



Appeal Decisions

Hearing held on 5 and 12 December 2017

Site visit made on 5 December 2017

by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)

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

Decision date: 13 February 2018

Appeal A: Appeal Ref: APP/B5480/C/17/3173197

Land at Willow Tree Lodge, Brookmans Park Drive, Cranham, RM14 1LW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Nigel Teelan against an enforcement notice issued by the Council of the London Borough of Havering.
- The enforcement notice, reference ENF/363/17, was issued on 2 March 2017.
- The breach of planning control as alleged in the notice is without planning permission, the formation of hardstanding and the unauthorised change of use of the land shown hatched black to residential purposes including placement of four (4) mobile homes shown solid black on the plan attached to the notice.
- The requirements of the notice are:
 - (i) Cease the unauthorised residential use of the land, shown hatched black on the plan attached to the notice;
 - (ii) Remove the four (4) mobile homes shown solid black on the plan attached to the notice.
 - (iii) Remove the unauthorised hardstanding shown hatched black on the plan attached to the notice;
 - (iv) Following compliance with step (iii) above, restore the land to its condition immediately prior to the laying of the unauthorised hardstanding.
- The period for compliance with the requirements is:
 - (i) Three months.
 - (ii) Four months.
 - (iii) Six months.
 - (iv) Six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal succeeds in part and the enforcement notice is upheld as varied in the terms set out below in the Decision.

Appeal B: Appeal Ref: APP/B5480/C/17/3173205

Land at Willow Tree Lodge, Brookmans Park Drive, Cranham, RM14 1LW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Nigel Teelan against an enforcement notice issued by the Council of the London Borough of Havering.
- The enforcement notice, reference ENF/104/16, was issued on 2 March 2017.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised change of use of the land shown hatched black for residential purposes including placement of two (2) mobile homes shown solid black on the plan attached to the notice.
- The requirements of the notice are:

- (i) Cease the unauthorised residential use of the land, shown hatched black;
- (ii) Remove the two (2) mobile homes shown solid black on the plan attached to the notice.
- The period for compliance with the requirements is:
 - (i) Three months.
 - (ii) Four months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

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

Appeal C: Appeal Ref: APP/B5480/C/17/3173211

Land at Willow Tree Lodge, Brookmans Park Drive, Cranham, RM14 1LW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Nigel Teelan against an enforcement notice issued by the Council of the London Borough of Havering.
- The enforcement notice, reference ENF/361/17, was issued on 2 March 2017.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised change of use of the land shown hatched black for residential purposes and the placement of an additional mobile home shown solid black on the plan attached to the notice.
- The requirements of the notice are:
 - (i) Cease the unauthorised residential use of the land, shown hatched black on the plan attached to the notice;
 - (ii) Remove the mobile home shown solid black on the plan attached to the notice.
- The period for compliance with the requirements is:
 - (i) Three months.
 - (ii) Four months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The enforcement notice is quashed.

Appeal D: Appeal Ref: APP/B5480/C/17/ 3173216

Land at Willow Tree Lodge, Brookmans Park Drive, Cranham, RM14 1LW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Nigel Teelan against an enforcement notice issued by the Council of the London Borough of Havering.
- The enforcement notice, reference ENF/362/17, was issued on 2 March 2017.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised change of use of the land shown hatched black to residential purposes and the placement of mobile homes shown solid black on the plan attached to the notice. Also without planning permission the formation of hardstanding by the importation of tarmac chippings shown hatched black on the plan attached to the notice.
- The requirements of the notice are:
 - (i) Cease the unauthorised residential use of the land, shown hatched black on the plan attached to the notice;
 - (ii) Remove the two (2) mobile homes shown solid black on the plan attached to the notice.
 - (iii) Remove all hardstanding brought onto the land, shown hatched black on the plan attached to the notice;
 - (iv) Following compliance with step (iii) above, restore the land to its condition

immediately prior to the laying of the unauthorised hardstanding.

- The period for compliance with the requirements is:
 - (i) Three months.
 - (ii) Four months.
 - (iii) Six months.
 - (iv) Six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

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

Procedural Matters

1. With regard to Appeal C, the Appellant submitted that it was defective because of, among other things, the word 'additional' and it was also apparent from the Appellant's statement that in the ground (d) appeal there was a 'hidden' ground (c) appeal. The facts and submissions relating to the notice and to the two grounds of appeal were inextricably mixed and I will consider them together. In addition, during the course of the Hearing the Appellant raised a ground (f) appeal which I will also take into account. The Council had ample opportunity to respond to all of these matters and I am satisfied that the Council was not prejudiced by these matters being included in my determination of these appeals.
2. The Appellant raised the point that the means of access from Brookmans Park Drive (the Drive) to the plots of land in Appeals A, B and C has not been enforced against and because no means of access is included the notice in Appeal A, in particular, is defective. The Council pointed out that there is an access onto the Drive for those three plots and that this access has existed since at least 2007¹ and there is no allegation relating to the change of use of this access.
3. The notices in Appeals A, B and C relate, among other things, to the residential use of three plots of land. The means of access is not subject to any enforcement action but I am satisfied that each of these three plots is a separate planning unit against which enforcement action can be taken and I do not consider the notices to be defective in that respect.
4. The Appellant's family, who occupy seven of the mobile homes, are Irish Travellers and two of the mobile homes are occupied by Romanian Roma Gypsies. There is no dispute in these appeals that the occupiers of the mobile homes meet the definition of Gypsies and Travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (PPTS).

Appeal C

The notice and the appeals on grounds (c) and (d)

5. The breach of planning control alleged in the notice is 'the unauthorised change of use of the land shown hatched black for residential purposes and the placement of an additional mobile home shown solid black on the plan attached

¹ Aerial photo dated 2007 - Document 13

- to the notice'. The requirements are to cease the unauthorised residential use and remove the mobile home shown black on the plan.
6. In an appeal on ground (c) the Appellant is saying that there has not been a breach of planning control as alleged in the notice and in an appeal on ground (d) the Appellant has to prove, on the balance of probability, that the alleged breach of planning control took place, in this case, on or before 2 March 2007 and that it has been continuous since that date.
 7. The Council refers to 'an additional mobile home' and it was explained at the Hearing that the breach was worded in that way because the Council was aware that there had been caravans on the land since about 2007 but it was not clear whether they had been lived in or not.
 8. In support of the Council's case, and I accept that it is for the Appellant to prove his case rather than the Council having to prove its case, a number of aerial photographs were submitted². The 2002 photograph shows the land as undeveloped. The 2007 photograph shows a number of structures that could be mobile homes; there two structures close together in the north of the site; and a couple of vehicles. The 2010 photograph has what appears to be a mobile home in the approximate location of the mobile home the subject of notice; what I believe is a portacabin; one other possible mobile home; and the two structures. These elements are apparent in the 2013 photograph and in the 2016 photograph one mobile home and one of the structures have been removed; the mobile home that is the subject of the notice remains.
 9. The Council also produced an annotated plan of a site visit dated 5 May 2007³. The notes refer to the 'occupants Mr and Mrs Teelan, plus son (16) and daughter-in-law (18) plus 4 children of Mr Teelan Snr. 2 mobiles and 2 tourers'. The land shown on the plan comprises what I understand to be the Appellant's land holding at that time and it includes the land in Appeal C. It also includes the land originally bought by the Appellant and for which there was a grant of planning permission for the stationing of two mobile homes and the construction of a septic tank⁴. It is unfortunate that the site visit notes do not indicate such things as where the mobile home and tourers were located; who was spoken to; and whether the question was asked if there were other occupiers of the property. This document is therefore of very limited assistance.
 10. The Appellant has produced an aerial photograph dated 2006⁵ which shows what could be three mobile homes on the site, one of which is in the location of the mobile home that is the subject of the notice, and various other items. In addition the Appellant says in his statement⁶ that the plot has contained caravans for residential purposes since at least 2006. A touring caravan was on the site from about 2004 until 2012 and was occupied by his brother, John Teelan. In 2012 the tourer was replaced with a static caravan which Mr John Teelan has occupied since then until the present time.

² Document 13

³ Document 14

⁴ Ref P1424.91

⁵ Appendix PBA6 to Mr Brown's statement

⁶ Document 1 - Although the statement was not made in the form of a statutory declaration it includes the words 'This statement is true to the best of my knowledge and belief and I make it knowing that, if tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true' and it was made before a Solicitor

11. The Appellant also says that from about 2006 there were two further touring caravans on the site occupied by two Romanian Roma Gypsies who he employed. The two men were joined by their families in 2012 and the Appellant gave each family a static caravan; these two caravans were placed on what is now the site in Appeal B and they remain there. Mr John Teelan has provided a statement⁷ in which he largely repeats what the Appellant has said.
12. The Appellant's case on ground (c) is on the basis that the breach relates to an additional mobile home which implies an intensification of the residential use but intensification does not amount to a material change of use unless there has been a change in the character of the use. From the photographs and the evidence it is the Appellant's submission that it is apparent that there has been no change in the character of the use since it was first used for residential purposes in 2004.
13. It was the Council's case that it was not clear from the history whether the land had a residential or yard use but there was no disagreement with the proposition that for there to be a material change of use there had to be a change in use of the character of the land.

Reasoning

14. There seems to me to be an ambiguity in the notice in that the word 'additional' implies that more than one mobile was present on the land when the notice was issued and the requirement to remove the mobile home shown on the plan would allow any other mobile homes that were on the site when the notice was issued to remain, although the requirement for the residential use to cease would still be effective. The correction of the notice to allege a material change of use only with no reference to mobile homes would prejudice the Appellant as it would enlarge the scope of the notice, that is, from one mobile home having to be removed to all mobile homes having to be removed.
15. It has been established that a notice should be drafted so as to tell the recipient fairly what he has done wrong and what he must do to remedy it⁸. In my view the notice is so ambiguous and uncertain that it is not possible to ascertain what development is alleged to have occurred and therefore what the Appellant has to do to remedy it. I consider from what I have set out above that the notice in Appeal C is not correctable and is invalid.
16. The ground (c) appeal and the question of intensification would, in my opinion, only have arisen if the residential use was a lawful one which had been materially changed by the introduction of the 'additional mobile home' and the lawful use could only have been established by the ground (d) appeal. This is another factor which I consider renders the notice ambiguous because of the uncertainty of the nature of the alleged breach and therefore the case that the Appellant had to answer.
17. Even if I had not come to the conclusion that the notice was invalid, the Planning Practice Guidance advises that 'if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of

⁷ Document 2 – made similarly to Document 1

⁸ *Miller-Mead v MHLG* [1963] 2 WLR 225

probability⁹. The Council has not provided any evidence that contradicts the statements from the Appellant and his brother. From what I was told at the Hearing it was apparent that the Appellant had bought the various plots of land that make up his current land ownership with the intention of providing residential caravan sites for his immediate and extended family. The statements were made by the Appellant and his brother who were fully aware of the necessity of telling the truth; the Council has no evidence to challenge this evidence; and I have no reason to question the veracity of the statements. The appeal on ground (d) would have succeeded.

Conclusions

18. For the reasons given above I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control and the steps required for compliance. It is not open to me to correct the errors in accordance with my powers under s.176(1)(a) of the 1990 Act since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed. In these circumstances the appeal under the various grounds as set out in s.174(2) of the 1990 Act and the application for planning permission deemed to have been made under s.177(5) of the 1990 Act do not fall to be considered.
19. Even if I had not so concluded the appeal would have succeeded on ground (d) and the enforcement notice would have been quashed. In those circumstances the appeal under the various grounds set out in s.174(2) of the 1990 Act and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act would not have needed to be considered.

Decision

Appeal C: Appeal Ref: APP/B5480/C/17/3173211

20. The enforcement notice is quashed.

Appeals A, B and D

The appeal sites

21. The appeal sites are located within the Metropolitan Green Belt on the north side of the Drive. The Drive is a cul-de-sac which has a junction with Front Lane which in turn leads to the A127. The northern boundary of site A is in close proximity to the Southend Arterial Road (A127) and its southern boundary forms part of the northern boundary of site B which fronts the Drive. Site D is to the west of site B and is separated from it by an access plot, site C and the site of the Appellant's home. The northern boundary of site D is about 100m from the A127 and the site fronts, and has an access onto, the Drive.

Main Issue

22. I consider that the main issue is whether planning permission should be granted for either one or both of the two areas of hardstanding and the unauthorised change of use of the plots of land to residential purposes

⁹ PPG Lawful Development Certificates Paragraph: 006 Reference ID: 17c-006-20140306. Although this relates to LDCs the test is similar in a ground (d) appeal

including the placement of mobile homes. The principal matters that will be taken into account are:

1. Whether the various developments amount to inappropriate development in the Green Belt.
2. The effect of the development on the Green Belt with regard to openness and visual amenities.
3. The degree of compliance with locally specific policy criteria for the assessment of traveller sites.
4. The existing level of local provision and need for traveller sites.
5. The availability or lack of alternative accommodation for the occupiers of the plots.
6. Relevant personal and family circumstances of the occupiers' of the plots, including the best interests of the children.
7. The Green Belt balance as to whether the totality of the harm to the Green Belt and any other harm, are clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the developments.
8. In the event that the Green Belt balance is against the developments, whether requiring the uses to cease would be necessary and proportionate.

Inappropriate development

23. There is no dispute between the Parties that the change of use of the sites in Appeals A, B and D and the laying of hardstanding which facilitates the change of use are inappropriate development in the Green Belt and that by definition inappropriate development is harmful to the Green Belt¹⁰.

The effect of the development on the Green Belt – openness and visual amenities

24. The aerial photograph dated 2013 shows site A as open land with no development and that dated 2016 shows the site with four mobile homes and hardstanding as I saw it on my visit. The site was originally part of a substantial band of open land south of the A127; this open land has now been reduced by the introduction of development in the form of hardstanding and mobile homes. There is no definition of openness in the Framework but, in the Green Belt context, it is generally held to refer to freedom from, or the absence of, development. In the circumstances I consider that there has been a significant adverse impact on the openness of the Green Belt.
25. There has also been an adverse impact on visual amenity on site A given the replacement of what appears to have been open green pasture land with hardstanding and four large mobile homes; the hard and stark appearance of the large extent of hardstanding and the functional appearance of the mobile homes are out of keeping in the predominantly rural surroundings.
26. A large part of site B comprises dilapidated stable buildings which appeared to be used for miscellaneous storage. The mobile homes (and a touring caravan that I saw on my visit) are located to the north of the stable buildings. The Appellant said that a chalet type building that was to the north of the stables had been demolished prior to the siting of the mobile homes. The aerial photograph dated 2010 shows a blue structure immediately north of the stables in the location of the current mobile homes but this is not present on any of the other photographs.

¹⁰ Paragraph 87 of the National Planning Policy Framework

27. Although there appears to have been some type of development on the northern part of site B it was by no means as extensive in either floor area or volume as the mobile homes and there has been a consequent adverse impact on the openness of the Green Belt. The appearance and volume of the mobile homes do not reflect the, albeit neglected, stables and have an unacceptable effect on visual amenity.
28. The Appellant submits that the effect on openness in Appeals A and B could be reduced by the demolition of the stables. Whilst this may be the case, the stables form a visual and physical barrier between the mobile homes and the Drive and assist in maintaining the semi-rural character and appearance of the area and I do not consider that their demolition would sufficiently mitigate the loss of openness occasioned by the siting of the six mobile homes.
29. The aerial photograph dated 2016 shows site D as an undeveloped green space between the Appellant's home site to the east and the animal sanctuary to the west. It is now completely covered in hardstanding and there are two mobile homes sited on it. Given the contrast between the previous appearance of the site and how it is now there has been a significant reduction in the openness of the Green Belt and, similarly to Appeal A, the hard and stark appearance of the site has a significant adverse impact on visual amenity.
30. I accept that with regard to all three sites there are little, if any, views of the sites from public land; this is largely because of the presence of the stables, the height of fences and gates that prevent any overlooking into the sites from the Drive and the height of the bund along the boundary with the A127 which prevents any views into site A from that location. However, the fact that development cannot be seen from public land does not mean that there is no impact on openness or visual amenity.

The degree of compliance with locally specific policy criteria for the assessment of traveller sites.

31. Policy DC8 of Havering's Core Strategy and Development Control Policies Development Plan Document adopted 2008 sets out a number of criteria which have to be satisfied for planning permission to be granted for a traveller site and the Council did not dispute that there was a degree of compliance with the criteria in the three appeals. However, it was the Council's view that this compliance did not outweigh the proviso in the policy which says that 'sites within the Green Belt will only be acceptable in exceptional circumstances and where through their design, layout and landscaping they minimise its impact on the openness of the Green Belt, do not prejudice the purposes of including land in the Green Belt, do not prejudice the recreational usage of the Green Belt or involve the loss of high grade agricultural land'.
32. The Appellant submitted that the test of 'exceptional circumstances' was a lower one than that of 'very special circumstances' in the National Planning Policy Framework (the Framework) and because the policy was not out of date the appeals had to be determined in accordance with the development plan, unless material considerations indicate otherwise.
33. I concur with the Council that the developments comply with the criteria in policy DC8 in that the sites meet an identified need with regard to traveller needs; the sites are suitable for residential use; they have a safe and convenient access on to the road network; they are with reasonable distance of

community facilities; they have provision for parking vehicles; they are capable of accommodating a number of caravans; and they are supplied with essential services.

34. With regard to the proviso relating to Green Belt, the developments at the three sites prejudice one of the purposes of including land in the Green Belt in that they do not safeguard the countryside from encroachment and whilst I appreciate that a condition could be imposed relating to layout and landscaping on each site I consider this would have little effect on minimising the impact on openness because the amount of development arising from the siting of the mobile homes would remain.
35. The emerging Local Plan is due to be submitted to the Secretary of State at the end of January 2018 with an examination some months later. The criteria in policy 11¹¹ are in similar terms to those in policy DC8 and in place of specific references to the Green Belt there is reference to the National Planning Policy for Traveller Sites (PPTS) which, among other things, includes any exception having to meet the 'very special circumstances' test. I attribute little weight to policy 11 given the stage that the Local Plan has reached in its progress towards adoption but given its direction of travel I also give little weight to the 'exceptional' test in policy DC8 and give substantial weight to the Framework test of very special circumstances.
36. The developments on the three sites fail to comply with policy DC8 and I give this substantial weight.

The existing level of local provision and need for traveller sites.

37. The Havering Gypsy and Traveller Accommodation Assessment February 2017 (GTAA)¹² provides an assessment of the current and future needs for Gypsy, Traveller and Travelling Showpersons accommodation in Havering up to 2031. In brief, the need for 33 additional pitches was identified for gypsy and traveller households that met the definition of gypsies and travellers as set out in the PPTS. 26 of these pitches would be needed for the period 2016 -2021 and the remaining 7 thereafter.
38. Emerging policy 11 seeks to meet this identified need through the allocation and intensification of sites within the Green Belt and specific sites that are all currently in gypsy and traveller use are identified and listed for this purpose with a maximum number of pitches stated for each site.
39. The Appellant challenged such matters as the manner in which the GTAA was compiled and its possible defects but these are matters for the Local Plan process not individual planning matters such as these before me.
40. I do, however, note that the Appellant was not interviewed¹³ for the purposes of the GTAA and that Willow Tree Lodge is shown as a private, unauthorised site with one pitch¹⁴. There is no indication of which plot this information relates to but the original plot bought by the Appellant in 1999 is known as Willow Tree Lodge and its occupation is lawful. It would appear that the mobile homes that are the subjects of these four appeals, including those in Appeal C,

¹¹ Document 15

¹² Document 16

¹³ because the Appellant and most of his family were working in the USA at the time

¹⁴ Figure 7, pages 33-34 of the GTAA Document 16

have not been taken into account but I note that the Council said at the Hearing that there is an intention to contact occupiers who were not originally available in order to up-date the GTAA.

41. There are no gypsy and traveller sites run by the Council in Havering and only four pitches have permanent planning permission. All the other known sites have temporary planning permission; planning permission has expired and is tolerated; or are unauthorised¹⁵. There is an acknowledged need for gypsy and traveller sites in Havering which may have been under represented in the GTAA.

The availability or lack of alternative accommodation for the occupiers of the plots.

42. From what I have set out above it is apparent that there is no authorised alternative accommodation available for the eight families that occupy sites A, B and D. I was told that when the families travel in the United Kingdom they stay on unauthorised sites; indeed at the time of the Hearing one of the families was staying with relatives on an unauthorised site elsewhere.
43. It was the Appellant's case that if the families could not occupy sites A, B and D they would have no alternative but to stay on unauthorised sites which could include roadside sites.
44. Given the evidence before me I have no reason to come to a different conclusion.

Relevant personal and family circumstances of the occupiers' of the plots, including the best interests of the children.

45. In general terms, the Teelan family which includes the Appellant, his children, his grandchildren and his brothers, travel in the USA for an extended period from about March/April until December each year. They carry out building work, brick paving and tarmacking and move from area to area. While there they live in trailers which they put into storage when they return to England for the other months. During the months in England they travel round the local area for work and also visit family and friends in other parts of the country. The Appellant and some other members of his family return to England from the USA on occasion to attend horse fairs.
46. The occupiers of site A are: Firstly, the Appellant's son Michael, his wife and two daughters aged 8 and 4. The 8 year old has attended nursery school but not primary school. If planning permission is granted she would have a settled base and would go to school, as would her younger sister. Secondly, the Appellant's brother Michael, his wife and their two sons aged 18 and 13. The younger son has never been to school but, so far as I am aware, this father would like him to attend, however, there are no specific plans for him to go to school in future. Thirdly, the Appellant's brother Derek, his wife and daughter aged 18. Fourthly, the Appellant's daughter Annalise, her husband and one year old daughter; they do not travel to the USA but travel and work locally.
47. The two families that occupy the mobile homes on site B are Romanian Roma Gypsies. As mentioned previously, both men work with the Appellant in this country and have lived at Willow Tree Lodge since 2006 and they were joined

¹⁵ Paragraph 5.7 of the GTAA Document 16

by their families in the mobile homes in their current positions in 2012. In one Constantin lives with his wife and two children, a daughter aged 19 and a son aged 15. The son has not and will not go to school. Constantin has serious health problems and the District Nurse visited while I was on the site. His wife also has health problems that are being monitored and both of them are registered with local doctors. The other mobile home is occupied by Mihai, his wife and their 19 year old son.

48. There are two mobile homes on site D. In one is the Appellant's son John, his wife and their daughter aged 3 and son aged 2. Neither John nor his wife can read or write and they do not want the same for their children; they would like a settled base at Willow Tree Lodge so that in due course they can go to school. The Appellant's son Nigel and his wife and their baby (born in May 2017) live in the other mobile home.

The Green Belt balance as to whether the totality of the harm to the Green Belt and any other harm, are clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the developments.

49. The developments that are the subject of these grounds of appeal are inappropriate development in the Green Belt and, as such, are by definition harmful and should not be approved except in very special circumstances; this advice is replicated in Policy E of the PPTS. I therefore give substantial weight to the harm resulting from inappropriate development on all three of the sites. Similarly I give substantial weight to the harm arising from the loss of openness and the adverse impact on visual amenity in connection with all three sites. The developments on all three sites also fail to comply with the Green Belt proviso in policy DC 8. The totality of the harm occasioned by the developments on the three sites is therefore substantial.
50. Weighing against that substantial harm is the unmet need for gypsy and traveller sites in Havering, the lack of alternative or available accommodation for the current occupiers of the mobile homes, the personal circumstances of the families, the best interests of the children and their need for permanent sites. These matters in my opinion also attract substantial weight.
51. The Appellant has provided a s.106 agreement in respect of Appeal D¹⁶ which provides, among other things, for the payment of an education contribution. I give this limited weight in favour of the development.
52. The other s.106 agreement provided by the Appellant is in respect of Appeals A, B and C¹⁷ and also provides for the payment of an education contribution. Whilst the agreement makes provision for payment to be made if a temporary planning permission is granted no provision is made for permission only being granted for one or two sites. Because of this limitation, in the circumstances of these appeals, I give no weight to this agreement.
53. I take note of Policy E of the PPTS which states that 'Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances'. I also note that the allocation of gypsy and

¹⁶ Document 3

¹⁷ Document 4

traveller sites is for the plan making process not for individual planning applications such as these.

54. Bearing those matters in mind, the Appellant purchased his original site in 1999, which has permission for two mobile homes¹⁸, and a LDC¹⁹ for 'the building [mobile home] as constructed on the land, a dwelling being within Class C3' in the position of his current home. In addition there is a LDC²⁰ for the building to the north east of the Appellant's home (and to the immediate north of site C) for 'building in residential use as a single dwelling (C3 Use Class)'. Over the years he bought the land that comprises sites A, B, C and D²¹ with the intention of providing sites for his children when they married and for his brothers. The Appellant told me that he tried to have all his land allocated as a gypsy and traveller site in the previous Local Plan process but failed. He currently has a planning application for a residential gypsy and traveller site before the Council for a site comprising sites B and C and the unenforced land between them which includes the restoration of site A to grass.
55. Although there are three separate sites their single ownership, proximity and residential use by the extended family and long-standing workers is something that I consider relevant in reaching a determination of these appeals. Within the eight families, one has significant on-going health problems; one (the Appellant's son Michael) has a child of school age and a child nearing school age; three (the Appellant's daughter Annalise, his son John and his son Nigel) have children who are not yet of school age but whose parents have expressed the wish that they will attend school in the future. I consider that it would be in the best interests of the children that they have the benefit of a settled life with a permanent place to live in order that they could attend formal education when they reach the appropriate age. I give the educational needs of the children and the health needs of one of the families substantial weight.
56. The families with children are on sites A and D and the occupier of one of the mobile homes on site B has significant health problems. There are three sites that have to be considered and although the sites are currently occupied as stated above, it seems to me that, provided there are a number of permanent sites, it would matter not which site the families occupy.
57. I accept that Green Belt land is Green Belt land regardless of its location and quality and that the allocation of land is for the Local Plan process but the land that is the subject of these appeals lies immediately north of and in close proximity to the built up area of Cranham/Upminster; it is bounded on the north by the A127 an extremely busy dual carriageway; there is an authorised developed residential site at the original plot of Willow Tree Lodge; and to the west of site D the animal sanctuary comprises a number of buildings and other structures. Immediately to the east of site A there is a residential dwelling and car sales use that fronts onto the A127.
58. Whilst the developments on sites B and D result in loss of openness and harm to visual amenity I find that the totality of the harm to the Green Belt is clearly outweighed by other circumstances such as the location of these two sites; the need for gypsy and traveller sites; that such need in Havering is only likely to

¹⁸ Ref P1424.91

¹⁹ Ref E.0007.11 Document 6

²⁰ Ref E.0017.11 Document 7

²¹ together with other open land that is not the subject of any notice

be met on the Green Belt because about half of the land in Havering is Green Belt and the remainder is mainly suburban development; and the best interests of the children and personal circumstances, so as to amount to the very special circumstances necessary to justify the developments. Planning permission is therefore granted for site B for the change of use of the land to residential purposes including the placement of two mobile homes; and for site D for the change of use of the land to residential purposes and the placement of two mobile homes together with the formation of hardstanding. Both permissions are subject to conditions as set out below.

59. The situation with regard to site A is somewhat different. This site does not front onto the Drive and is located in a previously considerable extent of open land which forms a gap between the built-up area and the A127. The loss of openness and harm to visual amenity in this case clearly outweighs the other considerations which do not amount to the very special circumstances necessary to justify the developments. Planning permission is refused for the formation of hardstanding and the change of use of the land to residential purposes including the placement of four mobile homes on site A.

In the event that the Green Belt balance is against the developments, whether requiring the uses to cease would be necessary and proportionate

60. There is no question that the Article 8 Convention²² rights to respect for private and family life and the home are engaged in these appeals because the refusal of permission in Appeal A will result in the loss of some family homes. Article 8 is a qualified right that requires a balance between the rights of the individual and the needs of the wider community or state interest. In the context of Article 8, the best interests of a child must be a primary consideration and no other consideration can be treated as inherently more significant. I have taken into account the needs of the children at, or approaching school age, who could be accommodated on other plots of land within the Appellant's ownership and, in any event, a child's interest is not determinative of the planning issue and may be outweighed by the cumulative effect of other considerations as I have found above.
61. Article 8 also imposes a positive obligation to facilitate the Gypsy way of life to the extent that the vulnerable position of Gypsies as a minority group means that some special consideration should be given to their needs and different lifestyle in the regulatory planning framework and in reaching decisions in particular. In this respect I have taken into account the planning permissions that will be granted.
62. In the particular circumstances of this case with plots of land in close proximity and family and long-standing residents in occupation I am satisfied that in granting permission for, in effect, four mobile homes on two sites that requiring the use of site A for residential purposes to cease is necessary in the public interest and proportionate because of the harm to the Green Belt that has occurred and would continue if Appeal A was allowed.
63. The Appellant, his family and the other occupiers of the sites as Gypsies have a protected characteristic for the purposes of the Public Sector Equality Duty

²² The Human Rights Act 1998 enshrines into UK law most of the fundamental rights and freedoms contained in the European Convention on Human Rights

(PSED)²³ and I have taken into account the many disadvantages that gypsies experience but for the reasons given above these matters do not outweigh the harm to the Green Belt in respect of Appeal A.

Appeals B and D: Conditions

64. The Council suggested a number of conditions in the event that planning permission was granted for all or any of the sites. Although I have found that the personal circumstances of the families weighs heavily in the balance given the particular facts of these appeals I consider it would not be appropriate for me to impose personal conditions on the two grants of permission because it is for the Appellant and his family to make the decision who should live where. However, it is necessary, given the type of accommodation sought and that there is no dispute that the current occupiers of sites A, B and D meet the definition, that the occupation of the plots is restricted to gypsies and travellers as defined in the PPTS.
65. S.177(1)(a) of the 1990 Act gives power for planning permission to be granted in respect of the matters stated in the notice as constituting a breach of planning control but there is no power to go beyond the terms of the notice. Therefore, in accordance with the terms of the allegations in the notices in Appeals B and D, it is necessary to limit the number of mobile homes that can be sited on the plots and it is reasonable, given the Green Belt location, to prevent the use of any twin unit caravans. Given the size of the plots I do not consider it necessary to restrict the location of the mobile homes to their current positions but it is reasonable for the Appellant to provide a layout of the sites. The Appellant assured me that there were no commercial activities taking place on the sites but to ensure that this remains the case a condition prohibiting such use and the stationing of any large sized vehicles is reasonable.
66. I am advised that all of the mobile homes are connected to the main sewer and that refuse is collected by the Council. However, the Council has no details of these arrangements and a condition requiring such details is reasonable; as are details of external lighting given the Green Belt location.
67. The sites currently have no landscaping and site D in particular is hard and stark in appearance. As the permissions will be permanent I consider that it is reasonable to impose a condition requiring details of landscaping, both hard and soft, to be submitted to the Council for approval.
68. The permissions are being granted pursuant to ground (a) appeals and deemed planning applications. In these circumstances a condition setting out time limits for the submission of the various details and schemes is reasonable and necessary.

Appeal A: The appeal on ground (g)

69. The notice requires the residential use to cease within three months and the mobile home to be removed within four months. The hardstanding is to be removed and the land restored to its condition before the hardstanding was laid within six months. The Appellant seeks a period of 18 months in which to comply with the notice.

²³ Contained in s.149 of the Equality Act 2010

70. One of the Appellant's sons is getting married in April 2018 and after that the Teelan family will be travelling to the USA for work. From then until later in the year it is not likely that the four mobile homes would be occupied. It therefore seems to me that a compliance period of six months for requirements (i) and (ii) would be reasonable and to this extent the appeal on ground (g) succeeds.

Conclusions

Appeal A

71. I refuse to grant planning permission on the deemed application and for the reasons given above I conclude that a reasonable period for compliance with steps (i) and (ii) would be six months, and I am varying the enforcement notice accordingly, prior to upholding it. The appeal under ground (g) succeeds to that extent.

Appeal B

72. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered.

Appeal D

73. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered.

Decisions

Appeal A: Appeal Ref: APP/B5480/C/17/3173197

74. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by the deletion of three months in step (i) and the substitution of six months as the period for compliance; and by the deletion of four months in step (ii) and the substitution of six months as the period for compliance. Subject to these variations the enforcement notice is upheld.

Appeal B: Appeal Ref: APP/B5480/C/17/3173205

75. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under s.177(5) of the Act as amended for the development already carried out, namely the use of the land at Willow Tree Lodge, Brookmans Park Drive, Cranham, RM14 1LW as shown on the plan attached to the notice, for residential purposes including the placement of two mobile homes subject to the following conditions:

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 2) No more than two caravans shall be stationed on the land at any time.
- 3) Any caravans positioned on the site shall be capable of being lawfully moved on the public highway, without division into separate parts.

- 4) No vehicle exceeding 3.5 tonnes in weight shall be stationed, parked or stored on the land.
- 5) No commercial activities shall take place on the land, including the storage of materials.
- 6) 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 three months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within two months of the date of this decision details of the means of foul and surface water drainage of the site; refuse storage and collection; and proposed and existing external lighting on the boundary of and within the site; together with schemes for the internal layout of the site, including the siting of caravans, hardstanding, access roads, parking and amenity areas; tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities; (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve any or all of the schemes 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 scheme/s shall have been approved by the Secretary of State.
 - iv) The approved scheme/s shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved schemes specified in this condition, those schemes shall thereafter be retained.

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

Appeal D: Appeal Ref: APP/B5480/C/17/ 3173216

76. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under s.177(5) of the Act as amended for the development already carried out on land at Willow Tree Lodge, Brookmans Park Drive, Cranham, RM14 1LW, namely the use of the land as shown on the plan attached to the notice for residential purposes and the placement of two mobile homes and the formation of hardstanding by the importation of tarmac chippings subject to the following conditions:

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 2) No more than two caravans shall be stationed on the land at any time.

- 3) Any caravans positioned on the site shall be capable of being lawfully moved on the public highway, without division into separate parts.
- 4) No vehicle exceeding 3.5 tonnes in weight shall be stationed, parked or stored on the land.
- 5) No commercial activities shall take place on the land, including the storage of materials.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials, including hardstanding brought onto the land for the purposes of such use shall be removed within three months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within two months of the date of this decision details of the means of foul and surface water drainage of the site; refuse storage and collection; and proposed and existing external lighting on the boundary of and within the site; together with schemes for the internal layout of the site, including the siting of caravans, hardstanding, access roads, parking and amenity areas; tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities; (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve any or all of the schemes 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 scheme/s shall have been approved by the Secretary of State.
 - iv) The approved scheme/s shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved schemes specified in this condition, those schemes shall thereafter be retained.

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

Gloria McFarlane

Inspector

APPEARANCES

FOR THE APPELLANT

Mr P Brown Philip Brown Associates
BA MRTPI

Mr N Teelan Appellant

FOR THE LOCAL PLANNING AUTHORITY

Mr M Knowles Planning Officer (day one and the site visit only)
BA(Hons) MRTPI

Mr S Thelwell Planning Manager, Projects and Regulation
BSc(Hons)

DOCUMENTS SUBMITTED AT THE HEARING

- Document 1 - Statement of Mr Nigel Teelan
- Document 2 - Statement of Mr John Teelan
- Document 3 - Unilateral Undertaking dated 11 December 2017, Appeal D
- Document 4 - Unilateral Undertaking dated 11 December 2017, Appeals A, B and C
- Document 5 - Site plan for planning permission ref P1389.99
- Document 6 - LDC ref E.0007.11 dated 11 July 2011
- Document 7 - LDC ref E0017.11 dated 9 March 2017
- Document 8 - Article 4 Direction dated 8 January 1988
- Document 9 - Articles 4 Direction dated 14 January 1988
- Document 10 - TPO 7/87
- Document 11 - Personal circumstances statement, submitted by the Appellant
- Document 12 - Proposed site layout plan, submitted by the Appellant
- Document 13 - Aerial photographs, submitted by the Council
- Document 14 - Plan and notes of visit 5 May 2007, submitted by the Council
- Document 15 - Emerging Local Plan policy 11, submitted by the Council
- Document 16 - GTAA Final Report dated February 2017, submitted by the Council
- Document 17 - Proposals Map 2008