel She called:	Instructed by Green Planning Studio Ltd.
Mr George Clee	Joint Appellant.
Mr Jim Smith (Junior)	Joint Appellant.
Mr Jim Smith (Senior)	Joint Appellant.
Mr John Varey	Joint Appellant.
Mr William Varey	Joint Appellant.
Mr Matthew Green	Agent, Green Planning Studio Ltd.

FOR THE LOCAL PLANNING AUTHORITY:

Mr Timothy Leader of Counsel He called:	Instructed by Borough Solicitor.
Dr Michael Bullock, BSc(Hon), PhD, MCIH, MMRS	Managing Director, arc ⁴ .
Mr Matthew Ellis, BA(Hon), MA, MRTPI	Principal Planning Consultant, Urban Vision.
Mr Tom Jones, BSc,	Interim Group Manager, Health and Housing, Stafford Borough Council.
Mr Shaun Baker, BSc, MSc, MIA	Principal Environmental Protection Officer, Stafford Borough Council.

INTERESTED PERSONS:

Mrs Pauline Redfern	Local resident.
Cllr Peter Roycroft	Neighbouring resident, and on behalf of Mr Geoff Oaks, another local resident.
Mrs Jane Dodd	Neighbouring resident.

DOCUMENTS SUBMITTED AT INQUIRY

- 1 Letter of Notification of Inquiry, and list of persons notified, provided by Council.
- 2.1-2.2 **Statement by Council's Portfolio** Holder for Gypsies and Travellers concerning vacant pitches at Glover Street site, and waiting list for the vacant pitches, both submitted by Council.
- 3.1-3.5 Second Witness Statements from the 5 Appellants.
- 4.1-4.3 Three Appeal Decisions illustrating interpretation of term **"away from settlement", submitted by Appellants.**
- 5 Plan of Glover Street gypsy site, submitted by Council.
- 6.1-6.2 Plans of proposed St Albans Road gypsy site, submitted by Council.
- 7 Planning Permission for change of use of land for proposed gypsy site at St Albans Road, provided by Council.
- 8.1-8.2 Agreed amended plans for Enforcement Notice, provided by Council.
- 9.1-9.3 Aerial photographs of site, taken in 2003, which are agreed to represent the state of the site before it was occupied for residential purposes.
- 10 Closing Submissions on behalf of the Council.
- 11 Closing Submissions on behalf of the Appellants.