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# Appeal Decision

Hearing held on 5-7 April 2022

Site visit made on 5 April 2022

**by AJ Steen BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 06 July 2022**

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## **Appeal Ref: APP/H1705/C/18/3210244**

### **Land at Rampiers, Little London Road, Silchester, Hampshire RG7 2PP**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act). The appeal is made by Mr W Connors against an enforcement notice issued by Basingstoke and Deane Borough Council.
- The notice was issued on 20 August 2018.
- The breach of planning control as alleged in the notice is without planning permission:
  - 3.1 The material change of use of the Land from agricultural to a residential caravan site.
  - 3.2 The siting of mobile homes/caravans for residential occupation on the Land.
  - 3.3 The laying of hard standing and sub base.
- The requirements of the notice are to:
  - 5.1 Permanently cease the use of the Land as a residential caravan site
  - 5.2 Permanently remove:
    - i. all mobile homes/residential and touring caravans from the land
    - ii. all domestic paraphernalia from the land
    - iii. all fencing, gates and sheds from the land
    - iv. all hard standing and/or hardcore from the land.
  - 5.3 The making good of all affected surfaces (following the removal of above matters) by:
    - i. For the part of the Land within the SSSI as shown cross hatched red on the attached plan, reinstate the land to its former levels through addition of topsoil;
    - ii. For the part of the Land not within the SSSI; ground preparation (two passes using a tractor based mulcher), and tree whip planting (20% Alder, 20% Willow, 40% Hazel, 20% Oak) spaced at three metres apart and together with deer guards/fencing for all oaks.
    - iii. For the part of the Land within the SSSI as shown cross hatched in red on the attached plan; lightly grade soil using chain harrowing for two passes.
  - 5.4 Following compliance with 5.1, 5.2 and 5.3 above re-seed the Land with grass.
- The periods for compliance with the requirements are:
  - For the actions at paragraph 5.1 – one day
  - For the actions at paragraph 5.2 – 4 months
  - For the actions at paragraph 5.3 – 6 months
  - For the actions at paragraph 5.4 – 7 months
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

**Summary Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and variations in the terms set out below in the Formal Decision.**

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## **Preliminary Matters**

1. The appeal was made on grounds (a) and (g). The occupants have partially complied with the enforcement notice and no residentially occupied caravans remain on the site. As a result, ground (g) was withdrawn during the course of the appeal. However, ground (f) was added. This was subject of discussion at the hearing and no injustice would result to any party in dealing with the ground (f) appeal.
2. It has been drawn to my attention that the name of the property on the enforcement notice was given as Rapiers but should be Rampiers. As the site subject of the enforcement notice is clear, no injustice will arise from correcting this.
3. At the hearing it was requested that I replace the site plan attached to the notice with one at a recognised scale of 1:1,250. As both Council and appellant agreed that would assist with understanding the enforcement notice I will do so.
4. The enforcement notice alleges that the use of the land has changed from agricultural to a residential caravan site. However, I understand it may have been last used for paintballing activities. As there is no requirement to provide the previous use in the description of the alleged breach of planning control and this would not affect the operation of the notice, I shall remove that from the allegation.
5. A revised National Planning Policy Framework (the Framework) was published during the course of the appeal. The Council and appellant were given the opportunity to comment, and I have taken its contents into account in coming to my decision.

## **The Appeal on Ground (a) and the Deemed Planning Application**

### Background

6. An appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. In this case the breach of planning control comprises the change of use of land for use as a residential caravan site and the laying of hard standing and sub base. That hardstanding covers the majority of the area identified on the plan attached to the enforcement notice. The site was divided into 13 pitches and the caravans occupied. I need to consider the appeal as it relates to that development.
7. However, I also note that section 177(1) of the Act enables me to grant planning permission in respect of the matters comprising the breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates. The appellant has requested that I take into account a smaller area that would allow for eight caravan pitches and space that may be available for children to play. During the hearing, a plan was supplied (Document 7) that shows the area where it is proposed the development should be retained. That relates to part of the area that has been developed and comprises part of the matters to which the notice relates. Given the requirements of section 177(1) of the Act, I need to take that into account as an obvious alternative to the development that has taken place. This was discussed at the hearing and the Council have commented on that plan in relation to the main issues.

8. Policy CN5 of the Local Plan (LP) seeks to allocate sites to meet the needs of gypsies and travellers. Where sites other than those allocated are proposed, as in this case, there are a number of criteria against which such development should be assessed. I will return to these matters in my main issues.

### Main issues

9. The main issues are:

- whether the development protects and enhances valued landscapes or recognises the intrinsic character and beauty of the landscape;
- whether the development affects ecology and biodiversity in the area;
- the effect of traffic relating to the caravan site on the safe and efficient operation of the highway network in the vicinity of the appeal site and the use of public rights of way;
- whether occupiers of the residentially occupied caravans would enjoy satisfactory living conditions, having particular regard to noise and odours;
- the effect of the development on flood risk;
- whether the caravan site is in a suitable location in terms of its location in respect to adjacent settlements, services and facilities; and
- whether there are other material considerations that could outweigh any conflict with development plan policies, such as the need for gypsy and traveller accommodation within the District and the personal circumstances of the appellant and other site occupiers.

### Reasons

#### Landscape

10. The appeal site is at the bottom of a valley over a stream from the Silchester Waste Water Treatment Works (WWTW). To the front of the site is a factory. The access route leads from the public footpath and beside the factory. The public footpath leads to Little London Road and is a shared access with the factory, WWTW and properties on the opposite side of the track. It leads onto the network of footpaths in Pamber Forest. A planted bund is located around the factory that blocks views from the site and land beyond to some extent. The site previously contained small structures used to support paintball activities on the land. Development on the site is seen within the context of Pamber Forest, WWTW and the factory.
11. The network of footpaths within Pamber Forest lead to the settlements of Silchester, Tadley and Pamber Heath. I note that there are other caravans at Sleepy Hollow on the other side of Pamber Forest. I understand that permissive rights have been granted for the public to walk over Pamber Forest to the site boundary.
12. The surrounding landscape largely comprises the woodland of Pamber Forest over the valley sides with more open grassland around the stream on the valley bottom. It is an attractive landscape close to the village of Silchester, providing recreational opportunities for local residents. Whilst it is not designated for its natural beauty it is, nevertheless, a landscape that is valued locally.

13. The development that has taken place has resulted in the loss of trees and landscaping. A substantial area of hard standing has been provided and residentially occupied caravans were sited on the land. This resulted in significant built intrusion into this landscape in addition to the neighbouring factory and WWTW. That has not protected or enhanced the landscape.
14. The revised proposals for eight pitches over a much smaller area would result in the development being located away from the accessible landscape and footpaths. There is potential for fencing or hedgerow separating the smaller area of hardstanding and caravans that would reduce the visibility of the development. Over time and following the removal of the excess hardstanding, it is likely that other landscaping would regenerate on those areas that may further reduce the prominence of development on the appeal site. In addition, conditions could control the provision of fencing, lighting, the position of caravans and additional hardstanding. Nevertheless, whilst the harm will be considerably less acute than the existing development, it would not protect or enhance this valued landscape.
15. For these reasons, I conclude that neither the development that has taken place, nor the alternative development for eight caravan pitches, would protect or enhance the surrounding valued landscape. As such, it would be contrary to Policies EM1, EM10 and CN5 of the LP, the Framework and the planning policy for traveller sites that seek high quality development that protects and enhances valued landscapes, and respects, enhances and not be detrimental to the character or visual amenity of the landscape. This includes scenic quality. Policy CN5 of the LP states that there should be no adverse impact on local amenity or the natural environment from developments for gypsy and traveller accommodation.

#### Ecology and biodiversity

16. Prior to the development, the site comprised an area of floodplain and wet grassland that was linked to the surrounding land. Neighbouring and extending over a corner of the site is the Pamber Forest and Silchester Common Site of Special Scientific Interest (SSSI). The site provided a similar habitat to that under the pylons that run through the SSSI. This area provided a floodplain or grazing marsh habitat. The surrounding land provides a habitat for a variety of species, including newts, bats, moths, beetles and birds. It is likely that some of the species that provide qualifying features for the SSSI site would have been present on the site, for example nightjars foraging and moths feeding on the flowers in the grassland.
17. The previous use of the land for paintballing would have introduced people onto the land for periods of time. However, it would have allowed it to continue to provide some habitat for various species, including qualifying species for the SSSI.
18. The development subject of the enforcement notice covered the site in hardstanding, which removed habitat from most of the site. This has caused significant harm to the ecology and biodiversity of the land. In addition, lighting for the caravan site affects nocturnal species, such as bats, that would otherwise forage in and around the site.
19. The revised scheme for eight pitches would result in a significant portion of the site, including that part within and closest to the SSSI, being returned to its

natural state. Over time, the land would regenerate and the various species that used the land would return. Nevertheless, a significant portion of the land would remain in use as a caravan site and would not provide habitat for ecology and biodiversity.

20. Planning policies, such as that within the Framework, require development to enhance ecology and biodiversity. The development of this site, as set out above, has harmed the contribution of the land to the ecology and biodiversity of the area. Whilst it is possible to limit that harm with careful landscaping and site management, it is not possible to enhance ecology and biodiversity as required by policy.
21. I note that a temporary permission for the use of the land would limit the period over which the harm to ecology and biodiversity would occur. The site would regenerate over time once the use has ceased and the operational development has been removed. Nevertheless, the harm would exist during the temporary period and it would not result in enhancement to ecology and biodiversity as required by policy.
22. For these reasons, I conclude that the development, whether that subject of the enforcement notice, the eight pitch scheme or either scheme on a temporary basis, harms ecology and biodiversity in the area. As such, it is contrary to Policies EM1, EM10 and CN5 of the LP, the Framework and the planning policy for traveller sites that seek high quality design that take account of the function of landscape features as ecological networks and to ensure there is no adverse impact on the natural environment from the provision of accommodation for gypsies and travellers.

#### Highway safety and use of public rights of way

23. Access to the site is taken from Little London Road along the public footpath and access to the factory and WWTW. Little London Road is the main road leading into Silchester from the south. There is good visibility from the junction along Little London Road to the south. However, the alignment and topography of the road including the adjacent bank with hedge on top restrict visibility to the north.
24. During my site visit I was able to see the agreed maximum visibility from the access to the north. Various points had been marked on the ground according to the position of the driver waiting at the junction and measurement taking account of the position of the boundary of the highway and hedgerow. None of the measurements met the minimum sightlines required by Manual for Streets.
25. The eighty-fifth percentile speed of vehicles using Little London Road is above the speed limit. Consequently, the speed of traffic along that road is high. Given that the restriction in visibility is to the north when waiting at the junction, there is some potential to safely pull into the road in a gap in traffic approaching the junction from the south in an effort to increase visibility. Drivers have the responsibility to make an assessment as to when it is safe to proceed. I note that I have not been presented with evidence of previous accidents in this location. However, given those speeds and the topography of the ground combined with the alignment of the road, a significant risk to road safety would exist.

26. The increase in the number of vehicles resulting from the resumption of the residential use of the site using the access and junction with Little London Road would increase the likelihood of accidents at the junction. That would add to the safety risk at that junction.
27. I note that there are other developments accessed from the public right of way that forms the access to the site. Those have potential to generate a substantial amount of traffic. The additional traffic arising from the use as a residentially occupied caravan site using the public right of way would increase the number of vehicles coming and going along that route. That would affect the attractiveness of the public right of way as a walking route. Whilst the number of additional vehicles would be comparatively modest, it would result in a greater degree of risk to the safety of users of the public right of way.
28. Due to a lesser increase in the amount of traffic, the risks to highway safety and use of the public right of way of the obvious alternative scheme for eight pitches would be reduced from the development subject of the enforcement notice. Nevertheless, it would still result in a material increase in vehicle movements such that this lower number of pitches would not overcome the effect of the development on the safe and efficient operation of the highway network and the use of public rights of way.
29. For these reasons, I conclude that the traffic relating to the caravan site would adversely affect the safe and efficient operation of the highway network in the vicinity of the appeal site and the use of public rights of way. As such, it would be contrary to Policies CN5 and CN9 of the LP and the Framework that seek a safe, efficient and convenient transport system, including that development should provide a safe and reasonable access to the highway.

#### Living conditions

30. The factory and WWTW both generate noise and odour that could affect the living conditions of occupiers of the caravans.
31. The factory manufactures products using glass fibre. This includes using solvents in the manufacturing process. These can result in significant odour. However, I understand that odour is generally present at the front of the building, away from the caravans, and is not a constant event. The factory does not operate overnight or at weekends. As a result, odour from this source would not materially affect the living conditions of occupiers of the caravans.
32. The yard to the rear of the factory is used for outside manufacturing and I understand that can be quite noisy. Whilst this is not a constant issue, it is likely to materially affect those occupying the caravans during the normal working week, especially in spells of good weather when workers at the factory and occupants of the site are more likely to be outside.
33. The WWTW are located across the stream from the site. They include a number of holding tanks and treatment works that deal with sewage from the surrounding area, including surrounding settlements and commercial development at Aldermaston.
34. Noise and odour from the WWTW are also intermittent. There are times when processes on the site result in significant levels of noise and odour. During the accompanied site visit, operations at the works were particularly noisy. Although that appears not to be a regular occurrence and most likely to occur

during the day when occupiers are less likely to be adversely affected, the proximity of the residentially occupied caravans to the odours and noise from the works would result in unpleasant living conditions for occupiers at those times.

35. The Council's Environmental Health Officer explained that they have a duty to investigate complaints of nuisances, such as from noise or odour, and to deal with these. If there were justified complaints of the effect of the neighbouring uses on occupiers of the caravans, they would need to take appropriate action. It would not be possible to avoid this, even where the offending use has been in place for many years prior to residential occupiers moving to the land. This could affect the operation of the factory and WWTW.
36. My attention has been drawn to the location of other caravan sites occupied by gypsies and travellers that are often located next to constant noise sources, such as next to motorways. I accept that there are significantly worse locations, and some of the prospective occupiers of this site have experienced that. At the hearing it was commented that this was the most peaceful site some of the families have lived. It is possible that, given their experiences of other dedicated gypsy and traveller sites, they would not complain about living conditions here. Nevertheless, that does not outweigh my conclusion that the living conditions of prospective occupiers on this site would be inadequate.
37. I note that a temporary planning permission could be considered to monitor the effects of noise and odour on the living conditions of the occupiers of the caravans and I will return to that later in my decision.
38. For these reasons, I conclude that future occupiers of the caravans would not enjoy satisfactory living conditions, having particular regard to noise and odours. As such, the development conflicts with Policy EM12 of the LP, the Framework and the planning policy for traveller sites that seek to locate development sensitive to pollution in locations where there will be no detrimental impact on quality of life as a result of existing, historic, or nearby land uses and activities.

#### Flood risk

39. The site is located next to a stream and the land immediately surrounding that stream is identified on the Environment Agency flood risk maps as being within Flood Zone 3, where there is a high probability of flooding. However, the caravan pitches would be in Flood Zone 1 with a low probability of flooding from the stream. I understand the rear part of the site where some of the 13 pitches were located, along with a section of the access drive, is subject of a high probability of surface water flooding and effectively forms part of the flood plain. I understand the depth of water could be up to 900mm. The Council suggest that the flooding over the access could pose a danger for most, and that the risk over the area on which caravans would be located would result in danger for some children, elderly and the infirm.
40. The scheme for eight units avoids the area of the site at high probability of surface water flooding but is identified as having a low extent of flooding. Nevertheless, part of the access drive is identified as having a high probability of surface water flooding, which could affect the ability to evacuate the site in the event of a flood.

41. There is some uncertainty as to the likelihood of flooding on the access given the apparent land levels following the works to provide a new surface. However, I understand that flood maps are based on previous experience of flooding and no topographical survey data has been provided to demonstrate land levels. On balance, I consider the flood maps are likely to be accurate such that this does not materially reduce the likely effect of flooding.
42. Caravans intended for residential occupation are a highly vulnerable use of land within areas at risk of flooding. They float and, given they are single storey, do not provide a safe area for occupants. The velocity of flood water is likely to be low in this location such that the caravans would be unlikely to move more than a short distance. However, given that there is a significant risk of flooding of the site, the welfare of residential occupants of the site are highly likely to be affected should the area flood. This is of particular concern if the area floods at night, when the occupants are asleep.
43. A substantial proportion of the land has been surfaced and, in so doing, has been raised. This may have reduced the risk of flooding on site to some extent, but the surface has been compacted such that the water is likely to pool or flow away. This has changed the way in which water drains through and from the site.
44. The raising of the land and changes to the flow of water have altered the capacity of the flood plain in this location. This may lead to further flooding downstream. Beyond the access drive, the land is mainly open, such that there would be limited effects. However, the stream then flows through a small corner of the SSSI. Changes to the flow of water may affect the habitats present in that location.
45. Mitigation measures might assist in reducing the risk of surface water flooding and to the welfare of occupants. However, limited information has been provided as to these measures or how they may operate. I note that a condition could be used in order to require provision of mitigation measures, such as having an evacuation plan, keeping the space under caravans open to allow flood water to drain away or raising the caravans such that they are less liable to flood. However, it is unclear whether there would be an adequate evacuation route or how the mitigation measures would work in practice. Given the lack of information as to how water flows over or through the site and limited details of mitigation measures to reduce the effect of flooding on the welfare of occupants of the caravans, such a condition would not be sufficiently precise in this instance.
46. I note that the effects of climate change would mean an increased risk of flooding in the future. That needs to be taken into account. However, if I were to consider granting planning permission for a temporary period, the risks associated with climate change would carry limited weight.
47. My attention has not been drawn to flood events affecting the neighbouring WWTW and factory. However, the topography of the land may mean that these are less at risk and these uses are less vulnerable to the effects of flooding.
48. For these reasons, I conclude that the laying of hardstanding has increased the risk of flooding on the site and downstream, including habitats in the SSSI. Bringing caravans back onto the site would result in danger to the welfare of occupants. Whilst the effects would be reduced should the hardstanding be

reduced in area to provide a capacity of 8 pitches, the risk of flooding would remain. As such, the development conflicts with Policies EM1, EM7, EM10 and CN5, the Framework and the planning policy for traveller sites that seek that development should have no adverse impact on the natural environment and state that development within areas of flood risk will only be acceptable if clearly demonstrated that it is appropriate to that location and there are no suitable available alternative sites at lower risk of flood.

#### Location

49. The land at Rampiers is separated from the village of Silchester by Pamber Forest with footpaths linking the site to the settlement and with vehicular access along a rural road without footways. It is likely that most journeys to and from the site would be by car. The site is located to the rear of the factory and over a stream from the WWTW with a small number of houses located over the access drive.
50. Silchester provides a number of basic facilities such as primary school, public house, church and village hall. More substantial facilities are available at Pamber Heath and Tadley such as supermarket, medical centre, post office, chemist and swimming pool. Pamber Heath and Tadley are accessed, by road, through Silchester. A bus service along Little London Road at the end of the access track provides a limited service.
51. Given the surrounding development and proximity to settlements, for the purposes of the planning policy for traveller sites the site is not in open countryside away from the closest settlement of Silchester. It is within a reasonable distance of local services. Whilst there is some separation from nearby homes, occupiers could integrate into the local community.
52. For these reasons, I conclude that this is not an unsuitable location for the development in terms of its location in respect to nearby settlements, services and facilities. Given this relates to the location of the development, reducing the scheme to eight pitches would not affect my conclusions on this matter. As such, the development does not conflict with Policy CN5 of the LP, planning policy for traveller sites and the Framework insofar as they relate to the proximity to settlements, services and facilities. These seek to ensure accommodation for gypsies and travellers is within a reasonable distance of local services with potential for successful integration between the travelling and settled communities.

#### Other matters

53. The appellants accept that the development was intentional and unauthorised. My attention has been drawn to the judgment of the High Court relating to the injunction on the site<sup>1</sup>. That concluded the operation to develop the site was carefully planned to catch the planning authority by surprise. As such, the court found that those subject to the injunction sought to actively flout the rules. Development that takes place in advance of planning applications prevent assessment of proposals against relevant LP policies and prevent the application of policies concerning the quality of development. This needs to be given weight in accordance with the Planning Policy Statement relating to

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<sup>1</sup> *Basingstoke & Deane Borough Council v William Connors & Ors* [2018] EWHC 0011 (QB)

intentional unauthorised development issued by the Secretary of State on 31 August 2015.

54. The Council have raised concerns relating to the foul water drainage should it be provided other than by connection to the sewer system. I note that Thames Water do not object to connection directly into the drainage system for foul water and the prospective occupiers have confirmed that they intend to connect to that system. As that overcomes the concerns of the Council, I need not consider it further.

Other material considerations

*Need for gypsy and traveller accommodation*

55. The LP was adopted in 2016 with the need for gypsy and traveller accommodation identified by the Gypsy and Traveller Accommodation Assessment (GTAA) published in 2015. Based on the need identified in that GTAA, the Council suggest that a requirement in the next five years is for eight pitches and that can be achieved.
56. I note that a new GTAA is currently being prepared in order to inform an updated Local Plan. This may lead to a greater need than that provided for in the LP. It is unclear when the GTAA will be completed or the new Local Plan adopted.
57. I understand that the prospective residents of this site have not taken part in interviews for this GTAA as they are resident elsewhere and the response rate was low in this borough. There was a suggestion at the hearing that the Council use injunctions against unauthorised encampments that has the effect of reducing the number of gypsies and travellers living in the district. I understand that three sites providing at least four pitches have been regularised since the last GTAA. There are no public pitches, for temporary or permanent occupation, available in Basingstoke and Deane. Consequently, there are limited new opportunities coming forward for gypsies and travellers to base themselves within the borough. The appellants all want to live on this site, although their needs may be met by appropriate provision elsewhere. It is possible that in-migration would be greater if there were more pitches available.
58. Taking account of the above, there are indications that the identified need for gypsy and traveller pitches in the borough may be higher than set out in the GTAA and policy. However, the evidence of increased need is unclear so I consider that, on balance, the need identified in the LP is the most up to date and reliable evidence available.
59. Policy CN5 of the LP seeks to provide sufficient pitches to meet the needs of gypsies and travellers on larger housing sites allocated by Policies SS3.9, SS3.10, SS3.11 and SS3.12 of the LP in the plan period. None of the pitches have yet been delivered. The appellant suggests that the gypsy and traveller pitches on larger housing schemes are likely to be delivered last.
60. Policy SS3.10 of the LP relates to a site at Manydown on the edge of Basingstoke and is expected to provide approximately 3,400 dwellings. Outline planning permission reference 17/00818/OUT was granted on 20 December 2021, subject to a legal agreement under Section 106 of the Act. The legal agreement requires the provision of five pitches of gypsy and traveller

accommodation subject to applying for and obtaining reserved matters approval or full planning permission. The pitches must either be on this site or on an alternative site with the benefit of any necessary planning permission. The pitches are required to be delivered within five years from the date of grant of planning permission, or another period as may subsequently be agreed. I understand that no reserved matters have yet been submitted for the provision of these pitches.

61. Policy SS3.11 of the LP relates to development at Basingstoke Golf Course with an expectation of providing approximately 1,000 dwellings. It was granted outline planning permission on 25 March 2021 including a single pitch for gypsy and traveller accommodation. My attention has not been drawn to any requirements to provide the pitch within any particular period following the grant of planning permission.
62. Outline planning permission was also granted on 29 September 2017 at Hounsom Fields under reference 15/04503/OUT. It was allocated by Policy SS3.12 of the LP to provide approximately 750 dwellings. Reserved matters applications have been submitted but have not included details of any gypsy and traveller pitches for gypsy and traveller accommodation. A subsequent full planning application was submitted in May 2021 under reference 21/01197/FUL for two caravan pitches for gypsy and traveller occupation that has not yet been determined. I understand that there may be an issue with a gas pipeline. I note that the appellant considers this site is closest to delivery.
63. The remainder of the allocations would be provided on land east of Basingstoke allocated under Policy SS3.9 of the LP. That is not yet subject of a planning application, so can't be considered deliverable within five years.
64. Footnote 38 of the Framework states that the five year supply of deliverable sites for travellers should be assessed separately from that of other housing, in accordance with the planning policy for traveller sites. Footnote 4 of the planning policy for traveller sites states that sites with planning permission should be considered deliverable until permission expires. As an outline planning permission counts as a permission, the proposed eight pitches at the above sites must be considered deliverable within five years.
65. For those reasons and on balance, I conclude that the Council have been able to demonstrate a supply of specific deliverable sites sufficient to provide five years' worth of gypsy and traveller sites against their locally set targets.

#### *Personal circumstances*

66. The personal circumstances of the eight families who seek to occupy the smaller site were discussed at the hearing. I have limited information on the circumstances of the five other families who originally occupied the site, so their circumstances can only carry modest weight in my decision.
67. The eight families are related or known to one another. I understand that they are all involved with a church and wish to locate together, with shared interests.
68. The eight families are currently homeless, either living on the roadside or doubling up with friends and relatives on other sites. In either case, they are liable to be moved on at any stage and facilities can be sparse with several families sharing amenities, such as W.C., or needing to use public facilities. I

note that, for those living on the roadside, there are concerns regarding the implications of provisions in the Police, Crime, Sentencing and Courts Act 2022. Occupation of this site would provide them with a permanent base from which they can travel. As a permanent base, it would provide the families with some sense of belonging and allow them to settle. This includes access to necessary services and facilities that could be provided on site and that are not easy to access for those of a nomadic lifestyle.

69. The families seeking to occupy the site are young and want to access local schools for education. Their education provision at present varies with some families having enough stability for their children to be enrolled in school, but others with a more sporadic access to education. The ability to support the education of children varies between the families according to the level of education of parents, some of whom are unable to read or write.
70. A number of prospective occupiers have significant health issues that require frequent attendance at hospital or monitoring by doctors. Correspondence about appointments tends to be sent by post, so lack of permanent addresses means that individuals are not receiving those details and missing appointments. This results in some of their conditions deteriorating, including those of children. Having a permanent address at this site would assist in making sure they were able to be contacted and make attendance at those appointments more likely.
71. There are links to other families in the surrounding area, including at Aldermaston. There are requirements to provide care for family members in those places, such that some families need to remain within the area to provide that care.
72. In determining this appeal, I am aware of the rights of the appellants under the Human Rights Act 1998 and the public sector equality duty. I also need to consider the best interests of children. No other consideration is inherently more important than their best interests in safeguarding and promoting their welfare.
73. Given that none of the appellants are currently occupying the site, if I were to uphold the enforcement notice this would not affect their current living conditions and they would not lose their home. Nevertheless, all the families are currently homeless and this site could provide a permanent base for them. That would assist in overcoming the difficulties these families experience, particularly relating to the best interests of the children. That must carry weight in the consideration of whether to grant planning permission for the development and I will return to this in considering the planning balance.

#### *Temporary/personal permission*

74. The appeal has been made on the basis of permanent occupation of the appeal site, but I am aware that a temporary or personal planning permission would be possible. The reasons for that would be to allow time for the provision of alternative sites through the Local Plan process, monitor the effect of noise and odour on the living conditions of occupiers of the caravans or to reflect the personal circumstances of the prospective occupiers, such as the best interests of the children. A suggested timescale for a temporary permission would be between 3 and 5 years.

75. However, the timescale for preparation and adoption of a new Local Plan that would enable other sites to come forward is unclear. I have not found a particular need for additional gypsy and traveller sites within this borough. In the meantime, the occupants would be living on a site at risk of flooding and that would cause harm to the landscape, ecology and biodiversity of the area, and would affect the operation of the highway network and the use of public rights of way. Whilst monitoring the effect of noise and odour on the occupiers may demonstrate that their living conditions would be satisfactory, this would not overcome those other harms I have identified. Consequently, a temporary or personal consent would not be appropriate in this instance.

#### Planning Balance

76. I note that the judgment of the High Court referred to above was that it had not been established on the balance of probabilities that there are good prospects of retrospective planning permission being obtained. Under this ground of appeal, it is for me to determine whether the development is in accordance with the development plan. If the development is not in accordance with the development plan, I should dismiss the appeal unless material circumstances indicate otherwise.

77. I have concluded that this site is suitably located in respect of access to nearby settlements, services and facilities, so complies with relevant development plan policies. However, the caravan site does not protect or enhance the surrounding valued landscape and adversely affects ecology and biodiversity. Traffic relating to the development harms the safe and efficient operation of the highway network and the use of public rights of way. The living conditions of residents would not be satisfactory with particular regard to noise and odours. The development is also at risk of flooding and increases the risk of flooding elsewhere. These matters are of substantial public interest and have led me to conclude that the development, whether for eight or 13 pitches, conflicts with identified policies of the development plan. That conflict carries great weight in the planning balance.

78. In addition, the use as a caravan site and associated operational development comprises intentional unauthorised development. That adds modest weight against the development in the planning balance.

79. Whilst there is not an identified need for more accommodation to provide for gypsies and travellers in the borough, I note that there is a wider need. This includes, particularly for the scheme for eight pitches, taking account of the personal circumstances of the prospective residents of the site who are currently homeless, and in relation to the best interests of the children. This comprises a material consideration of considerable weight in the planning balance.

80. I have concluded that a temporary or personal planning permission would not be appropriate in this instance.

#### Conclusion

81. Taking all the above into account, I conclude that the material change of use of the land to a residential caravan site, whether for 13 or 8 pitches, and associated operational development conflicts with the development plan, which carries great weight in the planning balance. In addition, the development

comprises intentional operational development that carries modest weight. The material considerations arising from the need for accommodation including the personal circumstances of the prospective occupiers carry considerable weight and the best interests of the children are a primary consideration.

Nevertheless, those material considerations, individually or cumulatively whether in relation to the development as constructed or the smaller eight pitch scheme, do not outweigh harm arising from the conflict with the development plan and from comprising intentional unauthorised development.

82. As a result, the appeal on ground (a) fails.

### **The Appeal on Ground (f)**

83. An appeal on this ground is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. In this case, the requirements seek to cease the use as a residentially occupied caravan site and make good the affected surfaces, in order to restore the land to its condition before the breach took place. Clearly, therefore, the purpose of the notice requirements is to remedy the breach of planning control.

84. It is accepted by the Council that steps 5.3 and 5.4 are excessive and may result in the importation of non-native species into the SSSI and neighbouring land. They have proposed alternative requirements that were agreed by the appellant at the hearing. I will replace those steps with the text suggested by the Council.

85. I note that they also suggest an informative relating to the carrying out of surveys to establish whether Great Crested Newts or other reptiles would be affected by the works required. If these species were present, a licence would be required to allow their translocation. However, this is covered by other legislation such that an informative is not necessary.

86. I note that the requirements refer to the removal of domestic paraphernalia, fencing, gates and sheds. However, although not specifically referred to in the breach, these are integral parts of the development such that their removal can be required by the requirements in the enforcement notice.

87. I have considered whether there are obvious alternatives to the development completed that formed part of the development under the ground (a) appeal. In this case, I have concluded that no obvious alternatives exist that would overcome the reasons for issuing the notice. As a result, such works would not remedy the breach of planning control.

88. For these reasons, I conclude that the appeal under ground (f) should succeed to the extent that steps 5.3 and 5.4 of the requirements should be replaced with the text suggested by the Council.

### **Formal Decision**

89. It is directed that the enforcement notice is corrected and varied by:

- The deletion of "Rapiers" and the substitution of "Rampiers" in section 2 titled "the land to which the notice relates";

- The deletion of the plan attached to the notice and the substitution of a 1:1,250 scale plan such as shown in the annexe to my decision;
- The deletion of “**from** agricultural” in section 3 titled “the matters which appear to constitute the breach of planning control”;
- The deletion of paragraphs 5.3-5.4 in “what you are required to do” and the substitution of:

“5.3 The making good of all affected surfaces (following the removal of above matters) by:

“i. Remediating soil compaction by chisel ploughing the whole site previously under hardstanding, to a depth of at least 20cm;

“ii. Lightly grading the de-compacted soil using chain harrowing for two passes.

“5.4 Following compliance with steps 5.1, 5.2 and 5.3 above, leave the ground undisturbed to allow natural regeneration.”

90. Subject to the corrections and variations, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*AJ Steen*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Alison Heine

William (Billy) Connors                      Appellant

Edward Quinn

John Doran

Freddie Loveridge

Jimmy Loveridge

William (Bill) Connors

### **FOR THE LOCAL PLANNING AUTHORITY:**

David Lintott of Counsel, instructed by Basingstoke and Deane Borough Council

Steven Jupp BA(Hons) LL.M MRTPI

Ian Dudley

|               |                                       |
|---------------|---------------------------------------|
| Nick Sibbett  | The Landscape Partnership             |
| Ray Alborough | Hampshire County Council              |
| Tina Cuss     | Hampshire County Council              |
| Mark Jones    | Basingstoke and Deane Borough Council |
| Graham Parry  | Accon UK Limited                      |
| Sarah Reghiff | Hampshire County Council              |
| Steve Jarman  | ORS Limited                           |

**INTERESTED PARTIES:**

Aaron Smith on behalf of The Calleva Society

|                          |                                       |
|--------------------------|---------------------------------------|
| David Livingston         | Member of Silchester Parish Council   |
| Cllr Simon Mahaffey      | Basingstoke and Deane Borough Council |
| Cllr Rhydian Vaughan MBE | Hampshire County Council              |
| Mrs K Moss               | Local resident                        |
| Dr Ian Ridges            | Local resident                        |
| David Barrett            | Resident of Bramley                   |
| Daniel Barratt           |                                       |
| Althea Innes             | Local resident                        |
| Kevin Malone             | Local resident                        |

**DOCUMENTS SUBMITTED AT THE HEARING:**

- Document 1: Particulars of sale for the land
- Document 2: Plan showing the access route in blue
- Document 3: Google Earth photograph from 2010
- Document 4: Technical Guidance Note 02/21: assessing landscape value outside national designations by Landscape Institute
- Document 5: Table of Visibility Splay Measurements
- Document 6: List of suggested conditions by the Council
- Document 7: Drawing Number DWG/AI/JG/001 titled APP/H1705/C/18/3210244 – Land at Rapiers, Little London Road
- Document 8: Letter dated 23 April 2021 from Kingston Hospital NHS Foundation Trust
- Document 9: Letter dated 4 April 2022 from Little Stars Pre-School



**Annexe**

Silchester Brook  
Path (um)

Tank

ETL  
Outfall

EI  
Sub  
Sta

Tanks

Sewage  
Works

Depot



