The Planning Inspectorate

Appeal Decisions

Inquiry opened on 7 June 2016

Site visits made on 8 June and 23 September 2016

by Alan Woolnough BA(Hons) DMS MRTPI

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

Decision date: 2 December 2016

Appeals A & B: APP/C3430/C/15/3134499 & APP/C3430/C/15/3134500 Fairhaven, Shaw Hall Lane, Coven Heath, Staffordshire WV10 7HE

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended.
- The appeals are made by Mr John Cunningham (Appeal A) and Mrs J Cunningham (Appeal B) against an enforcement notice issued by South Staffordshire Council.
- The Council's reference is 15/00271/TRAVH.
- The notice was issued on 2 September 2015.
- The breach of planning control as alleged in the notice is: 'Without planning permission, the import of materials on to the Land to form a hardstanding area on part of the Land for the siting of caravans in association with the unauthorised use of the Land as a gypsy traveller site and the unauthorised development of an access on the Land, including fencing and gate and the unauthorised development of a brick, concrete and wood structure on the Land'.
- The requirements of the notice are:
  - (i) Remove all the imported hard core and associated materials from the Land.
  - (v) Remove the unauthorised access, including fencing and gate, from the Land and reinstate the original access including the gate.
  - (vi) Remove the brick, concrete and wood structure, indicated hatched black on the attached plan, from the Land.
  - (iv) Reinstate the Land to pasture land by seeding the area with appropriate grass seed.
  - (v) Remove from the Land all materials arising from compliance with (i), (ii) and (iii) above.
- The period for compliance with the requirements is six months.
- The appeals are proceeding on the grounds set out in section 174(2)(b), (d) and (g) of the 1990 Act as amended. Since appeals on ground (a) are barred in this case by reason of section 174(2A) of the 1990 Act as amended, the initial appeals on that ground and applications for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not fall to be considered.

Summary of Decisions: The appeals are dismissed and the enforcement notice is upheld with corrections.

Appeal C: APP/C3430/W/15/3140299 Fairhaven, Shaw Hall Lane, Coven Heath, Staffordshire WV10 7HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
- The appeal is made by Mr John Cunningham against the decision of South Staffordshire Council.
- The application ref no 15/00746/FUL, dated 20 August 2015, was refused by notice dated 8 December 2015.
- The development is described on the application form as: 'The use of land as a private

gypsy and traveller caravan site consisting of 4 no pitches and ancillary development'.

Summary of Decision: The appeal is allowed and planning permission is granted subject to conditions set out below in the formal decision.

Appeals D & E: APP/3430/C/15/3134526 & APP/C3430/C/15/3134527 Fairhaven, Shaw Hall Lane, Coven Heath, Staffordshire WV10 7HE

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended.
- The appeals are made by Mr John Cunningham (Appeal D) and Mrs J Cunningham (Appeal E) against an enforcement notice issued by South Staffordshire Council.
- The Council's reference is 15/00271/TRAVH.
- The notice was issued on 2 September 2015.
- The breach of planning control as alleged in the notice is: 'Without planning permission the unauthorised material change of use of the land from an agricultural use to a mixed use of agricultural and unauthorised use of part of the land as a residential gypsy traveller site'.
- The requirements of the notice are:
  (i) Cease the use and occupation of the Land as a gypsy traveller site.
  (ii) Remove from the Land all caravans and all materials and equipment arising from the cessation of the unauthorised use.
- The period for compliance with the requirements is six months.
- The appeals are proceeding on the ground set out in section 174(2)(g) of the 1990 Act as amended. Since appeals on ground (a) are barred in this case by reason of section 174(2A) of the 1990 Act as amended, the appeals on that ground initially pursued and the applications for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not fall to be considered.

Summary of Decisions: The appeals on ground (g) do not fall to be considered and the enforcement notice is upheld with corrections.

Procedural matters

1. The Inquiry sat for five days in total, adjourning at the end of the first sitting day on 7 June 2016 and resuming on 20 September 2016 for a further four sitting days. It closed on 23 September 2016. My accompanied site visit took place on 8 June 2016, followed by an unaccompanied visit to the wider area on 23 September 2016.

2. All oral evidence presented at the Inquiry was taken on oath or solemn affirmation.

3. Both enforcement notices refer to the appeal site simply as 'Land off Shaw Hall Lane', whilst the Appeal C planning application refers to it as 'Land at Coven Heath Nursery'. However, as the Appellants have since named it 'Fairhaven' I will use that address in determining all five appeals.

4. Prior to the Inquiry, the Appellants lodged a request to the effect that Appeal C be determined on the basis of plans other than those which formed part of the subject planning application at the time of the Council's decision to refuse planning permission. Having regard to the judgment in the case of *Bernard Wheatcroft Ltd v SSE* [1982] 43 P&CR 233, I found that the revised plans changed the development in such a way '*that to grant it would have deprived those who should have been consulted on the changed development of the opportunity of such consultation*'.

5. In such circumstances it would not usually be possible to accept the revised plans as a basis for determination without giving rise to injustice. However, the adjournment of the Inquiry for other reasons at the end of Day 1 provided an opportunity to notify all interested parties of the revised plans and allow them to make further written representations before relevant evidence was heard on resumption.

6. I was therefore able to accede to the Appellants' request and accept drawings TDA/2196/01 & 02 as the basis for Appeal C. In reaching my decision on that appeal I have taken into account all comments on the revised scheme received from all parties by the relevant deadlines and am satisfied that no prejudice to the interests of any party has resulted. At the Inquiry the Appellants confirmed that the revised plans superseded drawing nos 01347/3, 3B, 4, 5, 6 & 7 (all suffixed 'Rev 1') that had formed part of the original application and were not merely proffered as an alternative for me to consider.

7. Notwithstanding the wording used on the Appeal C application form, it is best practice not to include reference to gypsy and traveller occupation and numbers of pitches from the description of development that should form the basis of any grant of planning permission. Such restrictions are better imposed, if necessary, by means of conditions. There is also evidence of intended mixed use of the land in this case, whilst changes to the scheme introduced by the revised plans necessitate further tweaks.

8. I will therefore determine Appeal C on the basis of the following revised description: *The material change of use of the land to a mixed use comprising the keeping of horses and use as a residential caravan site, the erection of a day room, gates and fencing, alterations to an existing vehicular access and the provision of surfacing*. No injustice arises in doing so.

9. The Appellants indicated their willingness to provide a unilateral undertaking as a means of preventing encroachment of the residential caravan site onto the paddock to the south-east. However, I am satisfied that should such a restriction prove necessary then a condition should suffice. An undertaking has not therefore been pursued.

The enforcement notices

10. Both notices must be corrected in the main heading and section 2 so as to state the revised site address referred to above.

Appeals A & B

11. On Day 1 of the Inquiry the Council agreed that the access to the site targeted by this enforcement notice had been widened and surfaced rather than newly created. Later in the process it submitted a revised plan intended for attachment to the same notice which clarifies the extent of hardstanding targeted by the notice and the positions of the fencing and gate referred to therein and confirmed that it did not after all wish to pursue enforcement against the 'brick, concrete and wood structure' included in the allegation and requirement (vi). No challenge was mounted by the Appellants to the request that I accept these changes.

12. In the light of this, I will reword the allegation to read: '*Without planning permission, the creation of a hardstanding using imported hard core and associated materials as hatched diagonally on Plan 1 … and the alteration of an access as hatched diagonally and erection of fencing and a gate as marked with a thick broken black line on Plan 1A attached to ...*';. Attributing a use to the hardstanding (as in the notice as issued) is unnecessary. This revised description was agreed to at the Inquiry by both main parties.

13. The numbered 'reasons' and requirements' of the notice are wrongly sequenced, with the latter also requiring revision for consistency with the amended allegation. The word 'appropriate' used in requirement (iv) is open to wide interpretation and therefore meaningless for the purposes of enforcement. It should therefore be omitted.

14. Despite the Appellants' contention to the contrary, this notice is not too vague to correct without causing injustice. The Courts have long held that is an expectation that the perpetrator will already know what new work has been done and might therefore be liable to enforcement action. In any event the Council's late clarification of the extent of the works targeted, forthcoming before any evidence was given on the Appellants' behalf and followed by a lengthy adjournment, will have ensured that their case in that regard was not compromised. I will therefore implement all the corrections addressed above.

Appeals D & E

15. On Day 1 of the Inquiry I drew to the Council's attention the illogicality of an allegation that referred to a mixed use of only part of the land. Necessarily, the concept of a mixed use can only apply to the whole planning unit. There was also a question at that stage as to whether the non-residential use of the land was better described as 'the keeping of horses' rather than agriculture. Moreover, the term 'gypsy and traveller' does not belong in the allegation for the reasons detailed above in relation to the Appeal C description and the term 'unauthorised' is superfluous, a perception of such status being a prerequisite to taking enforcement action in the first place.

16. It was resolved following the adjournment, through discussion with the main parties, that this notice should relate to the whole of the land originally targeted (rather than the reduced area subsequently suggested by the Council) and that the allegation should read: '*Without planning permission the material change of use of the land to a mixed use comprising the keeping of horses and use as a residential caravan site*', thus ensuring consistency with the revised description for Appeal C.

17. Requirement (i) must be revised to ensure consistency with the corrected allegation so far as is necessary, but must continue to require only the cessation of the residential component of the mixed use. It is common ground between the main parties that the use of the land for the keeping of horses was lawful at the time that the notice was issued and, on the evidence before me, I concur. The provisions of section 173(11) of the 1990 Act as amended therefore have no implications for the effect of the notice as corrected, despite the omission of 'the keeping of horses' from requirement (i).

18. Requirement (ii) needs reframing to specify the removal of caravans, materials and equipment associated with use as a residential caravan site, to ensure that the lawful scope of the notice is not exceeded. All these corrections were endorsed by the main parties and can be made without giving rise to injustice. There remains a discrepancy between the extent of the site subject to Appeals A, B, D & E and the less extensive area subject to Appeal C. However, this has no significant consequences for my decisions.

The appeals on ground (b) – Appeals A & B

19. In appealing against the 'operational development' enforcement notice on ground (b), the onus of proof is firmly on the Appellants to demonstrate on the balance of probabilities that some or all of the matters stated in that notice had not in fact occurred by the time it was issued. The judgment in *Gabbitas v SSE & Newham LBC* [1985] JPL 630 makes it clear that if the local planning authority has no evidence of its own, or from others, to contradict or otherwise make the Appellants' version of events less than probable, there is no good reason to dismiss an appeal on any 'legal ground', including ground (b), provided the Appellants' evidence alone is sufficiently precise and unambiguous.

20. Following clarification by the Council of the intended scope of this notice and agreement between the parties that I should correct it accordingly, it is a matter of common ground between the Appellants and the Council that the Cunninghams had, by 2 September 2015, altered an existing vehicular access, erected the entrance gate in a different position further back from the road and constructed fencing on either side of it. The appeals on ground (b) now before me therefore relate only to the alleged creation of a hardstanding in the area hatched diagonally on Plan 1 attached hereto.

21. The area in question was measured as approximately 20 metres deep and 40 metres wide by the Council prior to issuing the notice, as reflected by Plan 1. Measurements agreed between the main parties during my site visit on 8 June revealed the completed hardstanding evident at that time to extend to around 21 metres in depth by 61 metres in length, essentially spanning most of that part of the wider site adjacent and parallel to the road frontage with the exception of small areas of unsurfaced land abutting the north-eastern and south-western boundaries. This hardsurfacing was separated from the paddock to the south-east by timber post-and-rail fencing not targeted by the notice.

22. However, there is also agreement that the south-westernmost 21 metres or so of hardstanding as existing is not targeted by the notice. According to the Council it did not exist in any shape or form when the notice was issued, whereas the Appellants maintain that it was partially newly-created and partially resurfaced by way of repair after that date. Either way, it is not subject to Appeals A & B, which are confined to the area shown on Plan 1. The latter is itself somewhat smaller than the area of hardstanding said by the Appellants to have been in place for many years by between around 490 and 575 square metres, depending which component of their evidence one considers.

23. The area of pre-existing hardstanding claimed under ground (b) takes the shape of a slightly skewed rectangle, measuring about 25 metres deep by

55 metres in length according to identical plans attached to various statutory declarations submitted on the Appellants' behalf. Mr Cunningham himself gave oral evidence at the Inquiry to the effect that the extent of the hardsurfaced area he and his wife inherited from previous occupiers of the land was a little less, omitting about 85 square metres from the south-eastern corner of the 'rectangle'. This smaller area is marked 'stone' on drawing no 01347/2 Rev 1, dated 28 August 2015 and submitted as part of the Appeal C planning application.

24. However, Mr Cunningham's own evidence in this regard was somewhat vague. He has said that he simply scraped an inch or so of grass and other vegetation from the top of an existing hardstanding and then resurfaced it. He made no claim to have surveyed the site himself to determine the extent of any established hardsurfacing, merely asserting that hardcore was present across the area in question before he carried out his own works. He instead deferred to drawing no 01347/2 Rev 1 prepared by SAB Drawing & Design.

25. No representative of that business gave evidence at the Inquiry or by way of sworn documentation as to whether a survey was undertaken or, if so, how accurate it was. My attention was drawn on site to the presence of pieces of hardcore within the overgrown grassed area immediately to the north-west of the existing hardstanding. However, these were far from indicative of a previous hardsurface extending over the area claimed (which in any event excludes that part of the site) and their origin is not readily evident.

26. Rather, the Appellants' ground (b) case relies primarily on the evidence of Mr Connors, a previous tenant of the land from about 2000 to 2005[1], who provided one of the statutory declarations and gave evidence at the Inquiry. He claimed in his declaration to have laid hardcore to the extent illustrated on the plan attached thereto during his tenancy, which he estimated in oral evidence as being rolled to a depth of five or six inches. However, rather than having been prepared by Mr Connors himself, the plan attached to his declaration had clearly been drawn by someone acting for the Appellants and he had simply been asked to confirm its accuracy.

27. The significance of this became apparent during the Inquiry when Mr Connors was asked to confirm the extent of the hard surface he claimed to have created by drawing it on a plan. In response he delineated an area wholly different to that shown on his declaration plan. When this was pointed out he identified two further areas, each different from his original claim. This may be attributable, at least in part, to a personal difficulty in interpreting maps and plans, albeit that this was not claimed. However, if this were the case doubt is then immediately cast as to his ability to confirm the accuracy of the plan attached to his declaration.

28. No oral, documentary or photographic evidence has been produced that substantiates with a degree of reliability any of Mr Connors' conflicting claims. I am therefore unable to regard him as a credible witness for the purposes of ground (b). Similar concerns apply to the statutory declarations supplied by others (Messrs Clay, Mason and Holt), none of whom gave

[1] Mr Connors indicates in his statutory declaration dated 27 April 2016 that he rented the site for about five years when living in Wolverhampton approximately 16 years ago. He confirmed his tenancy as having commenced in 2000 during oral evidence at the Inquiry, but revised its estimated duration to 6 or 7 years.

evidence at the Inquiry. The plans attached to their declarations were identical, clearly prepared by someone else and presented to them for confirmation. Their ability to interpret the plan or recollect the site with accuracy remains untested.

29. By the time Ms Macdonald, the Council's Principal Enforcement Officer, first attended the site on 7 August 2015 in response to complaints, the Cunninghams had already introduced new surfacing material (road planings and hardcore) to the land such that it was impossible for her to determine with any degree of reliability what, if any, sort of hard surface had existed there previously. Her evidence is therefore of little assistance in this regard in establishing a case contradictory to Mr Cunningham's.

30. However, a local resident, Mrs Goalby, gave evidence on oath to the effect that she regularly visited the site between 2006 and 2013 when ponies were kept there. She described with precision a particular incident towards the end of that period when she spent some hours freeing a pony trapped in the fence and clearing items of debris from the land to make it safer. She stated unequivocally that she found no trace of any hardstanding anywhere on the site during that time. Mrs Goalby's evidence in this regard was detailed and confidently delivered and I find no reason to question her credibility as a reliable witness.

31. Her evidence is underpinned by the absence of any indication in aerial photographs supplied by the Council and dating from 2010 and 2013, at least to my eye (albeit that Messrs Cunningham and Connors interpreted the photographs otherwise), that any hardstanding was present at those times. I accept that this may have been hidden in part by vegetation growing over and through the claimed hardcore. However, it is not unreasonable to assume that, even in those circumstances, some contrast in colouration between hardstanding and paddock would be apparent.

32. I therefore conclude with reference to *Gabbitas* that evidence from parties other than the Council regarding the pre-existence of hardstanding on the site and the extent thereof does contradict Appellants' version of events to only a limited degree. Nonetheless, more significantly, evidence presented on the Appellants' behalf is far from being sufficiently precise and unambiguous to demonstrate their case. On the contrary, taken as a whole it is vague, contradictory in itself and unsubstantiated.

33. I conclude on the balance of probabilities that the Appellants have failed to fulfil the burden of proof to which they are subject. This being so, there is no sound reason for me to accept that the hardstanding present on site on 2 September 2015 as targeted by the Appeal A & B enforcement notice was, in whole or in part, merely a repair to or upgrading of a pre-existing hardsurface of any significance. I therefore find that the matter stated in the notice had indeed occurred and that, accordingly, the appeals on ground (b) must fail.

The appeals on ground (d) – Appeals A & B

34. In appealing against the 'operational development' enforcement notice on ground (d), the onus of proof is firmly on the Appellants to demonstrate on the balance of probabilities that some or all of the matters stated in that notice were immune from enforcement action by reason of the passage of

time, and therefore lawful, by the date on which it was issued. The provisions of *Gabbitas* again apply. For immunity to be demonstrated in this case, the subject development must have been substantially completed at least four years before the notice was issued. The material date is therefore 2 September 2011.

35. By reason of the Council's clarification regarding the intended scope of the notice, the Appellants' case on ground (d) is once more confined to the creation of the hardstanding alone. There is no dispute that the Appellants carried out alterations to the existing vehicular access, changed the access gate position and erected the targeted fencing in 2015, not long before the notice was issued. However, so far as the hardstanding is concerned Mr & Mrs Cunningham claim that parts of that now targeted are 16 years old and that they have merely repaired, upgraded and extended an existing surface.

36. In the light of my findings on ground (b), particularly in relation to the questionable reliability of Mr Connors' evidence, there is no sound reason for me to conclude that any part of the hardstanding present on site when the notice was issued was substantially completed before the material date. On the contrary, all substantial evidence before me points firmly towards the construction of anything that might reasonably be termed a hardstanding not even having commenced until August 2015.

37. I therefore conclude on the balance of probabilities that no part of the appeal development was immune from enforcement action by the time that the Appeal A & B notice was issued. Accordingly, the appeals on ground (d) fail.

The section 78 appeal – Appeal C

Main issues

38. The appeal site is located in the countryside, outside the confines of any settlement defined by the development plan and within the West Midlands Green Belt. It is clear from paragraphs 89 and 90 of the National Planning Policy Framework (the Framework) and Policy E of the DCLG publication 'Planning policy for traveller sites' (PPTS), revised in August 2015, that material changes of use to traveller sites in the Green Belt are inappropriate development. Paragraph 87 of the Framework records that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Such status must, of itself, constitute a main issue for the purposes of determining Appeal C.

39. The other main issues in determining Appeal C are:
- the effect of the development on the character and appearance of the countryside, including whether it preserves or enhances the setting of the nearby Staffordshire and Worcestershire Canal Conservation Area (AC);
- its effect on the openness of the Green Belt and the degree to which it complies with the purposes of including land within it; and
- whether the harm to the Green Belt and any other harm is clearly outweighed by other considerations and, if so, having regard to paragraph 88 of the Framework, whether there exist very special circumstances that justify the granting of planning permission.

40. Notwithstanding the Appellant's view to the contrary, I do not regard the question of whether there has been a 'failure of planning policy' as an adequately framed main issue in this particular case. Arguments concerning the perceived inadequacy of the development plan over time in providing locally for gypsies and travellers more properly fall to be considered in the context of an assessment of current local need for caravan pitches which, in turn, is a material consideration which may weigh against other harm.

41. The gypsy/traveller status of any relevant individual for the purposes of applying planning policy, although initially questioned by the Council, is no longer disputed between the main parties. Nor has it been challenged in any meaningful way by any other party. I am also satisfied on the evidence before me that the particular existing/intended occupiers of the appeal site either fulfil the definition of 'gypsies and travellers' set out in the glossary to the current version of the PPTS by way of their ongoing nomadic habit of life or, alternatively, are resident dependents of such persons living as part of the same household. This finding will inform my assessment of the main issues.

Planning policy

42. The development plan includes the South Staffordshire Core Strategy Development Plan Document 2012 (CS). Paragraph 215 of the Framework records that due weight should be given to relevant policies in existing plans according to their degree of consistency with it. Paragraph 216 adds that decision-takers may also give weight to relevant policies in emerging plans according to, amongst other things, the stage of preparation.

43. I find no significant conflict between the Framework and the adopted development plan policies cited in this case. I will therefore give them full weight so far as they are relevant to the appeal scheme, with two exceptions. The latter concern CS Policies GB1 and H6, the ongoing relevance of which is tempered by two factors.

44. The first of these is the subsequent publication of the current version of the PPTS in August 2015. This introduced, amongst other things, a provision at paragraph 16 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.

45. It also records at paragraph 27 that if a local planning authority cannot demonstrate an up-to-date five year supply of deliverable sites for travellers, this should be a 'significant material consideration when considering a grant of temporary planning permission except on, amongst other things, land designated as Green Belt. These are not reflected in either CS policy for obvious reasons.

46. The second is the fact that the accommodation needs of gypsies and travellers as set out in Policy H6 are based on a Gypsy and Traveller Accommodation Assessment (GTAA) published some eight years ago. The policy is not therefore sufficiently up-to-date in that regard. I will expand on these matters in my Appeal C reasoning in due course.

47. Reference is also made to the Council's emerging Site Allocations Development Plan Document (SAD). However, this remains at a relatively

early stage of preparation and has yet to be subject to Examination by the Inspectorate. It therefore carries only limited weight.

Reasoning

48. At the Inquiry the Appellant made it clear that he is seeking a permanent planning permission but, should it be deemed necessary, would prefer a temporary planning permission to outright dismissal of the appeal. I will determine Appeal C on that basis.

49. The Court of Appeal recently found in the case of *John Turner v SSCLG & East Dorset Council* [2016] EWCA Civ 466 that the openness of the Green Belt can have a visual dimension as well as a spatial one. I have therefore considered the effect of the Appeal C scheme on the character and appearance of the area before moving on to address Green Belt issues, including openness.

Character and appearance

50. The Appellant's land is located within open countryside, well outside any settlement boundary defined by the development plan. The surrounding landscape is generally flat and consists mostly of fields and paddocks devoted to agriculture or equestrian-related activity. However, long distance views across the wider area are curtailed to a degree by high hedgerows on roadside and field boundaries. Clusters of residential development and agricultural buildings are also found in close proximity to the appeal site.

51. The Appellant refers to what he perceives as urbanising features in the general vicinity, such as the busy A449 Stafford Road to the east, sewage works to the south, the Brinsford Bridge and Horden Lodge residential caravan sites to the north-east and south respectively and a plant nursery in Shaw Hall Lane itself. However, some of these are separated visually from the appeal site by the Staffordshire & Worcestershire Canal (which runs along the Appellant's south-eastern boundary) and well-established screen vegetation along its towpath.

52. Whilst there are small clusters of dwellings to the north-east and west of the appeal site, these are too loosely grouped and uncoordinated to read in the context of the rural lane as a cohesive 'residential settlement'. The area thus exudes a resolutely rural sense of place and, although the landscape (apart from the canal and towpath and distinct from Green Belt safeguards) is not subject to any special protective designation I found it to form part of an attractive expanse of countryside.

53. Pedestrian public rights of way follow the canal towpath and also emerge onto Shaw Hall Lane directly opposite the appeal site. Nonetheless, boundary hedgerows do much to screen the existing residential caravans on the appeal site from public viewpoints, to such an extent that from the Canal CA to the south-east the unlawful development is barely discernible. Although I acknowledge that vegetative screening may be sparser in winter, the considerable separation provided by the Appellant's paddock also plays a part.

54. The mobile homes proposed as part of the Appeal C scheme differ from the units on site at present in terms of size and precise position. However, they are grouped on the same part of the site, strung along the road frontage. Moreover, whilst the existing stable/tack room on the site (generally accepted

as immune from enforcement action) does not form part of the Appeal C proposal, it occupies the same general position as the envisaged day room. I have therefore been able to benchmark against what is on site at present and, having done so, am satisfied that the Appeal C development has no significant adverse implications for the setting of the CA that conflict with CS Policy EQ3 or relevant national objectives.

55. I am also persuaded by Mr Crandon's evidence to the effect that the development would only be visible at close quarters. Nonetheless, despite his finding that only one viewpoint, through the existing access, merits serious consideration, I found the existing caravans and building to be readily discernible from Shaw Hall Lane over the top of the frontage fencing and through the roadside hedgerow. It is reasonable to assume that the proposed mobile homes and day room would be similarly visible. I am also mindful that the high close boarded fence along the roadside is there to fulfil a privacy function and, whilst forming part of the Appeal C proposal and not subject to either of the current enforcement notices, is unlikely to have been present in the absence of any residential use of the site. It thus adds to the urbanising effect that the appeal site has on the rural lane.

56. The residential caravans at the two established sites referred to above are too far away to function as similar features which might help the appeal development to blend with its surroundings, whilst the established stable block/tack room on the appeal site is too small to subsume them. Whilst the Appellant plans to implement a tree and hedgerow planting scheme to mitigate the visual impact of the development, an initial rudimentary version of which appears on the revised layout plan, by its very nature planting of this kind would take a long time to prove effective in these terms.

57. Notwithstanding this, I am less concerned about the comparative visual consequences of the proposed day room. Although this would be glimpsed in part through the site access as well as over/through the frontage boundary treatment, it would replace an existing lawful structure of similar massing. Moreover, in the revised Appeal C proposal this building is designed to have the appearance of a stable block, the presence of which is less jarring in a rural setting than a structure uncompromisingly domestic in design or a cluster of residential caravans. Although, as the Council suggests, the concept is somewhat contrived, that of itself does not render the design unacceptable in such a context.

58. Concerns have been raised to the effect that replacement of the existing stables/tack room with a day room would create pressures for its replacement, given the Appellant's intention to continue keeping horses on the site. However, at the Inquiry Mr Cunningham indicated that, given the breed of horse he prefers to breed and trade in, moveable field shelters located within the paddock area would suffice in this regard. As described by him, these would not in themselves require planning permission and essentially constitute a lawful fallback position. Nor need such items appear incongruous even in the most rural of settings. Moreover, in the light of such evidence the Council would be well-placed to control further equestrian-related development on the site should it be considered expedient to do so.

59. I also am mindful of guidance in paragraph 26 of the PPTS to the effect that traveller sites should not be enclosed to such an extent as to give the

impression that they are deliberately isolated from the rest of the community, implying that a degree of exposure is acceptable. I also acknowledge that this relatively small development respects the scale of the nearest settled community, other traveller sites in the vicinity being too distant for there to be an obvious cumulative visual effect. However, paragraph 25 also makes it clear that new traveller site development in open countryside outside areas allocated in the development plan should be very strictly limited.

60. During the course of the Inquiry the Appellant attempted, via Mr Crandon's evidence, to compare the site favourably in visual terms with others that have been listed as potential allocations in the Preferred Options consultation document produced for the Council's emerging SAD. However, neither Mr Crandon nor any other witness had carried out this comparative exercise with any reasonable degree of thoroughness and, this being so, such comments have had little bearing on my own findings, which draw on an assessment of the appeal site based on its own merits.

61. Drawing all these threads together and balancing opposing considerations I conclude that, overall, the Appeal C scheme has adverse implications for the character and appearance of the surrounding area but that these are relatively minor in scale and consequence. Accordingly, I find there to be only limited conflict with Strategic Objective 4, Core Policy 4 and Policies EQ4, EQ11, EQ12 and H6 of the CS and the provisions of the Framework and PPTS so far as they are relevant to this issue and that this should be attributed only limited weight in determining the appeal.

Green Belt: openness and purposes

62. Paragraph 79 of the Framework records that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and permanence. This is generally reflected in CS Policy GB1. Paragraph 80 sets out that the Green Belt serves five purposes, the most relevant of which to this case is to assist in safeguarding the countryside from encroachment. Paragraph 88 makes it clear that any harm to the Green Belt should carry substantial weight.

63. It has generally been considered best practice amongst Inspectors in recent years to identify specifically any harm to openness or arising from conflict with the five purposes, but to attribute weight only to Green Belt harm as a whole. A somewhat different view was presented at the Inquiry on the Appellant's behalf, the gist of which is that since openness is an essential definitional element of the Green Belt, it is already included in that definitional harm and should not be counted as additional harm. To do otherwise would amount to unjustified 'double-counting'.

64. However, despite this point having been conceded by the Council's planning witness, Mr Turner, during cross-examination, I am not persuaded that it is wholly sound. Preservation of openness was removed as a determinant of whether material changes of use in the Green Belt amount to inappropriate development when Planning Policy Guidance Note 2: *Green Belts* was replaced by the Framework in March 2012. The Courts have since confirmed that material changes of use are inappropriate development, and thus harmful by definition, irrespective of their effect on Green Belt openness as they are

not included in the enclosed list of exceptions set out in paragraph 90 of the Framework.

65. The status of openness as a fundamental aim of Green Belt policy and an essential characteristic of Green Belts remains regardless. However, this does not mean to say that all inappropriate development in the Green Belt has an adverse effect on openness (material changes of use and replacement buildings put to different uses to their predecessors being cases in point). It follows that some types of inappropriate development will have a greater impact on openness than others.

66. In my view, it would be wrong for any decision-maker to simply set aside that distinguishing factor, as it would any factor that might help to inform the planning merits of a particular scheme. The Courts never having held to the contrary, I find no sound reason in this case to depart from the usual practice on appeal of assessing harm to Green Belt factors such as inappropriateness, the effect on openness and conflict with the five purposes separately, but to attribute weight only to the totality of Green belt harm.

67. I am also mindful that although the soundness of the recent finding in *Turner* with regard to the assessment of openness, as set out above, was questioned at the Inquiry, that is the current position in law unless and until further judgments prescribe reversion to the conclusion reached in *Timmins & Anor v Gedling BC* [2014] EWHC 654 (Admin) that it was wrong in principle to arrive at a specific conclusion as to the openness by reference to visual impact. I will therefore adhere to the *Turner* principle for the purposes of my decision on Appeal C.

68. In paragraph 25 of the *Turner* judgment, Sales LJ makes it clear that the openness of the Green Belt has a spatial aspect *as well as* a visual aspect and that the absence of visual intrusion does not in itself mean that there is no impact on openness of the Green Belt. In that regard, I note that Mr Crandon on behalf of the Appellant seems to have focussed almost exclusively on the visual component of openness, whereas Mr Turner, for the Council, has carried out a volumetric 'before and after' comparison as well.

69. The latter's finding to the effect that the Appeal C day room and static mobile homes alone would be likely to involve a 672% increase in erosion of three-dimensional space over and above that caused by the lawful stables/tack room structure has not been effectively challenged by the Appellant and I find no reason to question that calculation[2]. Having already found that there would be a discernible but limited effect on the character and appearance of the area, I do not consider that in itself to exacerbate significantly the harm to the spatial aspect of openness that would arise in any event. However, nor is the site so secluded that the level of harm attributed to openness should be tempered by a lack of prominence.

70. The effect of domestic paraphernalia on openness strikes me as insignificant in the context of the scheme as a whole. The parking of vehicles and touring caravans on the site ancillary to residential use in association with the Appeal C scheme also has less significant implications for openness as such

[2] Having said this, I find little merit in the Council's attempts to draw a distinction between the Appeal C scheme and that subject to the *Turner* judgment. The latter effectively establishes a point of principle that is applicable across the board, irrespective of the precise nature of the Green Belt development being addressed.

presence would not, by its very nature, be continuous but, nonetheless, cannot be disregarded. However, it is tempered to a degree by the fallback position of keeping horses on the site, as occurred in the past, which would be likely to involve daily vehicular activity.

71. Moreover, as previously referred to, Mr Cunningham explained at the Inquiry that moveable field shelters would be more suitable for his horses than the existing stable/tack room structure which, I concur, is somewhat rickety and unfit for purpose. I find no reason to assume that these would not appear in the paddock irrespective of whether Appeal C is dismissed and am mindful that, in such circumstances, the existing lawful building might well be retained. All this must be factored in when assessing the likely overall impact on openness that might arise from a grant of planning permission.

72. I now turn briefly to consider the effect of the appeal development on the Green Belt's role in assisting in safeguarding the countryside from encroachment, this being the only 'purpose' identified in paragraph 80 of the Framework of significant relevance to this case. The addition of static mobile homes and a substantial area of high quality hardstanding capable of accommodating domestic vehicles and other ancillary items in all weathers inevitably erodes the area that might otherwise be devoted to more traditional countryside pursuits.

73. Whilst this might be very limited in the context of the surrounding open countryside as a whole, it nonetheless contributes with other schemes to a cumulative encroachment which has parallels with the risk of 'death by a thousand cuts' identified by Sullivan J as a potential threat to the Green Belt in *R (Heath & Hampstead Society) v Camden LBC* [2007] EWHC 977 (Admin), 2 P&CR 19. This general concept is equally applicable to the effect on openness of relatively small schemes such as this.

74. Pulling all of the above together, I find overall that the Appeal C scheme is likely to give rise to moderate harm in terms of both the erosion of openness and conflict with one of the purposes served by Green Belts, contrary to Strategic Objective 1, Core Policy 1 and Policies GB1 and H6 of the CS and the relevant provisions of the Framework and PPTS. Looking at this in the round with the harm inherent in inappropriateness, I conclude that the weight given to harm to the Green Belt in its totality should be substantial.

Other considerations

75. I turn now to address other considerations that, potentially, might clearly outweigh the harm to the Green Belt and visual detriment identified above and any other harm so as to provide the very special circumstances required to justify a grant of planning permission.

Unmet need

76. CS Policy H6 sets out the gypsy and traveller pitch requirements for South Staffordshire to 2027. It draws objectively assessed need in accordance with the PPTS and seeks to maintain a five year supply of specific deliverable sites identified on an annual basis, identifying a cumulative need for 54 permanent residential pitches to 2021 and 75 to 2028. It also states that it will seek to secure the provision of a suitably located public site or sites 'if necessary'.

77. The Policy H6 requirements are based on the findings of the Gypsy and Traveller Accommodation Assessment (GTAA) 2008. This has been thoroughly considered as part of a Local Plan Examination and, as Dr Murdoch points out on the Appellant's behalf in his written evidence, Policy H6 remains the relevant development plan policy for the assessment of need. However, the 2008 GTAA is based on data collected some nine years ago and is now considerably out of date. Inevitably, this must temper significantly the weight that I am able to attach to the 2008 GTAA and to development plan policies so far as they are informed by it.

78. Indeed, this is recognised by the Council which, instead, relies for its need base data on a new GTAA published in 2014 and drawing on information gathered during the previous year. The publication of the 2014 GTAA was intended to 'reset' the CS Policy H6 pitch requirements, identifying a shortfall of 11 pitches over the five year period 2013 to 2018. This has been extrapolated over the remaining CS plan period to 2028 to indicate an overall requirement of 33 additional pitches (albeit that detailed justification for extrapolating in this way has not been forthcoming).

79. The 2014 GTAA advises that the need for the period to 2018 should be viewed as a minimum and that the demand for pitches should be regularly reviewed to determine the extent to which this minimum requirement is changing over time. On the Council's figures, since the publication of the 2014 GTAA, 15 permanent pitches have received planning permission and a further two have been granted a Lawful Development Certificate (LDC). On Mr Turner's calculations, as set out in Appendix 11 to his proof of evidence, this has converted what was a considerable shortfall of permanent residential pitched for the period to 2018 to a surplus of six additional pitches.

80. This requirement, as well as that for the remaining CS plan period, was expected to be delivered through the SAD. Consultation on the Preferred Options for this document, which sets out a number of existing traveller sites under consideration for further pitch allocations but no new sites, ran until 12 February 2016. In his written evidence Mr Turner expected the SAD to be adopted in early 2017. However, at the Inquiry he acknowledged that there had been slippage, such that the Examination is not now expected to take place until Summer 2017 with a view to final adoption the following year.

81. It is also pertinent that the relevant five year period has since 'rolled on' and now runs to 2021 rather than 2018. Even on Mr Turner's figures, as set out in Appendix 11 to his proof, this converts a perceived six pitch surplus into a one pitch shortfall. In this regard I am mindful that the PPTS does not attach different weight according to the level of shortfall such that, for the purposes of my decision on Appeal C, whether the five year deficit is one pitch or 100 should not matter. However, irrespective of this, there are other concerns.

82. The robustness of the 2014 GTAA will be tested in due course as part of the SAD Examination process. Nonetheless, the Appellant has pointed to what he perceives to be a significant flaw in its methodology and which, in his view, already indicates that it underestimates the level of need. The 2014 GTAA relies on an annual site turnover rate of 9.64% on authorised pitches. This is based on the number of households who moved to their current pitch in the last five years, but it is at variance with the stated intentions of surveyed households, none of whom planned to move in the next five years.

83. One of the authors of the 2014 GTAA, Dr Bullock, gave evidence as to his methodology at the Inquiry but was unable to offer reassurances sufficient to allay my concerns. He effectively confirmed that the number of households who moved to their site from other authorised sites in South Staffordshire was not properly factored in, and that existing households planning to move within the next five years appear to make no contribution to the total need figure thus derived. This being so, I consider the assumption regarding pitch turnover, which is a significant component of supply, to be too simplistic and thus misleading[3].

84. To my mind, this alone renders the 2014 GTAA, and thus any need calculations based upon it, unreliable. However, there are other aspects of the GTAA methodology and the Council's wider case on need that add to my concern. Amongst these is an absence of any attempt to identify which sites could in fact be turned over, in the sense that some are subject to personal permissions that would preclude this from occurring lawfully. The assumed annual turnover rate is thus untenable.

85. Nor did the GTAA reliably identify overcrowding or doubling up on existing sites. I do not attach significant weight to the unsubstantiated anecdotal evidence of Mr Cunningham in this regard. Nonetheless, Ms Macdonald, for the Council, acknowledged that this was taking place on some sites in 2013 when the GTAA was being prepared and is ongoing today. She could not explain why this information was not passed to Dr Bullock's team at the time, his evidence to the Inquiry being that he relied on the Council in this regard.

86. Additionally, the GTAA interviews were confined to May and June 2013, whereas the DCLG's *Gypsy and Traveller Accommodation Needs Assessments* Guidance (October 2007) indicates at paragraphs 81 and 82 that a GTAA is best conducted over a six to nine month period to identify the effect of seasonal migration. There will generally be lower numbers of travellers on their settled bases in summer, which is the peak period for travelling, whereas those coming into the area from elsewhere are, for similar reasons, best assessed at that time.

87. Nor do I see evidence that the GTAA assessed qualitative need in the manner set out in paragraph 22 of the above Guidance, in terms of public and private ownership, range, tenure and location of sites, all of which should have been factored in. The Council's current stance that all future provision should be secured on privately owned sites is not therefore underpinned by the 2014 GTAA, despite the reference in CS Policy H6 to possible public site provision.

88. I turn briefly to consider the situation at Kingswood Colliery in Great Wyrly, South Staffordshire, which benefitted from a grant of planning permission on appeal on 15 March 2016 for 14 caravans for residential occupation by gypsies and travellers (ref no APP/C3430/C/ 15/3130029). The Council relies heavily on this recent decision as a means of reducing the five year shortfall in residential pitch provision. However, I am mindful that conflicting evidence

[3] My finding tallies with that of a fellow Inspector who determined appeal ref no APP/C3430/A/13/2205793, relating to Rose Meadow Farm in Prestwood, South Staffordshire, on 17 August 2015. The Council relies heavily on the more recent decision of another Inspector who, in determining appeal ref no APP/C3430/A/13/2210160 on 12 January 2016 (relating to New Acre Stables, Penkridge, South Staffordshire), effectively set aside criticisms of the 2014 GTAA. However, I have seen nothing to indicate that she was able to benefit from a thorough analysis of the GTAA of similar intensity to that presented to this Inquiry by one of its authors, Dr Bullock, and Dr Murdoch.

was given by different witnesses at the Inquiry (and sometimes by the same witness) as to whether the site in question was already occupied unlawfully by travellers[4] at the time of the GTAA survey, the reliability of which I am unable to resolve on the limited information before me.

89. The uncertainty thus engendered is sufficient to temper the extent that I am minded to rely on those caravans as a means of reducing the five year deficit, as opposed to merely authorising the ongoing presence of travellers whose needs fell beneath the radar of the GTAA. It also suggests that in addition to the absence of an identified five-year supply of sites, there could well be a significant immediate unmet need for pitches in South Staffordshire. The likelihood of this is heightened by 16 'not tolerated' caravans having been recorded on unauthorised sites in the DCLG's January 2016 count of traveller caravans and the inability of the Council to identify any alternative pitches to which the Appellant and his family could move.

90. It is also of interest that, on the evidence before me, the emerging SAD at present provides only for the expansion of the number of pitches on existing lawful sites, rather than for the allocation of brand new traveller sites. Whilst this will be fully explored by the Examination in due course, it does raise a number of questions as to the practicality of such allocations as a means of addressing need for allcomers. After all, it is not necessarily the case that the owner of a private traveller site, perhaps accommodating a single household or extended family, will look favourably on the option of extending occupancy to strangers.

91. This in turn suggests that sites other than those currently listed in the Preferred Options document may need to be looked at during the course of the Examination and that, consequently, finalisation of the SAD allocations may take longer than currently anticipated by the Council. Having heard the views of both main parties in this regard, I conclude on the evidence before me that sites allocated by the adopted SAD are unlikely to be delivered until four years' time.

92. In summary, the available evidence suggests on the balance of probabilities that there is a current shortfall against the 'reset' phased provision such that there is a lack of a five-year supply of suitable pitches[5], that this figure in itself is unreliable by reason of the shortcomings of the 2014 GTAA, that there is a significant immediate need for traveller pitch provision in the District, that there is no guarantee that the latter will be addressed through the development plan process for some time yet and that there are no suitable available sites to meet the prospective occupiers' needs.

93. In non-Green Belt territory this would certainly carry very substantial weight. However, in this case there are other factors to consider, most notably the provisions of paragraphs 16 and 27 of the PPTS. I will therefore reserve the

[4] As distinct from travelling showpeople entitled to lawful occupation by reason of LDCs granted in 2000 and 2007 (a further LDC for that use was granted on appeal in 2014).

[5] At the Inquiry the Appellant invited me to specify levels of unmet need for permanent residential traveller pitches, both immediate and in relation to the required five year supply. However, having attempted the necessary calculations it is readily evident to me that uncertainties inherent in the flawed 2014 GTAA and the anecdotal nature of evidence concerning site occupancy render any precise figures in this regard essentially meaningless. This being so, it would be potentially misleading, and therefore quite wrong, to include such figures in my decision.

final distribution of weight to the balancing exercise set out in the 'Analysis' sub-section below.

Alternative accommodation

94. There is nothing of substance before me to the effect that any intended resident of the appeal site who is intended to benefit from a planning permission pursuant to Appeal C owns or has access to any other sites that could lawfully accommodate traveller pitches. South Staffordshire does not have a public site and the Council has been unable to suggest any alternative caravan site to which the Appellant and his family might be able to relocate at the present time. The Appellant also provides an undated email from Walsall Council to the effect that no vacancies on a public site in that area are expected in the immediate future.

95. Several letters signed by other caravan site owners in the wider locality suggest that Mr Cunningham has enquired frequently about vacancies on their land to no avail. However, the weight I attach to these is tempered by the fact that none are dated, their signatories did not attend the Inquiry as witnesses and most seem, by reason of similar or identical wording, to have been drafted by the Appellant or a representative in readiness for signature rather than written by the owners themselves. Moreover, the Cunninghams are a well-travelled family with Yorkshire origins, whose reasons for wishing to settle in this part of the West Midlands beyond a general liking for the area remain unclear.

96. However, having said this, there is no obligation on the Appellant to demonstrate the non-availability of alternative sites or any specific local ties. Rather, it is the Council's responsibility to make adequate provision within its boundaries for all gypsies and travellers wishing to settle in South Staffordshire. Given their heritage, I find no reason to question the aversion of all the adults resident on the appeal site to living in bricks and mortar and thus the need to find lawful caravan pitches for them to move to rather than conventional dwellings.

97. I therefore conclude that it has not been demonstrated that suitable alternative accommodation would be available for any of those wishing to remain on the appeal site, should they be required to leave at this time. The probable consequence of dismissing the appeal is therefore that at least some family members would end up on the roadside. Moreover, I am mindful that the Public Sector Equality Duty (PSED) requires the decision-maker to have due regard to take steps to meet the needs of ethnic Gypsies to live in caravans.

98. I conclude on the balance of probabilities that no alternative accommodation appropriate to their gypsy status is available to the family at the present time or is likely to become so in the immediate future. Upholding the enforcement notice would therefore, in all likelihood, force them back to the road. The weight to be attached to this will be determined by the family's other personal circumstances, which I now move on to address.

Personal circumstances

99. The Appellant has advised that the present and intended occupiers of the four pitches at the appeal site for the foreseeable future are:

- He (John Cunningham Senior) and his wife Anne Marie;
- His son John Cunningham Junior and daughter-in-law Natasha, together with their children Anne Marie (aged 5) and Brooke (2).
- His son Jason and daughter-in-law Jasmine, who are expecting their first child.
- His son Asa Cunningham and daughter-in-law Hayley, who are also expecting their first child.

100. On Mr Cunningham's evidence, he had always led a nomadic lifestyle in keeping with his traditional Romany heritage without a settled base until moving onto the current site in 2015, as did his wife, three sons and daughter (now resident in Wales) while the family was growing up. All four men continue to travel away for work (primarily groundwork and horse breeding/selling at various Gypsy fairs across the country) for around four months a year, sometimes for weeks at a time. The women and children remain on the site at Coven Heath for the most part, but continue to travel on occasion.

101. The extended family's recent decision to settle in one place was prompted by a desire for the children, both existing and awaited, to have proper access to education and health facilities. Anne Marie already attends a local primary school, Featherstone Academy. Brooke has a place at the Academy's pre-school Play Group Nursery (commencing September 2016). Moreover, Brooke has been diagnosed with epilepsy, documentation from the Royal Wolverhampton NHS Trust confirming that her condition is uncontrolled and under review and that she could have a seizure at ay time.

102. Medical advice from her Epilepsy Nurse Specialist is that in an emergency it would be better for her to attend the local hospital that knows her care well. She goes on to advise that it would be imperative that her family should be close to provide support and that the family remain settled locally at this time. I recognise that these medical and educational needs could potentially be dealt with elsewhere. However, this would be far from ideal in Brooke's case and there can be no dispute that a travelling lifestyle is not conducive to the needs of small children generally. Taking to the road at present would, undoubtedly, be to the detriment of the children's needs.

103. Moreover, I am mindful that in the case of *Jane Stevens v SSCLG & Guildford BC* [2013] EWHC 792 (Admin) it was found that, where gypsy families include children, rights under Article 8 of the European Convention on Human Rights as incorporated by the Human Rights Act 1998 have to be interpreted in the light of international law. *ZH (Tanzania) v SSHD* [2011] UKSC 4 establishes that the 'best interests' of children should be a primary consideration, reflecting Article 3(1) of the United Nations Convention on the Rights of the Child. This being so, I find the personal circumstances of Brooke and Anne Marie to be the most compelling and that the case for their parents, John Cunningham Junior and Natasha, remaining on the appeal site is therefore stronger than that for other adult members of the family. No other site resident has serious health issues or current educational requirements.

104. However, there are obvious advantages for the family as a whole in being registered with a GP reasonably close at hand, particularly the two expectant mothers, which the Appellant advises is the case at present. This would be difficult to ensure without a settled base. Moreover, there is no sound reason

why the *ZH (Tanzania)* judgment should not apply to children yet to be born but who are known to be on the way. The case for Asa and Jason Cunningham and their wives to remain settled will strengthen once their children are born in the very near future and their health and, with time, educational needs assume significance.

105. John Cunningham Senior and his wife Anne Marie no longer have dependent children of their own, which raises the question of why they also need to reside on the appeal site. The Appellant's response at the Inquiry was twofold. Firstly, the best interests of Anne Marie, Brooke and their unborn cousins would also be served by living on a site with close relatives who could assist with child care, particularly whilst the fathers were away travelling. Secondly, the extended family is a strong cohesive unit within which members are very much dependent on one another for care and support, and has never lived apart.

106. Again, mindful of the provisions of paragraph 16 of the PPTS. I will reserve the allocation of weight to the personal circumstances of any of the site residents until the balancing exercise set out in the 'Analysis' sub-section below.

The Public Sector Equality Duty and Human Rights

107. The PSED is set out in section 149 of the Equality Act 2010 and requires that due regard be had to the need to:
    (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act;
    (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
    (c) foster good relations between persons who share a relevant protected characteristic and those who do not share it.

    Protected characteristics include race.

108. Moreover, section 149 specifies that having due regard to (b) above involves having due regard, in particular, to the need to:
    - remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
    - take steps to meet the needs of persons who share a relevant protected characteristic that are different to the needs of persons who do not share it; and
    - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

109. Having regard to the personal circumstances and alternative accommodation situation summarised above, it is readily evident that requiring the Appellant and his extended family to leave the appeal site at the present time when there is nowhere suitable for them to go would constitute a failure to uphold the principles of PSED. This carries substantial weight in determining Appeal C.

110. Moreover, Article 8 of the European Convention on Human Rights (as incorporated by the Human Rights Act 1998) affords the right to respect for private and family life. It is clear that upholding the enforcement notice

would interfere with the Article 8 rights of the Appellant and his extended family. Indeed, the Courts have held that Article 8 imposes a positive duty to facilitate the Gypsy way of life, as defined by race and ethnicity rather than planning policy.

111. Any interference in this regard must be balanced against the public interest in upholding planning policy to protect the Green Belt and the environment generally. In the light of the same factors that have informed my consideration of the PSED, I find that complete dismissal of Appeal C would be disproportionate in the terms of the 1998 Act. This also carries substantial weight.

112. The granting of time limited permissions would also interfere with the family's Article 8 rights. However, I am satisfied that, as more suitable and reasonably local alternative sites may be available for them to relocate to in four years' time, it is unlikely that they would be made homeless or deprived of essential health care or educational resources at that point. The refusal of a permanent permission (should the balance of planning considerations justify this), but granting of a temporary one would therefore be proportionate in the terms of the 1998 Act.

Additional matters

113. I have considered all the other matters raised. It is common ground between the main parties that, for the most part, the appeal scheme is sustainable in the terms set out in paragraph 7 of the Framework and 13 of the PPTS. I depart from this finding to a degree in that the limited visual harm to the surrounding area identified above suggests that the environmental role of such development is not properly fulfilled in this case. However, sustainability shortcomings in this regard are not so great in the context of the PPTS as to conflict seriously with national policy or Strategic Objectives 6 or 13, Core Policy 11 or Policy EV11 of the CS and thus weigh significantly against the Appellant.

114. Having said this, I am not persuaded that the concept of 'previously development land' (PDL) plays a significant role in establishing sustainability credentials in this case. The High Court in *R (oao Lee Valley RPA) v Broxbourne BC* [2015] EWHC 185 (Admin) found that PDL status is an 'other consideration' for the purposes of paragraph 88 of the NPPF that can sometimes lead to very special circumstances. However, on the appeal site this is essentially confined to the footprint of the stable/tack room, an area so small in the context of the residential compound as a whole that it merits little consideration.

115. I give little credence to the notion that the appeal development has the potential to disrupt the social cohesion of the local community. There is clearly some friction between the Appellant's family and certain neighbouring residents. However, on the evidence before me this is more of a personal nature between individuals than something arising from an imbalance between the traveller population and others, the sites at Brinsford Bridge and Horden Lodge being reasonably distant from those living closest to the appeal site. Indeed, a very substantial petition, the authenticity of which as a document coordinated by the local post office I find no reason to question, shows significant support for the Cunninghams throughout the wider area.

116. On the opening day of the Inquiry legal submissions were made to the effect that the High Court's judgment in the case of *Wenman v SSCLG & Waverly BC* [2015] EWHC 925 (Admin) took precedence over the associated Written Ministerial Statement (WMS) issued on 2 July 2015 and that the judgment weighed significantly in favour of the Appellant in this case. However, it later emerged that the Appellant had not, after all, chosen to challenge the Council's position that it was able to demonstrate the availability of a five year supply of conventional housing land. That being so, I find *Wenman* to be of very limited relevance irrespective of whether or not it was rendered ineffective by the WMS and it has not informed my determination of Appeal C.

117. I am mindful that the scheme subject to Appeal C has not been fully implemented. Nonetheless, it is fair to say that it has been commenced, by reason of a material change of use to a residential caravan site, alterations to the access and the creation of some of the intended hardstanding. The concept of 'intentional unauthorised development' (IUD) is therefore a material consideration. The Appellant has not sought to deny that the scheme so far as implemented to date is unauthorised or that his decision to implement it was intentional. However, he pleads that in circumstances where no other sites were known to be available in the District for even temporary settlement he was faced with little option other than a roadside existence most unsuitable for some members of his family. I concur and thus give very little weight to IUD status in this particular case.

118. I have heard conflicting evidence about whether or not the Appellant was responsible for the loss of a tree on the appeal site. In the absence of persuasive photographic evidence I am unable to resolve the largely anecdotal claims for either side. The issue has not therefore informed my decision one way or the other. I also find that, notwithstanding representations made by some local residents, concerns regarding highway safety, pollution, biodiversity, impacts on residential amenity, pressure on local infrastructure and flooding issues have not been substantiated.

119. Perceived dangers associated with dogs kept on the appeal site fall to be dealt with under other legislation and are not matters for me. Nor is devaluation of property a material planning consideration. Although touched on by the main parties, I am not persuaded that Strategic Objectives 2, 3 or 8, Core Policy 6 or Policies CS1, EQ1, EQ7, EQ8, EQ9 or EV12 of the CS are determinative in this case. I therefore find that, overall, neither these additional matters nor any others raised carry significant weight for or against the appeal scheme.

Analysis

120. The appeal scheme has harmful implications for the Green Belt in terms of inappropriate development, the erosion of the openness of the Green Belt and fulfilment of the purposes of including land within so far as these concern safeguarding the countryside from encroachment. In accordance with national policy, such harm carries substantial weight and, for the reasons I have already explained, I do not share the Appellant's view that my conclusion in this regard is tantamount to 'double-counting' the effects on openness. I also attribute limited additional weight to the harm caused by the appeal development to the character and appearance of the surrounding area.

121. I am mindful that paragraph 16 of the PPTS states that subject to the best interests of the child, personal circumstances and unmet need are *unlikely* [my emphasis] to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. However, Brooke Cunningham's medical condition is such that I find her exceptional circumstances to transcend the general thrust of that policy. This alone leads me to attach very substantial weight to the personal circumstances of Brooke and her parents, John Junior and Natasha Cunningham, as her primary carers, but the importance of educational stability for both children, stemming from a settled base as distinct from a roadside location, also supports the case for that part of the family remaining on site for the time being.

122. The personal circumstances of the remaining site residents do not carry the same weight due to the absence of medical problems. Nonetheless, my findings in relation to Human Rights and the PSED weigh further in their favour of the extended family as a whole. Moreover, the roles of the other younger adults and grandparents in providing support care for Brooke and Ann Marie, given the former's medical condition, are significant. The case for Asa, Haley, Jason and Jasmine remaining on site is further strengthened by the fact that both women are expectant mothers who would clearly benefit from a settled base with ready access to health facilities both before and after the births, to which a roadside existence is far from conducive.

123. Moreover, I am satisfied that the 'best interests of the child' caveat in paragraph 16 of the PPTS is triggered by the two children yet to be born and will become increasingly significant as those children progress to educational age. Concurrently, the importance of mutual support in terms of child care within the wider family will also increase with time. Therefore, taking a longer term view I attribute substantial weight to the personal circumstances of the two expectant couples. Nonetheless, notwithstanding this, justification for John Cunningham Senior and his wife Anne Marie remaining on site is more tenuous given that they no longer have resident dependents. In view of the presence of other potential carers, their ongoing presence is less crucial and carries only moderate weight.

124. Additionally, paragraph 27 of the PPTS states that the failure of the Council to demonstrate a five year supply of gypsy and traveller pitches in the District should be a 'significant material consideration' when considering applications for the grant of temporary planning permission other than, amongst other things, on Green Belt land. However, even setting aside the Appellant's argument that the term in question has little meaning in law and that what is 'significant' must be a matter for the decision maker, I am mindful that the position in South Staffordshire is exceptional.

125. This is because, in all likelihood, most if not all new development plan pitch allocations will have to be made within the Green Belt. Indeed, some 80% of the District is Green Belt and the Council readily conceded at the Inquiry that the prospect of finding land suitable for new pitches outside that designation is very slim. This does not release the Council from its pitch allocation responsibilities, the underlying principles of which ultimately are embedded in PSED and Human Rights legislation. Rather, it points to firm justification for a departure from the strictures of paragraph 27 in this particular case.

126. I therefore take the view that, despite the provisions of paragraphs 16 and 27, the failure of the Council to demonstrate a five year supply of pitches, the likelihood of an immediate need for additional pitch provision, the personal circumstances of most of the extended family, the advantages of having relatives close to hand to provide childcare support, PSED and Human Rights considerations and the absence of suitable alternative accommodation at which help could be provided all weigh substantially in favour of granting temporary planning permission for the appeal scheme. However, that view does not extend to the granting of permanent planning permission.

127. The future allocation by the development plan of alternative sites suitable for the Appellant and his family is unlikely to include land outside the Green Belt. Nonetheless, there seems to be a distinct possibility that the eventual Examination process may well bring forward sites not currently listed in the SAD 'Preferred Options' document against which comparison with the appeal site will be necessary. Until that process is complete, a reasonable chance remains that sites less harmful to the Green Belt in terms of relative impact on openness and encroachment and less intrusive in terms of visual amenity (for example, sites with a sounder claim to PDL status) will be released in a few years' time.

128. Despite the Appellant's contention to the contrary, the land at Fairhaven has not been shown to stand apart as a site that would fair well in a comparative exercise with others thought to have potential such that its permanence should be confirmed at this stage, that exercise not having been carried out properly by either main party. This effectively rules out the granting of a permanent permission pursuant to Appeal C, but does not undermine the desirability of a temporary permission that would meet the immediate needs of the Appellant's extended family and endure until sites allocated via the SAD are ready for delivery, a situation that on the evidence before me is likely to emerge for the best part of four years.

129. I am mindful that a strong case for the Appellant and his wife, Anne Marie, to remain on site even in the short term has not been made. However, returning to consider this further, the acceptability in planning terms of the continued presence of a residential caravan site comprising three static homes and a day room for the three younger couples, as established above, effectively sets a fallback position for a considerable base level of ongoing planning harm.

130. Against that background, the presence of two additional residents in one extra static mobile home would make very little difference to the degree of detriment already caused. I must also factor in harm to the interests of those two residents associated with their Human Rights and the PSED, given their undisputed Gypsy heritage, and the absence of an alternative location to move to where they could continue to live in accordance with their traditions.

131. Accordingly, taking all of the above into account, I conclude that harm to the Green Belt and any other harm is clearly outweighed in this particular case in relation to all intended residents of the site, so as to provide the very special circumstances required to justify a grant of temporary planning permission of four years' duration, in accordance with the general thrust of national policy and the development plan but justifying an exceptional departure from some specific policies and provisions as detailed above. Appeal C therefore succeeds to that extent.

Conditions

132. I have considered all the conditions suggested by the main parties and highway authority and discussed at the Inquiry, having regard to the relevant guidance found in the DCLG's Planning Practice Guidance. In doing so I have edited some of the suggested wording and combined certain conditions in the interests of conciseness, precision and effectiveness. The material change of use already having taken place, no standard commencement time limit condition is required. However, as the Appeal C scheme has not been fully implemented I have attached a condition listing the approved drawings in order to facilitate applications for minor material amendments.

133. The ongoing use of the land as a residential caravan site is acceptable principally by reason of exceptional personal circumstances. The Green Belt location and visual considerations essentially rule out a permanent permission. It follows that occupation should be limited to an updated list of named individuals and their resident dependents, with the site being cleared and restored at the end of that period or whenever they leave in accordance with an approved restoration scheme, whichever is the sooner.

134. Moreover, a temporary permission is justifiable only until sites allocated by the SAD become available. At the Inquiry the Council suggested that any permission should endure for three years, whereas the Appellant favoured five years. On the evidence before me, and factoring in time to secure the delivery of any sites thus allocated, I find a maximum period of four years to be sufficient to cater for the particular needs of the intended occupiers of the site. Medical conditions, where relevant, could be reviewed at the end of that period.

135. A condition restricting the number and types of mobile homes/caravans is required in the interests of visual amenity but, for additional clarity, specifying that four pitches are approved and must be confined to that part of the site closest to the road. In the light of the personal occupancy restriction referred to above, there is no need to restrict occupancy to gypsies and travellers. Nor would it be appropriate to tie the positions of the mobile homes/caravans to the particular footprints shown on the revised layout plan at this stage, given that precise details of the accommodation in question have not been submitted.

136. Rather, for reasons of both visual amenity and highway safety, the submission for the Council's approval of a site development scheme, to include details of the precise positions of all mobile home and caravans, existing and proposed planting, boundary and hard surfacing treatments, vehicular access, parking and turning facilities and entrance gate(s), should be secured by condition. That condition must require the cessation of residential caravan site use in the event of non-compliance therewith and include reference to the appeal process, thereby ensuring that the ability to adhere fully to the terms of the condition remains in the hands of those implementing the permission.

137. A condition of similar format is required to secure the restoration scheme previously referred to. Adherence to the approved site development scheme for the life of the permission, together with a provision for replacement planting, should be subject to a further condition to safeguard visual amenity and highway safety. For the same reasons, commercial use (other than

vehicle parking) must be precluded, the position of the entrance gate(s) set at least 8 metres back from the vehicular carriageway and restrictions placed on the size, number and type of vehicles kept at the site. Notwithstanding a suggestion at the Inquiry to the contrary, I am satisfied that the latter would be properly enforceable.

138. The position of the proposed day room and preclusion of its use as a self-contained unit of accommodation should be specified by condition. However, I find no reason to require further information regarding its external materials and finishes, these being adequately detailed on revised drawing TDA/2196/02. Nor would it be appropriate to take forward as part of this permission the highway authority's requirement for works to be undertaken to the public highway, that authority being able to secure works on highway land by other means.

The appeals on ground (g) – Appeals A, B, D & E

139. Appeals on ground (g) are pursued on the basis that the periods specified for complying with the requirements of both enforcement notices fall short of what should reasonably be allowed. Appeals D & E, which are confined to ground (g) alone, no longer need to be considered. This is because my decision on Appeal C essentially grants planning permission for the material change of use that has already occurred and is targeted by the Appeal D & E notice, albeit subject to a number of conditions yet to be complied with. Although that notice is to be upheld, section 180 of the 1990 Act as amended ensures that it ceases to have effect so far as it is inconsistent with the Appeal C permission.

140. The appeals on ground (g) against the Appeal A & B notice remain formally before me for the simple reason that the existing gate thus targeted is different to that approved pursuant to Appeal C (the approved layout plan for which shows proposed double gates rather than the existing single one). In other words, there is currently a minor inconsistency between the development subject to that notice and the Appeal C permission on which section 180 does not bite.

141. In that regard, nothing before me suggests that the removal of the existing gate and its replacement with double gates with the benefit of planning permission need take longer than the prescribed six months. The appeals on ground (g) against the Appeal A & B notice therefore fail. However, in practice it would seem likely that the retention of the existing gate may be agreed with the local planning authority pursuant to conditions attached to the Appeal C permission, such that section 180 will eventually apply to the operational development notice as a whole.

Conclusions

142. For the reasons given above I consider that Appeals A and B should not succeed. However, I further conclude that Appeal C should be allowed and planning permission granted for a temporary period. This being so, Appeals D & E, which are on ground (g) alone, need not be considered. Rather than quash the two enforcement notices I will uphold them with corrections. However, section 180 of the 1990 Act as amended ensures that they both

cease to have effect so far as either is inconsistent with the Appeal C planning permission.

Formal decisions

Appeals A & B: APP/C3430/C/15/3134499 & APP/C3430/C/15/3134500

143. It is directed that the enforcement notice be corrected by:
   (i) the deletion of the plan attached to the notice and the substitution of Plans 1 and 1A attached to appeal decisions ref nos APP/C3430/C/15/ 3134499 & C/15/3134500;
   (ii) in the main heading below the words 'ENFORCEMENT NOTICE', the deletion of the words ' off Shaw Hall Lane, Opposite Shaw Hall Farm' and the substitution therefor of the words 'at Fairhaven, Shaw Hall Lane';
   (iii) in section (2), the deletion of the word 'off' and the substitution therefor of the words 'at Fairhaven,' and the deletion of the words 'red on the attached plan' and the substitution therefor of the words 'with a thick black line on Plan 1 attached to appeal decisions ref nos APP/C3430/C/15/ 3134499 & C/15/3134500';
   (iv) the deletion of the wording of section (3) in its entirety, with the exception of the heading, and the substitution therefor of the words 'Without planning permission, the creation of a hardstanding using imported hard core and associated materials as hatched diagonally on Plan 1 attached to appeal decisions ref nos APP/C3430/C/15/3134499 & C/15/3134500 and the alteration of an access as hatched diagonally and erection of fencing and a gate as marked with a thick broken black line on Plan 1A attached to the said decisions.';
   (v) in section (4), the renumbering of the final two paragraphs as (v) and (vi) respectively;
   (vi) in section (5), the deletion of requirement (vi) in its entirety;
   (vii) in requirement (i) in section (5), the deletion of the words 'all … materials' and the substitution therefor of the words 'the hardstanding created using imported hard core and associated materials as hatched diagonally on Plan 1';
   (viii) in section (5), the deletion of the first requirement (v) in its entirety and the substitution therefor of requirement (ii), to read 'Restore the amended access to its original condition before the breach took place, including the removal of the fencing and gate shown on Plan 1A and the reinstatement of the original gate in its former position.';
   (ix) in section (5), the renumbering of requirement (iv) as requirement (iii) and the deletion therefrom of the word 'appropriate'; and
   (x) in section (5), the renumbering of the second requirement (v) as requirement (iv).

144. Subject to these corrections the appeals are dismissed and the enforcement notice is upheld.

Appeal C: APP/C3430/W/15/3140299

145. The appeal is allowed and planning permission is granted for the material change of use of the land to a mixed use comprising the keeping of horses and use as a residential caravan site, the erection of a day room, gates and fencing, alterations to an existing vehicular access and the provision of surfacing at Fairhaven, Shaw Hall Lane, Coven Heath, Staffordshire WV10 7HE

in accordance with the terms of the application, ref no 15/00746/FUL dated 20 August 2015 as subsequently amended by revised drawings TDA/2196/01 & 02, subject to the following conditions:

1) The residential occupation of the site hereby permitted shall be carried on only by John Cunningham Senior and Anne Marie Cunningham, John Cunningham Junior and Natasha Cunningham, Jason and Justine Cunningham and Asa and Haley Cunningham and their resident dependents and shall be for a limited period of four years from the date of this decision, or the period during which the site is occupied by any of those named, whichever is the shorter.

2) When the site ceases to be occupied by those named in condition 1) above, or at the end of four years, whichever shall first occur, the use hereby permitted shall cease and all caravans, mobile homes, structures, materials and equipment brought onto the land, or works undertaken to it in connection with the use, including the day room hereby permitted, shall be removed and the land restored to its condition before the development took place in accordance with a scheme of restoration work which shall previously have been submitted to and approved in writing by the local planning authority or on appeal.

3) The development hereby permitted shall be carried out in accordance with the following approved plans, subject to any departure therefrom required pursuant to other conditions attached to this permission: drawings 01347/1 Rev 1 and TDA/2196/01 & 02.

4) The site shall contain no more than four pitches. These shall be restricted to the 'gravel area' shown on drawing TDA/2196/01. There shall be no more than eight caravans on the site at any one time, all of which shall be caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended. Of these, no more than four shall be static mobile homes, of which only one may be a double caravan, with the remainder all single caravans.

5) The use of the land as a residential caravan site shall cease and all mobile homes, caravans and associated equipment shall be removed within two 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 a site development scheme specifying all mobile home and caravan positions, existing and proposed planting, boundary and hard surfacing treatments, vehicular access, parking and turning facilities and entrance gate(s) position and design shall be submitted for the written approval of the local planning authority, together with a timetable for its implementation.
   (ii) Within ten months of the date of this decision the details and timetable submitted pursuant to (i) above shall have been approved by the local planning authority or, if the local planning authority refuses to approve them or fails 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 details and timetable shall have been approved by the Secretary of State.

(iv) The scheme shall have been fully implemented in accordance with the details and timetable approved pursuant to (i) to (iii) above.

6) Once implemented, the scheme approved pursuant to condition 5) above shall be adhered to for the lifetime of the permission hereby granted. If any tree or shrub included in the planting that forms part of that scheme is removed or destroyed, becomes seriously diseased or dies within the life of the permission, another tree or shrub shall be planted at the same place and shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

7) The use of the land as a residential caravan site shall cease and all mobile homes, caravans and associated equipment shall be removed within two months of the date of failure to meet any one of the requirements set out in (i) to (iii) below.
   (i) Within one month of the site development scheme approved pursuant to condition 5) being implemented, details of the scheme of restoration work referred to in condition 2), to include the time period within which restoration work shall be undertaken, shall be submitted for the written approval of the local planning authority.
   (ii) Within nine months of submission of the scheme referred to in (i) above the details thereof shall have been approved by the local planning authority or, if the local planning authority refuses to approve them or fails 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 details shall have been approved by the Secretary of State.

8) The day room, if provided, shall be restricted to the location shown on drawing no TDA/2196/01 and constructed and finished in accordance with drawing no TDA/2196/02. It shall not be occupied as a self-contained unit of residential accommodation at any time.

9) No more than one commercial vehicle per occupied pitch, which shall be solely for the use of the residential occupiers of the site and shall be less than 3.5 tonnes in weight, shall be stationed, parked or stored on this site. Other than vehicle parking as described, no commercial use shall take place at any time, including the external storage of materials, unless it forms part of the mixed use the subject of this permission.

10) The gate(s) at the site entrance shall be set back at least 8 metres from the edge of the vehicular carriageway of Shaw Hall Lane and shall open away from the highway.

Appeals D & E: APP/3430/C/15/3134526 & APP/C3430/C/15/3134527

146. It is directed that the enforcement notice be corrected by:
   (i) in the main heading below the words 'ENFORCEMENT NOTICE', the deletion of the words 'off Shaw Hall Lane, Opposite Shaw Hall Farm' and the substitution therefor of the words 'at Fairhaven, Shaw Hall Lane';
   (ii) in section (2), the deletion of the word 'off' and the substitution therefor of the words 'at Fairhaven,';

(iii) the deletion of the wording of section (3) in its entirety, with the exception of the heading, and the substitution therefor of the words: 'Without planning permission the material change of use of the land to a mixed use comprising the keeping of horses and use as a residential caravan site.';
(iv) in requirement (i) in section (5), the deletion of the words 'and occupation of the Land as a gypsy traveller' and the substitution therefor of the words 'of the Land as a residential caravan'; and
(v) in requirement (ii) in section (5), the deletion of the words 'arising from the cessation of the unauthorised use' and the substitution therefor of the words 'associated with use as a residential caravan site'.

147. Subject to the above corrections the enforcement notice is upheld and the appeals do not fall to be considered further in the light of the decision to grant planning permission on Appeal C.

Alan Woolnough

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Alan Masters	Of Counsel, instructed by Dr Angus Murdoch
He called	
Mr J Connors	Former tenant of the appeal site
Mr R Crandon BA(Hons) DipLA LMLI	Director, Tirlun Design Associates
Mr J Cunningham Senior	Appellant
Dr A Murdoch BA(Hons) MSc PhD MA MRTPI	Director, Murdoch Planning Limited

FOR THE LOCAL PLANNING AUTHORITY:

Freddie Humphreys	Of Counsel, instructed by Manjit Dhillon, South Staffordshire Council
He called	
Ms L Macdonald DipTP MRTPI	Principal Enforcement Officer, South Staffordshire Council
Dr M Bullock BSc(Hons) PhD MCIH, MMRS	Managing Director, arc[4]
Mr P Turner MA	Paul Turner Planning Consultancy

INTERESTED PERSONS:

Mr N Williams	Local resident
Mr T Baugh	Local resident
Mrs L Goalby	Local resident
Mr R Quintyne	Local resident

DOCUMENTS PROVIDED AT THE INQUIRY

1 Signed and completed Statement of Common Ground
2 Table 1 of the DCLG Count of Traveller Caravans January 2016, supplied by the Appellants
3 Letters signed by owners of other residential caravan sites, submitted by the Appellants
4 Email from Salindra Kumar to Dr Angus Murdoch dated 10 May 2016, with attachments, supplied by the Council

5 Appeal decisions ref APP/C3430/X/13/2205712 & C/13/2208223 dated 6 November 2014, relating to Kingswood Colliery, submitted by the Appellants
6 Appeal decision ref APP/H1840/W/15/3135053 dated 21 September 2016, relating to Bywater Farm, submitted by the Appellants
7 DCLG Guidance *Gypsy and Traveller Accommodation Needs Assessments* (October 2007), submitted by the Council
8 Additional statement by Ms Macdonald dated 22 September 2016, with attachments, submitted by the Council
9 Certificates of Lawful Use ref 00/00478/LUE dated 5 July 2000 and ref 07/01049/LUE dated 7 November 2007, relating to Kingswood Colliery, submitted by the Council
10 Letter from A Wilde[6] dated 22 September 2016, submitted by Mr Quintyne
11 Letter dated 23 September 2016 from H P Mason, submitted by the Appellants

PLANS

A Plan attached to the enforcement notices
B.1 to B.8 Appeal C application plans comprising drawings ref nos 01347/1 Rev 1, 2 Rev 1, 3B Rev 1, 4 Rev 1, 5 Rev 1, 6 Rev 1, 7 Rev 1 & 8 Rev 1
C Superseded Appeal C application plan, ref no 01347/3 Rev 1
D.1 & D.2 Revised drawings ref nos TDA/2196/01 & 02
E Copy of Exhibit JC1 attached to Mr Connors' statutory declaration dated 27 April 2016 as annotated by Mr Connors at the Inquiry, supplied by the Appellants
F Plan 1A, indicating the access, gates and fencing intended to be targeted by the Appeal A & B enforcement notice, supplied by the Council

PHOTOGRAPHS PROVIDED AT THE INQUIRY

A.1 to A.8 Photographs of the appeal site and surroundings dating from 2002, submitted by Mr Quintyne
B.1 to B.5 Photographs of the appeal site dating from 1995 and 2002, submitted by Mr Quintyne
C.1 to C.5 Copies of photographs B.1 to B.5 with annotations added by H P Mason, submitted by the Appellants

The above lists of documents, plans and photographs exclude items sent to the Inspectorate during the adjournment spanning 8 June to 19 September 2016 inclusive

[6] The signature at the end of this letter is indecipherable. Mr Quintyne asserted that the letter was written by Anita Wilde. The Appellant understood the author's name to be Anita Wilkes. No one associated with the appeals has been able to provide substantive evidence of the correct name one way or the other.

The Planning Inspectorate

Plan 1

This is Plan 1 referred to in my decisions dated: 2 December 2016

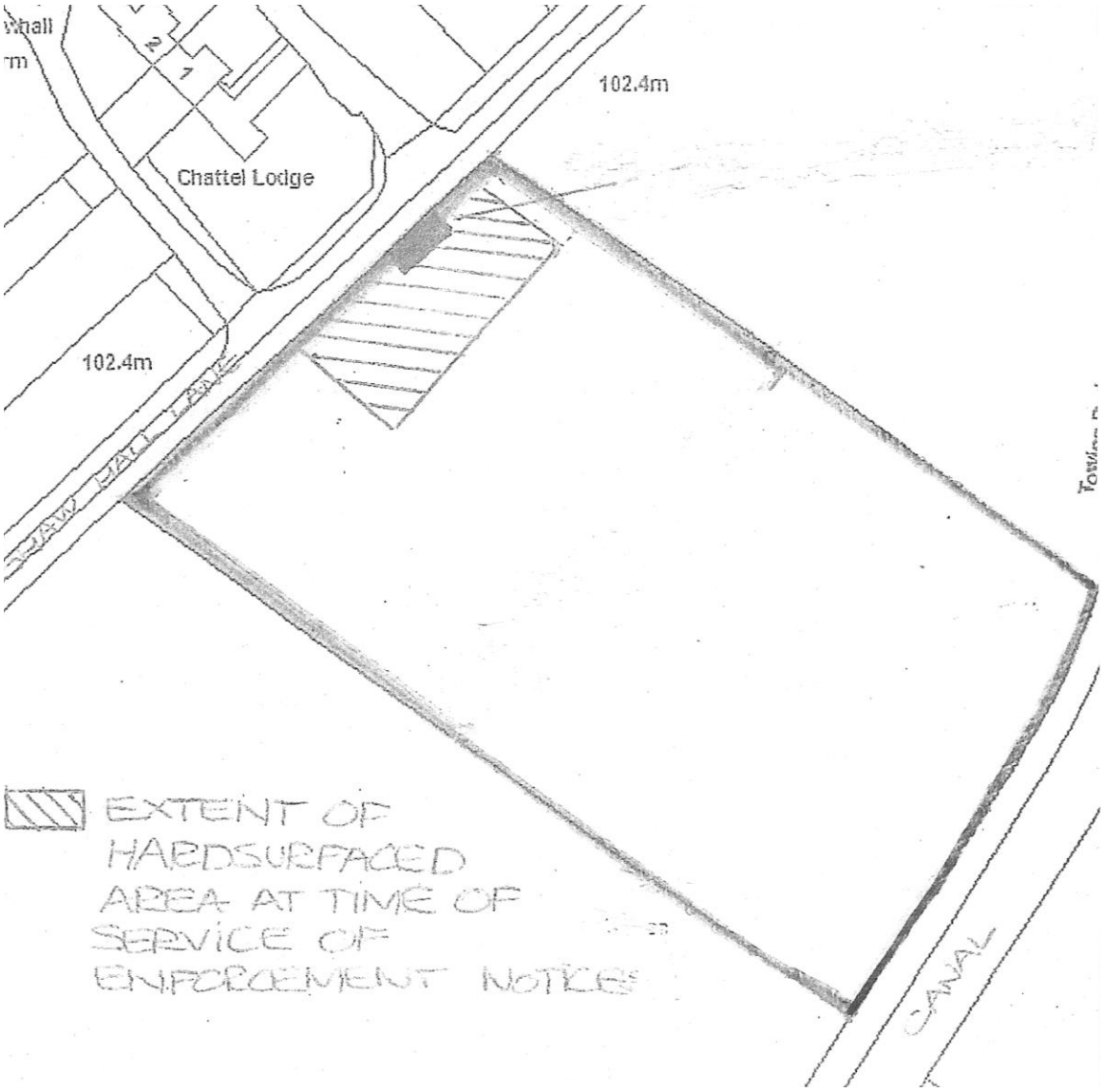
Alan Woolnough

Alan Woolnough BA(Hons) DMS MRTPI

Land at Fairhaven, Shaw Hall Lane, Coven Heath, Staffordshire WV10 7HE

References: APP/C3430/C/15/3134499 & APP/C3430/C/15/3134500

Scale not stated



The Planning Inspectorate

Plan 1A

This is Plan 1A referred to in my decisions dated: 2 December 2016

Alan Woolnough

Alan Woolnough BA(Hons) DMS MRTPI

Land at Fairhaven, Shaw Hall Lane, Coven Heath, Staffordshire WV10 7HE

Reference: APP/C3430/C/15/3134499 & APP/C3430/C/15/3134500

Scale not stated