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# Appeal Decisions

Hearing held on 12 June 2012

Site visit made on 12 June 2012

**by Claire Sherratt DipURP MRTPI**

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

**Decision date: 14 August 2012**

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## **Various plots at Greenfields, Braybrooke Road, Braybrooke, Market Harborough, Leicestershire LE16 8LX**

**Appeal A: APP/L2820/C/11/2166610 (Plot 4)**

**Appeals B & C: APP/L2820/C/11/2166503 & 2166504 (Plot 8)**

**Appeal D: APP/L2820/C/11/2166612 (Plot 9)**

- 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 A Gaskin (Appeal A), Mr & Mrs Holland (Appeals B & C) and Mrs S Holland (Appeal D) against enforcement notices issued by Kettering Borough Council.
- The notices were issued on 11 November 2011.
- The period for compliance with the notices is 6 months for requirements 1 to 3 and 8 months for requirement 4.
- Appeals A, C & D are proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, 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.
- Appeal B is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended. An application for planning permission is deemed to have been made under S177(5) of the Act as amended.

### **Appeal A**

- The breach of planning control as alleged in the notice is without planning permission, the making of a material change of use of land from a use for agriculture to a use for the stationing and human habitation of caravans, the erection of buildings, the construction of areas of hardstanding, the carrying out of domestic planting and the erection of fencing all of which facilitate the unauthorised change of use.
- The requirements of the notice are:
  1. Cease the use of the land for human habitation;
  2. Permanently remove from the land all caravans, vehicles, sheds, summerhouses, fences, building and other materials, portable toilets, machinery, equipment and personal items and works associated with human habitation;
  3. Take up and permanently remove from the land all hard core, road planings and other such materials deposited in and on the land and forming areas of hard standing;
  4. Remove from the land all materials and rubble arising from compliance with requirement (3) above, and restore the land to its condition before the breach took place by levelling the ground and re-seeding it with grass seed, leaving it in a condition suitable for agricultural use.

- The Council's reference is ENFO/2011/00231.

### **Appeals B & C**

- The breach of planning control as alleged in the notice is without planning permission the making of a material change of use of land from a use for agriculture to a use for the stationing and human habitation of caravans, the erection of buildings, the installation of a cess tank, the construction of an area of hard standing, the carrying out of domestic planting and the erection of close boarded fencing all of which facilitate the unauthorised change of use.
- The requirements of the notice are:
  1. Cease the use of the land for human habitation;
  2. Permanently remove from the land all caravans, vehicles, sheds, summerhouses, fences, buildings and other materials, portable toilets, machinery, equipment and personal items, and other items and works associated with human habitation;
  3. Take up and permanently remove from the land all hard core, road planings and other such materials deposited in and on the land and forming areas of hardstanding;
  4. Remove from the land all materials and rubble arising from compliance with requirement (3) above, and restore the land to its condition before the breach took place by levelling the ground and re-seeding it with grass seed, leaving it in a condition suitable for agricultural use.
- The Council's reference is ENFO/2011/00233.

### **Appeal D**

- The breach of planning control as alleged in the notice is without planning permission the making of a material change of use of land from a use for agriculture to a use for the stationing and human habitation of caravans, the erection of buildings, the siting of portable cabins and toilets, the construction of an area of hard standing, the carrying out of domestic planting and the erection of fencing, all of which facilitate the unauthorised change of use.
- The requirements of the notice are:
  1. Cease the use of the land for human habitation;
  2. Permanently remove from the land all caravans, vehicles, fences, buildings and other materials, portable toilets, machinery, equipment and personal items, and other items and works associated with human habitation.  
Take up and permanently remove from the land all hard core, road planings and other such materials deposited in and on the land and forming areas of hardstanding;
  4. Remove from the land all materials and rubble arising from compliance with requirement (3) above, and restore the land to its condition before the breach took place by levelling the ground and re-seeding it with grass seed, leaving it in a condition suitable for agricultural use.
- The Council's reference number is ENFO/2011/00235.

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### **Appeal E: APP/L2820/A/11/2166322 (Plot 4)**

- 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 A Gaskin against the decision of Kettering Borough Council.
  - The application Ref KET/2010/0800, dated 11 February 2012, was refused by notice dated 23 September 2011.
  - The development proposed is change of use to residential gypsy site with 2 pitches and facilitating development.
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### **Appeal F: APP/L2820/A/11/2166327 (Plot 9)**

- 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 Mrs S Holland against the decision of Kettering Borough Council.
  - The application Ref KET/2010/0805, dated 13 December 2010, was refused by notice dated 11 October 2011.
  - The development proposed is stationing of mobile home on the land with two small caravans to live in permanently.
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### **Procedural Matters**

1. The steps required refer to the "permanent" removal of various items. S181(3) of the 1990 Act operates to ensure that any buildings or works removed in compliance with a notice should be on a permanent basis. The use of the word "permanent" is therefore superfluous and I correct the notices by deleting it. No injustice would be caused to the Council.
2. Although Appeal E relates to 2 pitches it is occupied by three separate households. In my view, Plot 4 accommodates 3 pitches, albeit informally. I have determined the appeal on this basis.
3. In respect of Appeal F, I consider the Council's description of development set out on its Notice of Refusal more accurately describes the proposed development. I will therefore consider the appeal as the proposed '*change of use from farm land to provide a residential gypsy site with 2 no. pitches comprising 1 no. mobile home and 2 no. caravans including associated hardstanding, access road and septic tank.*'

### **Decisions**

#### Appeals A & D

4. The enforcement notices are corrected by the deletion of the word "Permanently" in step (2) of the requirements of the notice. The appeal is allowed on ground (g), and the enforcement notice is varied by the deletion of 6 months in requirements (1) – (3) and 8 months in requirement (4) and the substitution of 12 and 14 months respectively as the periods for compliance. Subject to these variations the enforcement notice is upheld.

#### Appeals B & C

5. Appeal B is allowed, the enforcement notice is quashed and temporary planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land at Plot 9, Greenfields, Braybrooke Road, Braybrooke, Market Harborough, Leicestershire LE16 8LX, as shown on the plan attached to the notice, for the making of a material change of use of land from a use for agriculture to a use for the stationing and human habitation of caravans, the erection of buildings, the siting of portable cabins and toilets, the construction of an area of hard standing, the carrying out of domestic planting and the erection of fencing, all of which facilitate the change of use subject to the conditions set out in Annex A.
6. Appeal E is allowed and temporary planning permission is granted for the change of use to residential gypsy site with 2 pitches and facilitating

development at Plot 4, Greenfields, Braybrooke Road, Braybrooke, Market Harborough, Leicestershire LE16 8LX in accordance with the terms of the application, Ref KET/2010/0800, dated 11 February 2012, and the plans submitted with it, subject to the conditions set out in Annex A.

#### Appeal F

7. Appeal F is allowed and temporary planning permission is granted for change of use from farm land to provide a residential gypsy site with 2 no. pitches comprising 1 no. mobile home and 2 no. caravans including associated hardstanding, access road and septic tank at Plot 9, Greenfields, Braybrooke Road, Braybrooke, Market Harborough, Leicestershire LE16 8LX in accordance with the terms of the application, Ref KET/2010/0805, undated, and the plans submitted with it, subject to the conditions set out in Annex A.

#### Reasons

##### **Appeal B (ground (a) and the deemed application), Appeal E & F**

8. The main issues are:
  - (a) Whether there is a need for additional accommodation for gypsies and travellers in the area;
  - (b) Whether the appeal sites are situated in a suitable location;
  - (c) The effect of the development on the character and appearance of the area; and
  - (d) Whether the appellants meet the definition of a gypsy or traveller for planning purposes and any other relevant personal circumstances.
9. The appeal sites are part of a larger area some 37 acres within which individual plots have been sold separately. The site is situated in open countryside. The development plan includes the East Midlands Regional Plan (March 2009) (EMRP), the Local Plan for Kettering Borough (January 1995) (LP) and North Northamptonshire Core Spatial Strategy (adopted June 2008) (NNCSS).
10. Policy 17 of the NNCSS is of particular relevance as it is specific to accommodation for gypsies and travellers. It stipulates that where a need is identified for additional accommodation, planning permission may be granted, or site allocations proposed, when specific criteria are met. These are:
  - a) It (the site) should be in accordance with the locational guidance set out in Policy 9 and it should also meet the criteria set out in Policy 13 where relevant;
  - b) The site is not within an area designated as environmentally sensitive;
  - c) The site is closely linked to an existing settlement with an adequate range of services and facilities in order to maximise the possibilities for social inclusion and sustainable patterns of living.
11. Policy 9 confirms that new building development in open countryside will be strictly controlled. It sets out the Council's preferred sequential approach for the distribution and location of development. Policy 13 sets out general sustainable development principles requiring development to meet needs, raise standards and protect assets including conserving and enhancing the landscape character.

12. It is anticipated that the emerging Site Specific Proposals Local Development Document will be adopted in April 2013.
13. The National Planning Policy Framework ('the Framework') does not change the statutory status of the development plan as the starting point for decision making. It is material consideration. At the heart of the framework is a presumption in favour of sustainable development. Paragraph 214 confirms that decision-takers may continue to give full weight to relevant policies adopted since 2004. The most relevant policies in this case are those contained in the NNCSS and accordingly their weight is not in any way reduced.
14. The Government's policy document 'Planning policy for Traveller sites' is also a material consideration in the determination of this appeal. The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.

#### Need

15. Turning first to the need or otherwise for pitches, the Planning policy for traveller sites confirms that the Government's aims, amongst others, are for local planning authorities to make their own assessment of need for the purposes of planning and to ensure that local authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites. A further aim is to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply.
16. A Gypsy and Traveller Needs Assessment for Northamptonshire (published March 2008) identified a need for an additional 18 pitches in Kettering to 2017. An extant permission for 10 pitches on land at Stoke Albany Road, Desborough (approved in July 2009), remains unimplemented.
17. The GTAA was updated in October 2011, identifying a remaining need for 10 pitches to 2017 and a further 10 pitches between 2017 and 2022. Since then, 7 pitches have been approved on land at Stoke Albany Road which remain unimplemented. I heard that an application for 3 permanent pitches at The Old Willows, Unit 10, Old Northampton Road, Broughton was due to be considered by the Planning Committee, with a recommendation to permit, shortly after the Hearing. If permitted, this site would deliver 2 additional pitches in the area. The Council is also in negotiations in relation to another site which may be progressed through the Site Specific Proposals Local Development Document.
18. I note that in the report to Committee concerning the proposed pitches at The Old Willows (Document 1), the Council Officer confirms that the Local Planning Authority does not have an identified 5 year supply of Gypsy traveller sites within the borough and is still preparing Site Specific Policies with regard to the process for identifying suitable sites which is not scheduled for adoption until April 2013. As a result of this and the identified need for additional pitches within the borough, there is, the Officer advises, clearly a lack of suitable alternative accommodation within the borough. This contradicts the position taken at this appeal where the Council do not accept that there is any current shortfall for accommodation.

19. The Council point out that the assessment did not include the families involved in these appeals. However, that has no bearing on whether a general need for pitches remains. Families residing on a settled base in an area may change over time in the same way that the settled population move into and out of different areas. In any event, the number of unauthorised sites can be a contributing indicator of current need arising in an area.
20. I take the view that a shortfall of *available* pitches remains at this stage given that some 17 to 19 pitches remain unimplemented. The Council were not able to suggest any suitable alternative sites that were currently available for the appellants. It seems likely that the permission for 10 pitches will be implemented as the Council is considering details required under pre-commencement conditions. The future delivery of the 7 pitches is less certain at this stage although no clear evidence was before me to suggest that it would not be implemented within the timescales of the permission. A minimum requirement for 3 pitches remained at the time of the hearing.
21. To conclude a shortfall of 3 deliverable pitches remains although there is currently a much greater shortfall of available pitches. I consider that an identified need for additional pitches remains.

#### Location

22. The Planning policy for traveller sites confirms that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing undue pressure on the local infrastructure.
23. The appeal sites are situated in open countryside some 2.5 km distance by road from the village of Braybrooke and approximately 4 km from the town of Desborough. Braybrooke provides very limited facilities including a primary school, pub and church. Desborough contains shops, bank, library, medical centre, leisure centre etc. I saw that there are no footways along the typical rural lanes. There is a public footpath across fields to Braybrooke. I consider the nature of the roads and public footpath is likely to be a deterrent to regular use by the site occupants for accessing facilities in the village, particularly in inclement weather. Whilst I acknowledge that a rural bus service operates, reliance on the private car to access facilities elsewhere is the more likely scenario.
24. Although the sequential approach advocated in Policy 3 of the EMRP and policies 1 and 9 of the NNCSS seek to locate new development in urban areas as a preference, these policies must be considered in the context of the Planning policy for traveller sites which does not prevent the siting of gypsy accommodation in the countryside and the inherent difficulties of finding affordable sites in those towns and settlements where sites would be suitable for general housing developments. Nevertheless, the appeal sites are not closely linked to an existing settlement with a range of services and facilities in accordance with Policy 17.
25. I acknowledge that the occupants of the sites represent a cohesive group and so are likely to share journeys. However, in terms of the location of the sites

relative to the nearest facilities and services, I find conflict with Policies 9, 13 and 17 of the NNCSS in this regard.

#### Character and appearance of the area

26. The appeal sites are situated in open countryside. The surrounding area is not subject to any national countryside designations but is nevertheless a pleasant and attractive area of countryside, identified within the Northamptonshire Environmental Character Assessment and Key Issues Strategic Framework Study' as the West Northamptonshire Uplands, having a gently hilly character with long local views criss-crossed by a regular pattern of hedgerows. The scarcity of settlements combined with the infrequency of isolated farms and cottages gives the landscape a remote and sometimes isolated character, with expansive views and a sense of openness prevailing on elevated land.
27. These characteristics are typical of the area within which the appeal sites are located. The appeal sites are relatively isolated. This isolation is further exacerbated by the unusual piecemeal development of a larger site which has resulted in a rather sporadic form of development, some distance from the road frontage.
28. Access is via a surfaced track which has been the subject of enforcement action. The notice was recently upheld on appeal. The Inspector found that the works materially affected the character and appearance of the field and that it is a discordant and highly intrusive feature in the landscape which significantly erodes the rural character and appearance of the area. The introduction of caravans, associated hardstandings, fencing and other domestic trappings within the same area also erodes the rural character and appearance of the area, to a greater extent than the access. The sporadic nature of the development within the larger field means it is particularly incongruous.
29. To conclude the proposed development, unduly harms the character and appearance of the area contrary to Policies 13 and 17 of the NNCSS in this regard.

#### Gypsy status

30. The Council do not dispute the ethnicity of the applicants but rather whether they meet the definition of a gypsy or traveller as set out in Annex 1 of the Planning policy for traveller sites in terms of being persons of nomadic habit of life. This can include persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently.
31. Plot 4 is occupied by three households. One of the pitches is occupied by Mr Albert Gaskin and his wife Sherry together with their two children aged 6 and 10. Both children attend the local Braybrooke Primary School. Mr Gaskin is a registered Landscape Gardener. He has travelled all of his life and still travels around various parts of the country working. He has some regular customers but also secures work through canvassing and advertising as well as word of mouth.
32. Mr Gaskin's father-in-law has a pitch on the nearby Justin Park site. Mr Gaskin and his family have also stayed on this site in the past but do not have an

- authorised pitch. Prior to the occupation of this site the family have mostly been living on the road side and various transit sites.
33. The second pitch is occupied by James Robert McCready and his wife Tina Marie and their two children aged 4 and 1. Mr McCready is also a Landscape Gardner travelling to find work which he obtains by knocking on doors and advertising.
  34. This pitch (or the third pitch for the purposes of this appeal) is shared with Martin and Mary Ward together with their 3 children who were aged 10, 5 and 8 weeks at the time the statements were prepared. The two older children also attend Braybrooke Primary School.
  35. Plot 8 is occupied by Mr and Mrs A Holland and their 28 year old son and his wife together with their child aged 5 who attends Desborough School. A previous site that the family occupied was compulsorily purchased in 2001. The family have occupied a site in Corby that benefited from a temporary planning permission which expired recently.
  36. Mr Holland has been travelling for nearly 50 years doing landscaping and roofing work around the Derby and Nottinghamshire areas. He also lived on the Corby site prior to the permission expiring. He has also occupied the Justin Park site in the past.
  37. Plot 9 is occupied by Mr Tracy Holland and his wife together with their two teenage daughters on one pitch. Their son Lain Holland and his wife together with their 2 year old son occupy the second pitch. They are also expecting another child. They have tried to live in a house but have been unable to settle.
  38. Mr Holland's family was one of the first to occupy a pitch on The Pastures gypsy site when it opened although a pitch was not made available to him after his mother died and his father went to live with his sister. He has tried to live in a house before moving onto the land he owned at Greenfields, but didn't like it and he received complaints about his son's caravan being parked at the front of the house. He has spent some 32 years living on the side of the road. He travels doing Landscape Gardening recently staying in Kings Lynn where he was served with an eviction notice.
  39. I am satisfied that the occupiers of these pitches meet the definition of a gypsy or traveller as set out in Annex 1 of the Planning policy for traveller sites.

#### Other Matters

40. There is a concern from local residents about the number of gypsy and traveller sites in the area and surrounding Braybrooke village in particular. Comparisons were made between the numbers of caravans permitted and the number of households. I consider it more prudent to consider pitch numbers as these in most cases are more likely to equate to households. The Council refers to the parish of Braybrooke containing 175 houses of which 150 are situated within the village boundary. Within a 3 km radius of the village centre I am informed there are seven authorised gypsy sites, providing 47 pitches. Whilst there are some clusters of pitches, for the most part these are separated and visually unconnected, being distributed primarily to the east, west and south of the village. Some are a greater distance from the village than the appeal sites. I do not agree that the cumulative impact of the existing and



- additional pitches would not respect the scale of the village or visually dominate it.
41. I do however recognise that the continued development of the wider 37 acre site to accommodate pitches for gypsies and travellers could result in a development of a scale that would dominate the nearby villages. However, each application must be determined on its merits and the cumulative impact of existing and proposed sites would be a consideration in any future applications.
42. The local Primary School is undersubscribed and currently is only attended by children from the gypsy and traveller community, with the exception of one pupil. The balance in this regard is clearly weighted in favour of one community group and thus fails to promote social inclusion at school level. Some of the children on the site already attend the primary school. The school is so greatly undersubscribed that there is potential for a more balanced number of pupils to attend from both the settled and travelling community. I therefore give this little weight.
43. Many representations refer to the unauthorised occupation of the sites in the countryside, where residential development would normally be resisted, despite the existence of the enforcement notices. This is perceived by some local residents as preferential treatment for the gypsy and travelling community. Whilst the occupation of the sites without the benefit of planning permission is clearly not to be encouraged, the appellants have not failed to comply with the notice within the specified timescales and appeals were subsequently lodged, thus holding the notices in abeyance pending the outcome of these appeals. If however the notices are upheld on appeal and the period for compliance comes into effect without the appellants complying with them that a criminal offence would be committed at that stage.
44. The Council has a statutory duty to take account of the accommodation needs of gypsies and travellers and to create strategies for meeting those needs in the same way as it does for the settled community. It has failed to do so over many years. Having carried out an assessment, which was published in 2008, it has still not yet identified sites to meet the assessed need and is unlikely to do so until April 2013 through the Site Specific Proposals Local Development Document. There has therefore been an inconsistency of approach in assessing the needs of the settled and travelling community. Indeed I heard that some of the site occupiers have attempted, unsuccessfully, to live in houses due to the lack of accommodation available to them which would facilitate the gypsy way of life.
45. All the appellants have a personal need for a pitch and the Council was unable to suggest any alternative sites that would be available to the families at present. A settled base ensures that the children can attend school on a regular basis, promotes access to appropriate health services, reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment and helps to promote peaceful and integrated co-existence between sites and local communities. These are all sustainable benefits that I afford some modest weight.
46. I note that the appellants hope, in the longer term, to supplement electricity supplied by generators with solar powered and wind powered systems.

However this does not form part of the current appeals and I afford it no weight in the consideration of the appeals.

## Conclusions

47. There is clearly an identified need for additional pitches in the area and delivery of sites with planning permission to date has been slow. However, the site is unrelated to an existing settlement which provides a range of services and facilities contrary to Policy 17 of the NNCSS. In addition, I find conflict with Policy 17 of the NNCSS in that the development would fail to conserve or enhance the landscape character in accordance with Policy 13 of the NNCSS.
48. That said the need for additional sites and the lack of available alternatives are important material considerations that weigh in favour of these appeals. Dismissal of the appeal would, in all likelihood, require the appellants to vacate the site (which has to be regarded as their home) without any certainty of suitable alternative accommodation being readily available. I recognise that this would represent an interference with their home and family life. However, the harm which has been and would continue to be caused by the development, in terms of its effect upon the countryside is considerable. Refusal of a permanent permission would be a proportionate response. Nevertheless, I consider a temporary permission would be justified and proportionate in this case as the harm would only arise for a limited duration. A temporary period of two years would ensure sufficient time for the Site Specific Proposals Local Development Document to be adopted and the various permissions to be implemented.

## Conditions

49. In addition to a condition limiting the permission to a temporary period, I consider it would be necessary to restrict the occupation of the sites to persons meeting the definition of a gypsy and traveller only. In order to minimise the impact of the development on the character and appearance of the area, the number of pitches and caravans on each plot should be restricted together with the number and size of commercial vehicles parked on the site; no commercial activities should be permitted. Bearing in mind the lack of any approved access details and the landscape characteristics of the site I consider commercial vehicles should be restricted to no greater than 3.5 tonnes. Notwithstanding the views of the Council, I do not consider a condition restricting the number and size of vehicles would be unenforceable. In addition, details of external lighting, areas of hardstanding, amenity areas, the siting of caravans, any boundary treatments and access arrangements from the highway should be approved by the Council. To ensure satisfactory drainage arrangements are made a scheme of drainage should be agreed. As the permissions are temporary, I do not consider it reasonable to require landscaping to be carried out.

## Overall Conclusions

50. For the reasons given above I conclude that Appeal B should succeed on ground (a) and planning permission will be granted. As Appeal B succeeds on ground (a) the notice will be quashed and it will not be necessary for me to consider the appeals under grounds (f) and (g). In relation to Appeal C, it is unnecessary for me to consider whether the appeals on grounds (f) and (g)

should succeed as the enforcement notice will be quashed in consequence of my decision to allow Appeal B on ground (a). I shall therefore take no further action on these grounds of appeal.

51. For the reasons given above I conclude that Appeals E & F should be allowed. Although the notices relating to these plots will not be quashed, Section 180 provides that where a planning permission is subsequently granted for the same development, or for some part of it, the permission overrides the notice to the extent that its requirements are inconsistent with the planning permission, but the notice does not cease to have effect altogether.

#### Appeals A & D

Ground (f) – that the requirements of the notice are excessive.

52. The appellants argue that the requirements of the notice are excessive and would limit the use of the land for agriculture. In deciding to issue an enforcement notice, local planning authorities can choose either to seek to remedy the breach of planning control or to overcome any injury to amenity. The Council is seeking to remedy the breach rather than under enforce. It is not a ground of appeal that the local planning authority ought to have chosen to under-enforce so as to remedy the injury to amenity if they have in fact issued the enforcement notice in order to remedy the breach of control.
53. In order to remedy the breach, the development would have to be removed in its entirety and the site reinstated to its former condition. In this case, the Council is therefore entitled to require all development that is integral to and facilitates the change of use to be removed including areas of hardstanding, fencing and sheds. Similarly the requirement to re-seed the land would ensure the site is returned to its original condition prior to the breach taking place. Whether or not the appellants decide to use the land for agricultural purposes subsequently is a matter for the appellant.
54. I do not accept that the requirements of the notice are excessive. The appeals made under ground (f) fail.

#### Ground (g)

55. It was agreed at the Hearing that a compliance period of 12 months would be a more reasonable timescale to comply with the notice given that the pitches are providing homes for families including children at school. I agree that a period of 6 months is too short and 12 months would give a reasonable opportunity to find alternatives. The appeals made under ground (g) succeed to that extent.

*Claire Sherratt*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Roger Yarwood DipTp MRTPI	Planning Officer, Derbyshire Gypsy Liaison Group
Siobhan Spencer MBE	Derbyshire Gypsy Liaison Officer
Mr A Gaskin	Appellant (Plot 4)
Mr T Holland	Appellant (Plot 9)
Mr A Holland	Appellant (Plot 8)
Mr McCready	Appellant (Plot 4)

### FOR THE LOCAL PLANNING AUTHORITY:

Tom Shields	Development Control Manager for Kettering Borough Council
Dean Baker	Senior Development Officer (Enforcement)
Kath Bicknell	Home Development Service

### INTERESTED PERSONS:

David Jones	CPRE
Councillor Mrs Swift	Ward Councillor
Councillor Mrs Wiley	Ward Councillor
Mrs Jessop	Braybrooke Parish Council
Karen Stanley	NN RAID

## **DOCUMENTS RECEIVED AT THE HEARING**

- 1 Report to Committee 19/06/2012 re The Old Willows, Unit 10, Old Nothampton Road, Broughton.
- 2 Appeal decision – APP/L2820/C/11/2166764 – Land at Longfield Farm, Braybrooke Road.
- 3 Appeal decision – APP/L2820/C/11/2166764 – Land at Plots 29,31A and 31B Greenfields, Braybrooke Road.

## Annex A - Schedule of Conditions

- 1) The use hereby permitted shall be for a limited period being the period of 2 years from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings, 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 restored to its condition before the development took place.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
- 3) No commercial activities shall take place on the land, including the storage of materials.
- 4) 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.
- 5) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
  - (i) within 3 months of the date of this decision a scheme for:
    - the means of foul and surface water drainage of the site;
    - proposed and existing external lighting on the boundary of and within the site;
    - the internal layout of the site, including the siting of caravans, plots, hardstanding, access roads, parking and amenity areas;
    - the restoration of the site to its condition before the development took place, (or as otherwise agreed in writing by the local planning authority) at the end of the period for which planning permission is granted for the use, (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
  - (ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the 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 scheme shall have been carried out and completed in accordance with the approved timetable.

In addition to those conditions above, the following conditions are imposed on:

Appeal B & E:

- 6) There shall be no more than 2 pitches on the site and on each of the 2 pitches hereby approved no more than 2 caravans, shall be stationed at any time, of which only 1 caravan shall be a static caravan.

Appeal E:

- 7) The development hereby permitted shall be carried out in accordance with the following approved plans: Site / Location Plan (scale 1:2500) and Proposed Layout (Scale 1:500) except where any details shown are required to be approved by the local planning authority in condition 5 above.

Appeal F:

- 6) There shall be no more than 3 pitches on the site and on each of the 2 pitches hereby approved no more than 2 caravans, shall be stationed at any time, of which only 1 caravan shall be a static caravan.
- 7) The development hereby permitted shall be carried out in accordance with the following approved plans: Site / Location Plan (scale 1:2500) and Proposed Layout (Scale 1:500) except where any details shown are required to be approved by the local planning authority by condition 5 above.
- 8) Notwithstanding condition X [i.e. the condition requiring that the development is carried out in accordance with the approved plans] no development shall take place until details of the [specify] have been submitted to and approved writing by the local planning authority. Development shall be carried out in accordance with the approved details.