



Appeal Decisions

Inquiry held on 12 & 13 April, and 11 & 12 May 2016

Site visit made on 13 April 2016.

by Stephen Brown MA(Cantab) DipArch RIBA

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

Decision date: 27 October 2016

Appeal A: ref. APP/A0665/W/15/3129221

Little Meadow, Shotwick-Frodsham Road, Thornton-le-Moors, Chester CH2 4LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is by Patrick Doran against the decision of Cheshire West & Chester Council.
- The application ref. 14/04412/FUL, dated 13 October 2014, was refused by notice dated 12 January 2015.
- The development proposed is the use of land for the stationing of caravans for residential purposes for 2 no. permanent gypsy pitches and 6 no. transit pitches with dayrooms and hardstanding ancillary to that use.

Summary of decision: the appeal is dismissed.

Appeal B: ref. APP/A0665/C/15/3129220

Little Meadow, Shotwick-Frodsham Road, Thornton-le-Moors, Chester CH2 4LD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is by Patrick Doran against an enforcement notice issued by Cheshire West & Chester Council.
 - The Council's reference is 15/00348/EBCN.
 - The notice was issued on 9 June 2015.
 - The breach of planning control alleged in the notice is failure to comply with conditions 1 and 2 to which planning permission ref. 08/01527/FUL is granted requiring the use of the land for 4 no. gypsy pitches to cease after 5 years ('the unauthorised development').
 - The development to which the permission relates is change of use to include the stationing of caravans for 4 no. gypsy pitches with utility/day-room buildings and hard-standing ancillary to that use.
 - The conditions in question are nos. 1 and 2 which state that:
 1. The use hereby permitted shall be carried on only by the following and their resident dependants: Mr Patrick Delaney (also known as Patrick Doran) and Mrs Kerry Doran; Mrs Mary Berry and Miss Mary Berry junior; Mr Jim Delaney and Mrs Lena Delaney; and Mr Edward Delaney and Mrs Mary Delaney. The use shall only be for a limited period of 5 years from the date of this decision, or the period during which the land is occupied by these named people, whichever is the shorter.
 2. When the land ceases to be occupied by those named in condition (1) above or at the end of 5 years, whichever shall occur first, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to or erected on the land, or works undertaken to it in connection with the use, with the exception of access widening, shall be removed and the land restored to its former condition within 2 months from the date that the use ceases, in accordance with a scheme previously submitted to and approved in writing by the local planning authority.
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- The requirements of the notice are to:
 - (i) Cease the use of the land for all residential purposes.
 - (ii) Remove all caravans from the land.
 - (iii) Remove all domestic structures/items from the land.
 - (iv) Remove all associated hardstanding.
- The periods for compliance with the requirements are:
 - Six months for requirements (i), (ii) and (iii)
 - Twelve months for requirement (iv).
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: the appeal is allowed to the limited extent on ground (g). The enforcement notice is varied and upheld.

Applications for costs

1. At the Inquiry applications for costs were made by the appellant against the Council and by the Council against the appellant. These applications are the subject of separate Decisions.

The Inquiry

2. Although this is in part an enforcement appeal, the grounds are limited to ground (g) – that the compliance period stated in the enforcement notice is too short. The main substance of the case is the s78 appeal against the refusal of planning permission. With the principal parties' agreement the Inquiry therefore followed The Town and Country Planning (Inquiries Procedure)(Determination by Inspectors)(England) Rules 2000, rather than the rules relating to enforcement inquiries.

Preliminary matters

3. The appellant in this case – Patrick Doran, also known as Patrick Delaney – no longer lives on the appeal site. However, he is joint owner of the land together with Edward Delaney and James Delaney, both of whom appeared at the Inquiry.

Background matters

4. The appellant and proposed residents of the site are Irish Travellers and it is agreed by the parties that they have gypsy status. I concur with this view.
5. The appeal site lies on the southern side of the A5117 Shotwick-Frodsham Road some 600 metres to the east of the village of Thornton-le-Moors, and is within the Green Belt. The site is triangular, about 0.42 hectares in area, coming to an acute angle at its eastern end on the road boundary. On the opposite side of the road is part of the extensive Stanlow oil refinery complex.
6. In October 2009 planning permission was granted at appeal¹ (the 2009 appeal) against refusal of an application for the change of use of the site to the stationing of caravans for 4 gypsy pitches with utility/dayroom buildings and hardstanding ancillary to that use. The permission was restricted by condition to the then appellant, Patrick Delaney (also known as Patrick Doran), family members and dependents, and was temporary for a period of 5 years.

¹ Appeal decision ref. APP/A0665/A/08/2089468, dated 16 October 2009.

7. The 2009 planning permission was partially implemented to the extent that hardstanding was laid, and residential caravans have been stationed on the site. However, the utility/dayroom buildings were not built, and the site was split into three pitches. The site has a close-boarded timber fence along the road boundary, with the road access towards the western side of the hardstanding. The hardstanding is split into three main pitches, divided by low fences. The pitch to the west is used by Edward Delaney, his wife, and seven children, who occupy two caravans. There is also a caravan occupied by Michael Connors on his own. Another caravan is occupied by Johnny and Eileen Doran and their 2 children, and there is a camper type van occupied by Eileen Hanrahan. There is also an unused timber stables building on this pitch.
8. The central pitch is occupied by James and Lena Delaney and their 4 children in two caravans. There are then two other caravans occupied by Jerry Hanrahan and his wife, and by Larry and Selena Connors. On the eastern pitch are two caravans occupied by Michael and Eileen Purcell and their children, and two occupied by the Cash family.
9. The Section 78 planning appeal relates to a proposed two permanent pitch and six transit pitch site. The planning application was refused for the single reason that the proposed development would be inappropriate development in the Green Belt and the very special circumstances required to grant planning permission do not exist.
10. The proposal in the Section 78 case is for roughly the middle third of the site to be laid to hardstanding with the eastern side separated from a proposed amenity area beyond by a close-boarded fence and hedge. The developed area would be similar to that in the 2009 planning permission. The western side would retain the existing fence. The 2 permanent pitches would occupy the western part of the hardstanding again separated by a fence. Each of these pitches would have a dayroom, and spaces for a large residential caravan and a touring caravan. The area to the east of those pitches would have a washroom, and spaces for 6 transit caravans.
11. The main parties agree the proposed residents of the permanent pitches have traveller status, and that the proposed development constitutes inappropriate development. Further matters of agreement set out in the Statement of Common Ground include that the LPA cannot demonstrate a 5 year land supply of gypsy and traveller sites, that there is a current need for transit pitches in the district, that there has been provision of 36 pitches since the GTAA base date. Furthermore, it is agreed that alternative pitches need to be suitable, affordable, acceptable and available, and that some 12 to 18 months are required, post allocation, before pitches are likely to become available.
12. The Council have recently developed two sites for Gypsies and Travellers – one at Barlow Road, Winsford – also referred to as Blakedon Lane. This has 18 pitches, all of which were unoccupied at the time of the Inquiry. The second is at Rossfield Road, Ellesmere Port where there are 12 pitches, of which 7 are unoccupied.

THE SECTION 78 APPEAL

Main issues

13. From my inspection of the appeal site and its surroundings, and from the representations made at the Inquiry and in writing I consider the main issues in this appeal to be:
- The effect of the proposed development on Green Belt interests in the light of prevailing national and local planning policy.
 - The effect of the proposed development on the character and appearance of the appeal site and the area in the vicinity.
 - Whether any harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

The effect on Green Belt interests

14. The parties agree that the appeal proposal would be inappropriate development within the Green Belt. As advised by paragraph 87 of the National Planning Policy Framework (NPPF) the development would therefore be harmful to the Green Belt and should not be approved except in very special circumstances. Furthermore, the development would affect openness – one of the essential characteristics of the Green Belt - and would encroach upon the countryside, thereby failing to assist in safeguarding the countryside from encroachment – one of the five purposes of the Green Belt.
15. The appellant argues that while substantial weight should be given to harm by reason of inappropriateness, the harms arising in terms of openness and encroachment are limited by virtue of the modest size and extent of the development, and can attract only moderate weight. However, in my view these factors should be seen in the context of the open, undulating fields to the south, west and east of the site, and the dramatic contrast with the industrial site to the north, clearly contained by the A5117. To my mind maintenance of this contrast between the massive industrial site and the open countryside to the south is crucial.
16. Although this development may be small, its intrusion into what are otherwise open fields is abrupt, it effectively breaks through the containment of the busy road, and is distinctly out of place within the otherwise countryside setting to the south, east and west. I consider substantial weight should be given to the impact on openness – an essential characteristic of the Green Belt - and to the failure of the development to promote the Green Belt purpose of preventing encroachment onto the countryside.

Character and appearance

17. Considering the impact of the proposed development on the character and appearance of the area, the site is set back from the road by a wide rough grass verge, and there is dense mature hedging, behind which is a relatively unobtrusive close-boarded fence along the road boundary. Beyond the other boundaries are open agricultural fields. The proposed development would

occupy approximately the middle third of the holding, with the areas to west and east remaining as amenity or pasture areas.

18. I accept that the site is well screened from the road by the hedge and fence. There may be glimpsed views of it from the closest dwellings on the eastern side of Thornton-le-Moors, and in its present form it generally has little impact in this undulating countryside.
19. However, if the site were developed with the proposed 2 permanent pitches and 6 transit pitches with the associated permanent buildings, its visual impact would be slightly greater than at present, since there could be 10 or more caravans there, and there may well be more traffic coming to and from the site. The developed site would appear in distinct contrast to the open fields around, and a permanent development here would be incongruous. Making the comparison with the site in its undeveloped form, and taking account of the fact that a small part of the countryside would become permanently developed, I consider the appeal proposal would cause significant harm to the character and appearance of the area.
20. I appreciate that the main parties are agreed that the development would cause no material harm to the character and appearance of the area. However, having inspected the site and surroundings, I cannot concur with this view.

Other considerations

The need for Gypsy and Traveller sites

21. The Council consider there is a current need for 25 Gypsy and Traveller pitches, comprising 20 pitches on sites that at present have temporary planning permissions, and 5 pitches for families from the site near the National Waterways Museum in Ellesmere Port (known as the Museum site), which was accepted by the Council but on a temporary basis. However, they argue that this should be reduced by 2 to reflect the reduction in the number of permanent pitches applied for on the appeal site, and a further 1 pitch to reflect the recent temporary planning permission granted at appeal on a site at Prevan Place, Elton². Furthermore, the families from the Museum site have recently occupied 5 of the pitches on the Rossfield Road site. On this basis, current need is now for 17 pitches, but taking into account the 6 applications for pitches on the Council sites in Winsford and Ellesmere Port that are given priority under the allocations policy the final figure should be a need for 23 pitches.
22. There is agreement between the parties that there is an existing supply of 36 pitches, comprising 18 pitches on the Barlow Road site in Winsford, 12 on the Rossfield Road site in Ellesmere Port, and 6 pitches on the private Davenham Bypass site, all of which are occupied. There are therefore 25 vacant pitches on 2 Council sites. Five families from the Museum site are now accommodated on the Rossfield Road site.

² Appeal ref. APP/A0665C/15/3129147, dated 15 March 2016.

23. The Council's Gypsy and Traveller Accommodation Assessment (GTAA) was published in March 2014. This identifies a need for additional provision of 15 pitches up to 2018, 15 for the period 2018-2023, and 16 for the period 2023-2028 – a total of 46 pitches. At present the Local Plan Local Development Scheme of January 2016 sets out a timetable for Land Allocations and Detailed Policies that will form the substance of the Local Plan (Part Two). Public consultation on the relevant matters - including proposed Gypsy and Traveller sites – was scheduled to start in May 2016, and anticipates adoption and publication of the Plan in February 2018.
24. It is agreed between the parties that it is likely to be a year to a year-and-a-half from adoption of the plan before sites would become available. It is therefore apparent that it will be some considerable time before any sites are likely to come forward. Although the Council say they have brought forward 11 of the pitches for the 5-year period to 2018, and will be able to provide the remaining 4, given the rather slow progress with the Local Plan I consider this is probably unrealistic.
25. The appellant argues that the GTAA uses flawed and/or inadequate methodology, partly on the basis that interviews were conducted with only 47% of families, of which only 3 were living in bricks and mortar housing. However, in preparing the GTAA interviews were sought with every known Gypsy and Traveller household in the study area, and it appears to me that a response rate of 47% is relatively good for such a survey. Extrapolation of the results from this sample to the whole Gypsy and Traveller population of the area should provide a reasonable picture of their accommodation needs now and in the future.
26. It was suggested for the appellant that ideally a response rate of some 80% should be achieved. While this may have provided results more closely approximating the actual situation, there is no way of knowing whether these would have been the same as for the 47% sample, or would have given higher or lower figures for the various measures. Although the appellant put forward numerous examples of instances of doubling-up and concealed households, and families on unauthorised pitches, it is unrealistic to compare such specific cases with the statistical averages adopted by the GTAA. Furthermore, it is recognised in the GTAA that not all households were interviewed, and an upward adjustment of 2.5% to the concealed household rate has been made to reflect this.
27. Similarly, it is argued that only 14 households on unauthorised sites were interviewed – that is, 55% - and that there was a failure to take account of the remaining 45% of households. Again, I consider the sample achieved would give reasonably reliable results when extrapolated. Nevertheless, I have reservations about the method used of counting only those unauthorised sites already within the planning system, those families otherwise known to the Council as residents of the area, and those identified through the household survey as requiring pitches. While this probably achieves the aim of filtering out those families who are transient, it may well provide a restricted view of actual need. Nevertheless, the appellant's identification of particular families on unauthorised sites does not mean that these families have not been accounted for – rather, it means that they have not been interviewed.

28. The appellant also gives examples of both over-counting and under-counting of existing pitch numbers, both temporary and permanent. In relation to the examples of the sites at the Travellers' Rest, Winsford and the Old Pumping Station, Frodsham, the GTAA recognises that planning permissions or LDCs have been granted for 16 and 13 *caravans* respectively, but that there are more than that on the sites, equating to 16 and 13 *itches* respectively. The Inspector in an earlier appeal³ calculated the number of pitches on both sites on the basis of there being 16 and 13 *caravans* respectively, equating to 11 and 7 *itches*. The appeal referred to was some time before the GTAA base date, when the situation could well have been different. In relation to these two sites I am not satisfied that the GTAA has significantly over-counted.
29. The site at The Paddocks, Dunham-on-the-Hill is recorded in the GTAA as a 1 pitch temporary site, but the GTAA principal author provided evidence at an earlier appeal⁴ that this should be 3 permanent pitches and 1 transit pitch. Furthermore, the site at Prevan Place, Elton is recorded in the GTAA as having 2 temporary pitches, whereas following a recent appeal⁵ a 3-year temporary planning permission has been granted for 3 pitches accommodating no more than 5 caravans at any time. In respect of these two examples I recognise that the GTAA has undercounted the number of pitches. It appears to me that 3 temporary pitches are recorded on these 2 sites, whereas there should be 3 temporary pitches, 3 permanent pitches and 1 transit pitch – a net increase in existing provision of 3 permanent pitches and 1 transit pitch.
30. The appellant suggests that the GTAA adopts an unrealistic increase of 2.5% per year for the household formation rate, and that a rate of 3% should be used. However, the GTAA acknowledges that a figure of 3% has been used in previous studies, but that the UK Census of 2011 and other national survey data indicates that the Gypsy and Traveller population may be growing at no more than 1.5% per year. In adopting the higher rate of 2.5% it is expected that this will provide enough pitches for all newly forming households in the area, and also allow for some concealed households and those living in bricks and mortar, who may not have been covered in the survey. Although Mr Green contended that a 3% per year figure should be used, it was conceded that this was little beyond an initial concept that required considerably more research.
31. However, the Inspector who undertook the examination into Part 1 of the Local Plan⁶ found that the approach towards the accommodation of Gypsy, Traveller and Travelling Showpeople was justified, effective, and consistent with national policy. This was subject to an amendment requiring clarity that sites should be outside the Green Belt unless very special circumstances prevailed – a provision now incorporated into Local Plan Policy SOC 4. Subsequently several Inspectors determining recent appeals in the District have found the GTAA to be a robustly prepared document that can reasonably be used as the guide to Gypsy and Traveller accommodation needs. It is clearly the case that the GTAA can be no more than a snapshot of the position at the time the assessment was made. There will inevitably be significant uncertainties given the difficulties in carrying out such an assessment, notably

³ Appeal ref. APP/A0665/A/12/2176944, dated 8 March 2013.

⁴ Appeal ref. APP/A0665/A/13/2206596, dated 30 July 2015.

⁵ Appeal ref. APP/A0665/C/15/3129147, dated 15 March 2016.

⁶ Report on the Examination into The Cheshire West and Chester Local Plan (Part One) Strategic Policies, dated 15 December 2014.

concerning the practicalities of survey and data collection in a fluid and ever-changing context.

32. Overall, I have come to the conclusions that the GTAA has been prepared on the basis of a reliable survey of the needs of a reasonable cross-section of gypsies and travellers in the District at the time, and provides a reasonable assessment of current and future needs for Gypsy and Traveller accommodation. Although it may not be entirely accurate - it forms the most reliable source of information on future needs, and the Council cannot reasonably be criticised for making their decisions using the GTAA as a basis.
33. In the short/medium term the Council have sites available on their two new sites. Nevertheless, it is unlikely the five-year supply target will be met. In the context of the availability of Council sites, and having regard to PPTS Policy E, I consider that unmet need carries limited weight in favour of the proposal.

Alternative sites

34. During the adjournment of the Inquiry the Council adopted their new Allocation Policy for Gypsy and Traveller sites⁷. This recognises that the Council may not have enough pitches to meet the requests from all who apply, and aims to give priority to those in the greatest need. Applicants are placed in one of four bands – Band A being ‘Urgent’, and Band D being ‘Low Priority’. As part of the allocation process the Council consider the merits of each individual application alongside the needs and requirements of other applicants, taking account of the total number of applicants, their time on the register, their local connection and any other available information considered relevant. The Council’s previous policy of holding pitches for applicants with temporary planning permissions in the Green Belt that are about to expire is no longer relevant.
35. I have already referred to the two recently developed Gypsy and Traveller sites, where there are 25 pitches available. At the time Ms Taylor prepared her proof of evidence during the adjournment there were 37 live applications remaining after several had withdrawn, of which 10 had a local connection. At the time the Inquiry was resumed there were 42 live applications. Of these, 10 had a local connection, and 2 with a local connection had withdrawn. Of the remainder, 32 had no local connection, and 7 with no local connection had withdrawn.
36. The appellants in this case would be effectively homeless following expiry of their temporary permission, but given their long-standing local connections the Council submitted they would most likely be classed within Band A. Indeed the Council had written to both Delaney families in September 2015 explaining that they would be given priority for pitch allocations, and that they wished to make pitches available on one or other of the sites. The Delaney families have not made any applications, and nor had Mr Connors. At the time of the Inquiry the opportunity still existed to make applications, and the Council were confident they would be considered to fall within Band A – the urgent category for assessment.

⁷ On 2 May 2016.

37. No other sites in the District were put forward as being available for the proposed occupiers of the appeal site, nor was there evidence of any search for alternative sites. However, the availability of pitches on one or other of the Council's sites carries considerable weight against the proposal to develop the appeal site.

Personal circumstances

38. At present there are two families living permanently on the appeal site, Edward and Lisa Delaney and their seven children, and James and Lena Delaney and their four children. The two families have close ties, and I understand they like to work as a large family unit, providing support for each other when members of the families are working away.
39. Edward and Lisa's 19 year-old son Johnny was recently married to Margaret. They have their own caravan, and double up on the appeal site since they have no permanent site of their own, Their 15-year old and 14-year old daughters, Channelle and Annelika are both home schooled. Their 11-year old daughter Nisa attends Helsby High School some 5 kilometres from the appeal site. Their 9-year old and 5-year old daughters, Delilah and Nadina are both at Elton Primary School, some 1.5 kilometres from the appeal site. Their son Edward is a 9-month old baby. I understand all the children are in good health, and that the family are all registered with a GP in nearby Ellesmere Port.
40. James and Lena's son Jim is 15 years old and is no longer at school. Their 10-year old and 7-year old son and daughter, Joe and Lena, are at Elton Primary School, and their daughter Kitty is a 2-year old. I understand that Lena suffers with depression, for which she is prescribed medication. Joe potentially suffers from Attention Deficit Hyperactivity Disorder (ADHD) and is awaiting a specialist assessment.
41. I deal with the weight to be given to the primary consideration of the need to safeguard and promote the welfare of children, and to personal circumstances below.

The provision of transit pitches

42. Transit sites are permanent sites intended for travellers requiring relatively short stays of limited length – I understand of 13 weeks or less, with no return until after 3 months.
43. There are no dedicated transit sites in the District, although I understand there are 4 pitches at the Pumping Station site in Frodsham occasionally used for transit purposes. There is a transit site in Runcorn in the neighbouring local authority district of Halton, where the GTAA records there being 12 pitches – 2 for the warden's use and 10 for transit use. The pitches can accommodate two touring caravans and associated vehicles, and there are WC/shower facilities, electrical hook-ups, drinking water stand-pipes, and drainage. Being outside the District, this site is not available for use by the Council. The appeal proposal includes 6 transit pitches, each with space for a single caravan, and there would be a washroom to serve all the pitches.

44. I understand that transit sites perform a valuable function in terms of accommodating visiting households, and reducing the formation of unauthorised encampments. The number of individuals on unauthorised encampments in the Halton district has fallen from 83 in 2005 to 9 in 2015.
45. The GTAA recommends that several of the Cheshire local authorities, including Cheshire West and Chester, should provide suitably located, publicly provided transit sites of between 5 and 10 pitches. The Council are undertaking a search for suitable land for a 10 pitch transit site as part of the preparation for the Local Plan Part 2. Again, as a result of the programme for this part of the Local Plan, it appears unlikely that any site would come forward before 2018. To that extent the provision of this private site may well fulfil a so far unmet need for transit pitches. Furthermore, the location of the appeal site close to a route traditionally used by Irish Travellers, and close to built-up areas with medial and educational facilities weighs in its favour.
46. However, it is an intrinsic feature of transit sites that there is likely to be a high degree of turnover. I concur with the Council's view that a considerable degree of management is needed to ensure their orderly operation in terms of controlling arrivals and departures in a timely manner, controlling disputes that may arise between residents, and ensuring pitches are genuinely used for transit purposes. The Council maintained that no plan had been put forward as to how the site would be managed, and given that the permanent occupants spent considerable periods travelling, it was not apparent that there could be continuity in this respect.
47. Furthermore, in order for the site to be used in the way the Council would prefer – that is, to enable those in unauthorised encampments to be moved onto an authorised site – they need to be able to enlist police powers to enforce such a move. Under Sections 61A-E of the Criminal Justice and Public Order Act 1994 police may remove occupants of unlawful encampments to a 'relevant caravan site' – that is, a site within the local authority area, managed by the local authority or a registered social landlord. Clearly a private site would not comply with these provisions.
48. Nevertheless, it is apparent that the appeal site is already effectively in part use as a transit site. At the time of the Inquiry I understand there were some 5 couples, at least 4 children, and two individuals living there on a temporary basis, some for as long as 6 months. There are at present no utility/washroom provisions on the site, which I consider makes it rather unsuitable for this use. Nevertheless, if developed as proposed the Council accepted that it would be advantageous to have such a site even if police powers could not be invoked.
49. Overall, it appears to me that provision of the 6 transit pitches would assist the Council to some degree in accommodating travellers for whom there is currently no provision. While the management arrangements would probably not be ideal, and the proposal would not accord with the aims of Local Plan Policy SOC 4, this provision carries some weight in favour of the scheme.

Whether the other considerations clearly outweigh the harm

50. Paragraph 88 of the Framework advises that when considering any planning application, it should be ensured that substantial weight is given to any harm to the Green Belt, and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
51. Policy E of the DCLG document 'Planning Policy for Traveller Sites' of August 2015 (PPTS) relates to traveller sites in the Green Belt, and sets out 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.
52. Development plan policy from the Council's Local Plan⁸ that is of particular relevance in this appeal is Policy SOC 4, which seeks to ensure the Council works with partners to provide appropriate accommodation for Gypsies, Travellers and Travelling Showpeople. Such accommodation should meet a number of criteria, including that sites should be located outside the Green Belt except in very special circumstances.
53. The site has been used as a caravan site since it was purchased in July 2008. This has caused significant harm in terms of loss of openness – an essential characteristic of the Green Belt. It has also encroached upon the open countryside, thereby failing to assist in safeguarding the countryside from encroachment, one of the five purposes of the Green Belt, and it causes harm to the character and appearance of the area. The proposal before me would make this harm permanent, and I give this substantial weight.
54. Against this, the Council cannot demonstrate a five-year supply of pitches, and it is improbable that they will be able to do so before 2018. There is a continuing unmet need for pitches that has persisted for a number of years, and which is unlikely to be satisfied in the reasonably near future. In the context that the Council have made clear that there are likely to be pitches available for both the Delaney families, I consider the lack of a five-year supply of pitches, and the existence of unmet need in both short and long-term, should be accorded only limited weight.
55. Policy H of PPTS sets out that if a Local Planning Authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. However, the policy goes on to except land designated as Green Belt from this consideration, amongst other identified land designations. I note here that in the event that permanent planning permission is refused the appellant would be satisfied with a temporary permission – albeit reluctantly. In the event of considering granting temporary planning permission, the lack of a five-year supply should be given less than significant weight.
56. Overall, I have come to the view that unmet need – both immediate and in the longer term – should be ascribed less than significant weight in the planning balance given the likely availability of Council sites for the two families.

⁸ Cheshire West and Chester Council Local Plan (Part One) Strategic Policies of 2015.

57. I can readily see that the families' lives would be seriously disrupted if they were forced to resort to roadside encampment, and particularly the welfare of the children, a matter of primary interest. However, the Council have written to both families stating that they wish to make pitches available to them on one or other of the Ellesmere Port or Winsford sites⁹. I am satisfied that at the time of the Inquiry pitches remained empty on both sites. However, I note that neither of the Delaney families has made an application for a pitch. I appreciate that the Council's allocation policy has now changed, but it was confirmed at the Inquiry that the two families would still be regarded as being in the priority category.
58. I can understand that a move to one of the Council's sites may not be the Delaney's preferred long-term option, since they would no longer be living on their own land. However, it would enable them to have a settled base, the families could remain together, and they would be able to search for other suitable sites. Should they obtain pitches at Ellesmere Port – which is some 5 or 6 kilometres from the appeal site – this may mean a change of schools for the children. If there were a move to Winsford, which is some 30 kilometres from the appeal site, this would almost inevitably entail a change of schools. However, it is not uncommon for children to change schools, and this need not disrupt their educational progress unduly, provided they have a settled base.
59. As regards Joe Delaney's potential health problems, it appears to me that if there were a move to either of the Council's sites, the family would have as good – if not better – access to healthcare than at present. Furthermore, Lena Delaney would still be able to register with a general practitioner and continue to receive the treatment she needs. It is likely that a settled base would have beneficial health effects.
60. Given the likelihood of Council sites being available if the two families were to make applications, I consider the best interests of the children and the personal circumstances of the families would be properly addressed. I appreciate that this outcome cannot be guaranteed, but the fact that neither family has availed themselves of the opportunity to apply does not lessen the fact that the Council have made their best efforts to accommodate those in need.
61. Having regard to PPTS Policy E, and having addressed the best interests of the children as a primary consideration, I have come to the view that personal circumstances should be given little weight in the context of the availability of suitable alternative sites.

Human rights

62. I have had regard to the families' human rights in terms of loss of their present home, and disruption to their family life. However, protection of the Green Belt is a legitimate planning purpose, and the subject of very long-standing Government policy. Given my findings on the likely availability of alternative accommodation, I do not consider refusal of planning permission would be disproportionate.

⁹ Letters dated 23 September 2015 – Inquiry Document 13.

Conclusions on the Section 78 appeal

63. While the provision of the transit pitches weighs somewhat in favour of the proposal, the situation regarding unmet need, the lack of a 5-year supply of pitches, and personal circumstances carry relatively little weight. Taking these considerations together, I do not consider they are enough to clearly outweigh the harm to the openness of the Green Belt, the failure to promote the Green Belt purpose of safeguarding the countryside from encroachment, and harm to countryside interests such that they amount to the very special circumstances necessary to justify the development. The development would not accord with the aims of Policy SOC 4 of the Cheshire West and Chester Local Plan.
64. If I were to grant a temporary planning permission for at least 4 years, as the appellant suggests as an alternative, the site would have been developed in one or another form for more than 10 years, during which the harm to Green Belt interests would have been continuous, and hardly distinguishable from a permanent development. The appellants have not found another suitable site in the 7 years they have been on Little Meadow, and should they stay for a further 4 years they may well miss the opportunity for an alternative site that exists at present.
65. I have come to the view above that in the event of considering the grant of temporary planning permission, the lack of a five-year supply should be given less than significant weight - as compared with the limited weight I have given it with respect to a permanent permission. As a consequence of the virtually permanent nature of the back-to-back temporary developments, and the reduced weight accorded to the lack of a 5-year supply, I am again of the view that other considerations are not sufficient to clearly outweigh the harm to the Green Belt. The very special circumstances necessary to justify the grant of a temporary permission do not exist.

APPEAL B

The enforcement appeal on ground (g)

66. The compliance periods stated in the enforcement notice are six months for requirements (i) to (iii), and 12 months for requirement (iv). It appears to me that the families should have adequate time to make applications for pitches on the Council's sites, and for these to be determined. It would of course be open for them to search for alternative suitable sites during the same period. In my opinion a period of 12 months should be allowed for this process. I anticipate that the cessation of use, and removal of caravans and domestic structures/items (requirements (i) to (iii)) would occur towards the end of this period. There should then be a further period for removal of all the associated hardstanding (requirement (iv)), for which I consider a 3 month period would be adequate. The enforcement appeal therefore succeeds to the limited extent on ground (g), and I intend to vary the enforcement notice accordingly.

Conclusions

67. I have taken account of all other matters raised, but I have found none sufficient to outweigh the considerations which have led me to my decisions.

Formal decisions

Appeal A: ref. APP/A0665/W/15/3129221

68. The appeal is dismissed.

Appeal B: ref. APP/A0665/C/15/3129220

69. The appeal is allowed to the limited extent on ground (g), and I direct that the enforcement notice is varied by:

DELETION of the words '*six months*' from the first line of paragraph 6 of the notice; and,

SUBSTITUTION of the words '*twelve months*'.

DELETION of the words '*twelve months*' from the second line of paragraph 6 of the notice; and,

SUBSTITUTION of the words '*fifteen months*'.

Subject to these variations, the enforcement notice is upheld.

Stephen Brown

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Constanze Bell	of Counsel, instructed by the Solicitor to Cheshire West and Cheshire Council.
She called:	
Gail Nickson	Senior Planning Officer
(née Etheridge)	Cheshire West and Cheshire Council.
Dawn Taylor	Sub-Regional Traveller Unit Manager for the Cheshire Sub-Region.

FOR THE APPELLANT:

Michael Rudd	of Counsel, instructed by Ruth Reed, Green Planning Studio.
He called:	
Matthew Green	Planning Consultant, Green Planning Studio.
James Delaney	Occupant of the appeal site.
Edward Delaney	Occupant of the appeal site.
Michael Connors	Occupant of the appeal site.

DOCUMENTS

- 1 Attendance list for each Inquiry day (4 documents).
- 2 The Council's letters of notification of the appeals dated 14 March 2016 (2 documents).
- 3 Statement of Common Ground.
- 4 Appendices to Mr Green's proof of evidence and Statement of Need (3 documents – A, B and C)
- 5 Second witness statement of Edward Delaney.
- 6 Witness statement of Michael Connors.
- 7 Appendices to Mrs Nickson's proof of evidence.
- 8 Appendices to Ms Taylor's proof of evidence.
- 9 Proof of evidence for an appeal relating to land at Hillcrest, Chester Road, November 2014, prepared by Nigel Moore of Opinion Research Services.
- 10 Cheshire Gypsy and Travelling Showpeople Accommodation Assessment, March 2014.
- 11 Appeal decisions for the District with reference to acceptance of the GTAA.
- 12 Schedule of Green Belt sites in the District with temporary permissions for Gypsy and Traveller pitches.
- 13 Letters to Mr & Mrs James Delaney and to Mr and Mrs Edward Delaney both dated 23 September 2015, concerning the availability of Travellers' sites.
- 14 Bundle of e-mail correspondence between Green Planning Studio and the Council during the period of adjournment.
- 15 List of interested parties for the Ellesmere Port and Winsford Gypsy and Traveller sites.
- 16 List of applicants with no local connections.
- 17 Appeal decision ref. APP/A0665/C/15/3129569, dated 25 April 2016.

18 Highway officer's comments on the planning application.

19 List of suggested conditions.

PLANS

A Plan of the scheme granted temporary planning permission in the 2009 appeal.

B Location map for the Rossfield Road, Ellesmere Port Gypsy and Traveller site.

C Location map for the appeal site, and the Ellesmere Port and Winsford Gypsy and Traveller sites.

PHOTOGRAPH

1 Aerial photograph of the appeal site.